

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable William P. Keesley, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

MARK LORENZO BLAKE, JR.

APPELLANT

APPELLATE CASE NO 2018-002091

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHARLESTON) Court of General Sessions
3 _____) Case No. 2013-GS-10-04926
4 STATE OF SOUTH CAROLINA)
5 VS.) Transcript of Record
6 MARK LORENZO BLAKE, JR,)
7 Defendant.)
8 _____) DATE: November 13 - 15, 2018

9 B E F O R E:

10 THE HONORABLE WILLIAM P. KEESLEY

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19 Circuit Court Reporter

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1 (Defendant's Exhs. 1 through 22, Photographs, were
2 marked for identification.)

3 (Defendant's Exhs. 23 through 27, Xrays, were marked
4 for identification.)

5 THE COURT: I need to get my bearings on where we are,
6 what motions may need to be made, things of that nature.

7 Are you Mark Lorenzo Blake Jr?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: From what I understand, you are
10 representing yourself; is that correct?

11 THE DEFENDANT: That's correct.

12 THE COURT: And you have stand-by counsel?

13 THE DEFENDANT: Yeah, Jason King.

14 THE COURT: Who is your stand-by counsel?

15 THE DEFENDANT: Jason King from the public defender's
16 office.

17 MR. KING: And Reed Mulbry is also -- I asked him if
18 he wanted to sit in as well for learning experience.

19 THE COURT: Mr. Blake, you understand how stand-by
20 counsel operates? They're basically going to sit there and be
21 a resource for you, but they are not going to tell you what to
22 do unless you ask them to. Do you understand that?

23 THE DEFENDANT: I understand.

24 THE COURT: They are there for information if you need
25 it. Do you feel like you are pretty clear about the role they

1 play?

2 THE DEFENDANT: Yes, sir, I am.

3 THE COURT: Who are the solicitors?

4 MS. LINDER: I'm the solicitor. I'm Stephanie Linder.

5 And Whit Sowards is also with the Solicitor's Office. He's
6 second chair in this case. Other person at the table is Ryan
7 Kelly from SLED.

8 THE COURT: You say Whit?

9 MS. LINDER: Whit, W-h-i-t.

10 THE COURT: Last name?

11 MR. SOWARDS: Sowards, S-o-w-a-r-d-s.

12 THE COURT: Has Mr. Blake been arraigned on these
13 charges?

14 MS. LINDER: He has not.

15 THE COURT: Mr. Blake, you have a right to be
16 arraigned on these charges. I will read them to you and ask
17 you how you plead. You can waive that if you want to it. Do
18 you want to waive it or do you want me to read through it?

19 THE DEFENDANT: No, you can read through it.

20 THE COURT: All right. They've handed me two
21 indictments. One is for attempted murder. It's Case No.
22 2013-GS-10-04926. The indictment reads that at a court of
23 general sessions convened on August 5, 2013, the grand jurors
24 of Charleston County present upon their oath attempted murder,
25 that in Charleston County, South Carolina, on or about March

1 30th, 2013, the defendant, Mark Lorenzo Blake Jr. did with
2 intent to kill and malice aforethought attempt to kill Cory
3 Goldstein. This is in violation of Section 16-3-29 of the
4 South Carolina Code of Laws, 1976 as amended, against the peace
5 and dignity of the state and contrary to the statute, and such
6 case made and provided, signed by Stephanie B. Linder,
7 assistant solicitor.

8 And a true bill indictment was issued on August 6th,
9 2013, signed by the foreperson of the Charleston County Grand
10 Jury.

11 Do you understand the charge against you, sir?

12 THE DEFENDANT: Yeah, I do.

13 THE COURT: All right. And how do you plead, guilty
14 or not guilty?

15 THE DEFENDANT: Not guilty.

16 THE COURT: And you want a jury trial?

17 THE DEFENDANT: Yes, Judge, I would.

18 THE COURT: All right.

19 MS. LINDER: And I know you said two. We are going
20 forward on the attempted murder, because that's the one charge
21 with SLED. We are not proceeding at trial on failure to stop.
22 That's a city charge. Thank you.

23 THE COURT: That's my ignorance. I didn't know that.
24 I apologize.

25 THE DEFENDANT: It's okay.

1 THE COURT: You just are not trying it this term, or
2 dismissing it?.

3 MS. LINDER: We are not dismissing it. We are not
4 trying it this term.

5 THE COURT: Okay. Are there any motions I need to
6 address before the jury comes in?

7 THE DEFENDANT: Yes, Judge, I've got a few motions I
8 want to address before trial.

9 THE COURT: All right. What do you have?

10 THE DEFENDANT: First motion is a motion to dismiss
11 the complaints.

12 Can you hear me?

13 THE COURT: Barely. I think you said motion to
14 dismiss the complaint.

15 THE DEFENDANT: Judge, at this time, for the record, I
16 renew my pretrial motion to dismiss the complaints for failure
17 to prosecute pursuant to the provision of the South Carolina
18 Constitution, Article 5, Section 4, State Supreme Court holding
19 in *State vs. Langford*, supporting the facts, in pertinent part,
20 in reference to my pretrial hearing on said motions dated April
21 3rd, 2017, amongst the initial denial of my said motion on the
22 grounds of the interpretation regarding the milieu history of
23 the general sessions cases differentiated management order were
24 currently under structural review and, therefore, wasn't
25 currently active.

1 Furthermore, then after said motion was therefore
2 denied in whole, I then subsequently, as an alternative, moved
3 for continuance pursuant to Rule 7(c) for the extended defense
4 preparation for trial. Then after receiving subvention of said
5 continuance, said motion to dismiss was additionally
6 prejudiced, based upon granting of said continuance was granted
7 subsequent order to the denial of said initial motion to
8 dismiss. And, therefore, shouldn't have been prejudiced based
9 on the proper execution of my said chronological motion order.

10 Furthermore, even if said continuance should nullify
11 said dismissal, it wouldn't still abandon or remedy the
12 undisputable fact that this case had already exceeded
13 approximately 16 months past the said provision.

14 Judge, at this time, I would like to furnish the Court
15 all legal correspondences from myself to South Carolina Supreme
16 Court and the Ninth Circuit Solicitor's Office regarding said
17 provision and in light of my said pretrial motion to dismiss.
18 Here's a copy for you and bailiff.

19 THE COURT: Hold or a second. Let me read this.

20 THE DEFENDANT: Let me know when you are ready, Judge.

21 (Court's Exh. 1, Defendant's Motion to Dismiss, was
22 marked for identification.)

23 THE COURT: All right.

24 THE DEFENDANT: May I finish this?

25 My initial legal correspondence regarding the

1 reassurance of said provision triggered the subsequent legal
2 correspondence from the South Carolina Supreme Court requesting
3 the Ninth Circuit Solicitor's Office to furnish a status update
4 of this case in light of said pretrial motion to dismiss.

5 Judge, this letter of said request by the Supreme
6 Court in light of said motion to dismiss reconciles said
7 discrepancy issue of said provision being under structural
8 review based on both said subsequent legal correspondences from
9 both said parties.

10 Therefore, the initial ruling of denial of said
11 pretrial motion to dismiss based on the grounds of structural
12 review can be ambiguously conjectured as either a misjudgment
13 stemming from a mere misapprehension of this said provision or
14 a mere negligence of the law.

15 Therefore, I, defendant, have adequately proved before
16 this Court the said two grounds of denial of said pretrial
17 motions were based on an initial judge-made law and a
18 subsequent prejudicial judgment.

19 Therefore, defendant now moves this Court for my
20 entitled dismissal relief pursuant to said provision herein.

21 And it is so ordered.

22 THE COURT: All right. So you are challenging the
23 continuance and the delay?

24 THE DEFENDANT: Yes, Judge.

25 THE COURT: And Judge Dennis has already ruled on

1 this?

2 MS. LINDER: Yes, Judge. The timeline that Mr. Blake
3 handed up is part of the overall timeline of this case that was
4 submitted to the Supreme Court. But, actually, as far as this
5 case is concerned, specifically with everything with Judge
6 Dennis, back on April the 3rd Of 2017, Judge Dennis had a
7 hearing. The defendant was present along with Mr. King,
8 stand-by counsel. And at that time, this defendant put forward
9 the motion to dismiss. And Judge Dennis denied that motion.

10 The judge then also made a finding on the record that
11 there is no violation of *Langford* and at that point, that is, I
12 believe, the second time that the judge granted the defendant's
13 motion for continuance.

14 For you to kind of understand, Judge, this is our
15 fourth date certain for this trial. And every single one of
16 those continuances from the date certain were due to the
17 defendant requesting that continuance motion. And every time
18 Judge Dennis was sure to put on the record, and including back
19 on April the 3rd, 2017, Judge Dennis made a finding on the
20 record with the defendant's consent that there was no violation
21 nor future speedy trial violation as a result of granting his
22 motion for continuance.

23 And he had numerous other hearings that are similar to
24 this, including when he continued it June -- I'm trying to see
25 this. June the 29th of 2018, Judge Dennis again granted the

1 defendant's motion for a continuance for this case. Judge
2 Dennis has been wonderful. He's had many hearings on this case
3 with the defendant present. He has heard the defendant's
4 motions. And he has made very clear rulings on all of them.

5 I believe that there's no new information or events
6 that would have against his ruling that need to be
7 reconsidered. If he found that before all of that was the
8 situation, then I would hold that's the situation currently.

9 Another thing, just so Your Honor has, I know I put a
10 little bit in that pretrial brief, as far as *Langford* and I
11 believe he is complaining about too long of a pretrial
12 detention. Your Honor, I think it's outlined, including in
13 that timeline that you have that I submitted the Supreme Court
14 of the causes and the reasons for the delay, which was
15 Mr. Blake's numerous arrests over a period of time, Mr. Blake
16 kind of flip-flopping and, ultimately, having seven different
17 attorneys before we could get a global offer and a plea
18 rejection out.

19 Also, in 2016, Mr. Blake was tried. I was the
20 prosecutor and Mr. King represented him. And he was convicted
21 and sentenced to the department of corrections. Months later,
22 Mr. Blake was tried again for a different charge. I was the
23 prosecutor. At that time, he was pro se and Mr. King was
24 stand-by counsel. He was convicted and sentenced again to the
25 department of corrections.

1 So I would say that starting in, I believe, May of
2 2016, Mr. Blake has not been in pretrial detention in the
3 county jail for this. He has been at the department of
4 corrections serving an active sentence for older charges that
5 were pending.

6 So, Your Honor, I think that really explains a lot
7 about how we are here 5 1/2 years after this initially started
8 and why this is just finally the day for trial.

9 I'm happy to explain more if you would like, but I
10 believe that covers everything, Judge.

11 THE COURT: Anything else on this issue?

12 THE DEFENDANT: Yes, Judge. I want to say that, like
13 I said in my motion, that April 3rd, 2017, was my first-ever
14 continuance. And it was -- the case was already four years in
15 at that point. And at that point, it was already 16 months
16 past the provision. So I don't know what Ms. Linder is talking
17 about about me asking numerous continuances, because it's four
18 years past and that was my first continuance. And at that
19 point, I mean, it was already 16 months past the provision.

20 So I believe Judge Dennis -- is it Dennis? I believe
21 he made an inadequate ruling based upon, just like I said, my
22 motion. In regards to me asking for a continuance, I did that
23 in a subsequent order. I didn't do that initially. The
24 initial motion was the motion to dismiss. And he said -- after
25 he said what he said, I asked for a continuance. He granted

1 it. And at that point, he said at that point, it wouldn't
2 entitle me to it. And I didn't understand that. So I was
3 like, well, that don't even sound right based upon the motion
4 order that I executed, the motion to dismiss to the motion for
5 continuance.

6 THE COURT: All right. If there's nothing further on
7 this issue, *Langford* was my case, came from my home county.
8 Rule 4 of the South Carolina Rules of Criminal Procedure
9 provides that if any motion is made to any judge and denied in
10 whole or in part, or granted conditionally, no subsequent
11 motion upon the same set of facts should be made to any other
12 judge in that action. If upon such subsequent motion, any
13 order be made, it shall be void.

14 It appears first that Rule 4 would bar me
15 reconsidering any matter that Judge Dennis has ruled upon.

16 Secondly, based on the arguments presented, if I were
17 to consider the motion, it does not appear to be any grounds to
18 dismiss this indictment.

19 The motion is denied.

20 THE DEFENDANT: Judge, I just want to say it's under
21 different circumstances at this point, actual ruling. I just
22 want to preserve for the record.

23 THE COURT: Yes, sir. Let me -- I went through the
24 indictment. I want to make sure you got a copy of the
25 indictment. So let the record show a copy of the indictment is

1 being handed to do defendant.

2 He's been arraigned.

3 THE DEFENDANT: I want a subsequent motion to quash
4 indictment.

5 THE COURT: Hold on a second. I've got a note asking
6 if we could let the jury pool go to lunch. Do you know how
7 much longer the motions are going to take, Mr. Blake, just for
8 planning?

9 THE DEFENDANT: That's really why I didn't want to do
10 it like that, because I would be in a rush and I didn't want to
11 be in a rush. You know what I'm saying? So I was thrown for a
12 loop when Mr. King told me I could present motions at this
13 time. I was like, well, is it going to be a rush issue,
14 depending on how long it's going to take the jury to come into
15 court. But I have maybe a few other motions I would like to
16 entertain at this time. I will try to make it fast and
17 speedy.

18 THE COURT: Well, I don't want you to miss anything.

19 THE DEFENDANT: Are you ready for me?

20 THE COURT: I'm trying to decide. I think the
21 difficulty is, if I let the jury go to lunch, then when they
22 come back, we draw the jury and then everybody else has to go
23 to lunch.

24 MS. LINDER: Judge, I would like if we can maybe draw
25 the jury, and then they can have their lunch and we can

1 continue with whatever the motions Mr. Blake may have.

2 THE DEFENDANT: I have no objection to that. I agree
3 with that totally.

4 THE COURT: So we are ready to bring them in?

5 THE DEFENDANT: Yeah.

6 MS. LINDER: Yes, Judge.

7 THE COURT: I asked Mr. Blake if he was representing
8 himself. My understanding is there's already been a full
9 Faretta hearing.

10 MS. LINDER: Yes, Judge. Judge Dennis had two
11 separate Faretta hearings after he requested to represent
12 himself for this trial. And both of those times, he found that
13 Mr. Blake was going to be pro se.

14 THE COURT: And there's a LWOP notice?

15 MS. LINDER: Yes, Judge. I have a -- he was served
16 life notice. He refused to sign it, but he was served life
17 notice. But then I think it's important to note that on March
18 the 2nd of 2017, we had a hearing in front of Judge Dennis..
19 The defendant was present. Mr. King, stand-by counsel, was
20 present. And I was present. And at that time, he agreed that
21 the State properly served life without parole notice and that
22 he is eligible for life without parole. And that was all done
23 in front of Judge Dennis and on the record.

24 THE COURT: Thank you.

25 MS. LINDER: And, Your Honor, just as a side note as

1 far as that is concerned, I would just ask the Court to remind
2 Mr. Blake that that is not a topic -- sentence is not an issue
3 that he should bring up in front of the jury during the course
4 of this trial.

5 THE COURT: Typically, you are not allowed to go into
6 that, Mr. Blake.

7 THE DEFENDANT: I don't intend to. Statute speaks for
8 itself.

9 THE COURT: Thank you. All right.
10 Is the jury coming?

11 (Venire enters.)

12 THE COURT: Members of the jury panel, I want to
13 welcome you into general sessions court. My name is Billy
14 Keesley. I live in Edgeville. I'm a resident judge of the
15 11th circuit. That means my home circuit is Lexington,
16 McCormick, Saluda and Edgefield Counties.. I've been assigned
17 assigned by the chief justice pursuant to our state
18 constitution which requires systematic rotation of circuit
19 judges throughout the state to hold this court term here in
20 Charleston County. It's always a pleasure to come here. You
21 have, as you all know, an absolutely gorgeous place to live.

22 You've been brought in today potentially to serve as
23 jurors on a case that I'm going to tell you more about in a
24 moment. Since I was not present when you were qualified
25 earlier, I'm going to cover some things with you. If you are

1 (Court's Exh. 3, Jury note selecting foreperson, was
2 marked for identification.)

3 THE COURT: It's 25 minutes to 2. And I understand,
4 the times I've been in Charleston, usually we give the jury at
5 least an hour and a half lunch break because it takes awhile to
6 get food and get out and get back. So what's your preference
7 about today? Do you want to have them come back today or do
8 motions today, or what's the preference?

9 MS. LINDER: Judge, I would prefer to have them come
10 back today. There are a lot of kind of witness and timing
11 issues that we have. We have certain who flew in and out of
12 town and some are leaving tomorrow afternoon. We also have
13 some SLED people that are under subpoena in different areas of
14 the state. So we have, I guess, a lot of people we are trying
15 to get in in certain deadlines. That will be our preference,
16 but we will defer to the Court.

17 THE COURT: Do you want to say anything about that,
18 Mr. Blake?

19 THE DEFENDANT: I don't object to it, Your Honor.

20 THE COURT: All right. We will try to press on. But
21 I don't know how many witnesses we will get to today.

22 Second thing is, I've got media requests from the Post
23 and Courier and I think three television stations. Do you all
24 want to be heard on any of that? Restriction I place on them
25 is that they cannot photograph the jury. They all know that.

1 MS. LINDER: We don't need to be heard on that;
2 whatever the Court decides. Thank you.

3 THE DEFENDANT: I think that's a fair ruling. I can
4 honestly say the Post and Courier done more than enough, but I
5 understand they have access to the court also and they are
6 entitled to that, so so be it.

7 THE COURT: Post and Courier can come in and sit. Any
8 of them can come in and sit. The question is about media using
9 electronic devices. So I've never forbidden them in my career
10 since they were allowed when the rule was modified. And I
11 intend to allow them.

12 All right. Bring the jury in. And I'm going to let
13 them go to lunch. And then we will come up with a plan.

14 THE DEFENDANT: Judge, you are not going to swear them
15 in yet, are you?

16 THE COURT: No.

17 (Whereupon, the jury returns to open court at 1:40
18 p.m.)

19 THE COURT: All right. Ladies and gentlemen of the
20 jury, I'm going to let you go to lunch in a few minutes, but
21 before I do, I have to give you some instructions. I will give
22 you more instructions when you come back. As I mentioned to
23 you before, you are not to discuss this case in any way among
24 yourselves until I tell you to. So do not discuss this case
25 among yourselves in any way until the case is completely over,

1 I've told you to start your deliberations. Then we will wait
2 on you. Do not discuss this case with anybody else, family
3 members, friends, employers, anybody, until the week is over
4 and you've been seated on any jury you might possibly be seated
5 on.

6 It's okay for you to tell an employer or a family
7 member or a friend that you are on a jury, but you cannot tell
8 them what case it is, what it's about, who is involved in it,
9 anything like that. Do not discuss the case in any way with
10 anybody else. If anybody attempts to contact you and discuss
11 the case with you, report that to me so that I can deal with
12 it. Give me the best description of who it was and how it
13 occurred.

14 Do not let yourselves be exposed to any media
15 coverage. You are not to look at any local newspapers. You
16 are not to go on any local website. You are not to watch any
17 local television news. And if you listen to the radio, don't
18 listen to the South Carolina news network or any of those types
19 of sources.

20 If you are exposed to any media coverage, get away
21 from it immediately, and then at the first opportunity, report
22 to me what you may have seen, heard or read through the media.

23 Folks, I told you a little bit about using your cell
24 phones. You are not to do any independent investigation. And
25 I'm going to go into this in more detail later, but for our

1 purposes now, let me just tell you, don't go on the Internet
2 and look up law. Don't look up anything about the case. Don't
3 look up names. Don't do any kind of word searches, name
4 searches, topic searches, anything that might relate to this
5 case in any way. If you are on social media, don't access it
6 until the case is over.

7 Now, usually I want to make sure you understand that
8 when the case is over, you may do anything you would like
9 within reason. But while this case is pending, please, don't
10 go on social media. Whatever you do, make sure you don't post
11 anything on social media that might relate to the case or
12 anybody in it, including court officials. When the week is
13 over and you've been seated on any jury you might be seated on,
14 you can do whatever you would like within reason. But, please,
15 stay off social media during this trial.

16 Now, I'm told, ladies and gentlemen, that in
17 Charleston, this is what I've been told previous time I've been
18 down here, giving you less than an hour and a half for lunch is
19 not workable. So I'm going to ask you to be back here in an
20 hour and a half. So that is going to be kind of late in the
21 afternoon. Let's see. What is that, 3:15?

22 When you come back, don't come into the courtroom.
23 The bailiff will show you how to report back. You go straight
24 into that jury room. If you have some true emergency that
25 arises that prevents you from being here, please have someone

1 let us know. Call the clerk's office. Have somebody call the
2 clerk's office and let us know. Because as you see, we go
3 through a very methodical process in picking a fair and
4 impartial jury. And if you are not here, I can't just go to
5 the alternates. I have to make some inquiry, find out what's
6 going on. So if you are not here, I start sending people to
7 find you. So, please, let us know if something is going on
8 that prevents you from being here.

9 Folks, I promise you, as I will tell you later, that I
10 know how to tell time. And I know that we've gone way into
11 past our lunch break. We discussed about bringing you and
12 starting with you tomorrow and let me deal with things I have
13 to deal with. You are going to have to wait on us when you get
14 back. I don't know how long. Hopefully, it won't be long.
15 But we typically stop for the day between 5 and 5:30.

16 If you have a situation where you have to pick up a
17 child or something like that, if you can make other
18 arrangements for somebody to do that, it would be a good idea
19 to do that today particularly. But they tell me we have some
20 witnesses who have availability today but don't have
21 availability on other days. So we are going to have to try to
22 press on as much as we can. But please let me know if there's
23 something big going on in your life that you need to attend so
24 that I at least know about it. I can't make everybody happy,
25 but at least I won't be working in the dark.

1 I think that's all I have to tell you right now.
2 Follow the bailiff. I need you back here at 3:15. Thank you.

3 (Whereupon, the jury leaves open court at 1:46 p.m.)

4 THE COURT: All right. Ladies and gentlemen, please
5 be careful as you leave that you not have any contact with a
6 juror. They are going to be going into the same common areas
7 that you will be going into. Just be really careful that you
8 don't have any contact with a juror. If you go to a local
9 restaurant, don't be having any conversations that relate to
10 the case or anybody in any way that might be overheard by a
11 juror. Be very careful. Realize some people don't eat lunch
12 at all. Some people kind of walk around and they will be in
13 the same common area you will be in.

14 All right. Now, I want y'all back here at 10 minutes
15 'til 3. I will hear motions at 10 minutes to 3. Is that
16 enough time to feed him? All right. Court is in recess.

17 (Whereupon, a recess transpired.)

18 THE COURT: What other motions do we have?

19 THE DEFENDANT: At this time, I would like to present
20 motion to quash indictments.

21 THE COURT: Yes, sir.

22 THE DEFENDANT: Regarding the indictment for attempted
23 murder and prior to the jury being sworn in, I would now move
24 to challenge the sufficiency of the said indictment 17-19-90,
25 *State v. Young*.

1 Law and argument supporting of the facts: In
2 pertinent part, said indictment states, I, the defendant, Mark
3 Lorenzo Blake Jr., did, with the intent to kill and malice
4 aforethought, attempt to kill Cory Goldstein.

5 The sufficiency challenge has clearly arose. Said
6 accusation regarding malice does not specify distinguishable
7 manners of it being either expressed or implied, pursuant to
8 Section 16-3-29. Therefore, the second element of the
9 sufficiency standard wasn't met upon said indictments based
10 upon the absence of said distinguished manners in support of
11 malice aforethought doesn't fully apprise myself the defendant
12 the elements of said offense intended to be charged, nor
13 apprised myself the defendant of what I must be prepared to
14 meet, nor fully informs myself defendant both nature and cause
15 of the accusation, pursuant to *State v. Wilkes*, *Granger v.*
16 *State*, *Stated v. Jeffocat*, South Carolina Constitution, Article
17 1, Section 14, United States Constitution, Amendment 6, which,
18 therefore, disables both this Court proper judgment to
19 pronounce, and myself, the defendant, to know what I'm being
20 called upon to answer. And disables myself, the defendant, the
21 optionable (sic) privilege to either plead acquittal or
22 conviction pursuant to *Brown v. State*.

23 As to conclusion, wherefore, the aforesaid concludes
24 said indictment are both defective and insufficient pursuant to
25 Section 16-3-29, 17-19-20, *State vs. Rector*, and *United States*

1 vs. Jefsky. Therefore, I now move to quash said indictment.
2 And it is so ordered.

3 THE COURT: What's the State's position?

4 MS. LINDER: Thank you, Your Honor. May it please the
5 Court. The State's position is that the indictment is
6 sufficient on its face. As Your Honor stated to the jury, the
7 indictment is a notice document. Mr. Blake specifically says
8 that the State needed to specify expressed or implied and pick
9 one of those and outline that specifically in the indictment
10 itself in the body of the indictment. It's the State's
11 position that the elements are included in the indictment,
12 which includes malice aforethought.

13 As Your Honor will be charging the jury, malice
14 aforethought can be expressed or implied or, frankly, can be
15 both. It's our position that in this case it's both. And that
16 which one or both of those does not have to be specified in the
17 indictment itself, because malice aforethought is the element.

18 We would respectfully request that you deny the
19 defendant's motion.

20 THE COURT: Anything else on this?

21 THE DEFENDANT: Judge, I mean, everything is pretty
22 much said for the record. So, no, not at this moment.

23 THE COURT: The statute reads: A person who with
24 intent to kill attempts to kill another person with malice
25 aforethought, either expressed or implied, commits the offense

1 of attempted murder.

2 In the Court's view, it's not necessary to specify
3 whether it's expressed -- implied malice, expressed malice, or
4 a combination of both. The motion is denied.

5 What's your next motion.

6 THE DEFENDANT: I want to preserve for the record for
7 Court of Appeals.

8 THE COURT: Certainly, yes, sir.

9 THE DEFENDANT: Okay. Next request a hearing on the
10 merits. I subsequently both request to remove this Court for a
11 hearing on the merits of said assault and charge of attempted
12 murder. Before required and support testimony from expert
13 witnesses Stephanie Montgomery, a proper determination
14 regarding the detrimental severity of the gunshot sustained by
15 victim and the State witnesses Cory Goldstein.

16 Is he able to testify, Judge?

17 THE COURT: You want me to have a hearing on the
18 merits?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: I don't understand.

21 THE DEFENDANT: A hearing on the merits regarding the
22 severity of the gunshot wounds that Officer Goldstein sustained
23 the night of the incident.

24 THE COURT: You are not entitled to anything like
25 that, that I know of.

1 THE DEFENDANT: Okay. Well, I subsequently move a
2 motion to reduce charges from the main charge.

3 THE COURT: You are entitled to a trial. If the trial
4 is insufficient, you can make motions at the appropriate stage.
5 But I don't know that I'm following you on what exactly you
6 were asking.

7 THE DEFENDANT: Stephanie Montgomery is employed at
8 M.U.S.C.

9 THE COURT: I understand what you are saying that you
10 want them to put up evidence about the severity of the injury
11 inflicted, but that's in the trial.

12 THE DEFENDANT: Okay.

13 THE COURT: And whether or not the means by which the
14 injury was inflicted, if there were an injury, is sufficient to
15 constitute malice. I think that's a jury issue.

16 Do you have anything else?

17 MS. LINDER: Judge, I would just say, pretty much echo
18 what you said. I don't think that a pretrial hearing is
19 necessary on this. Specifically for attempted murder, the
20 injury itself, the severity of the injury is not a requirement
21 of attempted murder. It was the act and the intent of it.

22 Also, we are planning to call Dr. Montgomery tomorrow
23 morning in this case. So any questions that Mr. Blake may
24 have, he is welcome to cross-examine her at that time on this.

25 And as far as severity of injuries, along with that,

1 we have supplied in Rule 5 Cory Goldstein's medical records to
2 Mr. Blake. So he is already aware of any injuries that
3 Mr. Goldstein received.

4 THE COURT: All right.

5 THE DEFENDANT: I'm aware of the severity, well,
6 injuries he sustained. But I am not fully aware of the
7 Montgomery vehicle to provide the severity of the injuries.
8 That's what I was trying to verify. But as long as I can raise
9 it within the trial, then --

10 THE COURT: You can ask questions about it. I'm not
11 sure exactly where you are going, because if I shoot at
12 somebody and miss them, I can still be charged with attempted
13 murder.

14 THE DEFENDANT: Yeah, correct. Correct.

15 THE COURT: All right. What's your next motion?

16 THE DEFENDANT: I hereby move and respectfully request
17 this Court to compel the Solicitor's Office of the 9th Judicial
18 Circuit to both disclose and make available to myself the grand
19 jury impanelment documents for this said matter, pursuant to
20 Rule 5(d) South Carolina Rule of Criminal Procedures, Section
21 14-7-1700, 1720(a)(4), 1770 South Carolina Code of Laws, and
22 *Evans v. State*.

23 Wherefore, defendant is entitled therefore entitled to
24 said documents in compliance of all cited rights, rules,
25 statutes and laws herein. Anything less would weigh against

1 the fairness of the trial outcome amongst myself defendant,
2 South Carolina Constitution, Article 1, Section 14, United
3 States Amendment 6, 14, right to fair trial and due process.
4 And it is so ordered.

5 THE COURT: Yes, ma'am.

6 MS. LINDER: And, Judge, just for the record, back on
7 March the 2nd of 2017, we had a hearing in front of Judge
8 Dennis. I was present as representative of the State.
9 Mr. Blake was present as defendant and pro se counsel. Also,
10 Mr. King was present at stand-by counsel. That hearing in
11 front of Judge Dennis, this defendant also had the same motion
12 about grand jury impanelment documents. And Judge Dennis
13 denied that motion at that time.

14 THE COURT: Do you have anything else on this,
15 Mr. Blake?

16 THE DEFENDANT: Yeah. I don't really think the State
17 has clearly identified when I'm re-raising and re-presenting
18 motions that is where we are here in a different manner. I
19 requested before Judge Dennis. And he just gave me some crazy
20 answer. But now I'm demanding. A request is different from a
21 demand. So he denied me on the request. And I have a right to
22 compel after the request according to *Evans v. State*.

23 THE COURT: What documents exactly do you want? Do
24 you want the --

25 THE DEFENDANT: I want any and every material

1 regarding the grand jury proceeding, verification purposes
2 regarding protection of my federal and state constitution. And
3 I'm entitled to it, *Evans v. State*.

4 THE COURT: What did you say? You are entitled to
5 what?

6 THE DEFENDANT: Any and every --

7 THE COURT: No, after that. You cited a case and I
8 can't hear you.

9 THE DEFENDANT: *Evans v. State*. I'm a pro se
10 defendant and I'm entitled to it.

11 THE COURT: All right. The grand jury proceedings are
12 secret. You are asking for the grand jury proceedings on the
13 day that you were indicted?

14 THE DEFENDANT: Yes, Judge. And I'm asking for
15 everything regarding the grand jury proceeding.

16 THE COURT: Is there a report that's issued from the
17 grand jury?

18 MS. LINDER: I am not aware of anything. As you know,
19 we are not present for that.

20 THE COURT: Is there a written report given by the
21 grand jury at the conclusion of their deliberations?

22 THE DEFENDANT: I believe there's something
23 regarding --

24 THE COURT: In our circuit -- I am not saying you have
25 to do it or don't have to do it. In our circuit, there's a

1 written report every time the grand jury convenes that
2 indicates that at least 12 voted in favor of every true billed
3 indictment. And if anybody is recused, it recites what they
4 are recused of, what case they are recused of. Do you do that
5 in Charleston?

6 MS. LINDER: I am not aware of that, because I don't
7 have anything to do with the grand jury proceedings. We can
8 ask, see the person in my office who does grand jury and see if
9 she has anything like that. If the clerk knows, we just end up
10 finding out if it's true billed or no billed.

11 THE DEFENDANT: I have a grand jury report --

12 THE COURT: Let me see what you've got.

13 THE DEFENDANT: -- for you right here. It's just
14 stating the people that were involved in a report, but it
15 doesn't verify whether or not -- pertaining to my case, doesn't
16 have a warrant number on it or nothing. So I believe is
17 insufficient..

18 THE COURT: All right. This report, we will make a
19 copy of it and make it part of the record. This report
20 indicates the grand jury met on August the 6th, 2013, which
21 would be during a term of August 5, 2013, recited on the
22 indictment, and that the grand jury issued 569 true bills and
23 zero no bills. And then it states: By our signatures hereto,
24 at least 12 of the 18 grand jurors concurred in the finding in
25 the report. And it's signed by 17 grand jurors. And then

1 Judge Dennis signed at the bottom, apparently, accepting the
2 report.

3 The indictment has a true bill stamp on it dated
4 August the 6th, 2013. And it appears to have a signature of
5 Gerald Johnson, foreperson. I wouldn't be able to read the
6 signature except on this written report that was just handed to
7 me. The signature was printed.

8 All right. So you want something other than the
9 indictment and something other than this grand jury report?

10 THE DEFENDANT: I want any and everything regarding
11 grand jury proceedings.

12 THE COURT: What else would there be?

13 THE DEFENDANT: I mean, Judge, I don't know, because I
14 don't have it before me. But I want to know how the proceeding
15 took place and whether or not any jurors were qualified or
16 anything to that degree. I just want whole documents of the
17 whole proceeding.

18 THE COURT: Someone make us a copy of this. What's
19 your next motion? I will come back to this.

20 THE DEFENDANT: Next motion would be a motion in
21 limine.

22 THE COURT: A motion in limine, is that what you said?

23 THE DEFENDANT: Yeah, to both bar and prohibit the
24 usage of the following particulars within trial by whole or in
25 part: Any/every material regarding failure to stop for blue

1 lights and sirens, nor any/every material regarding the events
2 prior to traffic stop nor failure to stop for blue lights
3 whatsoever, including but not limited to documents, notes,
4 articles, transcripts, reports, photographs, video
5 recordings --

6 THE COURT: Slow down. We got to take down what you
7 say and you are talking too fast.

8 THE DEFENDANT: I'm trying to get it out so we can --

9 THE COURT: Well, it doesn't speed things up if we
10 can't take it down. So slow down a little bit.

11 THE DEFENDANT: I guess I will back it all the way up.
12 Documents, notes, articles, transcripts, reports, photographs,
13 video recordings, audio recordings, verbal testimony,
14 statements, et cetera.

15 Any/every material regarding unlawful carrying of a
16 firearm, nor stolen firearm, nor anything in connection
17 regarding stolen firearm, such as burglary whatsoever,
18 including but not limited to: Documents, notes, articles,
19 transcripts, reports, photographs, video recordings, audio
20 recordings, verbal testimony, statements, nor both the
21 presentment/admittance as tangible evidence of a stolen
22 firearm.

23 Any and all prior drug or weapon charges exceeding 10
24 years from the date of conviction.

25 Any and all recent and prior convictions within a

1 ten-year timespan.

2 Wherefore, I respectfully request the said herein be
3 both barred and prohibited and excluded from the usage at trial
4 as a matter of law pursuant to Rule 402, 403, 609(B) of the
5 South Carolina Rules of Evidence, *State v. Bryant* and *State v.*
6 *Chesseboro*, anything less would weigh against the fairness of
7 the trialing (sic) outcome amongst pro se defendant furthermore
8 contrary to both state and federal constitutions. And it is so
9 ordered.

10 Regarding stipulation of Stephanie Linder, regarding
11 the search of the vehicle, I am not challenging the search of
12 the vehicle. The things that were seized within the rental car
13 are irrelevant, waste of time, confusing to the jury. So I
14 would rule 402 and 403 with regards to that --

15 THE COURT: Wait a minute. You are going into
16 something else now. What?

17 THE DEFENDANT: It's a stipulation documents Stephanie
18 Linder prepared prior to trial. It's right here. It's a
19 stipulation saying that search is sufficient, which I am not
20 challenging the search of the vehicle. And I confirmed that
21 with her already. I'm just ruling that whatever was found in
22 the vehicle was irrelevant. It's a waste of time, confusing to
23 the jury, which is 402, 403.

24 And as far as any audio recordings or any written
25 recordings as far as the, I guess it was, 911 tape, I would ask

1 that it would be partially excluded up until the point maybe to
2 where, I guess, Officer Goldstein entered the ramp to I-526.
3 Anything at that point on down, I agree with. Anything else
4 prior to that, I disagree.

5 And that's pretty much everything I needed to say to
6 be stricken from this trial.

7 THE COURT: Do you intend to go into anything about
8 unlawfully carrying a firearm?

9 MS. LINDER: Judge, I actually do think that -- not
10 necessarily unlawful carrying of a firearm. However, I do
11 think in the balancing test of what's probative versus
12 prejudicial, I think it's very important as motive to flee the
13 police. The defendant in this case was prohibited from having
14 a firearm. It was a stolen firearm. And he lacked a concealed
15 weapons permit. I think those are very important for them to
16 understand. And so I would hope to ask the SLED detective, the
17 case agent, about that information.

18 THE DEFENDANT: Judge, based upon I wasn't charged
19 with anything regarding firearm, I think it would be highly
20 prejudicial and weigh against the fairness of this trialing
21 outcome of myself pro se defendant. I was never charged.

22 THE COURT: What about the burglary? He said
23 something about something from a burglary.

24 THE DEFENDANT: Yeah. Purportedly, it was a stolen
25 firearm, which I had no awareness of. And so I guess the house

1 was burglarized.

2 MS. LINDER: Judge, it was a stolen firearm that we
3 would say that Mr. Blake used when shooting Officer Goldstein.
4 And that stolen firearm, it was ultimately stolen out of
5 Berkeley County from a burglary in a house. We do not believe
6 that Mr. Blake is the one who stole that firearm in that
7 burglary out of that house, which is why we are not going
8 forward on, necessarily, that he stole the firearm itself. So
9 I don't intend to get into that it was a burglary or when it
10 was or insinuating at all that Mr. Blake was the one who stole
11 the firearm. It's just that he had a stolen firearm, that he
12 was prohibited from having a firearm in the first place, and
13 that he failed to have a concealed weapons permit. All three
14 of those things relating to the firearm I believe are very
15 important as far as giving him motive to flee the police.

16 THE COURT: All right. So you don't intend to go into
17 the burglary?

18 MS. LINDER: No, I do not.

19 THE COURT: Do you intend to elicit testimony that he
20 was not entitled to possess a firearm?

21 MS. LINDER: I would like to be able to ask the case
22 agent, Ryan Kelly, who is the one who did the extra work on
23 this and did the ATF trace, I would like to be able to ask him,
24 in order to show the motive to flee the police that Mr. Blake
25 had, that he was prohibited from having a firearm, that that

1 firearm was, in fact, stolen, and that he did not have a
2 concealed weapons permit.

3 THE COURT: All right. And the issue about his prior
4 convictions?

5 MS. LINDER: Judge, I don't intend to -- unless the
6 doors open, I don't intend to call anybody or have anybody tick
7 off a list of all of Mr. Blake's prior convictions. That is
8 not my intention. And I know I cannot go into specific prior
9 convictions at this time. I would, however, say if he opens
10 the door, I would intend to go into that. And as this is a
11 unique situation, I believe that the door may be open not just
12 if the defendant chooses to testify; however, also in his
13 questioning of witnesses, it's my understanding he also has
14 character witnesses. So I believe that there's a variety of
15 ways, depending on how the trial unfolds, that his priors could
16 come into play and would be admissible and for the jury to
17 consider. I do, however, agree at this point with Mr. Blake
18 that his specific prior convictions do not come in.

19 One additional thing, Judge, as far as the limited
20 questions I intended to ask Ryan Kelly about the firearm, it's
21 my understanding that Mr. Blake is going with self-defense in
22 this case. And I think it's also important for the State, if
23 he does go with self-defense, it's on the State to disprove one
24 of those elements. And without fault in bringing about the
25 difficulty is the first element that I have the opportunity to

1 disprove. And I believe any information about the firearm
2 motive to flee the police is essential for that.

3 THE COURT: What about the 911 tape? Does he
4 understand what his argument is there?

5 MS. LINDER: As far as the 911, we don't have any 911.
6 What we have is radio dispatch transmissions that are recorded.
7 Your Honor, what we have and what's recorded is -- you hear
8 Officer Goldstein referring to when the car is not stopping,
9 the car is fleeing. He calls out the tags. He gives the
10 directions and the location, make and model, things like that
11 about the vehicle after it's failed to stop.

12 And then what Mr. Blake is discussing is after the car
13 wreck happened and Mr. Blake went on foot, then there are other
14 radio transmissions that have to deal with party bailed, foot
15 pursuit, and gives the location, and kind of a play-by-play as
16 far as, you know, he says, shots fired, and all of that.

17 We are not intending to try to admit or publish to the
18 jury -- frankly, at this point, we are not intending to admit
19 or try to publish to the jury any of the radio dispatch
20 transmissions. So I will agree with Mr. Blake that if those do
21 come in, we will not play the portion during the traffic stop
22 and fleeing that traffic stop.

23 THE COURT: Is there any evidence -- going back to the
24 gun, is there any evidence that he knew the gun was stolen?

25 MS. LINDER: Your Honor, Mr. Blake declined to be

1 interviewed when he was charged with this. And so we were not
2 able -- or law enforcement was not able to question Mr. Blake
3 as far as his knowledge if it was stolen by asking him
4 questions such as, where did you get the firearm, who did you
5 get it from, or if it's a business, you know, what did you pay
6 for it, those kinds of questions. Law enforcement was unable
7 to get those questions answered, even pose those questions to
8 Mr. Blake because he declined interview.

9 THE COURT: Failure to stop for blue lights, do you
10 intend to go into that, to what extent?

11 MS. LINDER: Your Honor, I think it's important to
12 talk about the facts and circumstances coming up to this. I
13 think it's important for the jury to have a context of what was
14 happening that night. It is our position that this is,
15 frankly, one long incident. And by long, I mean, six minutes
16 is about how long everything from the traffic stop to the
17 shooting. So it's our position that it's one continuous
18 incident. And I think the jury needs to hear about the traffic
19 stop or the attempted traffic stop, fleeing the traffic stop,
20 and all of that. Because that allows you to understand the
21 mindset of the officer, who is the victim in this case. And
22 that, again, goes along with motive to flee.

23 You know, Mr. Blake crashed the car not because the
24 car was right up on him, not because he hit another car. He
25 was taking the on-ramp too fast to get on 526 and get out of

1 Charleston. So he had a single-car accident. And that's when
2 he started. So he fled the police the first time. And when he
3 wrecked his car and couldn't drive any further, he continued to
4 flee the police and armed himself by firearm that was in that
5 vehicle. And I think that all of that is necessary to give the
6 proper context and full picture to the jury for them to be able
7 to find the facts in this case.

8 THE COURT: All right. Thank you. Do you have
9 anything else on the --

10 THE DEFENDANT: Judge, I'm saying that clearly
11 established initial part of this trial that this is the only
12 thing we are here for, attempted murder. Okay? She said that
13 failure to stop for blue lights, that's a different agency,
14 that's a different incident. That's like bringing forth an
15 incident that right now I am not answering to. And that's
16 highly prejudicial within this trial.

17 Now, either it's going to be -- she's going to
18 challenge everything right now, which I'm going to need a
19 continuance, because I am not prepared for that, because it was
20 established within -- how long now, Mr. King, it was
21 established that she was going on just this one charge?

22 Too long now. And even Dennis himself said, okay,
23 it's a confusion to the jury. We are only talking about
24 attempted murder. We are not talking about no blue lights.
25 She was before him when we had this hearing. So I don't know

1 what she thinking that she can just go against what a judge
2 said and now try to bring it in, because it's a different judge
3 before us today. So that's a no-go. If I can't do it, she
4 can't do it either.

5 MS. LINDER: Judge, we did have a hearing in front of
6 Judge Dennis. And he asked, when I served life notice on
7 Mr. Blake, he actually has a few different sets of pending
8 charges that are still outstanding. He has some drug
9 distributions and then he also has this. We are looking to go
10 forward on this case at this point. We served life notice on
11 the attempted murder. That's the strike in this case, not the
12 failure to stop. We are going forward in front of the jury on
13 the attempted murder. We are not going forward at this time on
14 the failure to stop; however, those give the background of this
15 entire incident. Because as I said, it all happened within a
16 matter of minutes.

17 I do not recall Judge Dennis claiming that this would
18 be confusing to the jury. And he agreed that this was one
19 incident that led up. The only reason it was separated out by
20 agency is because whenever there's an officer-involved
21 shooting, then SLED is asked for an out-agency assist.

22 And, frankly, the failure to stop for blue light,
23 Officer Goldstein is the person who is the witness to that.
24 And immediately after he was shot numerous times, he left the
25 area and had to have surgery and had to get healthy again.

1 So as far as any follow-up investigation that's
2 typically done on a failure to stop or on charges, that was
3 unavailable to be done in this situation due to the state that
4 Mr. Blake left Mr. Goldstein in.

5 THE COURT: What was found in the vehicle?

6 MS. LINDER: In the vehicle, the only thing that we
7 intend to talk about in the vehicle, in the vehicle there was a
8 rental agreement. And there was a photograph taken by SLED
9 agent of the rental agreement. That rental agreement is from
10 Enterprise Rental Car. And it had Bernadette Doctor as the
11 authorized driver. And no other authorized driver is allowed.

12 And we believe that is important, because, again, it
13 gives motive for Mr. Blake to flee the police. As far as -- we
14 are not trying to seek anything else from that search
15 warranted. They took photographs, frankly. We are not trying
16 to -- there are other items in the car that were not seized.
17 And we are not trying to get into that.

18 THE COURT: There's no shell casings? There's no
19 bullets, nothing like that?

20 MS. LINDER: No. The shooting took place on foot.

21 THE COURT: Well, I understand, but sometimes people
22 have --

23 MS. LINDER: No casings or bullets or anything like
24 that in the car. The only information we want out of the
25 search warrant of the car is the rental agreement. And,

1 frankly, prior to the traffic stop, Officer Goldstein ran the
2 plates. So he already knew it was a rental car. So we
3 wouldn't even get a random search warrant because we already
4 knew who the vehicle was registered to.

5 THE COURT: Well, he said it was irrelevant. I
6 believe that's what he said. And even if it were relevant,
7 it's confusing to the jury and unfairly prejudicial.

8 All right. I think I've covered all of it.

9 Do you have anything else?

10 THE DEFENDANT: I want to say, Judge, if she's able to
11 bring it based off of blue light, us going forward with that
12 charge, it would be basically -- I am not prepared for that in
13 my defense. So I would, basically, have to redo my defense as
14 if I'm going forward on failure to stop for blue lights.

15 We might as well go with the whole thing. And if we
16 go with the whole thing, then I need more time to prepare.
17 Because, obviously, Mr. Linder is confused about what she
18 really wants to do. She wants to introduce things that we are
19 not going forward today. You know what I mean? So, I mean,
20 just like I said, I don't have a problem taking on a whole
21 incident, if that's what we are here for today. But if we are
22 only here for one thing, then we focus on that one thing.
23 That's fair.

24 THE COURT: That's not the way it works in my
25 experience. Did they charge you with something like felon in

1 possession of a firearm?

2 MS. LINDER: No, Judge.

3 THE COURT: They are going to bring that out.

4 THE DEFENDANT: Based upon Scarlett Wilson, I think it
5 was Agent Kelly contacted her office. Okay? And she said that
6 she did not feel comfortable going with any type of weapon
7 charge if I wasn't -- if I wasn't aware at the time that the
8 weapon was stolen or whatever. That's why I never picked up a
9 weapon charge.

10 THE COURT: Well, why was he not able to possess a
11 weapon other than not having a permit?

12 MS. LINDER: He didn't have a permit. He has prior
13 convictions that make him a felon.

14 THE COURT: That's what I thought.

15 MS. LINDER: But I was not going to ask -- I was not
16 going to -- my intention was not to ask him specifics about any
17 of that.

18 THE COURT: I didn't mean to imply you were. I'm just
19 saying, as an example, you could have been charged with that.
20 You weren't charged with that, apparently. They are going to
21 go into that in the trial. If the failure to stop is part of
22 the thing itself, if it's part of the event itself, the res
23 gestae, then I can't keep it out.

24 THE DEFENDANT: But we need to go forward with the
25 whole thing. We just need to go forward with everything right

1 now. I think that's fair. That's more than fair. And I
2 haven't prepared for none of that. It was just attempted
3 murder. Attempted murder, that's what I prepared for today.
4 That's what my defense consists of. And consisted of nothing
5 on failure to stop for blue lights. So I think she needs to
6 just pick another day and time.

7 THE COURT: We are not continuing this case.

8 THE DEFENDANT: I don't have a problem going forward,
9 Judge. I just wanted to stay on one topic, which is what the
10 warrant says, the search warrant, I mean, warrant, one topic.

11 THE COURT: Okay. Thank you. All right. He's made a
12 motion in limine to exclude references to him having a stolen
13 firearm under Rule 403. Even if the evidence is relevant on
14 the issue of him fleeing, for example, it can still be excluded
15 under Rule 403 if its probative value is substantially
16 outweighed by the danger of unfair prejudice or confusion of
17 the issues or misleading a jury or other considerations like
18 delay, waste of time or needless presentation of evidence.

19 The ruling of the court in limine is that the State is
20 not to go into the firearm being stolen under Rule 403.
21 However, the other two -- excuse me, the unlawful carrying of a
22 pistol and not having a permit, if there's evidence to support
23 that, then that is relevant and it is not barred under Rule
24 403. That's the in limine ruling of the Court.

25 With regard to the prior convictions within 10 years,

1 the State does not intend to go into that unless the door is
2 open in some way. There's no way of knowing that until we get
3 into the trial itself.

4 With regard to what was found in the vehicle, the only
5 information I've been given is that the State intends to
6 introduce a copy or a photograph of a rental agreement showing
7 that the only authorized driver was Ms. Doctor. The objection
8 was that it's irrelevant and it's confusing to the jury under
9 Rule 403. That motion is denied.

10 With regard to the 911 tape that was mentioned, but it
11 apparently was radio dispatch transmissions, I don't know that
12 y'all have a disagreement there, but I am not excluding
13 anything at this point in limine.

14 THE DEFENDANT: So we are just going to let the whole
15 the tape played out?

16 THE COURT: I didn't see that. I said, I am not
17 excluding it. She said what she planned to offer. And if I
18 understood it, you weren't very far apart, if you were apart at
19 all.

20 An in limine ruling is a ruling that's based upon
21 matters that are brought up prior to trial. I honestly know
22 almost nothing about this case. In limine rulings are
23 preliminary rulings. Even if I rule in favor or even if I rule
24 against, those things can change during the trial. As I get
25 information, as I understand the situation better, I may come

1 to appreciate one of your arguments better than I did before.
2 The in limine ruling is to exclude things that should be
3 excluded. And the only one that has been presented to me that
4 I feel like can be excluded at this time is the information
5 about you having a stolen firearm. There's no intention of
6 going into the burglary.

7 And with regard to the failure to stop, I don't know
8 how difficult it makes a factual scenario to involve a failure
9 to stop for blue lights, because the issues on that typically
10 are whether you hear the siren or see the blue light. Doesn't
11 get into all these things that y'all seem to be focusing on.
12 As I understand it, the fleeing from the police is the issue,
13 that the State intends to present evidence as to why the
14 shooting took place, to show that this was part of a process of
15 the defendant fleeing from police to avoid capture, to avoid
16 arrest. That is part of the thing itself. That's part of the
17 issue related to motive for shooting. It has to be allowed.

18 So the motion to exclude evidence about a failure to
19 stop is denied at the in limine stage.

20 THE DEFENDANT: That's like charging me for a charge
21 I'm innocent on right now.

22 THE COURT: I am not going to argue with you, sir. I
23 made the ruling.

24 THE DEFENDANT: Okay. I just want to preserve for the
25 appellate court record.

1 THE COURT: Certainly. If I'm wrong, I apologize to
2 everybody.

3 THE DEFENDANT: If you are wrong, you are going to
4 know it.

5 THE COURT: Well, I've been wrong before.

6 THE DEFENDANT: Definitely going to know when you've
7 been wrong. You are wrong.

8 THE COURT: You are entitled to your opinion.

9 THE DEFENDANT: It's a matter of law. Nothing about
10 opinion. The State needs help. You are trying to help the
11 State.

12 THE COURT: I am not trying to help the State.

13 THE DEFENDANT: You know what, I am not arguing about
14 it. Let's go forward. I'm going to win this trial anyways
15 (sic). The State can get all the help it want to get.

16 THE COURT: Do you have any other motions?

17 THE DEFENDANT: Afraid if I did, it would get denied.
18 That's all I got at this time.

19 THE COURT: All right. The State ready for the jury?

20 MS. LINDER: The State is ready, Your Honor.

21 THE COURT: Defense ready for the jury?

22 (Whereupon, the defendant gestures.)

23 THE COURT: He raised his hand and gave me a some kind
24 of smirk. We are going to make this grand jury report a
25 Court's exhibit.

1 (Court's Exh. 4, Grand Jury record, was marked for
2 identification.)

3 MS. LINDER: Your Honor, prior to them coming in --

4 THE COURT: With regard to the grand jury issue --

5 THE DEFENDANT: Yeah, let's get back to that.

6 THE COURT: With regard to the grand jury issue, I
7 am -- if I'm understanding the argument correctly, what you are
8 wanting is information about the grand jury proceedings on that
9 date. And the only thing that there would be would be the
10 grand jury report and the indictments. I don't know of
11 anything else. No evidence has been presented that there is
12 anything else. There's no evidence of impropriety. The Grand
13 Jury proceedings are secret. They are facially valid documents
14 in the record. And the motion to provide you with additional
15 information, I don't have any basis to grant that.

16 THE DEFENDANT: Well, Judge, I want to say one thing.
17 Okay? Going into the secret, they are secret to an extent.
18 Okay? I'm thinking that by good faith, you would have known
19 this. But if I got to go into it, I will go into it and put it
20 on the record, because this seems like this is unheard of or
21 something.

22 Okay. Now, South Carolina Code of Laws, Section
23 14-7-1700, 17-28-4, 1770 of the South Carolina Code of Laws,
24 *Evans v. State*, strictly describes that it's under secrecy to
25 an extent after I've been serviced with an indictment.

1 Therefore, I'm entitled to anything regarding the proceedings.

2 Now, if we have to take a recess on this to review
3 these things, then, I mean, I'm all for it before making a
4 proper decision, but I'm entitled to it. And I wouldn't be
5 raising it if I wasn't entitled to it.

6 THE COURT: What is it that you think exists?

7 THE DEFENDANT: Judge, it's the proceeding. Okay?
8 It's my constitutional -- I mean, need I say more? It's my
9 constitutional right for me to have it. I don't have to have
10 no reason other than that. It's state and federal
11 constitutional.

12 THE COURT: I can't produce something that does not
13 exist.

14 THE DEFENDANT: Then you need to ask her whether they
15 exist or not.

16 THE COURT: I know they don't exist.

17 THE DEFENDANT: How could you not know that they don't
18 exist? You ain't making no sense right now, Judge. You are
19 saying that you don't know --

20 THE COURT: If you have a challenge to the grand jury
21 proceeding, you have some evidence of some of impropriety, you
22 have something to put before me, then, yes, I can conclude that
23 maybe something happened. You have presented nothing. What
24 the State has presented is an indictment that is facially
25 valid. And you handed up a report they gave you, accepted by a

1 circuit judge, indicating that at least 12 voted in favor of
2 every true bill. They don't tape the proceedings. They don't
3 transcribe the proceedings that I know anything about. If they
4 do it here, they are doing it differently than anywhere I've
5 ever been.

6 THE DEFENDANT: The 9th Judicial Circuit serviced me
7 with legal correspondence stating that that was the only
8 document that I gave you, that I've shown you, that I would be
9 able to get without a judge's order or the attorney general. I
10 wrote the attorney general about it. They are saying they are
11 not in control of that, okay, you need to go back down to your
12 lower courts and ask for what you are requesting. I subpoenaed
13 them on that. Okay? So, obviously, these documents exist.
14 The Ninth Circuit Judicial Circuit saying that we are not
15 giving you nothing else and it has to be court ordered to
16 render new documents. So obviously they exist.

17 THE COURT: You are jumping to a conclusion.

18 THE DEFENDANT: That's not a conclusion. That's
19 factual.

20 THE COURT: Well then, show me the facts.

21 THE DEFENDANT: As of right now, I don't have it
22 before me. But I didn't know I would have to go through all
23 the red tape to dispute this issue.

24 THE COURT: I've ruled.

25 I assume both sides are ready for the jury. Bring

1 them in.

2 THE DEFENDANT: I just want to preserve for the
3 record, because you said you ruled, but you didn't say whether
4 you denied it or you granted it. So I just want to preserve
5 for the record --

6 THE COURT: I cannot produce or order something to be
7 produced that there's been no showing exists.

8 THE DEFENDANT: Okay. Don't worry about it. It's on
9 the record.

10 THE COURT: I'm well aware of the fact it's on the
11 record.

12 Bring the jury in.

13 MS. LINDER: Judge, there's some stipulations that
14 both the defense and --

15 THE COURT: Wait a second. Tell him to hold up.

16 MS. LINDER: There's some very brief stipulations of
17 the defense and the State has signed. It's, more or less,
18 about not requiring records custodians to come for medical
19 records. It is about crime scene photographs and things like
20 that. I just want to hand them up to the Court. I don't
21 believe that any stipulations necessarily need to be read into
22 the record. It's mainly about authenticating them. And any
23 other objections to any exhibits or photographs from both sides
24 are preserved, if there are other objections, like relevance or
25 anything. I just wanted to let the Court be aware and hand

1 these up.

2 THE COURT: Are they stipulations?

3 MS. LINDER: Yes, they are stipulations.

4 THE COURT: Signed by both sides?

5 MS. LINDER: Signed by both parties.

6 THE COURT: Is there any issue about this?

7 MS. LINDER: No. Mr. Blake gave me these once he
8 arrived today. I sent these last week.

9 THE COURT: Yes, ma'am. Hand them up.

10 Bring the jury.

11 (Whereupon, the jury returns to open court at 3:36
12 p.m.)

13 THE COURT: Ladies and gentlemen, the next order of
14 business is I have to have you sworn in as a juror on the trial
15 jury. So if you would stand and raise your right hand, the
16 clerk will administer your oath.

17 (Whereupon, the jury is sworn.)

18 THE COURT: Ladies and gentlemen of the jury, I'm
19 going to take 10, 12 minutes to give you some opening
20 instructions. These things are to give you an idea of how we
21 intend to proceed. I won't go through the whole trial, but I
22 will tell you how we get started. And then I'm going to give
23 you some instructions you have to follow throughout the trial.

24 The first thing that you are going to hear will be the
25 opening statements. In these opening statements, it is not

1 allowed to go into argument. The opening statements are
2 typically an introduction, an outline, an overview. They teach
3 us in law school, basically, that the opening statements are
4 set up so that each side can present what they believe the
5 evidence will show. Now, that doesn't change the burden of
6 proof. The burden remains with the State throughout the entire
7 trial.

8 Once the opening statements are finished, then I will
9 call upon the State to present its case. The State brought
10 this charge against Mr. Blake. And the State has the entire
11 burden of proof. The State has to prove the guilt of the
12 defendant beyond a reasonable doubt.

13 Now, this standard of proof beyond a reasonable doubt
14 is the highest standard of proof required in the law. And so
15 the State is given the opportunity to present evidence in an
16 attempt to meet that burden. Once the State finishes
17 presenting its case in chief, the solicitor will inform me that
18 the State rests. At that point, regardless of how long you may
19 have been in the courtroom, I have to send you out of the
20 courtroom so that I can discuss some legal issues. And then
21 once those are heard, I will bring you back in here and I will
22 tell you where we go from there. But those are kind of the
23 landmarks you can look for as we proceed.

24 Now, it's really important that you understand a few
25 things. First, that oath you just took is one in which you

1 promised us that you are going to decide this case based on the
2 evidence and the law. So you need to know where those things
3 come from.

4 The evidence comes from the sworn testimony of
5 witnesses. Evidence can come in the form of exhibits.
6 Anything that's tangible that's marked in the record as an
7 exhibit is evidence. And you will have those exhibits with you
8 in the jury room when you decide the case. The reason I tell
9 you that is because it's not unusual for you to be handed a
10 small photograph or shown a photograph from a distance.
11 They've got a much better system here in Charleston County
12 where they can project things on these screens. But it's not
13 unusual for you to be asked to try to pay attention to what's
14 going on on the witnesses stand while you are also being asked
15 to look at something. So just understand that all the exhibits
16 will be with you in the jury room when you decide the case.
17 Now, you know that the evidence comes from the exhibits and it
18 comes from the sworn testimony of the witnesses.

19 The other important thing I want you to understand
20 about that oath is that there are two judges in this courtroom.
21 I'm the judge of the law. It's my job to decide what law
22 applies to the case and tell it to you at the end of the trial.
23 I rule on evidence and I preside over the trial, maintain
24 order.. That's my job.

25 You are the other judge. And you must understand that

1 you are the only judge of the facts. Only you are going to get
2 to decide such things as whether evidence is believable or not.
3 Only you get to decide such things as what weight, if any, to
4 put on evidence. Those things are entirely your prerogative.
5 And I am not going to invade your province.

6 Now, while you've promised us that you are going to
7 decide the case based on the evidence and the law, and you must
8 do that, I am not telling you to leave your common sense at
9 home. We want you to use your common sense. We want to you
10 use your sense of logic and reason and your good judgment. It
11 just makes good common sense that you keep an open mind about
12 the case and you don't make up your mind until you've heard all
13 of the evidence and you know what law applies. So there's a
14 rule that we insist you follow. And I've already mentioned it
15 to you, but I'm going to go over it again in a little bit more
16 detail. And that rule is, you are not to discuss this case in
17 any way among yourselves until I tell you to. You will have no
18 doubt about when that is.

19 Now, ladies and gentlemen, that rule is really hard to
20 follow because you folks may feel you have little in common
21 except y'all live in Charleston County and y'all got picked on
22 this trial. So the logical thing you are going to want to talk
23 about during any break is what you just saw in the courtroom,
24 what you just heard, things like that. You have to resist that
25 temptation so that there is no premature deliberation on this

1 matter, no chance for a misunderstanding of what somebody else
2 may have meant, no entrenchment on the issues. Wait until
3 you've got all the evidence in and you know the law that
4 applies to the case. And then when I tell you you can begin
5 your deliberations, we will wait on you.

6 Do not discuss this case with other people. As I
7 mentioned to you before the lunch break, don't discuss the case
8 at all with anybody. If you tell somebody that you are on the
9 jury because it's necessary for you to do that, do not identify
10 the case that you are on in any way, shape or form, as I
11 mentioned to you earlier.

12 I've also told you and I emphasize to you that you are
13 not to do any independent investigation. You are not to look
14 up anything on the Internet about the case or anybody in it or
15 the law. Don't go out and look around where this is alleged to
16 have occurred. Don't do any independent investigation.

17 Ladies and gentlemen, if anybody attempts to contact
18 you, you need to discuss that with me so I can deal with it.
19 Give me the best description of who it was and how it occurred.
20 I emphasize to you, and this is very important, that you not
21 look at, listen to or read any news media, particularly the
22 local media. Do not watch the news. Do not listen to radio
23 news that may cover the Charleston area. Don't read any
24 newspapers that cover this area in particular.

25 When the week is over, you can look at anything you

1 would like, but don't do it until then. Don't look on any
2 Internet site or website to read anything about the case.
3 Avoid social media. Don't go on social media at all during the
4 time that you are on this jury.

5 Now, I'm supposed to read to you something that is
6 basically repetitive of what I've already told you. The chief
7 justice said that we are supposed to read this to every jury as
8 we impanel them. Until your jury service is concluded, you are
9 not to discuss the case with others, including other jurors
10 except as authorized by the Court. You are not to read or
11 listen to any news reports about the case. You are not to use
12 a computer, a cell phone or any other electronic device with
13 communication capabilities while attending the trial or during
14 deliberations. Those devices may be used during extended
15 breaks, but not to obtain or disclose prohibited information.
16 You are not to use a computer, a cell phone or any other
17 electronic device with communication capabilities, nor are you
18 to use any other method to obtain or disclose information about
19 the case when you are not in court.

20 Any information about the case includes but is not
21 limited to the following things, any information about a party,
22 a witness, an attorney or a court officer, any news accounts of
23 the case, any information collected through juror research on
24 any topics raised or testimony offered by any witness, any
25 information collected through juror research on any other topic

1 that the juror might think would be helpful in deciding the
2 case.

3 Now, obviously, I didn't write that. People much
4 smarter than I wrote it, but I don't really understand why they
5 are telling you not to share juror research when I'm telling
6 you don't do it. So if you don't do it, you are certainly not
7 going to be sharing it. Don't do any independent research.
8 Don't do any juror research.

9 Now, the last thing I want to tell you at this stage,
10 ladies and gentlemen, is I want to thank you. You are going to
11 find throughout this trial that I am not going to sit up here
12 and repeatedly say thank you. And the reason I do that is
13 because, in my view, it cheapens it. I know you've got other
14 places to be and I know you've got other things to do. I also
15 know that this is very important business here. And we are
16 very grateful that you came away from everything you had to do
17 in your lives so that we can decide these matters and move
18 forward.

19 So there's going to be hurry up and wait. You've
20 already experienced some. If this trial is like every other
21 trial I've ever presided over, you are going to experience some
22 more. But here's what I can promise you. I can promise you
23 that if you are waiting on us, we are working. There's never
24 going to be a situation where we are out here goofing off and
25 you are out there waiting. If you are waiting, we are working.

1 And I will do everything in my power not to waste your time.

2 Okay. Having concluded that, I'm going to invite your
3 close attention and the solicitor will give you first opening
4 statement.

5 MS. LINDER: Thank you, Judge. You know, we hear the
6 phrase "protect and serve". But what does that actually mean?
7 Police officers have to wear many hats. Every day they put on
8 their uniform and go to work. Sometimes they go to a school
9 and are helping out with the tornado drill. Sometimes they are
10 getting a drunk driver off the street with traffic enforcement.
11 Sometimes they are responding to domestic disputes or homicide.
12 And sometimes they are doing the services of the deputies here
13 in the courtroom, doing civil service.

14 What we do hope for all of our police officers and
15 expect of all of our police officers are to have reasonable and
16 measured observations and responses. They see so many
17 situations every day. And we hope and expect that they have
18 reasonable and measured observations and calculations or
19 observations and responses.

20 That's what happened back on March the 30th of 2013.
21 That's what Cory Goldstein did. He showed restraint. He
22 showed reason in all of the responses that he had. And all of
23 his responses were due to the defendant in this case, Mark
24 Blake, and the defendant's actions and choices back on that
25 night.

1 On March the 30th of 2013, Cory Goldstein was an
2 officer with the City of Charleston Police Department. He
3 worked in Team 4. Team 4 is the West Ashley area of the City
4 of Charleston. He put on his uniform and he went to work. It
5 was about 10:30 at night. He was there for traffic
6 enforcement. He was there for calls for service. And he was
7 there for whatever else happened on that shift.

8 Well, that night around 10:30, he was in a parking lot
9 on Ashley River Road trying to merge and pull back onto the
10 street. As he was sitting there, a red Hyundai Elantra drove
11 right in front of him. The windows were tinted. Even with his
12 headlights, he couldn't see who was inside. He also noticed
13 that there were out-of-state tags. He ran the tags and learned
14 it was a rental. Officer Goldstein could have pulled the car
15 over at that moment, but he didn't. He was trying to gather
16 information.

17 Moments later, Officer Goldstein observed this exact
18 same tinted, red Hyundai Elantra rental car turn off Orleans
19 Road into The Citadel Mall parking lot. Officer Goldstein went
20 across the street, just to observe, just to see what was
21 happening. He observed this red car go very quickly through
22 the parking lot. He was able to see this because, as I said,
23 it was 10:30 at night. The parking lot was empty. All the
24 businesses were closed, and it was lit up.

25 He observed that vehicle go into the parking lot and

1 very quickly around the building and then shoot right out of
2 that parking lot disregarding two stop signs. His response was
3 he pulled out on to Orleans Road. He was behind this car. He
4 could have pulled him over at that time, but he didn't do it.
5 When the light turned green, the red car continued on Orleans
6 Road over to Sam Rittenberg. The red car made a quick left
7 into the Best Buy parking lot. That left was made without
8 proper signals.

9 At that time, based on all of the traffic infractions
10 that he saw and all of the other information that he had
11 gathered, he decided it was time to try to pull over this car.
12 So once in the Best Buy parking lot, again, this is a business,
13 it is well-lit and it is empty because the business is closed.
14 Officer Goldstein was directly behind this vehicle within the
15 parking lot and used his blue lights. The vehicle slow-rolled
16 and did not come to a stop.

17 Officer Goldstein then, in response to the vehicle not
18 stopping, used his sirens. The vehicle came to a stop. At
19 that time, Officer Goldstein started getting out of his car.
20 And the red car took off. The red car sped away after seeing
21 Officer Goldstein getting out of his car in that well-lit
22 parking lot. That red car headed towards the back of the Best
23 Buy parking lot, the exit on Dupont Road. And that car turned
24 off its headlights.

25 Officer Goldstein, in response, quickly got back into

1 his vehicle. He got back into his vehicle. And he followed
2 that car. Officer Goldstein had his blue lights and sirens on.
3 The red car sped down Dupont Road. The red car had no
4 headlights on. The red car was speeding. Officer Goldstein
5 was right behind him, blue lights on, sirens on. The red car
6 did not stop.

7 When the red vehicle made it from Dupont Road to
8 Savannah Highway, blew through that red light, stop light, went
9 through the light and turned right southbound on Savannah
10 Highway. On Savannah Highway, that red car, still no
11 headlights, speeding, weaving in and out of the traffic, using
12 the median to pass vehicles. Officer Goldstein turned onto
13 Savannah Highway and realized that there's too much traffic.
14 There were too many other people out there. And the red car
15 was too dangerous in its driving for him to follow him.

16 So Officer Goldstein turned off his blue lights and
17 turned off his sirens as he turned onto the busy Savannah
18 Highway. He didn't turn around, though. He stayed with the
19 flow of traffic on Savannah Highway.

20 Officer Goldstein had put out over the radio the make
21 and model of the vehicle. Officer Goldstein had given
22 cross-streets, explained that the vehicle was not stopping.

23 The next thing that happened was that this red
24 vehicle, the red rental with the window tint, was speeding down
25 Savannah Highway and took the 526 -- the I-526 on-ramp trying

1 to get away. You know, the car was going too fast and the red
2 car crashed into the guardrail and left the vehicle inoperable.

3 At that time, the driver of that red vehicle, the
4 defendant in this case, Mr. Blake, armed himself. He took the
5 Glock 22 from within that vehicle and took off running. When
6 Officer Goldstein made it to the 526 on-ramp, he saw the
7 crashed car. The door was left open. He saw that car still
8 had no headlights. And he saw somebody running from the car.

9 Officer Goldstein pulled his vehicle up, made sure
10 that nobody else was in that car, and went after the individual
11 on foot. Officer Goldstein knew that he had put out the
12 information previously on the radio and that backup was on the
13 way.

14 Officer Goldstein called out that he was in a hot foot
15 pursuit. He gave his location of where he was running towards,
16 Myabi's. Officer Goldstein saw the defendant and never lost
17 sight of him. Officer Goldstein left his gun holster and went
18 in a full sprint after the defendant, but he didn't just run.
19 He yelled verbal commands: Stop. Police. Stop.

20 He was yelling this when he started running behind him
21 at quite a distance. And he continued to yell this as he was
22 gaining on the defendant.

23 As he got closer to the defendant, the defendant kept
24 looking over his shoulder, kept glancing back after Officer
25 Goldstein was yelling to stop, police. The defendant was

1 looking back, yet continued to go.

2 Once Officer Goldstein closed the gap and got fairly
3 close to the defendant, the defendant was on the -- they were
4 on the outer perimeter sidewalk by the Comfort Suites, which is
5 along the Sam Rittenberg. When the defendant made it to that
6 sidewalk after glancing behind, after ignoring Officer
7 Goldstein's verbal commands, his yelling to stop, police, the
8 defendant went from a run to a jog. When he went to a jog, he
9 put his hands in his waistband, his hands in a location that
10 Officer Goldstein couldn't see.

11 The defendant then very quickly went from that jog to
12 a walk to a complete stop. Officer Goldstein was just behind
13 him. Officer Goldstein could only see the defendant's back.
14 Officer Goldstein could not see his hands. At this point,
15 Officer Goldstein told him, Don't move. His gun was still
16 holstered, Don't move.

17 The defendant then chose to spin around, legs planted
18 shoulder-width apart, arms outstretched in front of him,
19 holding that black Glock aimed right at Officer Goldstein's
20 chest. And he said, You don't move, motherfucker.

21 At that point, the defendant started shooting. He
22 fired at least 10 times at the officer. He immediately hit the
23 officer in the chest, in the vest. He also hit the officer in
24 the hand, the leg and the arm.

25 Based upon everything that the defendant was doing,

1 the officer drew his weapon. After the defendant stopped and
2 faced him in all of this, the officer drew his weapon. Yes, he
3 did. And the officer returned fire. And the officer moved off
4 line. He wanted to make himself a moving target for this
5 defendant.

6 The defendant went to the ground. And the defendant,
7 from the ground, continued to shoot at the police officer. The
8 police officer was still able to communicate over the radio and
9 tell everyone else who he knew was coming what was happening.

10 When the defendant stopped shooting, when he ran out
11 of ammunition in his gun, the officer stopped shooting. Backup
12 arrived. And his fellow officers handcuffed the defendant and
13 tended to Officer Goldstein.

14 That is why you are here today. This defendant, Mark
15 Blake, is charged with attempted murder. He is charged with
16 the attempted murder of Officer Cory Goldstein. Ladies and
17 gentlemen of the jury, he is charged with that due to the many
18 choices and the many actions that he did back on that day.

19 I would ask that you pay close attention to this
20 trial. And I thank you in advance for your service.

21 THE COURT: Thank you, ma'am.

22 Mr. Blake, you are recognized for your opening
23 statement.

24 THE DEFENDANT: Good afternoon, ladies and gentlemen.
25 Your presence today is much appreciated by myself. Once again,

1 for the record, my name is Mark Lorenzo Blake Jr. A little
2 about myself, I'm a 32-year-old Charleston native.

3 A little about my employment history. I'm experienced
4 in hospitality industry, food and beverage industry, industrial
5 industry and automotive industry. So I have a decent resume
6 and work ethic. And I, therefore, was a productive citizen
7 within society before this even occurred which brings us here
8 today.

9 Furthermore, I will be representing myself, along with
10 the assistance of my side counsel, Jason King, from the public
11 defender's office, as you may have heard earlier.

12 My common plan that I will be disputing within this
13 matter today on my behalf is a self-defense claim. So my
14 objective within this trial, ladies and gentlemen, is to both
15 illuminate the great areas within this incidents and iron out
16 the wrinkles of inconsistencies of these law enforcement
17 agencies that have been hiding, ducking and dodging behind both
18 gray areas and inconsistencies for over half a decade.

19 Now, ladies and gentlemen, if y'all watch the news,
20 whether religiously or periodically, you constantly see police
21 brutality occur so much as it has become epidemic to our
22 society. Bottom line is, the law enforcement officials are not
23 handpicked by God and heaven-sent. And, therefore, have the
24 same worldly imperfections as pedestrians do, if not worse.
25 And with that being both said and known, let's keep an open

1 mind throughout this trial. And let's not be deceived by
2 prestiged accomplishments, achievements or qualifications.
3 Simply judge accordingly based on the character and conduct
4 which are the proper logical tools that will make your jobs as
5 jurors basically to deliver your verdicts.

6 And I quote a quick legal analysis breakdown regarding
7 evidence of self-defense based on both said -- I'm sorry. This
8 is wrong. Just a second. Court's indulgence.

9 THE COURT: Yes, sir.

10 THE DEFENDANT: Sorry about that, folks. I'd like to
11 take the time out with you to personally explain what
12 self-defense consists of to bring a broader understanding to
13 the matter. Self-defense is a complete defense that consists
14 of four elements. Basic elements, which first is establishing
15 of not being at fault for bringing on the difficulty to an act;
16 second is out of believing or actually encountering imminent
17 danger of sustaining serious bodily injury to cause risk of
18 death; third coincides with the second element, which is, once
19 again, either believing or encountering imminent danger of
20 serious bodily injury or the risk of death, and having the
21 courage to strike a fatal blow, if necessary, to avoid
22 misfortunate difficulties; and the fourth and last is, having
23 no other option nor alternatives to avoid sustaining serious
24 bodily injury or risk of death.

25 Now, folks, by law, I am not under obligation to both

1 convince or prove beyond a reasonable doubt any of the
2 following listed self-defense evidence. My only obligation by
3 law is to produce any evidence on my behalf to support my claim
4 of self-defense. But unlike the State's obligation to prove by
5 law not to only prove the case of attempted murder against
6 myself beyond a reasonable doubt, but to also simultaneously
7 disprove beyond a reasonable doubt all elements of my
8 self-defense claim.

9 Folks, you may ask yourself if this is a mighty burden
10 that rests on the State to fulfill. And I say I should surely
11 hope it's worth both their time, effort and energy and taxpayer
12 money not to only disprove myself, but also prove their case,
13 because there's just some undisputable facts that you can't get
14 around.

15 Everything that Ms. Linder stated within her opening
16 statement, she put her foot in her mouth, because she's going
17 to have to prove everything that she said. Every accusation
18 she made to you all, she's going to have to prove it all in
19 order to win her case. So that's going to be very, very hard.

20 That's all I got to say. I thank you all for your
21 time.

22 THE COURT: Thank you, sir. All right. Ladies and
23 gentlemen of the jury, they have pads and pens there if any of
24 you want to take notes. It's completely up to you as to
25 whether you wish to take notes during the trial.

1 The judges who do not allow jurors to take notes, the
2 reasons they typically give for that is that they are concerned
3 that the mental recollections of some juror would be improperly
4 weighted so that somebody who did not take notes -- y'all need
5 to listen to me right now. Okay? Just hold on a second.

6 The concern is that the jurors who take notes will be
7 given an undue amount of deference by people who did not take
8 notes. Now, hold on a second. Just hold on and listen to me.
9 All right?

10 I don't buy into that. If you want to take notes,
11 that's fine with me. I know that you recall what you recall.
12 You recall strongly what you know you recall. And so it
13 doesn't matter to me whether you take notes or not. If we
14 allow you to take notes, there are three rules. The first is,
15 during the trial, when you leave the courtroom, you have to
16 leave your notes in the courtroom. So if you want to write
17 your name on the pad so that we can make sure we've got whose
18 it is. We don't read your notes. We never read your notes.

19 The second thing is that when you go back into the
20 jury room to deliberate, you may take the notes with you then,
21 but you are not allowed to show them physically to another
22 juror. Now, you may read them. And you may say whatever you
23 like. But you cannot show the notes to another juror.

24 And third requirement is at the end of the trial, the
25 notes have to be destroyed. We will shred them, throw them

1 away. They will not be preserved.

2 So with those three rules, if you would like to take
3 notes, now pass around, see who wants to take notes. And if
4 you change your mind and you want -- don't want to take them
5 now, but you decide later you want to take them, that's fine
6 too. Just let us know.

7 Everybody set? Ready?

8 Okay. Call your first witness

9 MS. LINDER: Thank you, Your Honor. May it please the
10 Court, the State calls Cory Goldstein.

11 CORY GOLDSTEIN,

12 having been duly sworn, testifies as follows:

13 THE CLERK: State your name and spell your last name
14 for the record.

15 THE WITNESS: Cory Goldstein, G-o-l-d-s-t-e-i-n.

16 DIRECT EXAMINATION

17 BY MS. LINDER:

18 Q. Good afternoon.

19 A. Good afternoon.

20 Q. Where were you born and raised?

21 A. I was born and raised in Florida.

22 Q. And can you tell the jury a little bit about your
23 education, training and experience, please?

24 A. Yes. I attended college in University of North
25 Florida in Jacksonville, Florida. I studied criminal justice.

1 That's my bachelor's degree. From there, I was -- shortly
2 after, I was hired by the Charleston Police Department. I
3 spent approximately three years there.. Attended the Charleston
4 pre-academy, and then went on to complete the Charleston or the
5 South Carolina Criminal Justice Academy.

6 Shortly after that, I spent after my three years
7 there, I went on and was hired by ATF, which is Bureau of
8 Alcohol, Tobacco, Firearm and explosives. I attended a special
9 agent basic training with them, which is held at the Federal
10 Law Enforcement Training Center. I'm currently employed by
11 them as a special agent and been there about four years.

12 Q. And were you working for the City of Charleston back
13 on March the 30th, 2013?

14 A. Yes, I was.

15 Q. And what was your position at that time?

16 A. I was a police officer.

17 Q. And what area were you working?

18 A. I worked West Ashley, which was Team 4.

19 Q. Is that in the City of Charleston?

20 A. Yes, it is.

21 Q. County of Charleston also?

22 A. Yes, it is.

23 Q. What shift were you working that night?

24 A. I was working evening shift, which was 4:30 p.m. to
25 2:30 a.m.

1 Q. What were your general responsibilities as a police
2 officer with the City of Charleston?

3 A. It could be anything from answering calls of service,
4 which could be traffic accident, to a domestic dispute, to a
5 burglary alarm, could be patrolling high-crime areas or
6 enforcing traffic laws.

7 Q. Back on November -- sorry. We are in November. Back
8 in March 30th of 2013, what was you wearing?

9 A. I was wearing my Charleston Police-issued uniform,
10 which is navy blue polyester uniform, blue top and blue pants
11 with Charleston Police patch on either side of the arm.

12 Q. Did you carry equipment on your body?

13 A. Yes. I had my duty belt on my body, which, obviously,
14 had my firearm, my magazines, a Taser and a baton.

15 Q. What were you driving that night?

16 A. I was driving my Charleston Police-marked vehicle.
17 It's a black-and-white vehicle, has a Charleston decal,
18 Charleston Police decal on either side of the vehicle. It also
19 has a reflective stripe on either side of the vehicle. And
20 then there's a light bar on top of the vehicle which
21 illuminated blue.

22 Q. Was your car equipped with a dashcam?

23 A. It was not.

24 Q. Did you have a body-worn camera on back in 2013?

25 A. I did not. At this time, those cameras were not

1 issued.

2 Q. I would like to bring you back to the night of March
3 the 30th of 2013. When and where did you first notice this red
4 car?

5 A. I was at a parking lot attempting to turn around and
6 turn out of the parking lot. I was at Ashley River Road and
7 Tobias-Gadson Boulevard. To backtrack, it was a Saturday,
8 Saturday before Easter, back about 10:30 at night. I'm facing
9 Ashley River Road, trying to pull out. And just right in front
10 of me pulls the defendant's vehicle, which was a red-in-color
11 Hyundai Elantra.

12 Q. Did you notice anything about the vehicle when it
13 pulled past you?

14 A. Yes. With my headlights on, well-lit street lamps, as
15 well as businesses in the area that were also lit, I still
16 could not see in the vehicle due to the window tint.

17 Q. And do you know if at that time, do you know if this
18 defendant was in the car?

19 A. No, I cannot see in the vehicle. It could be multiple
20 occupants for all I know at that point.

21 Q. When you first noticed, did you decide to blue light
22 and siren and pull that car over?

23 A. No. At that point, I'm just gathering information.
24 I'm observing.

25 Q. Could you have pulled that car over?

1 A. Sure. I could have pulled over for the window tint
2 infraction. But, again, what we do a lot of times is gather
3 information and assess the information. So that's what I did.

4 Q. After that vehicle passed you, where did it drive?

5 A. It made a right on Tobias-Gadson Boulevard.

6 Q. And did you end up pulling out of that parking lot?

7 A. Yes. I pulled out on Ashley River Road. Also made a
8 right on to Tobias Gadsden.

9 Q. Were you directly behind that vehicle at this point?

10 A. I am not. There's two or three cars in between myself
11 and the vehicle at that time.

12 Q. And what, if anything, did you notice about that
13 vehicle aside from the window tint?

14 A. I noticed the tags on the vehicle, the North Carolina
15 tags.

16 Q. And as a result of you observing that, what did you
17 do?

18 A. I ran the vehicle tags on my mobile computer in my
19 vehicle.

20 Q. Approximately, where were you when you did this?

21 A. At that point, we are at the area of Orleans and
22 Savage Road.

23 Q. And what's the lighting like in that area?

24 A. It's well-lit by street lamps and neighboring
25 businesses.

1 Q. Why did you run the tags?

2 A. Just a tool that we use in law enforcement to gather
3 more information. It could tell us the make, the model of the
4 vehicle, who it's registered to, if it's stolen, things of that
5 nature.

6 Q. And what did you learn from running the tags?

7 A. I learned that the vehicle was registered to a rental
8 company.

9 Q. What, if any, importance did that have to you, based
10 on your training and experience?

11 A. Well, typically, I understand that rental vehicles
12 don't have any aftermarket modifications, such as, like, window
13 tint, especially on the front window.

14 Q. And after that running the tags, were you able to see
15 inside and see who was driving that vehicle?

16 A. No, I still could not see inside the vehicle.

17 Q. And did you pull over the vehicle at this time?

18 A. No, not at this time; still gathering information at
19 this time.

20 Q. Where did the defendant in that red car, where did
21 they go next?

22 A. Defendant continued down Orleans Road before making a
23 right into the Citadel Mall.

24 Q. Did you follow him into the mall?

25 A. I did not. I pulled -- I made a left on Orleans Road

1 into the Bed Bath & Beyond parking lot, which is directly
2 across the street.

3 Q. And can you please describe how and where the
4 defendant drove through that mall parking lot?

5 A. He drove towards the mall and kind of hugged the mall
6 as he picked up speed and drove through the mall parking lot.

7 Q. And remind the jury, approximately what time of day
8 was this?

9 A. This is approximately 10:30 at night.

10 Q. Was the mall open?

11 A. The mall was closed at this time.

12 Q. And was the parking lot lit or dark?

13 A. Parking lot was still lit by the street lamps and the
14 mall.

15 Q. Was the parking lot full of cars?

16 A. No. The parking lot was empty because the mall was
17 closed.

18 Q. While he went through that mall parking lot, did the
19 defendant use his signals and obey all the traffic laws and
20 traffic signs in there?

21 A. No. I was aware of multiple stop signs in that mall
22 parking lot. The defendant -- I did not see the defendant stop
23 once in the mall parking lot.

24 Q. Did he stay in the mall parking lot?

25 A. No. He continued through the mall parking lot towards

1 a different exit to get back on to New Orleans Road.

2 Q. At this point, did you pull over the car based on the
3 tint and all the traffic violations in that parking lot?

4 A. I did not. Still gathering information at this time,
5 observing.

6 Q. When the defendant pulled out of the Citadel Mall
7 parking lot, what did you do?

8 A. I pulled out on to Orleans Road as well, out of the
9 Bed, Bath and Beyond parking lot, and positioned my vehicle
10 behind the defendant's vehicle.

11 Q. Were you directly behind the defendant's vehicle?

12 A. At this point, I was. There was no other cars on the
13 road that I could see. And I was directly behind his vehicle
14 at a red light.

15 Q. What was the traffic like? You said Orleans and what
16 was the cross road?

17 A. Orleans Road and Sam Rittenberg Boulevard.

18 Q. What was the traffic like at that intersection when
19 you were stopped at the red light directly behind the
20 defendant's car?

21 A. It was very sparse.

22 Q. And what was the lighting like on that corner?

23 A. There's businesses on each corner at that intersection
24 as well as street lamps that was well-lit.

25 Q. Where did the defendant drive that tinted rental car

1 next?

2 A. He continued over Sam Rittenberg Boulevard and made a
3 left into the Best Buy and Wells Fargo parking lot. At that
4 time, I noticed he used an improper turn signal as he made that
5 left.

6 Q. And how did you respond at this point to the overall
7 situation that you had been observing?

8 A. At this time, I attempted to make a traffic stop by
9 initiating my blue lights on the vehicle in the parking lot.

10 Q. And where were you and where was that red car when you
11 first turned on your blue lights?

12 A. We are in the parking lot, kind of in between the
13 Wells Fargo and Best Buy at that time.

14 Q. And when you activate your blue lights, what exactly
15 does that mean? What lights are you talking about?

16 A. It's the blue lights on top of my vehicle that
17 illuminate from every direction and illuminates the general
18 area, the blue lights do.

19 Q. Did the defendant stop because of your blue lights?

20 A. He did not stop. He continued to slow roll.

21 Q. Were you behind him or were you far away?

22 A. I was directly behind him.

23 Q. And what was the lighting like in this Best Buy
24 parking lot?

25 A. The street lamps were still lit. And it's very

1 well -- there's good lighting in that parking lot.

2 Q. Were there other vehicles in the parking lot?

3 A. There were no other vehicles in the parking lot.

4 Q. Do you know if the business was closed or open?

5 A. The businesses were closed.

6 Q. As a result of the defendant not stopping for your
7 blue lights, what did you do?

8 A. I activated my siren.

9 Q. Did the defendant stop?

10 A. At this time, he did stop.

11 Q. What did you do after the defendant stopped the
12 vehicle?

13 A. I began to exit my vehicle and attempted to make
14 contact with the defendant.

15 Q. Were your blue lights still on when you did this?

16 A. Yes, they were on.

17 Q. So you got out of the car in order to approach the red
18 car. What happened?

19 A. As I began to step out of the vehicle, the defendant
20 squealed his tires and took off in a hurried speed through the
21 parking lot.

22 Q. And where was he driving through the parking lot, what
23 direction?

24 A. He was driving towards Dupont Road, kind of in the
25 rear of Best Buy.

1 Q. And did he do anything else with that vehicle aside
2 from speeding and heading that direction?

3 A. Yes. Around this time, he turned off his headlights
4 as well.

5 Q. And is this nighttime?

6 A. It's nighttime.

7 Q. What did you do in response to the defendant taking
8 off?

9 A. I followed the defendant through the parking lot
10 towards DuPont with my blue lights and sirens on.

11 Q. And where did he turn once he got to DuPont?

12 A. He made a right on Dupont Road to head towards
13 Savannah Highway.

14 Q. Could you see the defendant -- could you see that
15 vehicle on DuPont Road?

16 A. I could see the vehicle on Dupont Road still.

17 Q. Could you describe how that red car was driving down
18 Dupont Road?

19 A. His headlights were still off, and he was picking up
20 speed quite rapidly towards Savannah Highway still.

21 Q. Where are you during all of this?

22 A. I'm in my vehicle behind him at this point.

23 Q. Is there lots of traffic on Dupont Road?

24 A. No, Dupont Road there was no traffic.

25 Q. Are you -- where are you in relation to the defendant?

1 A. Approximately several car lengths behind the
2 defendant.

3 Q. And I believe you testified that you had your blue
4 lights and sirens on. Did they remain on while you were on
5 Dupont?

6 A. Yes.

7 Q. Did the defendant or that red car ever turn off of
8 Dupont?

9 A. Yes. He traveled down Dupont Road. He was
10 approaching a red light at Savannah Highway.

11 Q. Did you let anyone else know what was going on?

12 A. Yes. I continuously am relaying radio traffic to
13 dispatch to let them know the situation and so my backup
14 officers know where to respond.

15 Q. What kind of information are you giving dispatch?

16 A. Vehicle description, vehicle tags and direction of
17 travel.

18 Q. And at this point, could you see inside that car? Did
19 you know who was in that car?

20 A. No, I never seen inside the vehicle.

21 Q. What happened when that red car made it to Savannah
22 Highway?

23 A. As he approached the red light, he blew through the
24 red light, made a right on Savannah Highway, still with the
25 headlights off.

1 Q. And did you let anyone else know that he was driving
2 southbound?

3 A. Yes. I relayed to dispatch the direction of travel.

4 Q. What was the traffic like on Savannah Highway or
5 Highway 17 at this time?

6 A. Savannah Highway was much busier. It is the Saturday
7 before Easter, so it was pretty busy at that time.

8 Q. So if you could, describe how the defendant went from
9 DuPont to Savannah Highway and specifically how he was driving
10 on Savannah Highway.

11 A. As he got on to Savannah Highway, I observed him still
12 with his vehicle lights off, pick up speed and drive in median
13 lane. We would call the suicide lane sometimes. It's the
14 middle lane of traffic, and attempt to bypass other vehicles.

15 Q. Did he turn his headlights back on?

16 A. No. His headlights were still off.

17 Q. Where did you go once you got to DuPont and Savannah
18 Highway?

19 A. I continued right on to Savannah Highway still
20 observing at this point.

21 Q. Did you still have your blue lights and sirens on down
22 Savannah Highway?

23 A. No. At this point, due to the erratic driving and him
24 putting other civilians at harm with his driving, I decided to
25 cut off the blue lights and siren.

1 Q. Where was the next place that you saw this red car
2 turn?

3 A. I saw him turn right onto the 526 eastbound on-ramp.

4 Q. And what did you do as a result of him turning off the
5 on-ramp?

6 A. As I approached the on-ramp, I saw his vehicle wreck.
7 And I then observed the defendant running from the vehicle. So
8 I ditched my vehicle behind his and stopped behind him.

9 Q. Is there anything about the doors of that red vehicle?

10 A. Yes. The driver door was open and he was running from
11 the vehicle.

12 Q. And were there any other cars on that on-ramp aside
13 from the wrecked red car and then your vehicle that pulled up?

14 A. No, there was not.

15 THE COURT: Are you going to go any more into the
16 highway, the driving issue?

17 MS. LINDER: No, sir.

18 THE COURT: All right. Let me give them a limiting
19 instruction.

20 Ladies and gentlemen of the jury, please give me your
21 attention. There's been admitted into the trial of this case
22 evidence related to alleged wrongs or acts that the State
23 maintains were done by Mr. Blake in operating the vehicle. At
24 this point, I'm going to give you what is known as a limiting
25 instruction, which means that this evidence was admitted for a

1 limited purpose. And if you use evidence, this evidence for
2 any purpose, you can only consider it within the limited
3 purposes for which it was admitted. I charge you that evidence
4 of other crimes, wrongs or acts, is not admitted to prove the
5 character of an accused in order to show action in conformity
6 with that character. In other words, the fact that someone may
7 have been involved in a prior bad act cannot be used to prove
8 that he had the character to commit another bad act. This
9 evidence was admitted for a limited purpose. And if you
10 conclude it to be true, you can only use it for the limited
11 purpose it was admitted and that the rules of evidence allow.

12 It may only be used, if at all, in assessing the
13 following issues, the defendant's motive or the defendant's
14 intent. Evidence of alleged bad driving is not to be used for
15 any other purpose.

16 Thank you. You may proceed.

17 MS. LINDER: Thank you, Judge.

18 THE DEFENDANT: Judge, for the record, I just want to
19 preserve for the record my objection.

20 THE COURT: Yes, sir. Subject to previous objections.
21 You may continue.

22 BY MS. LINDER:

23 Q. When you pulled up onto the ramp, what did you do?
24 Did you stay at your car?

25 A. No. I began to -- gave a chase of the suspect.

1 Q. And as you were leaving your car, before you got fully
2 into the chase, did you check on anything or look back at
3 anything?

4 A. Yes. I looked into the defendant's vehicle to make
5 sure there was no occupants in the vehicles.

6 Q. Did you see any other occupants?

7 A. I did not.

8 Q. Did you let anyone else know that you were starting
9 the foot pursuit?

10 A. Yes. I relayed to dispatch that I was now engaged in
11 a foot pursuit and direction of travel.

12 Q. So you started running. Can you still see the
13 defendant at this point?

14 A. Yes, I'm maintained visual of the defendant.

15 Q. Did you ever lose sight of him?

16 A. I did not.

17 Q. Did you have your gun out while you were running?

18 A. No. I was running, trying to gain ground and stuff.

19 Q. What was the lighting like when you first started
20 running?

21 A. The area was well-lit with street lamps and
22 businesses.

23 Q. And in particular, what kind of businesses are around
24 there?

25 A. There's the Comfort Suites. Arby's is across the

1 street. There are multiple street lights.

2 Q. Were you saying anything as you were first running?

3 A. Yes, I was continuously saying, please stop, stop,
4 police.

5 Q. Were you whispering that, or how were you saying
6 that?

7 A. No, I'm yelling it so he can hear me.

8 Q. And why were you giving these verbal commands?

9 A. So he would stop and comply.

10 Q. Did the defendant do anything while you were running
11 after him and yelling at him to stop?

12 A. Yes. As we were running, he keeps looking back over
13 his shoulder to see where I am.

14 Q. The time that you were running, did you stay the same
15 distance apart, or did you catch up on him at all?

16 A. I began to catch up. It was in the area of Sam
17 Rittenberg Boulevard near a sidewalk by Comfort Suites.

18 Q. Did you see lots of people outside that night when you
19 were in the foot pursuit?

20 A. I did not see anybody outside.

21 Q. Once at that sidewalk at Sam Rittenberg, did the
22 defendant continue running?

23 A. He went from a run to a very slow jog and he's still
24 looking over his shoulder at me.

25 Q. And did he do anything else with any other part of his

1 body?

2 A. He brought his hands in where I couldn't see them and
3 they were near his waistband area with his back to me.

4 Q. And about how far, if you can approximate, about how
5 far behind him were you when he had his hands in his waistband
6 and you were jogging?

7 A. Approximately 10 to 20 yards.

8 Q. And did he keep on jogging?

9 A. He went from a jog to a walk, still with his hands in
10 his waistband area, continuously peering over his shoulder.

11 Q. So from walking, did he ever do anything else aside
12 from walking?

13 A. He eventually went from a walk to a stop, still with
14 his hands at his waistband.

15 Q. As a result of the defendant coming to a complete
16 stop, what, if any, verbal commands did you give him?

17 A. I said, Don't move.

18 Q. Why did you tell him, Don't move?

19 A. At that time, I can't see his hands. And I'm
20 obviously worried about that. So I didn't want him to move at
21 all.

22 Q. And, okay, I want to make sure I understand how far
23 apart you were. You are going to play the role of you. And
24 I'm going to play the role of Mark Blake. Where it comes to
25 where he was stopped with his hands in his waistband and you

1 said, Don't move, okay, how far away, if you are him? I'm
2 going to slowly walk.

3 A. Keep going. Keep going. Keep going. Stop.

4 Q. Okay. So this is about how far he was when you said,
5 Don't move, and he had his hands in his waistband?

6 A. Correct.

7 Q. What did the defendant do next?

8 A. Everything from there happened really fast. He turned
9 around very fast, took a shooter-like stance, meaning his feet
10 were shoulder-width apart. His shoulders were square to his
11 body. And from his waistband area, he raised the gun, extended
12 it in my direction and said, You don't move, motherfucker, and
13 began to fire shots.

14 Q. So you said his feet were shoulder-width apart and his
15 shoulder was square with the target. What was that target?

16 A. That was me.

17 Q. And where was the gun aimed when he had it, as you
18 said, pressed out?

19 A. It was at my chest.

20 Q. Could you see the gun?

21 A. Yes. It was a black pistol. Looked like a Glock to
22 me at the time.

23 THE COURT: It was a black pistol, what?

24 THE WITNESS: Looked like a Glock pistol.

25 BY MS. LINDER:

1 Q. And he said something to you?

2 A. Yes. He said, You don't move, motherfucker.

3 Q. Could you see who it was saying this and pointing this
4 gun at you and saying that to you at this point?

5 A. At this point, we are close enough where we both have
6 a visual of each other's faces, yes.

7 Q. Have you ever seen or dealt with this defendant, Mark
8 Blake, prior to that night?

9 A. No, I have not.

10 Q. Do you see the man in the courtroom here today that
11 you chased and then he stopped and held a gun to your chest and
12 shot you?

13 A. Yes.

14 Q. And what is he wearing?

15 A. He's right here in the light-blue shirt.

16 MS. LINDER: Your Honor, I would like to let the
17 record reflect that Officer Goldstein, or now Special Agent
18 Goldstein, identified the defendant Mark Blake as that
19 individual.

20 THE COURT: So there was no need for a hearing on
21 this? There was no need for a pretrial hearing on this under
22 *Biggers*?

23 MS. LINDER: Correct.

24 THE COURT: All right. If nothing else, so noted. Go
25 ahead.

1 BY MS. LINDER:

2 Q. After he stopped and turned around with that gun aimed
3 at you and said what he said, what did he do?

4 A. He began to fire his weapon continuously.

5 Q. And as he was firing his weapon, do you remember where
6 you first got hit?

7 A. Yes. The first hit I remember being struck in the
8 chest immediately. I knew my vest was hit because it was a
9 stinging sensation. And then I remember the other ones that
10 followed, which were burning sensations.

11 Q. And when he began shooting at you, did you stand
12 still, or what did you do?

13 A. At that point, defense tactic that we are taught is to
14 back off line to give the shooter a hard target to hit. So I
15 backed off line and returned fire at that point.

16 Q. Did the defendant stay on his feet the entire time
17 while shooting at you?

18 A. No. He went to the ground and he was shooting from
19 the ground.

20 Q. How did you respond to the defendant continuing to
21 shoot at you?

22 A. I continued to fire my weapon.

23 Q. And were you on the sidewalk when you were doing this
24 or where were you when you were moving off line?

25 A. At this point, I'm in the middle of the street on Sam

1 Rittenberg Boulevard.

2 Q. Did you let anyone else know what was going on during
3 all of this?

4 A. Yes. I relayed to dispatch that shots had been fired,
5 that I was hit multiple times, and that the defendant or the
6 suspect was down, but still moving.

7 Q. And could you see the defendant on the ground?

8 A. Yes, I could see him.

9 Q. Could you see what he was doing on the ground?

10 A. Yes. He was still manipulating his firearm and
11 shooting. At one point, it looked like he possibly was trying
12 to change magazines or reload.

13 Q. And when did you stop shooting?

14 A. I stopped shooting when he stopped shooting and
15 dropped the firearm.

16 Q. And you saw him drop the firearm?

17 A. Yes.

18 Q. Did any backup show up?

19 A. Yes. I believe the first on scene was then-Detective
20 Feeters. I believe he's now a sergeant. He pulled his vehicle
21 directly in front of me. He asked where the suspects was, and
22 told me to get behind his vehicle and take cover.

23 Q. And do you remember any other backup showing up after
24 Sergeant Feeters?

25 A. Yes, Ernie Terrell and Jason Frederick showed up.

1. They began to render aid to me.

2. Q. And did you have any of your uniform removed?

3. A. Yes. I had all layers of the uniform removed, my
4. undershirt, I believe it was undershirt and vest, my duty belt
5. and pants.

6. Q. Where did you end up going from the scene?

7. A. I was transported by EMS to M.U.S.C.

8. Q. And what were the injuries that you received as a
9. result of this defendant shooting at you?

10. A. I received a burn mark from the shot in the chest,
11. burn and bruise, left a scar. My left arm, I got a hole right
12. here that continued at the back and into my back. My left
13. hand, I was shot in the hand, went out the side. So I had
14. surgery on my finger. And then I was shot in the right leg,
15. which entered my right thigh out the back of my thigh.

16. Q. I would like to take the jury through the events of
17. the night with some visual aids. At this time, I'm going to
18. hand you what's been marked as State's Exhibit 46, 47, 48 and
19. 167. If you could just, please, look at those. Do you
20. recognize those?

21. A. Yes.

22. Q. How do you recognize them?

23. A. These are locations where the incident occurred.

24. Q. And do they fairly and accurately represent the area
25. back on March 30ths, 2013?

1 A. Yes, they do.

2 MS. LINDER: At this time, the State would seek to
3 admit State's Exhibit 46, 47, 48 and 167.

4 THE COURT: Is there an objection?

5 THE DEFENDANT: No objection.

6 THE COURT: Mark 46, 47, 48, and 167 into evidence,
7 please.

8 (State's Exh. 46, Aerial map of Tobias Gadson
9 Boulevard, is received in evidence.)

10 (State's Exh. 47, Aerial map of Dupont/17, is
11 received in evidence.)

12 (State's Exh. 48, Aerial map of shooting location,
13 is received in evidence.)

14 (State's Exh. 167, Street-view map of Ashley River
15 Road, is received in evidence.)

16 BY MS. LINDER:

17 Q. All right. At this time, I'm also going to show you
18 State's 55, 56, 57, 60, 61, 62, 63, 65, 66, 67, 68, 69. If you
19 could, please, look at those. Do you recognize those?

20 A. Yes.

21 Q. And how do you recognize them?

22 A. These are pictures of the scene, I'm sorry, from where
23 the defendant fled.

24 Q. And do these fairly and accurately represent the scene
25 from the night in question March 30th of 2013?

1 A. Yes, they said.

2 MS. LINDER: Your Honor, at this time, the State would
3 seek to admitted State's 55, 56, 57, 60, 61, 62, 63, 65, 66,
4 67, 68 and 69.

5 THE DEFENDANT: No objection.

6 THE COURT: Mark those in evidence also, please.

7 (State's Exhs. 55, 56, 57, 60, 61, 62, 63, 65, 66,
8 67, 68 and 69, Photographs, are received in evidence.)

9 BY MS. LINDER:

10 Q. Agent Goldstein, at this time, I'm going to show you
11 what's been marked as State's Exh. 70, 71, 72, 73, 74, 75, 79,
12 80, 81, 82, 83 and 84. If you could please look at those. Do
13 you recognize those?

14 A. Yes.

15 Q. Do those fairly and accurately represent the scene
16 back on March 30th, 2013?

17 A. Yes, they do.

18 MS. LINDER: Your Honor, at this time, the State would
19 seek to admit 70, 71, 72, 73, 74, 75, 79, 80, 81, 82, 83 and
20 84.

21 THE DEFENDANT: No objections.

22 THE COURT: Mark those in evidence, please, ma'am.

23 (State's Exhs. 70, 71, 72, 73, 74, 75, 79, 80, 81,
24 82, 83 and 84, Photographs, are received in evidence.)

25 BY MS. LINDER:

1 Q. Our last stack, at least for now, at this time, Agent
2 Goldstein, I'm going to hand you 87, 88, 89, 90, 91, 92, 93,
3 95, 98, 101, 110, 113, 115, 117, 118 and 121. If you could
4 please look at those. After looking at those, do you recognize
5 them

6 A. Yes, I do.

7 Q. How do you recognize them?

8 A. These are pictures from the scene of the shooting.

9 Q. And do they fairly and accurately represent the scene
10 that night?

11 A. Yes, they do.

12 MS. LINDER: Your Honor, at this time, the State would
13 seek to admit State's 87, 88, 89, 90, 91, 92, 93, 95, 98, 101,
14 110, 113, 115, 117, 118 and 121.

15 THE DEFENDANT: No objections.

16 THE COURT: Mark those in evidence, please, ma'am.

17 (State's Exhs. 87, 88, 89, 90, 91, 92, 93, 95, 98,
18 101, 110, 113, 115, 117, 118 and 121, Photographs, are received
19 in evidence.)

20 BY MS. LINDER:

21 Q. All right. What I would like to do is, if you can
22 look on that screen in front of you, I will put these up on the
23 overhead. It will show up on your screen and these two big TV
24 screens. They are touch screens, so be careful. Okay. Can
25 you tell the jury what State's 46 shows?

1 A. That's a map of the area of the attempted traffic
2 stop.

3 Q. All right. And if you can -- can you put -- if you
4 can tell, can you put, like, an X where you first saw the car?

5 A. It was right around this area right here. (Witness
6 indicates.)

7 Q. All right. And then can you kind of put an X about
8 where you ran the tags on that vehicle?

9 A. Yes. It was around this area. (Witness indicates.)

10 Q. And can you put an X where the car went into the mall
11 parking lot.

12 A. Yes, it was right here. (Witness indicates.)

13 Q. And will you mark for the jury where it was that you
14 went?

15 A. It was right next to it, like right here. (Witness
16 indicates.)

17 Q. But is Orleans Road in between where the two of you
18 were?

19 A. Yes. Orleans Road separated us.

20 Q. All right. And then I think here the best thing is
21 just with your finger, can you -- actually, can you X where you
22 initiated the traffic stop?

23 A. Initiated the traffic stop right here next to the Best
24 Buy.

25 Q. And can you just use your finger, if possible, and

1 just show from the attempted traffic stop the path from there
2 all the way until the shooting began?

3 A. Yes. He continued through here, down Dupont Road,
4 down Savannah Highway, down onto the on-ramp right here. And
5 then fled on foot from there to -- it's hard to tell in this
6 map, but right around this area. (Witness indicates.)

7 Q. I'm sorry. These smart courtrooms, we have the
8 ability -- the clerk is wonderful. They have the ability to
9 take -- actually, take a snapshot of anything you write on
10 something, so he's doing that.

11 All right. At this time, I'm going to show you
12 State's Exhibit 47. And can you kind of explain to the jury
13 what this map shows?

14 A. Yes. This is a picture of the incident as well. You
15 could see area where the shooting occurred.

16 Q. All right. And can you just take your finger from
17 traffic stop all the way through where the shooting occurred?

18 A. Yes. Let me get oriented here. Pulled in here.
19 Attempted traffic stop down Dupont Road, down Savannah Highway,
20 onto the on-ramp, fled on foot, and then right around here.

21 Q. All right. State's Exhibit -- let me backtrack,
22 actually. I'm going to go back to State's 167. Can you tell
23 the jury what this shows?

24 A. Yes. This is the area where I initially saw the
25 defendant's vehicle.

1 Q. Where were you?

2 A. I was right here. (Witness indicates.)

3 Q. And where did the defendant's vehicle go?

4 A. He passed by me in the turn lane and then made a right
5 onto the Tobias Gadson.

6 Q. State's Exhibit 48, can you tell the jury what that
7 shows?

8 A. Yes. This is where Savannah Highway/526 on-ramp, this
9 is where the vehicle was about, somewhere in that area. He
10 fled on foot, down the sidewalk. And the shooting occurred
11 around there.

12 Q. All right. I'm going to show you -- I am not going to
13 go through every single one of these pictures that we have..
14 They are in evidence. So jury can look at them at their will.
15 I would just like to go through some of these pictures with
16 you. I'm going to start with State's Exhibit 55. Can you tell
17 the jury what that shows?

18 A. That is the 526 on-ramp.

19 Q. And can you describe the lighting in that area?

20 A. As you can see, businesses and traffic lights and
21 street lights, it's well-lit.

22 Q. I'm going to show you State's Exhibit 60.

23 A. This is all 526 on-ramp. You could see the Motel 6
24 right there with more street lights, business lights.

25 Q. So now I would like to show you State's 71. What does

1 that show?

2 A. That's the defendant's vehicle after he crashed.

3 Q. State's 72?

4 A. Those are his vehicle tags.

5 Q. And what's the significance of State's 73?

6 A. Shows the window tint, the windows partially rolled
7 down right around here.

8 Q. State's 70?

9 A. This is the defendant's vehicle, and then my vehicle
10 right here. As you can see, it's lit with business lights back
11 here and Motel 6 over here.

12 Q. Talking about your vehicle here, let's look at State's
13 65. Which one is your vehicle?

14 A. This is my vehicle.

15 Q. And who is this?

16 A. I don't know whose vehicle that was. That wasn't
17 there when I pulled up.

18 Q. And what's this direction over here?

19 A. That's the direction that the defendant fled over the
20 guardrail and under the overpass.

21 Q. So in talking about your car, let's look at State's
22 75. Can you kind of describe -- first of all, is this your
23 car?

24 A. Yes, that's my vehicle.

25 Q. Could you describe that vehicle for us in front of the

1 jury?

2 A. Yes. As you can see, the black-and-white vehicle,
3 reflective strip on the side right here, Charleston Police
4 patch which is on either side with the reflective strip, and
5 blue lights bar here.

6 Q. State's 67?

7 A. Also my vehicle, beginning to see the reflective
8 stripping, police patch and the light bar. It's hard to see,
9 but this is my mobile computer right here. And then comes back
10 here, it's lit up and the street lights over here.

11 Q. And State's 61?

12 A. It's a picture of the on-ramp. I believe my vehicle
13 is in front of this one right here. I don't think that's my
14 vehicle, but I believe this is my vehicle.

15 Q. And what's this direction?

16 A. This is the direction of travel down this runway down
17 here under the overpass towards the Comfort Inn Suites.

18 Q. Now I would like to show you a couple more. What does
19 State's 88 -- can you describe this to the jury?

20 A. Yes. This is the other view of where we ran. We ran
21 from here, this general area, towards this sidewalk. The
22 Comfort Inn Suites is kind of in this direction over here.
23 It's not shown in this picture, but this sidewalk right here
24 lines the boundary of Comfort Inn Suites.

25 Q. And did anything happen on that sidewalk?

1 A. Yes. This is where the defendant began -- or went
2 from a run to a jog and eventually a walk and a stop.

3 Q. This is State's 81. What's this show?

4 A. It's the Comfort Inn Suites, and well-lit by street
5 lights and the parking lot of Comfort Inn Suites as well.

6 Q. What's all this in the forefront of the picture?

7 A. This is the field we ran through, this direction
8 towards the sidewalk.

9 Q. And maybe this will help. I'm going to put State's 79
10 up there. Does that help? No?

11 A. Yes, yes. Under the overpass, towards the sidewalk
12 over here.

13 Q. State's 68?

14 A. Same thing.

15 Q. What's this?

16 A. This is the guardrail, the on-ramp, which he jumped
17 over down this direction along this sidewalk.

18 Q. Now I'm going to show you State's 89.

19 A. This is where -- this area, general area, where he
20 went from a run to a jog and continued on this sidewalk right
21 here.

22 Q. I'm going to show you State's 90.

23 A. Again, running here, jog, to a walk, and eventually
24 down the way and stopping.

25 Q. And what is all of this back here that we are seeing?

1 A. These are street lights and business lights from the
2 Comfort Inn Suites.

3 Q. And are there a lot of branches and leaves and tree
4 cover down here?

5 A. No, not at that time.

6 Q. I think in here, this may help. If you look at the
7 white van and then look at State's Exhibit 90, can you explain
8 to the jury what this shows?

9 A. Going from a run, again, chasing down the sidewalk,
10 goes to a jog and eventually to a walk and a stop. Around this
11 area, started to stop. Shooting occurred kind of out of that
12 picture.

13 Q. All right. Now I'm going to show you State's 92.

14 A. Yes, walking, walking, stopping around this area,
15 shooting occurred in this general area.

16 Q. And, again, are there a bunch of leaves and trees and
17 everything?

18 A. No, it's pretty open, as you can see, with the street
19 lights and business lights.

20 Q. Okay. State's 95?

21 A. This is the sidewalk which he was running. I believe
22 there's his firearm right there, actually. And I ended up in
23 the middle of the street over here.

24 Q. State's 118?

25 A. This is where he began to shoot at me. This is his

1 gun right here, began to shoot at me. And I backed off line in
2 this direction.

3 Q. I would like you to look at State' 121. Does that
4 help show some more for you, if you could explain to the jury?

5 A. Again, this is the area he was shooting at me. Then
6 he was shooting from the ground in this general area. And then
7 this is me backing off line. I ended up over here.

8 Q. State's 115..

9 A. Yeah, so this is me backing off line, trying to get --
10 getting away from gunfire at that point. I was still moving
11 around. And he's over here shooting.

12 Q. State's 110?

13 A. This was Detective Feeters's vehicle. He pulled over
14 in front of me, told me to get behind his vehicle. This is my
15 blood right here. I believe that's actually a tourniquet that
16 was placed on me, or a tourniquet. And he told me to lay
17 behind his vehicle, because I was stumbling around. And that's
18 where they rendered aid.

19 Q. And I don't know if you can really tell. Can you tell
20 what this is up here, up in here?

21 A. There's a sidewalk. And then I believe that's the
22 Comfort Inn Suites right there.

23 Q. All right. I'm going to show you State's 101.

24 A. This is my vest that I was wearing that night that
25 responding officers took off me, took off me to see where I was

1 shot. This is my duty belt right here with all my gear on it.

2 Q. And kind of, I guess right between those two circles,
3 can you tell what that is right here?

4 A. Yes. That's where I took the first shot to the chest.

5 Q. At this time, I'm going to show you -- you said you
6 were wearing a marked police uniform that night?

7 A. Yes, ma'am. Yes, ma'am.

8 Q. At this time, I'm going to show you what's been marked
9 as State's Exhibit 1, 2, 3, 4, 5, 6 and 7. I guess I can do
10 them in order. If you can first look at State's 1 and 2. Once
11 you get a chance to look at it, if you can tell me if you
12 recognize it?

13 A. Yes, I do.

14 Q. How do you recognize it?

15 A. This is the undershirt I was wearing and the
16 compression pants I was wearing beneath the uniform.

17 Q. Do they appear in substantially the same condition as
18 they did back on March the 30th?

19 A. Yes.

20 MS. LINDER: At this time, I would seek to admit
21 State's Exhibit 1 and 2 into evidence.

22 THE COURT: Any objection?

23 THE DEFENDANT: No objection.

24 THE COURT: State's Exhibit 1 and 2.

25 (State's Exh. 1, SLED Item 58, Cory Goldstein's

1 underwear, is received in evidence.)

2 (State's Exh. 2, SLED Item 61, Cory Goldstein's
3 undershirt, is received in evidence.)

4 BY MS. LINDER:

5 Q. At this time, I'm going to show you State's Exhibit 3
6 and 4. If you can look at these. Do you recognize those?

7 A. Yes, I do.

8 Q. How do you recognize them?

9 A. That's my bullet-proof vest.

10 Q. Is it in substantially the same condition as it was
11 back on March 30th of 2013?

12 A. Yes.

13 MS. LINDER: Your Honor, at this time, the State would
14 seek to admit State's 3 and 4 into evidence.

15 THE COURT: Any objection to this?

16 THE DEFENDANT: No objection.

17 THE COURT: Mark it in evidence, please.

18 (State's Exh. 3, SLED Item 68, Cory Goldstein's
19 partial vest front, is received in evidence.)

20 (State's Exh. 4, SLED Item 69, Cory Goldstein's
21 partial vest back, is received in evidence.)

22 BY MS. LINDER:

23 Q. I show you State's Exhibit 5 and 6. If you will take
24 a look at them and tell me if you recognize them.

25 A. Yes.

1 Q. How do you recognize them?

2 A. This is my Charleston Police uniform pants.

3 Q. Do they appear in substantially the same condition as
4 they did back on March the 30th of 2013?

5 A. Yes, they do.

6 MS. LINDER: Your Honor, at this time, the State would
7 seek to admit State's Exhibit 5 and 6 into evidence.

8 THE COURT: Any objection? Any objection?

9 THE DEFENDANT: No, no objection.

10 THE COURT: Mark it in evidence, please.

11 (State's Exh. 5, SLED Item 59, Cory Goldstein's
12 uniform pants, is received in evidence.)

13 (State's Exh. 6, SLED Item 60, Cory Goldstein's
14 uniform belt, is received in evidence.)

15 BY MS. LINDER:

16 Q. I show you what's been marked State's Exhibit 7. If
17 you will please take a look at that. Do you recognize that?

18 A. Yes.

19 Q. How do you recognize that?

20 A. That's my Charleston Police uniform shirt.

21 Q. Does it appear in substantially the same condition as
22 it did back on March the 30th 2013?

23 A. Yes.

24 MS. LINDER: Your Honor, at this time, the State would
25 seek to admit State's Exhibit 7 into evidence.

1 THE COURT: Any objection?

2 THE DEFENDANT: I don't object. No objection.

3 THE COURT: Mark it in evidence please.

4 (State's Exh. 7, Sled Item 62, Cory Goldstein's
5 uniform shirt, is moved into evidence.)

6 MS. LINDER: Your Honor, at this time, I'm going to
7 pull them out and put them on these foam boards so the jury can
8 see them without --

9 THE COURT: I think we need to give the jury a break.
10 I need to find out where we are.

11 Ladies and gentlemen, I'm going to ask you to step in
12 the jury room for a few minutes. Don't discuss the case.
13 Leave your notes, please, in the courtroom.

14 (Whereupon, Jury leaves open court at 5:07 p.m.)

15 THE COURT: All right. Mr. Goldstein, during the
16 break, you are not permitted to talk to anybody about your
17 testimony, but you can step down, if you would like. We are at
18 ease for about ten minutes.

19 (Whereupon, a recess transpired.)

20 THE COURT: The State ready?

21 MS. LINDER: The State is ready.

22 THE COURT: Defense ready?

23 THE DEFENDANT: I'm ready to go.

24 THE COURT: You said you are ready?

25 THE DEFENDANT: I'm ready.

1 THE COURT: Bring the jury in.

2 (Whereupon, the jury returns to open court at 5:17
3 p.m.)

4 THE COURT: All right. Ladies and gentlemen, I
5 haven't gotten any notes from anybody about problems with the
6 day, so we are probably going to work a little longer than we
7 normally would. And we are probably going to start earlier
8 tomorrow than we normally would. I did get one note about the
9 ends of the week. And I will share that with the parties and
10 talk to that juror tomorrow.

11 You may continue, Solicitor.

12 BY MS. LINDER:

13 Q. At this time I'm going to show you what's been marked
14 as State's Exhibit 9. If you will please look at it. Do you
15 recognize it?

16 A. Yes.

17 Q. How do you recognize it?

18 A. That's my firearm.

19 Q. And is it substantially the same condition as it was
20 back on March the 30th of 2013?

21 A. Yes, it is.

22 MS. LINDER: Your Honor, at this time, the State would
23 seek to admit State's Exh. 9 into evidence.

24 THE COURT: Has it been secured?

25 MS. LINDER: Yes.

1 THE COURT: And do you have ammunition with it?

2 MS. LINDER: Yes. It was packaged that way.

3 THE COURT: All right. Ladies and gentlemen, I have
4 to give you an instruction. Let me come around where you can
5 see. I have to do this in every case where there's a firearm.
6 There's rules dealing with firearms in a courtroom. There has
7 to be a certification to all of us that the firearm has been
8 disabled, which had been made to me. The jury is not allowed
9 to have the firearms and the ammunition at the same time, nor
10 is anybody else. So you need to take those out when you are
11 talking to him and then put it back in the package.

12 They are not allowed to point the weapon at anyone.
13 It has to be pointed up or down, but not at anyone. That
14 applies to every case where there's a weapon introduced.

15 All right.

16 MS. LINDER: Your Honor, at this time, I would ask for
17 permission for the witness to come down and help.

18 THE COURT: Sure. Just keep your voice up. Most
19 court reporters like for you to be on the side where you are
20 facing the court reporter.

21 BY MS. LINDER:

22 Q. Okay. First we are going to look at State's Exhibit
23 2. And I'm going to ask you to help me. All right. Officer
24 Goldstein, can you please explain to the jury what exactly
25 State's Exhibit 2 is?

1 A. This was my undershirt which I was wearing underneath
2 my vest. This is the blood from the shot I took, most likely
3 to the chest, which is right here where the bullet-proof vest
4 essentially saved my life. And this is a hole from the bullet.

5 Q. Now I'm going to show you -- this is State's Exhibit
6 1. If you can kind of show the jury what State's Exhibit 1 is
7 and explain to them.

8 A. It was obviously cut where they cut it off of me, but
9 you can see here the hole where the bullet exited the back of
10 my leg. And front would have been right around here where they
11 cut. There's the bullet hole right there. And these are my
12 pressure pants I wear underneath my uniform pants.

13 Q. And State's 1, you wore those under your uniform
14 pants?

15 A. Yes.

16 Q. State's 2 we just looked at, where did you wear that?

17 A. That was underneath my vest.

18 Q. I'm going to show you State's 5 and 6 that have
19 already been admitted. All right. I will hold it. State's 5
20 and 6, if you can explain, tell the jury what this is.

21 A. These are my uniform pants which were cut off from me
22 by responding officers when they were rendering aid. You can
23 see here this is where the bullet hit my leg and it went out
24 the back pants right here.

25 Q. State's 7, okay, this is State's 7, if you could,

1 please, explain to the jury what this is.

2 A. Yes, this is my uniform shirt. Here's the front of
3 it. And you could see there's a hole right here next to the
4 pocket. That's where the bullet penetrated my vest, and the
5 hole right here where it went through my uniform and the other
6 side and then into my back.

7 Q. Finally, I'm going to show you what's been marked
8 State's 3 and 4. First I'm going to show you State's 4. What
9 is this?

10 A. This is the back of my bullet-proof vest.

11 Q. So if you turn around, this is where it goes on you?

12 A. Yes, ma'am.

13 Q. And what's the point of having these bullet-proof
14 vests?

15 A. For incidents like this. Obviously, can save your
16 life if you were shot.

17 Q. I'm going to start with this. This is State's 3.
18 What is this?

19 A. This was just another layer of the bullet-proof vest,
20 the one inside the vest. There's an extra cover for the center
21 mass.

22 Q. What is this?

23 A. That is the front cover of my bullet-proof vest.

24 Q. Can you point out anything on that for the jury?

25 A. Yes. There's a hole right there. And you can see

1 that's where the bullet entered my right pec.

2 Q. And what is this?

3 A. This is the -- that's the vest itself. And this is
4 where the bullet entered.

5 Q. And so you are standing. This is part of the vest
6 right here; is that correct?

7 A. Yes, that's correct.

8 Q. All right. You can go take a seat back up at the
9 stand.

10 And State's Exhibit 9, that has already been entered,
11 can you hold that facing down and tell the jury what that is?

12 A. This is my firearm.

13 Q. And what kind of firearm is that?

14 A. It's a Glock 21.

15 Q. And what caliber does that hold?

16 A. It's a .45 caliber firearm.

17 (Whereupon, Ms. Linder shows photos to the defendant.)

18 THE DEFENDANT: I'm going to object to that, Your
19 Honor, for the simple fact these photos are just now being
20 produced to me today, on the day of trial. It's been five
21 years. Those photos have not been produced up until this
22 point, so I have to say, based on the delay, I have to object
23 to admittance of those photos.

24 THE COURT: Yes, ma'am.

25 MS. LINDER: Your Honor, I would say that Officer

1 Goldstein has been out of state. He flew in a couple days ago.
2 That's when I received these pictures, and I sent them. I
3 think injury, as Mr. Blake has previously argued, is important.
4 So I think it's important to document and show possible any
5 injuries.

6 THE COURT: May I see the photos?

7 MS. LINDER: If I may approach.

8 THE COURT: Sure.

9 So there's no dispute these photographs were not given
10 to the defense before today?

11 MS. LINDER: I gave it to him a couple of days ago.

12 THE DEFENDANT: I didn't review them until today,
13 Judge, so I don't know.

14 THE COURT: When did you receive them?

15 THE DEFENDANT: Well, when Mr. King was doing the jury
16 voir dire, he showed me the pictures then.

17 THE COURT: You got them today?

18 THE DEFENDANT: Yeah, he showed them to me today. Do
19 I have them actually in my hands? No.

20 THE COURT: Anything else?

21 MS. LINDER: No, Judge.

22 THE COURT: I'm reviewing what's marked as State's
23 Exhibit 163 and 164, 165 and 166 for identification purposes,
24 the objection as to violation of Rule 5, the objection is
25 sustained.

1 BY MS. LINDER:

2 Q. Can you kind of go along and explain to the jury with
3 what they just saw, seeing all the uniform and clothing, what
4 order did you get hit and shot that night and what injuries did
5 you sustain?

6 A. Immediately as the defendant turned around and pointed
7 the firearm at me, I felt the shot to the chest. And like I
8 said earlier, I knew that struck my vest, because I had a
9 distinct stinging sensation. And then after that is when I
10 remember the leg and the hand. Never felt the arm at the time,
11 but the other shots were very distinct. They were burning. It
12 was a lot more painful, especially the one to the leg. That
13 one did make me stumble around a little bit.

14 MS. LINDER: Thank you very much, Officer Goldstein.
15 I have no further questions for you.

16 THE WITNESS: Thank you.

17 THE COURT: Do you wish to cross-examine the witness?

18 THE DEFENDANT: I didn't intend to do it today. I
19 would like to delay it until tomorrow. I have intentions of
20 doing it tomorrow. But, I mean, if you want, we can do it
21 right now. We can do it right now. Maybe we can get back
22 around to it tomorrow.

23 THE COURT: Yes, sir. You can continue tomorrow if
24 you don't finish today, but let's keep going.

25 THE DEFENDANT: Keep going?

1 THE COURT: Yes, sir.

2 THE DEFENDANT: I would like to put this in evidence,
3 these photos.

4 THE COURT: You have to have somebody identify them or
5 show them to counsel and see if there's an objection.

6 THE DEFENDANT: Yeah, I already showed it to Ms.
7 Linder already.

8 MS. LINDER: I don't object to him trying to have the
9 witness answer a question. I'm unsure if the witness can
10 answer anything, but I don't object to him answering.

11 THE COURT: He is trying to mark them in evidence,
12 right?

13 THE DEFENDANT: They are the photos. You have seen
14 them. There's no objection to that? Do you want to review
15 them?

16 MS. LINDER: I agree that those are photographs taken
17 from that night. I'm uncertain if Agent Goldstein can answer a
18 bunch of questions. I'm happy for you to mark them. And I
19 agree that those are photos taken from SLED on that night.

20 THE COURT: Are they in evidence? That's my
21 question.

22 THE DEFENDANT: They are not in evidence yet.

23 THE COURT: Is there an objection to them being put
24 into evidence?

25 MS. LINDER: No, Judge.

1 THE COURT: All right. Have they been marked at all?

2 THE DEFENDANT: No, they haven't been marked
3 yesterday.

4 THE COURT: She has to mark them.

5 (Defendant's Exh. 28 through 45, Photographs, are
6 received in evidence.)

7 THE COURT: All right.

8 CROSS-EXAMINATION

9 BY THE DEFENDANT:

10 Q. Officer Goldstein -- Agent or Officer Goldstein?

11 A. Special agent now.

12 Q. Special agent?

13 A. Yes, sir.

14 Q. Okay. You got to bear with me, because I've got all
15 questions down. I've got you down as officer at the time. You
16 are still an officer?

17 A. That's fine. That's fine.

18 Q. Let's go back to the top in regards to dark-tinted
19 windows on this Hyundai Elantra. You said now that you could
20 not initially see through the tinted windows, right, correct?

21 A. That's correct.

22 Q. And you also stated that it was a rental car, correct?

23 A. That's correct.

24 Q. Okay. Now, let's go over State's Exhibit 72 and 73.

25 THE DEFENDANT: May I approach the witness?

1 THE COURT: Yes, sir.

2 BY THE DEFENDANT:

3 Q. These are three photos regarding the Hyundai Elantra.

4 If you want to verify that's the vehicle?

5 A. Yes, that's the vehicle.

6 Q. Okay. You said this is the vehicle, right?

7 A. Yes, that's the vehicle.

8 Q. Now, you said that you couldn't see within inside of
9 the vehicle with light illuminated, correct?

10 A. That's correct.

11 Q. Do you see inside of the vehicle right now?

12 A. This is a picture of the front of the vehicle. I was
13 looking to the side windows of the vehicle.

14 Q. Okay. That's 70, Your Honor. I will move forward to
15 71. This is another angle of the vehicle, right?

16 A. That's correct.

17 Q. Do you still see in it?

18 A. I don't know the entirety of the circumstances
19 surrounding this picture. At this time, I wasn't around
20 because I was in the hospital recovering from gunshot wounds.
21 So at the time that I observed the vehicle, I could not see
22 inside the vehicle.

23 Q. Well, it's illuminated?

24 A. Again, I don't know the entirety of the circumstances
25 surrounding that picture.

1 Q. This is another picture right here. Okay. This is
2 kind of the best angle you are going to get from the back of
3 the vehicle. This is a rental car. Now, can you see -- can
4 you not see within that vehicle slightly? You said you
5 couldn't see nothing. Could you see anything slightly?

6 A. Again, this picture was taken while I was in the
7 hospital recovering from my gunshot wounds. So I wasn't
8 present when this picture was taken. But, however, when I
9 observed the vehicle driving on the road, I could not see
10 inside the vehicle.

11 Q. All right. Now, let's go to the traffic stop, the
12 traffic violations and all that stuff. Correct? Now, you said
13 what struck you was the dark-tinted windows, correct?

14 A. Yes. Like, when I initially saw the vehicle, I
15 observed dark-tinted windows.

16 Q. What happened subsequently after that? What traffic
17 violation took place subsequently after that?

18 A. As I said, I observed the dark-tinted windows. I
19 followed you down the road. Defendant pulled into the mall.
20 While in the mall, there were multiple stop signs in that mall.
21 The defendant bypassed all stop signs in the mall. He pulled
22 back out onto New Orleans Road, and using improper turn signal
23 as he turned into another closed business.

24 Q. So this is about three, four different traffic
25 violations that I committed, correct?

1 A. That would be correct.

2 Q. So you witnessed me making three or four traffic
3 violations before pulling me over, correct?

4 A. There would be correct, yes. I was gathering
5 information at this time, as I said earlier, just observing,
6 seeing what was going on.

7 Q. Now, I'm a licensed driver. And I've been pulled over
8 maybe one time before for making one traffic stop violation,
9 let alone four or five and somebody waits and then allegedly
10 pulls me over. Now, why did it take you so much alleged
11 traffic violations in order to allegedly pull me over?

12 A. I can't speak to other circumstances where you were
13 pulled over or what an officer did, what he or she did. I can
14 tell you that I was gathering information that night. And I
15 felt there was a time and a place for that traffic stop.
16 That's what I did.

17 Q. Do you have anything tangible as far as any citations
18 regarding these violations that you issued? Did you submit
19 anything tangible?

20 A. I was planning on issuing a citation, possibly even a
21 warning. But, again, I wasn't given that opportunity because I
22 was in the hospital.

23 Q. So you are going to let a person violate three or four
24 traffic stops and give them a warning?

25 A. It's a possibility, give them a citation, warning,

1 depends on all the circumstances. My discretion --
2 essentially, as officers, we have discretion. So that's a
3 possibility. But, again, I wasn't awarded an opportunity that
4 night. I was in the hospital.

5 Q. I don't think Donald Trump himself could get away with
6 that many traffic violations and not get a ticket.

7 (Whereupon, the fire alarm in courthouse alerts.)

8 THE COURT: All right. Ladies and gentlemen, don't
9 discuss the case. Leave your papers in your chair. Step back
10 there and follow the instructions for security.

11 (Whereupon, the jury leaves open court at 5:45 p.m.)

12 THE COURT: While they are out, I'm going to go ahead
13 and give a copy of note I got from an alternate juror, 216. I
14 don't know how you pronounce it. I don't know if it's French,
15 Porche. He's telling me that he has a trip planned flying out
16 at 11:30 on Thursday. He explains what the trip is about, who
17 paid for it and all that. My intentions are to keep him. He's
18 an alternate. My intentions are to keep him on the jury and
19 see how long the case takes and where we are. I do not intend
20 to make him miss his trip. I am not saying that, unless it's
21 100 percent necessary.

22 Can you all tell me about these witnesses who have to
23 testify in the morning?

24 MS. LINDER: Judge, we have some people who are coming
25 from out of town into town tomorrow. We have three of those

1 people, plus we have one person who has a flight leaving
2 tomorrow afternoon. So those were people we are going to go
3 out of order. And we are going to get all those four people
4 done so as not a concern for tomorrow. We will be able to get
5 all those people done.

6 THE COURT: Okay. Bring the jury back in.

7 THE DEFENDANT: Your Honor, may I approach?

8 THE COURT: I'm sorry. What?

9 THE DEFENDANT: I was about to say, may I approach,
10 but I will wait until the jury comes.

11 (Whereupon, the jury returns to open court at 5:48
12 p.m.)

13 THE COURT: It was a false alarm. My plan is to go
14 about 15 more minutes and then start tomorrow at 9:15. Is that
15 a problem for anybody to start at 9:15?

16 (No response from the jury.)

17 THE COURT: Okay. So if you would, Mr. Blake, just go
18 about 15 more minutes and let me know when you get to a good
19 stopping point and we will pick back up tomorrow.

20 THE DEFENDANT: Let me know when I run into that 15
21 minutes.

22 THE COURT: Yes, sir.

23 BY THE DEFENDANT:

24 Q. I think we left it back to where -- my next question
25 to you would be, you said I was driving within Citadel Mall

1 parking lot; is that correct?

2 A. That's correct. You were in the mall parking lot and
3 I drove through the parking lot exiting out the other side.

4 Q. Around what time was this?

5 A. Approximately 10:30 p.m.

6 Q. And you said that the mall parking lot as far as the
7 whole mall is closed?

8 A. The stores at the mall are closed at that time.

9 Q. Okay. Do you have a Planet Fitness and a bar by the
10 name of King Street Grill attached to the mall?

11 A. There are. I don't know that those are necessarily
12 part of the mall. I know a lot of the stores in the mall are
13 closed and the Target as well.

14 Q. They are attached to the mall. And at that point in
15 time, they were open. So would you say at that point the whole
16 mall was totally closed at that point?

17 A. Again, I would reiterate, the mall stores are closed.
18 And Mr. Blake bypassed all businesses, including businesses he
19 mentioned, the Planet Fitness and the King Street Grill.

20 Q. Going outside of the -- stepping out of the mall
21 parking lot at this point, I pull out at this point. What are
22 we on? It's not DuPont?

23 A. When you pulled out of the mall, you were on Orleans
24 Road.

25 Q. Now we have a light. I'm at a light at this point,

1 right?

2 A. That's correct. At this point, you are at Orleans
3 Road and Sam Rittenberg at a red light.

4 Q. Are you directly behind me?

5 A. At this point, I'm behind your vehicle, yes.

6 Q. Were your blue lights illuminated at this point?

7 A. I was not conducting a traffic stop at this point, so
8 my blue lights had no reason to be on.

9 Q. After the light turned green, what happened
10 subsequently after the light turned green?

11 A. As Mr. Blake drove or crossed over Sam Rittenberg
12 Boulevard, not far past that intersection is the Best Buy and
13 the Wells Fargo. Both those businesses were closed. And
14 Mr. Blake made a left-hand turn into that business using an
15 improper turn signal there as well. And that's when I
16 attempted the traffic stop.

17 Q. This is when you allegedly put the blue lights on?

18 A. This is when I activated my blue lights and eventually
19 sirens.

20 Q. Okay. Now, you said Best Buy was closed. And Best
21 Buy was closed, because it was after nine o'clock. And you did
22 mention a Wells Fargo, right?

23 A. Yes. Best Buy is attached to the Wells Fargo. They
24 kind of share the same parking lot.

25 Q. Now, do you ever really know a bank to be able to be

1 totally closed based upon you can always use the ATM machines?

2 A. I guess you could use the ATM. I don't think that
3 constitutes bank as open. The bank is closed. You can't go
4 inside the vehicle.

5 Q. It would be kind of partially open, just not the
6 actual bank, but the uses of that area would be utilized for
7 ATM?

8 A. Again, the business is closed at that time. The ATM I
9 guess you could use, but the businesses is closed.

10 Q. Now, when I turn into this Best Buy parking lot, you
11 turn in with me, right? Okay. At this time, you illuminated
12 your blue lights, right?

13 A. As you pulled into the parking lot, like I said, I
14 activated my blue lights, yes.

15 Q. And did I stop?

16 A. Mr. Blake did not stop at this time. He reduced the
17 speed and slow rolled through the parking lot as I was directly
18 behind him with my blue lights on.

19 Q. At this point, would you say that the parking lot was
20 dark and you couldn't see within the vehicle?

21 A. The parking lot was not dark. The parking lot was
22 well illuminated by street lights. However, I couldn't say see
23 inside the vehicle at this time due to the window tint.

24 Q. That's crazy, because I just showed you a picture of
25 illuminated area and we can see clearly through --

1 A. Again, I don't know the circumstances around that
2 picture, the flash on the camera. I wasn't there for those
3 pictures because I was in the hospital. So I can speak to what
4 I saw. Again, and that was his vehicle with dark window tint
5 in that parking lot that was illuminated.

6 Q. Now, you said I speed up in the parking lot at this
7 point. And I think I'm down DuPont at this time, correct?

8 A. After I activated my blue lights and siren, you cut
9 off your headlights and drove towards Orleans Road -- I'm
10 sorry, towards Dupont Road, made a right on Dupont Road with
11 his headlights still off and continued on Dupont Road towards
12 Savannah Highway.

13 Q. So you don't have anything tangible? You said you
14 didn't have tickets, citations, nothing like that, didn't have
15 any dash camera at the time? The department wasn't issuing
16 y'all in-dash cameras at the time. So you don't really have
17 nothing to show for it?

18 A. Again, if I was given the opportunity to effect the
19 traffic stop and make contact with Mr. Blake, it's very
20 possible a citation would be issued. But because he shot me, I
21 wasn't given that opportunity.

22 Q. Well, you jumped the gun a little bit. I'm going to
23 get around to that. We are going to get around to the
24 shooting. Okay? Let's go back to -- I think I'm on Savannah
25 Highway at this point. You say I'm driving erratically and

1 blue lights are on behind me.

2 A. I will make a correction there. On Savannah Highway,
3 because of the erratic driving and increasing speed, traveling
4 in the median lane and putting other citizens at risk, I
5 deactivated my blue lights and sirens at this time.

6 Q. So confirmation just now that your blue lights were
7 deactivated?

8 A. On Savannah Highway, yes.

9 Q. Now, fast-forward to the crash site. Okay? Now, once
10 you enter the ramp -- was that east I-526? Okay. What did you
11 spot at that point?

12 A. As I approached the on-ramp, I observed Mr. Blake's
13 vehicle. The door was open. And Mr. Blake was running from
14 the vehicle down the overpass -- under the overpass rather..

15 Q. At this point, did you activate your blue lights?

16 A. At this point, I did not. I parked my vehicle behind
17 his and gave chase. Like I said before, before I gave chase, I
18 made sure there was no one else inside the vehicle, and
19 continued to give chase to Mr. Blake.

20 Q. Okay. Officer Goldstein, after witnessing myself
21 elude the said vehicle, you then engaged into a foot pursuit of
22 myself. Did you radio for any backup assistance for the foot
23 pursuit?

24 A. It's common practice that we let dispatch know if we
25 are in foot pursuit, especially direction of travel, and that

1 you are in a pursuit, so responding officers can have it.

2 Q. Prior to pursuing myself in a foot pursuit after
3 witnessing me elude my vehicle, do you recall -- you said your
4 blue lights were unilluminated at that point. You answered
5 that question. Now, may I ask, why didn't you feel the need at
6 that particular point in time to illuminate your blue lights
7 prior and amongst determination to engage in a foot pursuit?

8 A. Because of the severity of the situation, he was
9 already outside his vehicle and had a jump on me, I exited my
10 vehicle as fast as possible in order to gain on him and catch
11 him.

12 Q. Okay. So it was kind of like a heat-of-passion thing,
13 man, the hell with it, I'm just going to go with what I know
14 and pursue the suspect?

15 A. I didn't say that. Again, because of the severity of
16 the situation and he already had a jump on me, I felt need to
17 get out of my vehicle as quickly as possible, and I did.

18 Q. So if you are exiting your vehicle to pursue a
19 suspect, per se, on a foot pursuit, wouldn't that be some type
20 of protocol or standard procedure to illuminate your squad car
21 lights for both proper awareness of law enforcement official
22 and safety purposes at this point?

23 A. It can be. Again, officers have a lot of discretion.
24 At that time, because he had the jump on me, like I explained,
25 I felt the need to exit my vehicle quickly and engage in a foot

1 pursuit.

2 Q. Okay. And that night, okay, you said you were
3 patrolling in a marked vehicle; is that correct?

4 A. Yes. It was a marked vehicle, black-and-white
5 vehicle, it had overhead blue lights which illuminated in every
6 direction, had a Charleston Police logo on either side of the
7 vehicle, and had a reflective decal or strip on either side of
8 the vehicle as well.

9 Q. Okay. Among the foot pursuit by you and myself, you
10 state that you gained ground on myself. And after I reduced my
11 speed, came to a complete stop, correct?

12 A. Yes. Yes. As he was running, as he approached the
13 sidewalk on Sam Rittenberg Boulevard, he started to reduce his
14 speed. And that's when he brought his hands to his waist band
15 area.

16 Q. You are saying Sam Rittenberg Boulevard. Do you
17 recall the precise location where I was at when I stopped at
18 this point?

19 A. It was behind the Comfort Inn on Sam Rittenberg on the
20 sidewalk.

21 Q. On the sidewalk area?

22 A. Sidewalk area, yes.

23 Q. By the back patio, correct?

24 A. Yes, behind the Comfort Inn Suites on Sam Rittenberg
25 Boulevard on the sidewalk area.

1 Q. At any point at that time, do you recall seeing any
2 weapons in my hands while my back was facing you?

3 A. Again, as I stated earlier, Mr. Blake's hands were in
4 his waistband area, almost like he was hiding his hands from
5 me. He was looking over his shoulder at me. So I could not
6 see his hands at that time. And that's why I gave the verbal
7 command, Don't move.

8 Q. Okay. At any time, do you recall yourself visually
9 acknowledging yourself as a law enforcement officer?

10 A. As I stated earlier, I continuously yelled during the
11 foot pursuit, police, stop, stop, police, police, police, stop.

12 It's common practice, something they teach us to do so
13 we announce our presence.

14 Q. You said you verbally acknowledge, police, stop
15 indicating you are law enforcement; is it correct?

16 A. Throughout the foot pursuit, yes.

17 Q. All right. What point in time, I ask, was your verbal
18 acknowledgement of law enforcement officer made? What point in
19 time was this?

20 A. I'm sorry. Can you repeat that question?

21 Q. At what point in time was your verbal acknowledgement
22 of a law enforcement made?

23 A. Oh, it was continuously during the foot pursuit as we
24 were running through the field, yelling, police, stop, police,
25 stop.

1 Q. So the whole time, you were saying, police, stop,
2 police, stop?

3 A. I can't say the number of times I said it, but that's
4 what I was continuously saying, police, stop.

5 Q. Now, you state you then, through your
6 department-issued firearm, are you now indicating you drew your
7 firearm first at this point?

8 A. No, I am not indicating that.

9 Q. You are not indicating you drew first?

10 A. No. I can tell you the facts of the matter is that
11 when I could not see Mr. Blake's hands, I told him, Do not
12 move. At some point between that time and when he turned
13 around and said, You don't move, motherfucker, and pointed the
14 firearm at me, my firearm began to be drawn from my holster.
15 It was immediately after he turned around and pointed the
16 firearm at my chest level and shot me, which I felt a struck to
17 the chest.

18 Q. You are saying -- okay. So, no, you are saying you
19 didn't drew (sic) first, correct?

20 A. Everything happened very fast. If you are asking for
21 my opinion who drew first, I can give you my opinion.

22 Q. It was like an instantaneous or simultaneous episode
23 maybe?

24 A. Again, it happened very fast. Mr. Blake turned around
25 and pointed the firearm at my chest. I immediately felt a shot

1 to my chest. And that's when I returned fire.

2 Q. Now let's go into the particular part where you quoted
3 I abruptly came to a complete stop. Then after you quoted, you
4 subsequently, allegedly, announced, Police, don't move, while
5 simultaneously pulling your firearm, while I simultaneously
6 spun around and fully extended my right arm, with a gun in hand
7 pointed directly at you. Then after I quoted you, Don't move,
8 motherfucker, then after, we exchanged gunfire; is that
9 correct?

10 A. Yes, that's how my report reads.

11 Q. Okay. So are you further saying that we both then
12 drew our weapons simultaneously?

13 A. Again, to reiterate, everything happened very fast.
14 When he turned around with the weapon, at some point between me
15 saying, Police, don't move, and him turning around and pointing
16 a firearm at me, I drew my firearm. He had the draw on me is
17 my opinion in this matter.

18 Q. You got three options. You've got subsequently.
19 You've got instantaneously. And you've got simultaneously.
20 Which of the three would you say?

21 A. If you are asking me what I would say, I would say
22 that you drew your firearm and you had to draw.

23 Q. So it wasn't simultaneously. All right. And do you
24 recall about how far were we apart from each other at that
25 point in time?

1 A. It was anywhere between 10 to 15 yards, 10 to 20
2 yards.

3 Q. Okay.

4 A. I would have to refer back to my case report.

5 Q. That's absolutely correct. I'm surprised you
6 remembered that. After you stated your acknowledgement as a
7 law enforcement officer, I then subsequently turned around and
8 I'm facing you with my weapon pointed at you. Now directly at
9 you at this particular point, this was a direct head-on
10 collision and Western standoff between both you and myself; is
11 that right?

12 A. I don't believe I used those words.

13 Q. No, I am not saying that you used those words. I'm
14 just trying to get a better understanding on the exchange of
15 gunfire, how it all started. And I'm trying to give the jurors
16 a better picture of how it started. Would you say -- would you
17 classify it as a Western standoff at this point?

18 A. You are asking me if you shooting me was a Western
19 standoff?

20 Q. Yeah, head-on.

21 A. I wouldn't classify that as a movie scene, if that's
22 what you are asking.

23 Q. Well, it's not a movie scene, but I guess it could be.
24 What I'm asking you is, we are facing each other head-up,
25 face-to-face, right, when you decided to make the

1 confrontation?

2 A. When you turned around with your firearm pointed at
3 me, yes, you were facing me.

4 Q. So we were face-to-face, like me and you face-to-face
5 right now, correct?

6 A. That's correct, we were face-to-face.

7 Q. Okay. When you quoted we exchanged gunfire, who are
8 you indicating shot first at this point?

9 A. I'm sorry. Can you repeat the question?

10 Q. When you state that we exchanged gunfire, who are you
11 indicating shot first at this point?

12 A. I'm saying everything happened very quick, very, very
13 quick. And I returned fire after being struck in the chest.

14 Q. Okay. I read a few of your reports. And all of your
15 reports say you don't recall who shot first.

16 A. Right. I'm saying the facts that I remember. And
17 that's why I am not telling you that I shot first. I'm telling
18 you that, from what I remember, you turned around with the gun
19 pointed at me. Everything happened very fast. I felt a shot
20 immediately to the chest, which is when I returned fire.

21 Q. So you still don't recall at this point who shot
22 first?

23 A. I can give you my opinion, but I can't tell you with
24 100 percent certainty.

25 Q. Are you sure it was me that shot first?

1 A. My opinion is that you shot first.

2 Q. First you can't recall and now it's your opinion that
3 I shot first?

4 A. Again, I can't give you with 100 percent certainty,
5 but I can give you my opinion. It happened very fast. It was
6 a very traumatic experience.

7 Q. So I guess I just got to put that down that you are
8 saying I shot first. Okay. This is new to me, because going
9 on five years, you couldn't recall, and now you can recall.

10 A. Again, based on the reports, we are taught to put
11 facts in the reports, and that's what I did. I put the facts
12 of the case. You don't put opinion in the reports. So the
13 facts of the case are in the report.

14 Q. Okay. Officer Goldstein, I would like to present
15 something to you at this point in time. There are some crime
16 scene photos that I admitted in evidence among my defense,
17 okay, of the clothing that I had on the night of the incident.
18 I was wearing the night of that incident, and you can clearly
19 see -- as a matter of fact, before I go into that, let me take
20 the evidence from you.

21 THE COURT: We may need to stop. It's been about 15
22 minutes. Is this a good place to stop?

23 THE DEFENDANT: Not right now. I would like to verify
24 these are the clothes I was wearing the date of the incident.
25 As a matter of fact, do we have my actual clothes in here?

1 Maybe we don't. Did SLED bring that? Well, I'm going to do
2 the pictures right here. All right.

3 BY THE DEFENDANT:

4 Q. What do you recall me having on the night of the
5 incident?

6 A. Dark-colored clothing.

7 Q. Are these the clothing I had on? Does that look about
8 right to you?

9 A. Again, I don't recall the exact clothing. I would
10 assume these are. But dark-colored clothing is what I saw,
11 sir. I would assume these are the clothing you were wearing.

12 Q. Those are the ones that SLED actually -- you are
13 confirming those are clothing I had on this night?

14 A. I'm assuming. I didn't take that evidence in, so I'm
15 assuming.

16 Q. At this point, you state that this is the clothing I
17 had on the night of the incident. Right? That's the jeans I
18 was wearing, right? Okay. And this is the jacket I was
19 wearing; is that correct?

20 A. Again, I didn't take that evidence in. I remember you
21 were wearing dark-colored clothing. I guess that's the jacket
22 you were wearing, yes.

23 Q. All right. So, okay, as you can clearly see, the
24 white tape of the clothing indicates where I sustained shots
25 fired from your weapon. My question now to you is, based on

1 both your statements and testimony of you and myself fighting
2 at each other head-on, can you further explain to the Court
3 that why is it that I sustained multiple gunshots from behind
4 and not from head-on, which clearly constricts both your
5 statements and your testimony here today? Can you explain why
6 would I -- if it was a Western standoff, why would I sustain
7 shots to the rear of me on my clothing if this was a Western
8 standoff just like three to my lower leg, one to my buttocks
9 area? And let me give you a better one. This is another one
10 right here. This is all to the rear of my clothing and my
11 jeans. Can you explain at this point, if we had a Western
12 standoff or we had a face-on collision, whatever you want to
13 say, why did I receive shots to the rear of my clothing?

14 A. I would explain that the same way I showed you guys my
15 clothing, how I had holes in the rear of my clothing as well.
16 Bullets travel through things. So, obviously, the jeans were
17 cut so you can't see the front.

18 Q. Okay. But you are not a ballistic -- are you
19 ballistic -- can really answer that question to a T --

20 A. I am not an expert.

21 Q. -- about what happened?

22 A. Maybe you shouldn't ask me that question then.

23 Q. Okay. If you are not a ballistic, so you are not
24 qualified to answer that question about bullets traveling.

25 All right. I'm going to -- well, these are already

1 admitted into evidence. And I'm going to have him -- for the
2 jurors to see, I mean, I think y'all have seen it on the big
3 screen, do you want to look through?

4 THE COURT: You can't talk to the jury.

5 THE DEFENDANT: Well, I'm going to leave this for the
6 jurors into evidence.

7 THE COURT: Are they in evidence?

8 THE DEFENDANT: They are not in evidence?

9 Do you want to object to anything, Ms. Linder, about
10 these pictures, SLED?

11 MS. LINDER: No, those can be admitted in evidence
12 without objection.

13 THE COURT REPORTER: Can you just give me the numbers?

14 THE DEFENDANT: Okay. This is 43, 45, 42, 44, 39, 41,
15 38, 40.

16 (Defendant's Exhs. 38 through 45, Photographs, are
17 received in evidence.)

18 THE DEFENDANT: One more question and then I will wrap
19 it up.

20 THE COURT: Yes, sir.

21 BY THE DEFENDANT:

22 Q. Okay. Then maybe you can better explain to the Court
23 all bullet wounds I physically sustained by yourself the night
24 of said incident are the side angles and not from this alleged
25 head-on collision. As a matter of fact, there's something else

1 I wanted to put into evidence. Turn the projector back on one
2 more time, please.

3 THE COURT: You are not supposed to show things on the
4 projector until they are in evidence.

5 THE DEFENDANT: I'm just trying to speed it up, Judge.

6 THE COURT: I understand. I'm just letting you know.
7 They have to be in evidence in order for them to be put up on
8 the projector.

9 This is identification.

10 MS. LINDER: If I can please see that exhibit.

11 THE DEFENDANT: Do you want to see the exhibit?

12 THE COURT: This is one of the shots I sustained from
13 my leg right there.

14 THE COURT: What number is that?

15 THE DEFENDANT: 23.

16 THE COURT: You are offering it into evidence?

17 THE DEFENDANT: Yes.

18 THE COURT: Is there an objection?

19 MS. LINDER: No objection.

20 (Defendant's Exh. 23, X-ray, was received in
21 evidence.)

22 BY THE DEFENDANT:

23 Q. It's a physical shot that I sustained the night of the
24 incident. It's my lower leg area. That's my lower leg there.
25 This is proof that me and you never was head-up in this gun

1 battle exchange.

2 THE COURT: You have to ask him questions. What you
3 are saying is not evidence.

4 THE DEFENDANT: I'm going to ask him a question.

5 THE COURT: That's fine. But I just want to make sure
6 you understand, when you are asking these questions in this
7 role, what you are saying is not evidence.

8 BY THE DEFENDANT:

9 Q. My question again, because you never answered, if we
10 were head up, why would I sustain shots from a side view at
11 this point?

12 A. Again, like you stated earlier, I am not a ballistic
13 expert. All I know is that when he turned around and started
14 firing his gun, I'm in a fight for my life. He's on the ground
15 shooting. I'm prone shooting. So I fired a round back. I
16 don't know how or at what point he sustained these shots. But
17 I was in a fight for my life at that point.

18 Q. At that point in time, you state in your incident
19 report and stuff like that that you can't recall who shot
20 first, correct, between me and you?

21 A. As stated earlier, yes.

22 Q. So who do you say would be responsible for the initial
23 narrative of myself firing upon you initially, then after
24 yourself returning fire upon myself? Was it Charleston Police
25 Department or the South Carolina Law Enforcement Division?

1 A. I don't know what you are referring to or what
2 narrative you are referring to.

3 Q. It's narrative regarding my arrest warrant and search
4 warrant. Do you need it for recollection purposes maybe?

5 A. I had no -- I didn't take part in the writing of your
6 arrest warrant or search warrant.

7 THE DEFENDANT: What we are going to do, because we
8 are running out of time, we are going to wrap this up right now
9 and finish up tomorrow. Is that okay, Judge?

10 THE COURT: If you are at a good stopping point and
11 want to continue tomorrow, yes.

12 THE DEFENDANT: Yeah, we can stop right now.

13 THE COURT: Okay. Thank you.

14 THE COURT: Ladies and gentlemen of the jury, please
15 remember all the admonitions that I told you about. And also,
16 remember what I said about if you have some true emergency that
17 prevents you from being here on time, please have somebody call
18 the clerk's office and let us know so that we are not out
19 looking for you. You need to leave your notes in the
20 courtroom. The bailiffs will take them up tonight. We don't
21 read your notes, but they will lock them up and give them to
22 you tomorrow. And I hope you have a pleasant evening. I look
23 forward to seeing you in the morning at 9:15. Come back like
24 you did after lunch. Don't come in the courtroom. Thank you.
25 (Whereupon, the jury leaves open court at 6:16 p.m.)

1 (Court's Exh. 5, Juror note, was marked for
2 identification.)

3 THE COURT: Mr. Goldstein, I'm sure you know this, but
4 I have to say it for the record, do you understand during the
5 break you are not permitted to talk to anyone about your
6 testimony?

7 THE WITNESS: Yes, Your Honor.

8 THE COURT: I need you back at 9:15. Is that a
9 problem?

10 THE WITNESS: No.

11 THE COURT: Folks, those of you that were in here
12 earlier, you heard this, if you were not in here, be careful
13 when you leave that you don't have contact with a juror. They
14 are going to be using the same common areas. Don't be talking
15 about the case in any way that might be overheard by a juror.
16 If any of you all in the media are setting up live shots, you
17 need to do it where the jurors are not going by you. Thank
18 you.

19 Court is in recess until 9 a.m.

20 (Whereupon, the proceedings adjourn for the day.)

21 (Whereupon, the proceedings continue on November 14,
22 2018.)

23 THE COURT: Is there anything we need to take up
24 before the jury comes in?

25 MS. LINDER: Your Honor, we would just ask in

1 preparation of some other witnesses we have, if you could
2 clarify your ruling about any mention or limited questions as
3 far as the firearm is concerned. I understand no mention of
4 the fact that it was stolen or the burglary and all of that. I
5 understood you to say that I could ask a question about
6 concealed weapons permit.

7 And then the other ruling, what I didn't understand
8 and ask clarification for, is the other part what you ruled was
9 something about that he was not allowed to possess it in the
10 manner that he did, he was prohibited from possessing it. If
11 you could clarify, I would appreciate it.

12 THE COURT: My ruling would prevent you from asking
13 any question about him possessing a weapon that was stolen.
14 You may ask him about possession of a weapon. If he had a
15 permit for it. With regard to whether he had a right to
16 possess the weapon, I would allow you to ask that question, but
17 not go into any specifics about why he had no right to possess
18 the weapon.

19 MS. LINDER: Yes, Judge. I will keep it limited.
20 And, frankly, this is the witness who would get it in, so I
21 also hears that it is very limited.

22 THE COURT: There's a question that's come up as to
23 whether the gun has been admitted into evidence, the officer's
24 gun. Whether it's in evidence or whether it's not in
25 evidence.

1 MS. LINDER: Judge, I believe that I admitted it when
2 I was going through all of those things. If it's not, I can do
3 it on redirect or we can do it through the SLED agent who
4 collected it that night. Out of abundance of caution, we are
5 happy to do it an additional time to make sure.

6 THE COURT: It thought it was in evidence without
7 objection, but I could be wrong. Was there an objection to the
8 gun coming in?

9 THE DEFENDANT: I don't think she presented it.

10 I object to it because that would be my pretrial
11 motion that you denied me of, so I would object to it.

12 THE COURT: I can't hear you.

13 THE DEFENDANT: You know what, I'm going to make a
14 decision on that. I'm going to say she can admit it into
15 evidence. I have no objection to it.

16 THE COURT: Mark it into evidence, please.

17 (State's Exh. 9, Office Goldstein's gun, was
18 received in evidence.)

19 (Whereupon, the jury returns to open court at 9:22
20 a.m.)

21 THE COURT: Give them their pads back, please.

22 Everybody got your little pad? Thank you, ladies and
23 gentlemen. We are going to continue now with the
24 cross-examination of Officer Goldstein. You may continue.

25 BY THE DEFENDANT:

1 Q. All right. Officer Goldstein, something came to my
2 attention last night. I asked you yesterday whether or not you
3 pulled your firearm first. You stated no, correct?

4 A. I stated at some point after the time I said, police,
5 don't shoot, in between, and you turning around and shooting
6 me, I drew my firearm.

7 Q. Okay. Then after I asked that, you stated no,
8 correct?

9 A. I don't recall if I stated no to that question.
10 Again, all I could tell you is at some point in the time of me
11 stating, police, don't shoot, and Mr. Blake turning around and
12 firing at me, I drew my firearm.

13 Q. So you actually don't know. All right. Well, you
14 conducted, if I'm not mistaken, a report, the supplemental
15 report to SLED and the city police department --

16 A. Are you referring to the police report that I drafted?

17 Q. Correct. I think you conducted it 4/5/2013.

18 A. Okay.

19 Q. This is right here. Do you want to verify?

20 A. Sure.

21 THE DEFENDANT: May I approach the witness?

22 THE COURT: Yes.

23 BY THE DEFENDANT:

24 Q. Is this your statement?

25 A. Yes.

1 Q. Hold that. Can you please read off for me the
2 highlighted areas in that report?

3 A. I told the police -- I told the suspect, Police, don't
4 move, and began to draw my department-issued firearm.

5 Q. That's the highlighted area?

6 A. You want me to continue through the ...

7 Q. Yeah.

8 A. There's another section?

9 Q. Yes.

10 A. The suspect and I then exchanged multiple shots at
11 each other.

12 Q. Okay. This is the same exact thing. It's just with
13 SLED. I want you to verify --

14 THE DEFENDANT: May I approach the witness?

15 THE COURT: Yes.

16 THE WITNESS: All right.

17 BY THE DEFENDANT:

18 Q. Can you read off the highlighted area for me in that
19 report?

20 A. I told the suspect, Police, don't move, and began to
21 draw my department-issued firearm. Simultaneously, the suspect
22 turned around, fully extended his right arm, and pointed a
23 black-in -- and that's all that's highlighted.

24 Q. Now, my question to you is, isn't that clear and
25 concise that you are stating in that report we drew our

1 firearms simultaneously at this point?

2 A. I used the word "simultaneously", if that's what
3 you're asking, yes.

4 Q. We can confirm that we drew our firearms
5 simultaneously now, correct?

6 A. As I said, Police, don't move, as I stated, and began
7 to draw my firearm, as I've stated earlier, that's when you
8 turned around, as I was stating those -- stating, Police, don't
9 move.

10 Q. Okay. Okay. Do you recall conducting an interview
11 with Lieutenant Craven from the CPD Professional Standards
12 Office dated April 8th, 2013?

13 A. I do.

14 Q. I have a report that I want to give to you. I want
15 you to read all of that, the highlighted area for me, in this
16 highlighted area.

17 A. Just in yellow or blue as well?

18 Q. Yeah, yellow for right now.

19 A. I started to draw my weapon and said, Police, don't
20 move. And he turned around and said, You don't move,
21 Motherfucker.

22 Q. You said "then" after that, right?

23 A. Correct, that's what I said.

24 Q. "Then" would be in subsequent order, would it not?

25 A. I guess, sure.

1 Q. Okay. All right. Another thing I wanted to go over.
2 Last night when I asked you, who fired first, you stated it was
3 myself, did you not?

4 A. You were inquiring my opinion. And I gave you my
5 opinion.

6 Q. Go down to that same page 4, that report I just gave
7 you of Lieutenant Craven And read lines 21 through 22 for me in
8 the blue highlighted area.

9 A. Okay.

10 Q. Page 4.

11 A. I don't know who fired first.

12 Q. Hmmm. So your opinion yesterday was I fired first.
13 Back then, you didn't know who fired first?

14 A. As I explained yesterday, reports are facts. We don't
15 list our opinions in reports. So if you are asking my opinion,
16 I will tell you my opinion, but these reports that you speak of
17 are facts of the case.

18 Q. Okay. So your opinion at this point, that you gave
19 testimony to your opinion, is I fired first?

20 A. My opinion, yes.

21 Q. All right. I need those reports back from you.

22 THE DEFENDANT: I would like to enter these reports,
23 the report from Lieutenant Craven, case report that he
24 submitted, City of Charleston Police Department.

25 MS. LINDER: I believe that the witness testified --

1 THE DEFENDANT: I just wanted to run that by you
2 because I want to do admit that in evidence.

3 MS. LINDER: Your Honor, I object to that being an
4 exhibit. I believe the witness testified --

5 THE COURT: Do you wish to be heard?

6 THE DEFENDANT: Do I wish to be heard on this?

7 THE COURT: Yes.

8 THE DEFENDANT: Your Honor, this is conflict in
9 testimony, so I think this plays a big critical issue here
10 today that the jury will be hearing. See as testimony to
11 remember, I mean, they are not going to remember everything, so
12 that's why we admit things in evidence.

13 THE COURT: Hand those to the court reporter, please.
14 Hand them to the court reporter. Marked for identification.

15 (Defendant's Exh. 46, Statement, is marked for
16 identification.)

17 (Defendant's Exh. 47, Police Report, is marked for
18 identification.)

19 THE DEFENDANT: I need it in evidence.

20 THE COURT: Is there anything else on those from the
21 State?

22 MS. LINDER: Nothing, Your Honor.

23 THE COURT: Rule 613 South Carolina Rules of Evidence
24 deals with prior statement of witnesses. Rule 613(b) deals
25 with extrinsic evidence related to the statement, but it does

1 not apply to Rule 801(d)(2). If the only objection relates to
2 the fact that the witness did not deny making the statement, I
3 still have to look at 801(d)(2). And in looking at that, the
4 objection is overruled.

5 Mark 47 and 46 into evidence, please.

6 (Defendant's Exh. 46 is received in evidence.)

7 (Defendant's Exh. 47 is received in evidence.)

8 THE DEFENDANT: Thank you, Judge.

9 THE COURT: Mr. Blake, you do something a lot of
10 lawyers do. When you are walking away, you are talking. We
11 can't hear you.

12 THE DEFENDANT: Okay.

13 BY THE DEFENDANT:

14 Q. Do you recall ever once providing Special Agent Brian
15 Kelly from South Carolina Law Enforcement Division a statement
16 specifying that I shot first? Do you ever recall?

17 A. I would have to refer back to the statement I made. I
18 don't recall off the top of my head what exactly I said in the
19 statement.

20 Q. So you don't recall?

21 A. I recall making a statement to SLED Officer Ryan
22 Kelly, but I would have to refer back to the statement.

23 Q. Okay. So you want to review the statement maybe?

24 A. Yes.

25 Q. As a matter of fact, that statement that you read,

1 that's admitted into evidence.

2 THE DEFENDANT: May I approach, Your Honor?

3 THE COURT: Yes.

4 BY THE DEFENDANT:

5 Q. This is the one that you submitted to SLED. See
6 voluntary statement on the back? It's 4/9/2013.

7 A. My case report you are referring to?

8 Q. Yeah. And the other one with Lieutenant Craven?

9 A. Correct.

10 Q. All right. So you are saying that you did or you
11 didn't?

12 A. Can you repeat the question?

13 Q. You are saying that you did or did not?

14 A. Did or did not what?

15 Q. Indicate that you told him that you think it was me
16 that shot first?

17 A. Again, to go over the facts that I previously stated,
18 I indicated that after I stated, police, don't shoot, I began
19 to draw my weapon. At that time, Mr. Blake turned around AND
20 fired at me. And in return, I fired back.

21 Q. I'm going to have to go into a preliminary hearing
22 transcript that was conducted by Special Agent Ryan Kelly on
23 behalf of you. I guess you weren't able to make it maybe.
24 This is preliminary hearing transcript page 7.

25 MS. LINDER: Your Honor, I would object to having this

1 shown to this witness. This witness did not testify in the
2 preliminary hearing. This is a transcript from that. If he
3 would like to ask questions about the prelim, he will have the
4 opportunity to ask that witness who actually stated those
5 things.

6 THE DEFENDANT: Judge, he said he can't -- he needs
7 verification documents to recall what he said. So I'm trying
8 to give him that verification document that he requested.

9 THE COURT: Did this witness testify?

10 THE DEFENDANT: Did he testify to this particularly?

11 THE COURT: At the preliminary hearing.

12 THE DEFENDANT: No, he didn't. He was absent.

13 THE COURT: Then it's hearsay. No exception to the
14 hearsay rule. The objection is sustained. Do you want to
15 preserve that?

16 THE DEFENDANT: Do I want to preserve this?

17 THE COURT: Yes.

18 THE DEFENDANT: No, I don't want to preserve it.

19 THE COURT: If you want to preserve it, you will have
20 to mark it for identification.

21 THE DEFENDANT: All right. I will just move forward.

22 BY THE DEFENDANT:

23 Q. Officer Goldstein, I reviewed, just like I said, all
24 of your statements, interviews, everything on this case,
25 studied it for over half a decade, and in your interview with,

1 I believe it was Lieutenant Craven

2 A. Yeah.

3 Q. It was Lieutenant Craven that you conducted an
4 interview with, right?

5 A. Yes.

6 Q. Okay. You state that it was excessively dark the
7 night of the said incident. Report quoted by yourself within
8 page 10, line 2, which I'm going to give you to review them,
9 says, I wish I had my flashlight out because it was dark. It
10 was very dark.

11 And again, on page 14, line 7 through 8, you quote, it
12 was close to pitch-black dark.

13 Okay. Now, on a scale from 1 to 10, 1 being not dark
14 at all, 10 being pitch-black dark, how dark would you rate it
15 the night of that incident at that incident site?

16 A. I can't give you a number on a scale from 1 to 10, but
17 I could clarify my statements by saying it was dark out. It
18 was 10:30 at night. However, there are businesses around.
19 There's lighting around. And Mr. Blake and I were
20 face-to-face, close enough to see each other.

21 Q. On a scale of 1 to 10?

22 A. I can't give you a number. It's five and a half year
23 ago. I can't.

24 Q. I got some pictures that maybe I can show you for your
25 recollection I can present to you. Is that cool with you?

1 A. Sure.

2 THE DEFENDANT: May I approach?

3 THE COURT: Yes.

4 MS. LINDER: If I could please see those exhibits.

5 THE DEFENDANT: May I approach now the witness?

6 THE COURT: Yes, sir.

7 BY THE DEFENDANT:

8 Q. Would you review these pictures for me to verify both
9 that that's the incident site and maybe it will help giving me
10 a better answer on a scale of 1 to 10 how dark it was the night
11 of that incident. First of all, can you verify that's the
12 site?

13 A. Appears that it is, yes.

14 Q. Okay. Now, on a scale from 1 to 10, 1 being not dark
15 at all and 10 being pitch-black dark, what would you then rate
16 that night?

17 A. I am not going to give you a number 1 to 10. I don't
18 want to provide a number 1 to 10. That's pretty subjective.

19 Q. Okay. So you admit that it was dark that night,
20 right?

21 A. It was 10:30 at night, yes. The sun was down.

22 Q. So very dark.

23 THE DEFENDANT: Can I give an overview?

24 THE COURT: I'm sorry? What?

25 THE DEFENDANT: Can I give an overview of these?

1 THE COURT: They are not in evidence.

2 THE DEFENDANT: Yeah. They are previously marked. I
3 admitted it into evidence before.

4 THE COURT: You enter them into evidence. And I
5 decide whether they are in evidence or not, if there's an
6 objection.

7 THE DEFENDANT: Okay. Is there an objection if I
8 admit these into evidence?

9 MS. LINDER: Without objection.

10 THE COURT: All right. Mark those in evidence,
11 please.

12 (Defendant's Exh. 10, 12, 16, 17 and 18,
13 photographs, are received in evidence.)

14 Q. Okay. Officer Goldstein, I present you with some of
15 these pictures. Ladies and gentlemen, you probably ain't going
16 to be able to see exactly. That's one of the pictures. That's
17 one of the pictures from the incident site.

18 Okay. Now, Officer Goldstein, you stated it was close
19 to pitch-black dark and said you don't want to provide a
20 number. I would have to say maybe close to pitch-black dark
21 would be a 9, would it not?

22 A. Again, that's pretty subjective. I am not going to
23 give you a number 1 through 10.

24 Q. Okay. In regards to everything that you state in your
25 testimony, all right, okay, are you absolutely certain that

1 this incident that you have testimony about made out exact way
2 that you state here today from then to now?

3 A. Yes. My job as a sworn law enforcement officer who is
4 currently under oath is to provide accurate and truthful --
5 well, Mr. Blake's actions that night and my response to the
6 actions, and that's what I've done.

7 Q. Okay. How many times that night did you fire your
8 department-issued weapon? Do you recall?

9 A. I don't know how many times I fired my weapon.

10 Q. Okay.

11 A. I fired my weapon until Mr. Blake stopped firing at
12 me.

13 THE DEFENDANT: I have something. I think it was
14 approximately -- Court's indulgence.

15 THE COURT: Yes, sir.

16 BY THE DEFENDANT:

17 Q. These are reports from SLED. And the caliber -- you
18 have to help me out here. The caliber of your weapon that you
19 fired, what caliber was that? Do you recall?

20 A. .45 caliber.

21 Q. .45? Okay. Do you want to give a guesstimation maybe
22 how many times you think you fired?

23 A. Again, I can't put a number on it. I fired my weapon
24 until Mr. Blake stopped firing at me.

25 Q. You stated in here you emptied out one of your clips.

1 So then you fired a whole clip; is that correct?

2 A. Can you repeat the question?

3 Q. In one of your reports, you state that the weapon ran
4 dry. Is that indicating that you emptied the clip?

5 A. Yes, that would be magazine was empty.

6 Q. Approximately how many bullets, cartridge, would you
7 say were loaded in the -- in that .45 caliber Glock you had?

8 A. It's been a while since I carried that weapon, so I
9 don't want to misspeak on that. I would have to look at the
10 magazine, if the magazine was full at the time.

11 Q. We have that admitted into evidence, don't we?

12 A. I believe so.

13 THE DEFENDANT: Court's indulgence.

14 Judge, I request -- I want to test the gun. Can the
15 deputies maybe assist me with that?

16 THE COURT: Sure. The court reporter will just hand
17 the gun to the witness. Is that what you want?

18 THE DEFENDANT: Yeah, yeah.

19 BY THE DEFENDANT:

20 Q. Take out the magazine.

21 A. It's a 13-round magazine. And there would be one in
22 the chambers, so 14 rounds.

23 Q. 14 rounds? Okay. After you said you ran out of --
24 weapon ran dry, you loaded again, correct?

25 A. Yes, I did a tactical reload of my weapon. I

1 conducted a tactical reload, is what we call it. I reloaded
2 with a new magazine because Mark Blake was still firing.

3 Q. So when you reloaded again, do you recall shooting any
4 more cartridges out of that new magazine you had?

5 A. Yes, I do.

6 Q. Approximately how many; do you recall?

7 A. Again, I can't put a number on how many shots I fired.
8 I fired into until Mr. Blake stopped firing.

9 Q. Let's just say, give or take, you did fire out of that
10 magazine, let's say, give or take, you fired approximately 15
11 shots. That's fine with you?

12 A. I can't agree to a number that I don't know how many
13 shots I fired. So I can't agree to the number you are talking
14 about.

15 Q. Okay. Work with me right now. I don't want to have
16 to go through all of this, but I'm afraid I am. I am trying to
17 make this fast. Now, I'm going to have to get approximately
18 how many times you fired if we can't come to an agreement. I
19 could have miscalculated, but I'm going to --

20 THE DEFENDANT: May I approach the witness?

21 THE COURT: Yes.

22 THE DEFENDANT: This is --

23 MS. LINDER: Your Honor, I would object to him giving
24 this to the witnesses. This is not a report he created.

25 THE DEFENDANT: It's reported by SLED.

1 MS. LINDER: This is not a report that he authorized.
2 He is welcome to call a witness or I'm sure there's a witness
3 coming up later on in our case in chief he can ask all these
4 questions of.

5 THE DEFENDANT: This report is accurate by our State
6 Law Enforcement Division; therefore, I don't think there would
7 be any type of discrepancy issue on that.

8 THE COURT: Hand it to the court reporter and mark it
9 for identification purposes.

10 (Defendant's Exh. 48, Three-page SLED report, was
11 marked for identification.)

12 THE COURT: If you want to speak, it's got to be on
13 the record.

14 The DEFENDANT: I would like to highlight areas that
15 it came from his 45 Glock department-issued weapon that I
16 marked and had to go through, unnecessarily, how many times he
17 shot first out of his weapon.

18 THE COURT: The objection is hearsay?

19 MS. LINDER: Yes, Judge.

20 THE COURT: He can show this to the witness, but it's
21 marked for identification purposes as Defendant's Exhibit 48.
22 There's nothing that prevents you from showing it to the
23 witness, but whether you are able to ask questions about it is
24 a different matter.

25 BY THE DEFENDANT:

1 Q. Okay. Can you verify whether or not you've ever seen
2 this? I think it's kind of like a, what, a ballistics from
3 South Carolina Law Enforcement Division?

4 A. No, I've never seen this.

5 Q. Have you ever seen it?

6 A. I have not.

7 Q. You have not seen it? This is your first time seeing
8 it, right?

9 A. Yes.

10 THE DEFENDANT: Now, you said, Judge, you said that
11 it's permitted for me to ask to go into anything in that, is
12 what you are saying?

13 THE COURT: If he didn't prepare it, then it's
14 hearsay.

15 THE DEFENDANT: But he verified that the .45 caliber
16 weapon was his that he shot.

17 THE COURT: You are going to have to put the person on
18 the stand -- if the person is going to be on the stand, you
19 have to question that person then, is what I meant.

20 THE DEFENDANT: Okay.

21 THE COURT: I don't know that this --

22 THE DEFENDANT: All right. We can --

23 THE COURT: Wait a second. For clarity of the record,
24 it really hasn't been tendered into evidence. You haven't
25 asked him a question. But I'm telling you, it would be hearsay

1 if you ask him a question about a report he did not take.

2 THE DEFENDANT: Okay. All right.

3 BY THE DEFENDANT:

4 Q. All right. Let's do a brief -- quick and brief
5 summary.

6 THE COURT: He did not prepare it. There's no
7 indication he told that to the person who did prepare it.

8 THE DEFENDANT: Okay. All right. I'm moving
9 forward.

10 THE COURT: Okay.

11 BY THE DEFENDANT:

12 Q. Let's do a quick and brief summary of your events,
13 particularly, the gun exchanged between me and you. Okay. You
14 are quoted as a police officer and a shooting marksman,
15 according to your reports. Do you need any type of reports to
16 verify that they consider you as a shooting marksman?

17 A. I am not aware of any reports that call me a shooting
18 marksman.

19 THE DEFENDANT: Court's indulgence. Can I, please,
20 stop to get the reports?

21 THE COURT: Sure.

22 BY THE DEFENDANT:

23 Q. Let's go into your -- I guess it's the South Carolina
24 Criminal Justice Academy reports.

25 A. Okay.

1 Q. It says that you were registered to tote a caliber .45
2 in your report; is that correct?

3 A. Yes, that's my firearm.

4 Q. You were registered using on- and off-duty, correct?

5 A. Yes.

6 Q. And it states that you scored 220 out of 250. You
7 passed; is that correct?

8 A. Correct, I passed our qualification.

9 Q. And that would consider you qualified, correct?

10 A. That's correct.

11 Q. Okay. Now, further into the reports, you are going
12 into the Taser. Did you have a Taser the night of the
13 incident?

14 A. Excuse me?

15 Q. A Taser.

16 A. Did I have a Taser?

17 Q. Yes.

18 A. I believe I had a Taser.

19 Q. You had a Taser?

20 A. I believe I did. I know I carried one during patrol.
21 I believe I had one that night, but I am not 100 percent sure
22 that I had one the night of the incident.

23 Q. You believe you had one that night, but you didn't --

24 A. I know I carried one when I was a patrol. I don't
25 recall if I had it on my belt that night. I may have been

1 issued it after. I am not 100 percent.

2 Q. I'm pretty sure maybe if you had gotten that, you
3 probably would have used the Taser within a foot pursuit,
4 correct?

5 A. When I saw Mr. Blake turn around with a firearm
6 pointed at my chest, a Taser is not something that I would use
7 at that time.

8 Q. I'm talking about on the foot pursuit. I'm not
9 talking about going into the firing exchange amongst me and
10 yourself.

11 A. No. And I wasn't close enough at that point to use a
12 Taser. When I got close enough, Mr. Blake turned around with a
13 firearm pointed at my chest.

14 Q. Now, how about -- how far of a distance do you recall,
15 being a Taser, per se, you have to be in proximity of a
16 suspect, per se, in order to hit a target with a Taser?

17 A. I don't recall. I am not a Taser expert. And,
18 typically, we wouldn't use a Taser when a suspect is running
19 away from us.

20 Q. I guess a gun would be a better preference than a
21 Taser?

22 A. The facts of this case, when Mr. Blake pointed a gun
23 at me, yes, at that point, I'm in a fight for my life, so, yes.

24 Q. But you can't recall around what time I pointed this
25 weapon at you, correct? It happened so fast, it was like

1 instantaneously, spontaneously, simultaneously?

2 A. Again, not to be repetitive, but after I said, police,
3 don't shoot, and Mr. Blake turned around with a firearm, I felt
4 a strike to my chest and I returned fire.

5 Q. As of right now, I can't find it. I read it once
6 before. But based on what I read, I guess it would be
7 classified as hearsay. But scoring 220 out of 250 would make
8 you a marksman, from what I've read in one of your reports. I
9 don't know if this is it, if this is the whole thing or not.
10 Since I can't find it, I'm just going to go forward. I don't
11 want to try waste any more Court's time.

12 You stated that version of events are accurate. Okay.
13 Brief summary of version of events, gunfire exchanged among
14 both you and myself. Okay. Now, you are a trained police
15 officer, correct?

16 A. That's correct.

17 Q. And according to your score, you are a pretty good
18 shot, correct?

19 A. I qualify, yes.

20 Q. Yeah. 220, that's -- 220 out of 250, that's pretty
21 good, right?

22 A. I don't recall the grading scale at the academy.

23 Q. You want me to show it to you?

24 A. That's fine.

25 Q. I won't argue about that.

1 THE DEFENDANT: May I approach?

2 THE COURT: Yes, sir.

3 BY THE DEFENDANT:

4 Q. Can you verify whether or not that's --

5 A. Yes. That shows I passed the qualifications.

6 Q. By how much?

7 A. 220 out of 250.

8 Q. Okay. That's pretty good, right?

9 A. Yes. I passed the qualifications.

10 Q. Okay. Now, based on you are a pretty good shot from
11 your reports, and you engaged into a gun battle with myself at
12 approximately -- you said, what, 10 yards?

13 A. I have to refer back to my case report, but I believe
14 it said anywhere from 10 to 20 yards.

15 Q. Okay. And you fired approximately -- we can't recall
16 at this moment, but you did basically verify that you emptied a
17 magazine that contained 14 shots?

18 A. That's correct.

19 Q. And then you put in another one, and then engaged back
20 in gun battle, correct?

21 A. That's correct.

22 Q. So, I mean, it's safe to say it's over 14 shots that
23 you engaged back in the gun battle. Okay. And that was from
24 your service weapon the night of the incident.

25 Okay. Now my question to you is, do you really think

1 that the jury are both naive and dull-minded to believe your
2 version of events? And I would still be alive today before
3 you, after being fired upon approximately over 14 times by a
4 trained police officer such as yourself? Do you believe that
5 the incident occurred the way you said it did and we are here
6 before each other now? I didn't have a vest on that night.
7 Did I have a vest on that night?

8 A. Not to my knowledge. But, again, it's my duty as a
9 police officer who is under oath right now, or as a previously
10 sworn police officer, to accurately portray the events that
11 night. And when we train -- to speak on that a little bit.
12 Obviously, we don't train after being shot. I was shot
13 multiple times and returning fire, so a little bit more fluid
14 situation.

15 Q. Do you ever recall me ducking for cover or anything
16 like that, ducking behind anything, as you could recall the
17 night of that incident?

18 A. I remember Mr. Blake falling to the ground and then
19 continuing to fire from the ground.

20 Q. So I didn't duck for any cover? You don't recall me
21 ducking for any cover, correct?

22 A. I just recall you falling to the ground.

23 Q. Well, I would have to say that there was no way for me
24 to duck for cover. It was in a wide-open field. We was by --
25 I think it was Comfort Suites Inn, correct?

1 A. Yes.

2 Q. I didn't duck for cover. And I didn't have on a vest.
3 That's established, right?

4 A. That's established, I guess.

5 Q. So based on your version of events, do you really
6 think that your version of events are realistic? Do you think
7 your version of events are credible? Have you ever heard of a
8 case to where an incident happened such as me and yourself and
9 a person such as myself survived an incident like that?

10 A. I can't speak to any other cases or incidents.

11 Q. You can't recall, can you?

12 A. I just can't speak to any other case incidents. I'm
13 here to talk about what happened that night.

14 Q. Okay. Do you not know that you are a substantial
15 witness, both a victim, alleged victim, and a substantial
16 witness to this case? Do you not know that?

17 A. I understand that.

18 Q. So do you not know that your testimony is everything
19 in this case? The State is relying on you to have a
20 consistent, realistic testimony. Do you understand that?

21 A. I understand that. And that's what I've done..

22 Q. Okay. Do you feel like you've done it to your full
23 potential?

24 A. Yes.

25 Q. Okay. Do you feel like you deserve to be awarded a

1 victim at this point?

2 A. I would never want to be awarded a victim. I wouldn't
3 agree with that statement.

4 Q. You never wanted to be awarded a victim?

5 A. No.

6 MS. LINDER: Judge, I'm going to object. It's
7 argumentative at this point.

8 THE COURT: Do you wish to be heard?

9 BY THE DEFENDANT:

10 Q. Okay. So since you never wanted --

11 THE COURT: Objection is valid. Sustained.

12 BY THE DEFENDANT:

13 Q. So you never wanted to be a victim. So at this point,
14 we shouldn't classify you as a victim or observe you as a
15 victim?

16 MS. LINDER: Again, I'm going to object.
17 Argumentative.

18 THE COURT: Do you want to be heard on this?

19 THE DEFENDANT: Do I want to be heard on it? Yes,
20 because this is interesting. This is a gray area. I never,
21 ever heard of that, he did not want to be a victim.

22 THE COURT: Well, the fact it's interesting is not --

23 THE DEFENDANT: Well, it's a new story. I came to
24 find out all the gray areas. I have to fulfill what I told the
25 jury I was going to do. I've got to fulfill that.

1 THE COURT: Anything else?

2 MS. LINDER: No, Judge.

3 THE COURT: Objection is overruled. Continue.

4 BY THE DEFENDANT:

5 Q. Do you feel at this point, since you don't want to be,
6 in your words, classified as a victim, you should be observed
7 as a victim at this point?

8 A. As a police officer, you are going into a shift hoping
9 to, obviously, not be a victim of something. I didn't plan on
10 going into my shift that night and being shot, being labeled as
11 a victim. And that's what I'm speaking to.

12 Q. Do you think that I intended to go out of my house and
13 to be a suspect in this situation, that that's what was on my
14 mind? I know you really can't answer that to your full
15 potential. But the average person, do you think that's on
16 their mind? Because you arrested how many people in your
17 career?

18 A. I can't put a number on how many people I've arrested.

19 Q. It's been a good amount?

20 A. I can't put a number on how many people, tell you how
21 many people I arrested.

22 Q. You made at least a few arrests in your time?

23 A. I've made more than one arrest, multiple arrests, yes.

24 Q. Dealing with criminals and suspects, can you say that
25 from dealing with them, right, interrogation -- I'm pretty sure

1 you interrogated a few people, right?

2 A. I patrolled, so I conducted field interviews.

3 Q. From your experience, do you think that's a person's
4 state of mind, suspect or a criminal or defendant, that that's
5 what they intend to indulge in as soon as they leave their
6 house?

7 A. I can't speak on anybody else's intentions but my
8 own.

9 Q. Okay. Now, going back to the incident, okay, you
10 state that you didn't have your blue lights on at the time,
11 correct?

12 A. At what point are you referring to?

13 Q. Up until the time where the foot pursuit, right before
14 you said you jumped out of your vehicle and you started, I
15 guess, up to myself?

16 A. When I pulled up to your vehicle, my blue lights were
17 not on, yes.

18 Q. You did agree to Lieutenant Craven's report that it
19 was very dark, correct?

20 A. I don't remember my exact words, but, yes, said it was
21 dark outside, yes.

22 Q. Do you need that for verification purposes?

23 A. I agreed, I said it was dark outside.

24 Q. You don't need that verification?

25 A. We went over that. I agree that I said it was dark

1 outside.

2 Q. And it was close to pitch-black dark, your words.
3 Okay. Now, at this point, you state numerous times, police,
4 stop, police, stop, correct, throughout the whole foot pursuit?

5 A. Throughout the foot pursuit as we're running through
6 the field, I'm stating, police, stop, police, stop, yes.

7 Q. Through all these numerous verbal acknowledgement, are
8 you sure -- I'm going to give you an opportunity, because I
9 like you, I don't know why, but I'm going to give you an
10 opportunity. Are you sure you want to stick with that story?

11 A. Yes. My testimony has been true, yes, if that's what
12 you are asking.

13 THE DEFENDANT: Okay. I rest. Thank you, OFFICER
14 Goldstein. You are good to get off the stand, unless the State
15 wants to.

16 THE COURT: She has an opportunity to redirect, yes.

17 Do you have any redirect?

18 MS. LINDER: Briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. LINDER:

21 Q. Mr. Blake has cross-talked a lot about words, choice
22 words. I'm going to show you the defense exhibit. Okay. So
23 what I would like for you to do is, I would like for you to
24 read this first highlighted sentence.

25 A. I started to draw my weapon and said, Police, don't

1 move.

2 Q. Okay. So I want to kind of start there. Where do you
3 hold your gun when you have on a duty belt? That night of
4 March 30th, where was your gun?

5 A. It's on my right hip.

6 Q. Right here or where was it?

7 A. In the holster on my right hip.

8 Q. Okay. So it's holstered in your right hip. What kind
9 of holster did you have?

10 A. I don't remember the brand of it, but it was a snap
11 holster.

12 Q. For those of us who don't know a whole lot about
13 holsters and snap holster, can you explain in as much as detail
14 as you can remember, what does the holster looks like, where is
15 the snap, all of that?

16 A. From what I remember, it was, I think, a leather
17 holster. It had a snap on it so you had to push down on the
18 snap and kind of rock the gun forward to pull the firearm out
19 of the holster.

20 Q. So if you were to draw your weapon, if you were to --
21 if you start to draw your weapon, how do you start to draw your
22 weapon?

23 A. Obviously, bring your hand to the firearm.

24 Q. So is bringing your hand here starting to draw your
25 weapon?

1 A. That's just getting your grip on the weapon at that
2 point.

3 Q. Okay. Is this drawing your weapon, starting to draw
4 your weapon? (Indicating)

5 A. No.

6 Q. Okay. And there's a lot of that focus on this word
7 right here. What is that word?

8 A. "Then".

9 Q. Can you read this next highlighted sentence? Read all
10 the way to the period, please.

11 A. Then he turned around and said, You don't move,
12 Motherfucker. And he had -- I noticed a black handgun. And he
13 was pointing it straight directly at me.

14 Q. Okay. So you started to draw your weapon and said,
15 Police, don't move. Then he turned. Did he turn before or
16 after you said, Police, don't move?

17 A. I said, Police, don't move, and then he turned.

18 Q. So he turned after you said, Police, don't move?

19 A. Correct..

20 Q. When he turned, was he starting to draw his firearm?

21 A. When he turned, the firearm was immediately raised up
22 at my chest level. So it was drawn.

23 Q. So when he turned, he wasn't unsnapping from a
24 holster; is that right?

25 A. That's correct.

1 Q. When he turned, was he rocking it back and forth
2 before he was able to get it out of his holster?

3 A. No, he was not.

4 Q. When he turned, was he using the one hand that was on
5 a gun when you pull it out to start pulling it up?

6 A. No, he was not.

7 Q. When he turned, will you show the jury how his arms
8 and hands were and where his gun was?

9 A. Immediately as he turned, the gun was like this,
10 pointed at my chest. (Witness indicates.)

11 Q. So you started to draw your gun, if I'm reading this
12 correct; is that right?

13 A. Yes.

14 Q. And your testimony is that as you started to draw, he
15 turned and his arms were how?

16 A. Extended, pointed at me.

17 Q. And when the gun was fully extended and pointed at
18 you, while you were starting to draw your firearm, where
19 exactly was it aimed?

20 A. It was aimed at my chest.

21 MS. LINDER: Beg the Court's indulgence.

22 THE COURT: Yes.

23 MS. LINDER: I don't have anything further. Thank
24 you.

25 THE COURT: Any recross?

1 THE DEFENDANT: You said cross?

2 THE COURT: Recross.

3 THE DEFENDANT: Recross? As far as what she asked? I
4 don't have any -- no, wait. I do. I do.

5 RECROSS-EXAMINATION

6 BY THE DEFENDANT:

7 Q. You said my firearm was pointed at your chest. Can
8 you demonstrate one more time how it was pointed at your chest?

9 A. Pointed at my chest level.

10 Q. Your chest level, okay, so that was raising up your
11 arms indicating a chest area, right?

12 A. Yes, the firearm was pointed at my chest.

13 Q. Okay. But it was me having one hand, not two hands,
14 one hand, correct?

15 A. You came out with your right hand and eventually came
16 out with your left hand and pointed at my chest.

17 THE DEFENDANT: Court's indulgence.

18 THE COURT: Yes.

19 BY THE DEFENDANT:

20 Q. Okay. Once again, this is your -- copy of your
21 incident report you submitted. It's case supplemental report
22 you submitted to SLED and both City of Charleston Police
23 Department, right? Okay. Now, may I approach the witness?

24 THE COURT: Yes.

25 BY THE DEFENDANT:

1 Q. This highlighted area right here my finger is on, the
2 suspect -- can you read the highlighted area where it says "the
3 suspect"?

4 A. "The suspect turned around and fully extended his
5 right arm and pointed a black-in-color handgun."

6 Q. Does that -- are you stating at that point that I
7 turned around and fully extended one arm or both?

8 A. Like I said, you came out of your waistband with your
9 arm, putting the left hand out and fired rounds at my chest
10 level.

11 THE DEFENDANT: That's all I got.

12 THE COURT: Thank you, sir. You may step down. Call
13 your next witness.

14 MR. SOWARDS: Thank you, Your Honor. The State calls
15 Dr. Stephanie Montgomery.

16 STEPHANIE MONTGOMERY,
17 having been duly sworn, testifies as follows:

18 THE CLERK: If you can, please state your name and
19 spell your last name for the record, please.

20 THE WITNESS: My name is Stephanie Montgomery,
21 M-o-n-t-g-o-m-e-r-y.

22 DIRECT EXAMINATION

23 BY MR. SOWARDS:

24 Q. Good morning, Dr. Montgomery.

25 A. Hi.

1 Q. What is your current occupation?

2 A. I'm a trauma surgeon.

3 Q. And where are you a trauma surgeon?

4 A. I'm currently a trauma surgeon in Hartford,
5 Connecticut, St. Francis Hospital.

6 Q. How long have you been a physician?

7 A. My gosh, I've been an attending for 11 years. And you
8 are a doctor when you graduate medical school. So that would
9 have been six years after graduating medical school, plus about
10 17 or 18.

11 Q. And where were you working in March of 2013?

12 A. I was at Medical University of South Carolina.

13 Q. And in what capacity were you working there at the
14 Medical University?

15 A. I was also a trauma surgeon.

16 Q. Will you describe for the jury, please, your
17 education, training and experience as it relates to being a
18 physician?

19 A. Okay. So I have a bachelor's degree. I went to
20 medical school at Eastern Virginia Medical School in Norfolk,
21 Virginia. I then did a general surgery residency at the
22 University of Maryland. I did surgical research at Memorial
23 Sloane-Kettering Cancer Center. And then I did a fellowship in
24 surgical trauma and critical care at R. Adams Cowley Shock
25 Trauma Center in Baltimore, Maryland.

1 Q. And do you currently hold any professional licenses?

2 A. I have two unrestricted medical licenses, one in
3 Connecticut. I'm a licensed physician and surgeon. And I also
4 have a medical license from Hawaii. I'm also an unrestricted
5 physician and surgeon in Hawaii.

6 Q. Do you currently have a board certification?

7 A. I have three board certifications. I'm
8 board-certified in general surgery from the American Board of
9 Surgeons, Medical Board of Surgery. I'm also boarded in
10 surgical critical care from the American Board of Surgery. And
11 I am neurocritical care boarded. And that is from the Board of
12 Neurological Specialties, or something.

13 Q. And as a practicing physician, are you required to
14 undergo continuous training and education?

15 A. Yes. To maintain license, in pretty much every
16 state, you have continuing medical education requirements.
17 Usually you go to a conference once a year to catch up with
18 what's new, read, journal clubs, things like that.

19 MR. SOWARDS: Your Honor, at this time, the State
20 would seek to admit Dr. Montgomery as an expert in the area of
21 trauma medicine.

22 THE COURT: Mr. Blake, you can ask her questions about
23 her qualifications if you wish. Do you want to do that?

24 THE DEFENDANT: Yeah, I intend to.

25 THE COURT: No, you do it now.

1 THE DEFENDANT: Now?

2 THE COURT: Just about her qualifications.

3 THE DEFENDANT: Oh, yeah, yeah, I do. I qualify her
4 as an expert.

5 THE COURT: You agree?

6 THE DEFENDANT: I agree.

7 THE COURT: She's recognized as an expert in the field
8 of what she was tendered. You may continue.

9 BY MR. SOWARDS:

10 Q. Doctor, you testified previously that you were working
11 at M.U.S.C. in March of 2013. Were you working on March the
12 30th, 2013?

13 A. Yes.

14 Q. And on that date, did you treat the victim in this
15 case, Officer Goldstein?

16 A. Yes.

17 Q. And did you, in fact, also treat the defendant, Mark
18 Blake?

19 A. Yes.

20 Q. So turning to Officer Goldstein, when you first
21 observed him, how did he present?

22 A. He was brought in as a full trauma activation, a
23 level-one trauma activation, which means that he needed -- the
24 emergency medicine or EMS providers had deemed him a high risk
25 of having problems. He was a trauma alert. He was brought in

1 to the emergency room. All the trauma team get a page saying
2 that there's somebody coming in who's a level-one trauma. We
3 got two, both of them. And we came directly down to trauma bay
4 in the emergency room to see him.

5 Q. And that evening, did you learn why Officer Goldstein
6 was admitted to the ER?

7 A. Yes. We get a -- when trauma patients come in, we get
8 a brief history from the EMS providers about why they are in
9 trauma, specifically the mechanism of injury most of the time.
10 I mean, he was multiple gunshot wounds.

11 Q. And did you observe any injuries on Officer Goldstein
12 when you treated him that evening?

13 A. Yes. Part of the trauma -- part of the protocol team,
14 care of trauma patients, we have to cut all their clothes off
15 completely, get them so we can evaluate top to bottom any
16 injuries, lacerations, all of that. So, yes, I cut both of
17 their clothes off and saw all of the holes and penetrating
18 injuries on both of them.

19 Q. And what specific injuries did you observe with
20 respect to Officer Goldstein?

21 A. So, he had a through-and-through penetrating injury to
22 the thigh, where you see two holes. You can't exactly
23 determine where they come from, but they are two holes in his
24 thigh. He also had two holes in his left upper arm. It looks
25 like they went through. There was a graze wound on the back of

1 his shoulder area. So the same bullet made all three of those
2 wounds, it looked liked.

3 He also had a very large contusion and burn right here
4 on the middle portion of his chest. And he also had what I
5 thought at the time was just a cut here on the arm, on the
6 hand. Because at first, you deal with life-threatening
7 injuries first. You are trained to make sure that the things
8 that will kill him you notice first. Then I saw he had a
9 little laceration on his hand, but ended up being penetrating
10 wound.

11 Q. I want to address the wound to the hand first. Did
12 that require further treatment?

13 A. Yes. Initially, in the trauma bay, we thought it was
14 a laceration, but because the mechanism of injury was gunshot
15 wound, you have to X-ray things. We got an X-ray of the hand.
16 And he had broken -- you know, right here was broken. This
17 bone here was broken, the proximal middle finger bone. And we
18 got that via X-ray. We had to call a plastic surgeon or hand
19 surgeon because they are specialists for hands because they are
20 so important to people. We had to call the plastic surgeon to
21 evaluate him. And he had to have surgery, two surgeries.

22 Q. I want to ask you now about the injury you observed to
23 his chest. Could you tell the judge exactly where you observed
24 that injury to the chest?

25 A. Yes. He had -- it was about -- it was around eight

1 centimeters, the way I documented, about 8 centimeters. It was
2 a contusion, which means if you took a blow, you get a bruise,
3 and also the skin looked like it was a burn around his chest.
4 It was 8 centimeters. It was -- the reason it's important
5 where it was located on the chest, it was medial to the
6 nipples. So if you draw a line up and down your nipple line,
7 it was in the middle of that, which is important because it was
8 in the area of the cardiac box.

9 Q. Could you elaborate, please, what is the cardiac box?

10 A. For trauma surgeons, injuries to the cardiac box are
11 something that's drilled into us ever since we are resident
12 surgeons. All of us know this. The cardiac box is an
13 imaginary box you could draw from your sternal box down to your
14 xiphoid, the little bone that's below your breast bone here,
15 little pointy bone, and then between your breast, between your
16 nipples. So it goes this way, around this is area. And the
17 reason that that is important is because that's where your
18 heart and all your great vessels are located. And they are
19 great vessels because they are huge. You have your aorta, your
20 vena cava, all your pulmonary outflow tract, big blood vessels
21 and your heart in there. So if you have an injury inside the
22 cardiac box, then you have a higher risk of dying. And we take
23 that pretty seriously, because most those people don't even
24 make it to the hospital.

25 Q. I think you may have just answered this question, but

1 would you consider a gunshot in the location where Officer
2 Goldstein was hit to be life-threatening?

3 A. Yes. A large percentage of the people who are shot in
4 that area don't even make it to the hospital. They die out in
5 the field. And the ones that do make it in, if there's a hole
6 in either the heart or the great vessels, they still have a
7 high likelihood of dying, even if they get to a place where the
8 doctors there are trained. And not all the hospitals would be
9 able to take care of that. You have to be a level-one trauma
10 center with people who have taken care of that before and have
11 the experience and training to do that, otherwise, you die.

12 Q. And if a patient presented with a hole inside that
13 cardiac box you speak of, would you even wait to order X-rays
14 or scans?

15 A. No. Most of the time, if they come in very stable,
16 but that is extremely rare, usually gunshot wound to the
17 cardiac box, almost uniformly, mean there's an injury to
18 something big. If they are unstable, they get a thoracotomy
19 almost the second they get into the hospital.

20 Some people even get their chest opened in the
21 emergency room, not even brought upstairs to the OR. If they
22 become unstable and lose their vital signs, we open them up
23 downstairs, because the only thing that can save their life is
24 plugging the hole, whatever the hole is in. And most of the
25 time, it can be -- gunshots wound to this area, and if they

1 injure the heart, one-third of the time, they get both one or
2 two chambers, there's not just one side of the heart, it could
3 be both sides, plus the great vessel. It's a big deal.

4 Q. I want to turn back for a moment to the defendant.
5 You testified previously that you treated him on that evening.
6 What injuries did you observe on the defendant?

7 A. Okay. So they had kind of some similar injuries. He
8 had a through-and-through to his tibia and fibula, which are
9 the two bones like far away from your knee, if you are going
10 from the knee down to your foot. Had a through-and-through
11 through that. It was open, basically, it was an open fracture
12 those two bones. And his humerus and his blood vessel to this
13 arm was out. He didn't have pulses to this arm. There were --
14 it was an obvious fracture. So the bone was broken and he was
15 pleading from this. And he had lost pulses here, which means
16 that he had limb-threatening injury, immediately had to be
17 taken care of.

18 And he also had a couple other bullet wounds to, like,
19 the thigh at the top. It looked like there was a
20 through-and-through on the leg. And he also had one of the
21 injuries where there was a bullet entry wound, where the bullet
22 was still lodged. And I think that was in the right upper
23 thigh. I can consult my notes. I have all those with me. I
24 think it was the right upper thigh where he had an entry wound
25 and the bullet was retained. So you could assess those wounds.

1 Q. So you counted -- how many gunshot wounds did you
2 count for the defendant?

3 A. I can tell you exactly where they all were too. He
4 had -- now, one of the things with this is you have --
5 sometimes you have bullet wounds that go through and through.
6 So that's two, but those are corresponding to one bullet. So
7 the way that it looked was through and through on the arm. So
8 there were two holes, but one bullet.

9 The left lateral thigh appeared kind of like the meaty
10 portion were two holes, also corresponding to one bullet. The
11 right tibia, fibula, two holes, but one bullet. So that was
12 three. And then the right medial thigh, one hole, retained
13 bullet. So that's four.

14 Q. And when you are assessing a trauma patient, do you
15 document your observations?

16 A. Yes. Especially when it comes to gunshot wounds,
17 because a lot of times, they end up here. So you have to
18 document clearly where holes are in people and which ones were
19 life-threatening. And I have a little -- like a little
20 skeleton of a man on my trauma page that can demonstrate what
21 they looked like for illustrative purpose.

22 MR. SOWARDS: May I approach the witness?

23 THE COURT: Yes.

24 BY MR. SOWARDS:

25 Q. I'm handing you State's Exhibit 168 for ID and I will

1 ask you if you recognize that?

2 A. I do.

3 Q. And what is that?

4 A. That is the page of the Medical University of South
5 Carolina trauma and history physical that I completed for
6 Mr. Blake the night that he came in to the trauma bay.

7 MR. SOWARDS: Your Honor, at this time, the State
8 would seek to admit Exhibit 168 into evidence and publish it to
9 the jury.

10 THE COURT: Any objection to this?

11 THE DEFENDANT: Yes. Let me review that one more
12 time, please. No objections.

13 THE COURT: Mark it without objection.

14 (State's Exh. 168, History and physical of the
15 defendant, is received in evidence.)

16 BY MR. SOWARDS:

17 Q. Dr. Montgomery, can you describe what we are looking
18 at here?

19 A. Yes. This is the graphic representation of a person,
20 front and back, that we used to demonstrate wounds on trauma
21 patients. We have different notations for these things.
22 There's a lot of medical stuff up is there. Like, L with a
23 circle means left. R with a circle means right. And RLE means
24 right lower extremity, with thigh -- with through and through.
25 And you can see that I documented that the left arm had a

1 through and through, which, as you can see, like a little dot.
2 And then I put little dots on it to indicating it was going
3 through the tissue and another little circle to indicate it's
4 coming out.

5 No. 2, the left lateral thigh through and through, you
6 will see on the left portion of his wounds, you can see
7 there's a little dot -- oh, I'm sorry.

8 MR. SOWARDS: It's actually a touch screen.

9 THE WITNESS: Apparently, I shouldn't have touched it.
10 Make it go away. So those are right there. Well, here,
11 actually, this little thing there and it goes through here, is
12 where the bullet tracked. And then over here, this is the
13 wound right here that you can see that I documented where there
14 was a wound with FB in a circle, that means foreign body. We
15 do that to demonstrate if it's, like, a bullet or whatever.
16 Doesn't matter. Could be a rock in other circumstances. But
17 this is where I have retained foreign body.

18 And I put dot dot dot to show where it travels.
19 Because it could have gone across or up or down. And you see
20 where the hole is and where the foreign body ended. And that's
21 how we document. Because, again, you can't always remember
22 these things. So you have to try to draw it on the person best
23 you can, obviously, taking into account it's not a 3D
24 representation, but as close as you get.

25 Q. To be clear, when you made your observations of the

1 defendant's injuries, was he fully clothed?

2 A. No. We cut their clothes off. Almost right off the
3 bat, he gets clothes cut off with scissors and covered with
4 warm blankets.

5 Q. Did you know any gunshot wounds to his back?

6 A. I didn't see any, no. If I saw stuff to his back, I
7 document it here.

8 Q. So if you saw a gunshot wound to his back, you would
9 have documented it on this chart?

10 A. On the back portion of the person.

11 Q. And did you observe any gunshot wounds to the front
12 torso area?

13 A. Front torso? No. Well, if you consider that little
14 exit on the left portion, but it's kind of low. Usually torso
15 is, like, little incremental creases up. If you bend your knee
16 or you bend your leg, like those little creases up, that's
17 considered, like, the torso.

18 Q. And just turning back to Officer Goldstein for just a
19 couple more questions, just one, is it your opinion, as an
20 expert in the field of trauma surgery, that the injury that he
21 suffered to his chest, had he not been wearing a bullet-proof
22 vest, would that have been life-threatening?

23 A. Absolutely, yes. They have a high fatality rate for
24 gunshots wounds to this area.

25 MR. SOWARDS: Beg the Court's indulgence.

1 MR. SOWARDS: No further questions from the State.
2 Please answer any the defense may have.

3 THE WITNESS: No problem.

4 THE COURT: Cross.

5 CROSS-EXAMINATION

6 BY THE DEFENDANT:

7 Q. Hi. I have a couple of questions. I am not going to
8 go into anything major. Okay. That chart that's up right
9 there, now, even though you were talking extensively, I still
10 can't kind of get a big picture in my mind of the injuries and
11 exits and stuff like that. So now you state I received -- I
12 think you said my right thigh?

13 A. Uh-huh.

14 Q. Right thigh area?

15 A. Uh-huh.

16 Q. Now, I can't give a demonstration in this trial right
17 now, but as I can recall, I gave -- I sustained it from my left
18 thigh area, where I got two bruises at on my side, on my thigh.
19 And then you don't have it documented within my leg area where
20 I sustained the shot at. So are there any pictures regarding
21 the graph to where I sustained bullet shots from my leg?

22 A. Yes. I can draw on this, right?

23 Q. Yeah.

24 A. So right here, you see there's a dot -- can I erase
25 this after it's done? Take it off, because I've obscured my

1 dots.

2 All right. So I'm going to go like this. So I
3 drew -- you will see a dot on your leg, your right lower leg.
4 And then there's another dot over on the other side, one dot
5 here and one dot there. And there's a little lines that
6 demonstrate that you had through and through on your right
7 lower leg. And your left thigh, you got two, right there, one
8 here, one there, and nasty bruises, because those were through
9 and through. And one here, that's an entry, but there's a
10 retained bullet there, which is -- well, it's a little lower,
11 like here.

12 Q. Because I still have one in my inner thigh that won't
13 come out for nothing.

14 A. Uh-huh.

15 Q. And I still have one in my leg that won't come out for
16 nothing. Okay. Court's indulgence.

17 THE COURT: Yes.

18 THE DEFENDANT: May I approach the witness?

19 THE COURT: Yes.

20 BY THE DEFENDANT:

21 Q. Tell me a little about these that you recall.

22 A. Yes.

23 Q. What are those exactly?

24 A. These are photographs. These are X-rays of your tibia
25 and fibula, which would be this part here, that bone.

1 (Indicating). And the tibia is the big bone in this picture.
2 And the fibula is the smaller bone in this picture. And it is
3 fractured, which means it's broken. Comminuted means it's in
4 pieces. And you have some retained portions of the bullet.

5 Q. And, obviously, that had to come from the shot that I
6 sustained to the leg that actually shattered the bone, correct?

7 A. Yes.

8 Q. Okay. Now, the other picture, X-ray you have, right,
9 the other one pertains to the healing, I guess, the treatment?

10 A. Yes, tibia nail.

11 Q. Okay. And what exactly did you all do when y'all
12 repaired that injury?

13 A. I can refer -- I'm a trauma surgeon, so I don't do
14 bones. But I do have Dr. Demos's operative note that I can
15 read from, which I have labeled that they did an IM nail for
16 this. And we can talk about it if you want me to read it.

17 Q. We can go into that, if you don't mind. Would you
18 consider those -- me sustaining that shot, is that considered
19 moderate, or is that considered great bodily injury? What is
20 that classified as?

21 A. Well, these can be limb-threatening. You can lose --
22 depends on how it heals. Sometimes these things don't heal
23 very well. But it's a common thing that they take care of and
24 they treat I did with IM nail.

25 I have his OP note. So the tibia nail, what they do

1 is put a big -- can these people see that? They put this big
2 nail --

3 Q. I will put it up.

4 THE COURT: It's not in evidence yet.

5 THE WITNESS: Well, we have a nasty broken bone.

6 THE COURT: Hold on a second. Do you want to offer it
7 into evidence?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you have an objection?

10 MR. SOWARDS: We don't, Your Honor.

11 (Defendant's Exh. 24, X-ray, is received in
12 evidence.)

13 (Defendant's Exh. 25, X-ray, is received in
14 evidence.)

15 BY THE DEFENDANT:

16 Q. Now, this one shows --

17 A. If you slide it up, it would be a little bit better.

18 Q. Now, all I can say is, it definitely don't look
19 regular.

20 A. No.

21 Q. That's definitely broken, shattered?

22 A. Agreed. Fracture and a comminuted fracture with
23 retained fragments -- comminuted means little pieces of bone.
24 Angulated means it's not straight anymore. It's like this
25 (indicating). You can see both the bones are like that. And

1 retained fragment, that bright white, those are pieces of
2 metals. So it's the piece of the bullet. Because whenever
3 bullets come in, they hit things like bones, pieces of it can
4 fall out and remain inside of you.

5 Q. Okay. And this other picture that you viewed, right,
6 can you see it?

7 A. Yes. And you should slide up and down it so they can
8 see the hole bone. You will see this metal rod there. Now
9 it's called a tibia nail, because the tibia, the big bone in
10 your lower leg, is the weight-bearing bone. So they have to
11 anchor that bone together. The fibula doesn't really matter.
12 You can do without it. So they did a tibia nail. And Dr.
13 Demos, the orthopedic surgeon, did that.

14 Q. Okay. Now, let's go back to this State's Exhibit 168.

15 A. Yep.

16 Q. Now, can we go into the arm shot?

17 A. Yep.

18 Q. You said something about, I think, because I had nerve
19 damage --

20 A. Yes, and vascular damage and bone.

21 Q. Okay. My limb, basically, I didn't have no feeling in
22 my left arm?

23 A. Correct.

24 Q. Now, what do you recall from your -- any reports that
25 you reviewed, what exactly did they do to get my limb back

1 working again?

2 A. Okay. So it's this injury right here. Sorry. That's
3 why I am not an artist. Okay. This injury right here went
4 through. You had the humerus, the big bone in your arm. So
5 that had to be repaired by this same orthopedic surgeon, Dr.
6 Demos. And he did plates and screws to the bone to
7 re-establish the bone. Then you had -- which is the more
8 important one to be honest -- the vascular repair, which I
9 think Dr. Robeson ended up doing it. Your brachial artery,
10 which is the main artery that went -- supplies blood supply to
11 your hand and arm, was completely out. And your veins, you
12 have an artery, a nerve and a vein, and they kind of run really
13 close to each other in your arms and legs, so the artery had to
14 be repaired. The vein had to be repaired.

15 And then the plastic surgeon had to come in to repair
16 part of the nerve, because I think -- I think it was -- hold on
17 a second. It was 30 percent of the median nerve was
18 transected. And it was the same area that your brachial artery
19 and vein had been out. So you had to have three surgeons fix
20 this part.

21 Q. So it was a bone repair, correct?

22 A. Yeah, bone and blood vessel and nerve.

23 Q. Okay. Now, I have a slit in my inner thigh. I'm
24 asking you, did they, when they cut my inner thigh, get a nerve
25 and put another nerve in my arm?

1 A. No. Well, you had to have a saphenous vein harvest,
2 which means that in order to fix blood vessels, you need to
3 have your own blood vessels to fix them, or you have to use
4 graft. It's better for the long term to use your own blood
5 vessels because your body doesn't react to it. It lasts
6 longer. There's a thousand reasons why you should. The only
7 place that you have a big enough usable, that's not already
8 being used for something super important, is your saphenous
9 vein, which is in your thigh, like -- it's, like, in this area,
10 like, your saphenous vein goes through there. So they do a
11 venous cut-down to harvest the vein. Then they take the vein
12 and they use it to repair your artery and your vein. And I
13 think that they used the -- yep, saphenous vein graft, patch
14 angioplasty, and they fixed the brachial vein.

15 Q. Now, do you recall -- this is a crazy question, but I
16 can't recall it. I was under anesthesia?

17 A. Yes. A lot of times people don't remember anything
18 that happened in the trauma bay even if they're awake,
19 sometimes they don't remember it because of medication and
20 shock. And you had low blood pressure.

21 Q. Do you recall me being responsive, as far as me
22 talking or anything like that?

23 A. Yes. Initially -- you initially came in and were
24 speaking, but I can't remember -- I can't recall anything
25 specific that was said. But you were speaking, because I

1 documented that you were talking. And then after you got pain
2 medicine, you kind of -- poof, out you went.

3 Q. I probably was speaking gibberish around that time.

4 A. Sometimes.

5 Q. Going back to the wound, I want to -- I want you to
6 review these. It's pertaining to my arm.

7 A. Oh, yeah.

8 Q. Those are the X-rays from the shot I sustained to my
9 left arm, correct?

10 A. Yes.

11 Q. Now, now that you verified that, I'm going to put it
12 up on the screen.

13 THE COURT: You are offering this in evidence?

14 THE DEFENDANT: Yeah.

15 THE COURT: Any objection?

16 MR. SOWARDS: No objection.

17 THE COURT: Mark it in evidence.

18 (Defendant's Exh. 26, X-ray, is received in
19 evidence.)

20 (Defendant's Exh. 27, X-ray, is received in
21 evidence.)

22 BY THE DEFENDANT:

23 Q. Going to the arm here, pretty bad. Can you explain
24 how bad this is?

25 A. Yes. So you have -- obviously, at the upper portion

1 here is your humorous. This is obviously your elbow. This is
2 the same type of fracture that happened in the tibia and the
3 fibula. This is comminuted. You have all these little pieces
4 of bone. You have angulated, which means that it's no longer
5 straight but it's at an angle. You can see there's one this
6 way and one that way. And you have also some retained
7 fragments, you know, all these little retained fragments of all
8 these. Like, all these little retained fragment of bullets.
9 Pieces of bullet can fragment when it hits bone, just like it
10 did in your leg..

11 Q. These fragments still in my arm?

12 A. Huh?

13 Q. These fragments still in my arm?

14 A. Some of them were picked out at surgery, according to
15 the OP note, but probably. And you don't take them out. It's
16 more damage to take them out.

17 Q. This is another angle right here --

18 A. Yep.

19 Q. -- of the same injury, correct?

20 A. Yeah. It's just a different view. Whenever we
21 have a -- whenever you are looking for a broken bone, you can't
22 just look in one view because the upper bone could obscure the
23 fracture of the backbone. So you have to do at least --
24 usually three, you have to go like this and like that and like
25 this. Obviously, this is painful for people. So we have to do

1 pain meds. But you have to look at three different views,
2 because this, for example, this bone here could obscure this
3 one if it was broken. So you have to look at different angles.
4 And that's why there's two, although you could tell with the
5 other one.

6 THE DEFENDANT: Okay. I will put this back up. All
7 right. Ms. Montgomery, I appreciate your time. And that's all
8 I have for the State's witness.

9 THE COURT: Redirect?

10 MR. SOWARDS: No, Your Honor.

11 THE COURT: Thank you, Doctor. You may step down.
12 You don't have any exhibits?

13 THE WITNESS: No, just notes.

14 THE COURT: No things with our stickers on it?

15 THE WITNESS: No, sir.

16 MS. LINDER: I ask the doctor be excused.

17 THE COURT: Do you have any objection to the doctor
18 being released?

19 THE DEFENDANT: No.

20 THE COURT: You are free to go.

21 (Whereupon, the witness is excused.)

22 THE COURT: Ladies and gentlemen, we are going to take
23 a 15-minute break. Don't discuss the case. Leave your notes
24 in the courtroom, please.

25 (Whereupon, the jury leaves open court at 10:58 a.m.)

1 THE COURT: We are in recess for 15 minutes. Thank
2 you.

3 (Whereupon, a recess transpired.)

4 THE COURT: Ready for the jury?

5 MS. LINDER: Ready.

6 THE DEFENDANT: There's something I want to present,
7 an issue I want to present now.

8 THE COURT: I heard, issue you want to present, but I
9 didn't hear what you said after that.

10 THE DEFENDANT: There's an issue I want to present
11 that I've just been briefed on, something I wanted to present
12 to you to see what you feel about it, some enlightenment maybe.
13 Are you ready for it?

14 THE COURT: I guess so. I think I heard what you
15 said. I'm having a hard time hearing you.

16 THE DEFENDANT: I'm saying I have an issue.

17 THE COURT: Go ahead and tell me what your issue is.

18 THE DEFENDANT: Okay. The issue is that we have a
19 good bit of Charleston Police Department officers in the
20 background. And it's not the fact of their capacity is the
21 issue. It's the fact that they are wearing a lot of their
22 uniforms in support of the officer. And I think it would be
23 highly persuasive and prejudicial to the jury. That's just the
24 issue.

25 Now, I'm going to ask you how you feel about that?

1 MS. LINDER: Judge, I would say this is a public
2 courtroom. Obviously, there's a lot of media attention here as
3 well. There's newspaper people, TV people. Mr. Blake is
4 welcome to have 50 people, 100 people come here too. As long
5 as they are not on the witness list, they are welcome to come
6 in here and they can sit in the courtroom. It's a public
7 courtroom. And I think it's absolutely fine. And I think it's
8 a good thing that these other people in law enforcement are
9 here to show support for Officer Goldstein.

10 THE COURT: I've noticed people in the courtroom that
11 are wearing what look like golf-type shirts, polo-type shirts,
12 that have identifying information on them that seems to be some
13 law enforcement entity. Others are dressed in different ways.
14 They are not wearing any kind of arm bands or any buttons or
15 things with pictures on them or anything like that. They have
16 kind of been coming and going. It hasn't caused me any concern
17 as far as whether there's anything about it that affect a fair
18 trial. And, typically, when the jury is in the jury room, I
19 mean, in the jury box, they won't be looking that way anyway.
20 They are not in their line of sight, is what I'm trying to say.

21 So if you are moving that I exclude people from the
22 courtroom, I deny that. But if anybody does anything out of
23 the ordinary, if anybody comes in here and tries to do
24 something to create some sort of sympathy for one side or the
25 other, then I will have to deal with that. But I haven't

1 noticed anything like that.

2 THE DEFENDANT: Me, personally, I am not intimidated
3 by it. I am not afraid of nobody in the courtroom. But I just
4 arise on the issue maybe it could affect the jury in any type
5 of way.

6 THE COURT: I understand your objection. Bring the
7 jury in, please.

8 I'm going to deal with this alternate juror issue
9 before we break for lunch. His flight is tomorrow morning, so
10 I think I'm going to have to make a decision about that.

11 (Whereupon, the jury returns to open court at 11:21
12 a.m.)

13 THE COURT: Call your next witness, Solicitor.

14 MS. LINDER: The State calls Special Agent Ryan
15 Kelly.

16 RYAN KELLY,

17 having been duly sworn, testifies as follows:

18 THE CLERK: Please state your name and spell your last
19 name for the record, please.

20 THE WITNESS: My name is Ryan Kelly, K-e-l-l-y.

21 DIRECT EXAMINATION

22 BY MS. LINDER:

23 Q. What is your occupation?

24 A. Yes, ma'am. I'm a special agent with the South
25 Carolina Law Enforcement Division.

1 Q. And what are your current duties with SLED?

2 A. I'm assigned to investigations in the Lowcountry
3 region.

4 Q. And what kind of things do you do on those
5 investigations for SLED for Lowcountry region?

6 A. SLED is secondary agency. We respond. We conduct
7 investigations at the request of the governor, the Attorney
8 General's Office, and other law enforcement agencies. We
9 handle everything from white-collar crime, all the way to
10 violent crime and use of forces incidents, officer-involved
11 shootings.

12 Q. How long have you been with SLED?

13 A. Approximately six years.

14 Q. And overall, how long have you been in law
15 enforcement?

16 A. Almost 18 years.

17 Q. What was your job back in March of 2013?

18 A. I was a special agent assigned to Lowcountry region.

19 Q. Can you tell the jury a little bit about your
20 education and training?

21 A. Yes, ma'am. Bachelor's degree, I went to Citadel. I
22 graduated from South Carolina Criminal Justice Academy.

23 Q. And did you have the occasion to be working back on
24 March 30th, 2013?

25 A. It was a weekend, I was off. But we are assigned

1 call-outs, so I responded as a result of the call-out.

2 Q. And what was you doing that evening and how were you
3 first brought in to this case?

4 A. I was at my house. I lived in Berkeley County. When
5 an incident like this occurs, the agency who has the incident
6 makes the decision to call SLED or not call SLED. In this
7 instance, the decision was made to call SLED. A request was
8 put in, and then I was contacted and sent to the incident
9 location.

10 Q. And how long after the call did you arrive on scene?

11 A. Probably about 30 minutes.

12 Q. And what did you observe when you arrived? What did
13 you learn when you arrived?

14 A. It's a very big scene. The pictures don't quite do it
15 justice. Arrived on scene, and we've got a pretty large part
16 of major roadway in Charleston shut down. Charleston City
17 officers were present. They had their command post. They had
18 brought in some traffic direction. There were lots of officers
19 on scene.

20 Q. And what did you do as soon as you got on scene?

21 A. Well, in this instance, I met with Chief Mullen.
22 He -- upon arriving on scene, we are kind of directed to --
23 because at this point, all I knew there was an officer-involved
24 shooting. I didn't know the condition of the officer,
25 condition of the suspect. I was just told to respond. We go

1 and get a brief rundown. And at that point, even they don't
2 quite know what's going on. They will try to piece it together
3 best they can to give us kind of an idea of what we are looking
4 at. So we determined that, obviously, that the shooting had
5 occurred pretty much in the roadway. And then we went to the
6 Comfort Suites Hotel where some of the witnesses had been
7 sequestered inside.

8 Q. And when did that shooting occur?

9 A. It happened around 10:38 p.m.

10 Q. And can you tell the jury about the Comfort Suites
11 Hotel, where did you go and what did you do?

12 A. Comfort Suites Hotel is located 2080 Savannah Highway.
13 We walked inside. Obviously, there was -- it was Easter
14 weekend. There were a lot of people in town staying at the
15 hotel. I think that the commotion had brought a lot of
16 on-lookers from their rooms. A lot of people were kind of
17 congregated in a big atrium, lobby-type. They had some
18 witnesses that were set up at some tables. So we tried to make
19 contact. This is eleven o'clock at night, the night before
20 Easter. People had services the next morning that they were
21 going to try -- nobody wanted to hang out in a lobby and talk
22 to us. So we tried to make contact with as many people as
23 possible to find out, you know, if you have 20 people in the
24 lobby, there's a chance that only maybe one or two of them
25 actually saw anything. You can have people that say, I saw the

1 police, I saw the blue lights, or I heard something after the
2 fact. So you have to determine who are witnesses and try to
3 clear those people and let the nonwitnesses go back to their
4 rooms.

5 Q. Through the course of your investigation, did multiple
6 people at the hotel see what happened?

7 A. No, ma'am.

8 Q. How many people were staying at the hotel were able to
9 tell you what happened leading up to this?

10 A. There was one witness who was smoking a cigarette on
11 the back -- they have a -- their pool is an inside pool. And
12 they've got a concrete patio. He was outside smoking a
13 cigarette. He saw it.

14 Q. And did you interview this person?

15 A. Yes, ma'am.

16 Q. And can you kind of explain to the jury how you go
17 about doing an interview?

18 A. There's no perfect way to do an interview. A
19 situation like this, SLED's headquarters is in Columbia. My
20 office is in Walterboro. When we come to a scene, we are kind
21 of mobile. So wherever we can get a quiet space -- I've
22 interviewed people in the front seat of my car, on the trunk,
23 anywhere we can get to, we will try to interview somebody. And
24 in this particular instance, we had the hotel that was made
25 available to us. So everybody that stayed at the hotel. They

1 have the little breakfast area, tables and chairs. We found
2 one that was off to the side, and sat down.

3 And any time we have an interview, we take for granted
4 that -- I will do 20 interviews a week, but that one witness
5 will talk to one police officer once every six months to a
6 year. So you kind of have to talk to them. Let them get
7 comfortable with you so they will actually tell you something.
8 If I just came in and just kind of went straight at it, they
9 may not want to participate. And they may try to minimize and
10 say, I didn't see anything. And we missed a chance to get
11 something crucial. So you talk to them. Sometimes I talk too
12 much. And try to get them comfortable. And then you ask them
13 what happened. And they will tell us. And then we will write
14 it down or he will write it down. And we will go over it
15 again, just to make sure that everything is accurate.

16 Q. And that individual who you said was outside on the
17 patio when things started up, when did you interview him?

18 A. It was that same evening. I don't exactly remember
19 the time. The incident occurred at 10:38 p.m. I was there
20 within 30 minutes. And at that point, it's kind of a blur.
21 Everything -- you know, it's a big scene. You are trying to
22 take in as much, but I don't exactly remember the time that I
23 interviewed Mr. Riner.

24 Q. What was the name of that person?

25 A. Sean Riner.

1 THE COURT: Say that again.

2 THE WITNESS: I'm sorry, Sean Riner.

3 Q. And did you yourself attempt to collect any evidence
4 from the hotel?

5 A. Yes. When we got there, after speaking with Chief
6 Mullen and getting a general idea of what happened, our crime
7 scene responds from Columbia. So there was usually sometimes
8 two hours delay for them to get there, just the travel time.
9 So we will try to walk around without disturbing the actual
10 scene. But, I mean, it's a hotel. It's in Charleston and it
11 had surveillance cameras. So we requested to look at those.
12 The manager at the time wasn't able to access those, so we had
13 to come back a couple days later and view the surveillance
14 video and obtained a copy of it.

15 Q. And did you end up taking statements in this case from
16 anyone else identified from hotel guests?

17 A. Yes.

18 Q. Through the course of your investigation, were there
19 guns collected and submitted into evidence?

20 A. Yes, ma'am.

21 Q. And do you know how many and what types of guns they
22 were?

23 A. Yes, ma'am, there was. Agent Goldstein's Charleston
24 City-issued service weapon was taken into our custody. And
25 Mr. Blake's weapon was taken into custody as well.

1 Q. Through the course of your investigation, did you
2 learn anything about this defendant and the gun?

3 A. Yes.

4 Q. Was Mark Blake allowed to have a gun?

5 A. No.

6 THE DEFENDANT: I object to that.

7 THE COURT: Previous objection?

8 THE DEFENDANT: Pretrial.

9 THE COURT: Subject to previous objection, it's
10 overruled.

11 BY MS. LINDER:

12 Q. Did you learn anything through the course of your
13 investigation about the defendant's car?

14 A. Yes.

15 Q. What did you learn?

16 A. We learned that it was a rental. It was rented from
17 Enterprise. So -- excuse me, it was an Enterprise rental car.

18 Q. Do you recall, was that car rented to Mark Blake?

19 A. No, ma'am.

20 Q. Was Mark Blake an authorized driver on the vehicle?

21 A. No, ma'am.

22 Q. Based upon your --

23 THE DEFENDANT: I object to that also. I'm sorry.
24 Late objection, 4243, relevance.

25 THE COURT: Subject to previous objection, it's been

1 announced, I overrule the objection.

2 BY MS. LINDER:

3 Q. Based upon your investigation, did you end up charging
4 the defendant?

5 A. Yes, ma'am, I did.

6 Q. And what did you charge him with?

7 A. Attempted murder.

8 MS. LINDER: I have no further questions for this
9 witness. Please answer anything that Mr. Blake may have.

10 CROSS-EXAMINATION

11 BY THE DEFENDANT:

12 Q. Mr. Keller, this is your case of attempted murder
13 against myself; is that correct?

14 A. Yes, this case was assigned to me.

15 Q. This is SLED's case, correct?

16 A. Yes.

17 Q. Okay. Let's go into this warrant of attempted murder
18 that you executed on myself.

19 A. Yes, sir.

20 Q. For the record, what is the date that you drafted the
21 attempted murder?

22 A. I don't have the warrant in front of me.

23 Q. Would you like for me to present to you so you could
24 verify?

25 A. Yes.

1 Q. Okay. What's that?

2 A. The date it was drafted?

3 Q. Well, drafted or signed off by the judge?

4 A. It was signed by the judge on April 1st, 2013.

5 Q. Okay. And do you recall the exact date that you
6 serviced myself, the defendant, with attempted murder?

7 A. The return on the warrant states it was served April
8 3rd, 2013.

9 Q. Okay. Within your affidavit of arrest warrant,
10 particularly sentences 5 to 7, if you want to take a look at
11 that, the highlighted area, will you please, for the record,
12 read off sentence 5 where it says, defendant Mark Lorenzo Blake
13 Jr, the highlighted area?

14 A. Okay. Do you want me to read the whole sentence?

15 Q. Just highlighted areas. That's a lot.

16 A. The defendant, Mark Lorenzo Blake Jr, abruptly stopped
17 and turned to face the oncoming officer. The defendant, Mark
18 Lorenzo Blake Jr, then pointed a black-in-color Glock .22
19 firearm and fired several shots at the oncoming officer.
20 Goldstein fired several shots from his department-issued
21 service weapon at the defendant.

22 Q. When you quote the said actions in that particular
23 said order regarding the exchange of gunfire between me and
24 Officer Goldstein, are you indicating that I, myself, the
25 defendant, initially shot at Officer Goldstein, and then after,

1 he returned fire?

2 A. No, sir. At this point, I had not interviewed Agent
3 Goldstein. And we attempted to interview you, but you
4 declined. So, basically, the wording of it, we just worded it
5 in the fact that --

6 Q. Not in subsequent order?

7 A. Mr. Blake was running, and he turned to face the
8 officer. He pointed a gun, shot Agent Goldstein several times.
9 Agent Goldstein fired several times. They shot each other.

10 I wasn't there. I did not witness this. So in order
11 for us to present the facts as true and accurate as possible,
12 we have to start somewhere.

13 He ran from Agent Goldstein. He turned around and
14 pointed a gun at Agent Goldstein and fired. Agent Goldstein
15 returned fire. And then, I mean, they both fell to the ground.
16 That's kind of the facts that we could ascertain responding to
17 the scene.

18 Q. I'm sorry. Go ahead. Keep going.

19 A. Saying that we saw that they were -- there were two
20 people laying, one in the roadway, one in the pinestraw.

21 Q. So when you say "returned fire", that's not saying
22 that it happened in no type of order? Just saying that it just
23 happened, right?

24 A. We had to start somewhere. At that point --

25 Q. You stated gunshots probably would have been a proper

1 choice of words versus, like, a subsequent order and initial
2 order?

3 A. I'm sorry? Can you repeat that statement?

4 Q. Wouldn't you think it would have been properly stated
5 if you had said "exchange of gunfire" versus trying to label an
6 order, and just kind of start from somewhere, keeping it
7 neutral?

8 A. I'm just a finder of fact, you know. I'm someone
9 educated, I think. My wife may beg to differ. But I wasn't
10 trying to put any type of slight of hand in those comments. It
11 was just a matter of sequence of events occurred. And we tried
12 to relay those and list those in the warrant in a true and
13 accurate fashion.

14 Q. But to answer my question, that's not a clear
15 conclusion of fact indicating that I fired first and he
16 returned fire, right?

17 A. No.

18 Q. Do you recall conducting a preliminary hearing, I
19 think it was around May of 2013?

20 A. May 14th, 2013.

21 Q. 2014?

22 A. Uh-huh.

23 Q. Now, I have the transcripts of that preliminary
24 hearing. And at that time, Officer Goldstein wasn't present
25 within that preliminary hearing, correct?

1 A. Say that again.

2 Q. Officer Goldstein, he was not present during the time
3 of the preliminary hearing, was he?

4 A. I don't believe so.

5 Q. Do you know for what reasons he wasn't able to make
6 it?

7 A. No, sir, I don't. I mean, I'm the arresting officer.
8 The purpose of a preliminary hearing is to establish probable
9 cause. So I had arrested you for attempted murder. So the
10 purpose of that hearing was to cover the charge of attempted
11 murder. So I was the one that drew the warrant. I was the
12 arresting officer, so I testified.

13 Q. What conclusion did you draw drafting the warrant of
14 attempted murder, any type of source?

15 A. Well, yes. So an officer was involved in an
16 officer-involved shooting where he chased after an individual.
17 The individual shot him. The officer returned fire, shooting
18 Mr. Blake. So SLED was called in. And, obviously, a crime was
19 committed in that action. We are finders of fact, so we have
20 to rely on probable cause. And it was determined that
21 Mr. Blake used deadly force in an attempt to kill Agent
22 Goldstein. We could ascertain that by the fact that Agent
23 Goldstein was shot in the chest. And as the doctor previously
24 testified to, that that type of shot has a high mortality rate.
25 So anytime you take a gun and shoot at something and shoot them

1 in such a manner, they are intending to kill. So we knew that
2 based on the preliminary evidence.

3 And as it pertains to the preliminary hearing, the
4 incident happened on March 30th. We made the arrest April 3rd.
5 We were still trying to obtain reports from SLED, reports from
6 Charleston City. So we were still compiling this entire
7 investigative report that will be turned in. And this
8 preliminary hearing occurred prior to the final report being
9 final, finalized. But being completed and turned in for
10 approval. So we testified to the best of our knowledge of what
11 we knew at that time to move forward. And the judge ruled that
12 there was probable cause and then the charges were bound over
13 and here we are.

14 Q. Going back to that preliminary hearing, right, I told
15 you I have the transcripts. I'm going to bring this up to you
16 to verify. Okay. That's page 7 and line 10, Exhibit 17. Can
17 you read that, all of that for the Court?

18 A. While they ran around the area of the Comfort Suites,
19 Mark Lorenzo Blake Jr. abruptly stop, turning to face the
20 oncoming officer. He pointed a black-in-color .22 firearm and
21 fired several shots at the oncoming officer. Officer Goldstein
22 was able to draw his weapon and return fire by several -- by
23 firing several shots from his department-issued weapon at the
24 defendant.

25 Q. Is that not clear and convincing that I shot first and

1 he returned fire? Is that statement not clear and convincing
2 that it happened in that order? It gets -- it's like a broader
3 understanding versus the warrant, and now it's clear and
4 convincing; would you say?

5 A. I'm sorry. I'm confused. Can you repeat that?

6 Q. Wouldn't you say that statement you made within that
7 preliminary hearing, wouldn't you say that's more clear and
8 convincing that it happened in that order at the time?

9 A. Again, when we responded, I had interviewed Agent
10 Goldstein in the beginning of May. Mr. Blake never submitted
11 to an interview. So we can only go by -- we are finders of
12 fact. We can only go by what information is provided to us. I
13 was not there. I did not witness this incident. So we tried
14 to collect the facts as best as possible. I didn't say in
15 there, you know, one person fired first, one person fired
16 second, because I don't know. I did -- I presented it in a
17 way -- I testified under oath to -- that these facts all
18 occurred. While you were running in the area of the Comfort
19 Suites, you abruptly stopped, turned to face Agent Goldstein.
20 You pointed a black gun at him and you fired several shots at
21 him. Those are facts. We've determined that.

22 Agent Goldstein drew his weapon and returned fire by
23 shooting you several times. Those are facts. But I can't
24 necessarily state -- I mean, this probably happened in about
25 three seconds. So I can't state for certain who fired what,

1 because I wasn't there. There's no video recording. There's
2 no audio recording. We are just trying to compile the facts.
3 He responded to a stimulus. You stopped and turned around and
4 pointed a gun at him, which then started the process of him
5 drawing his weapon in defense. You were using deadly force.
6 He responded to deadly force. But we can't state for certain
7 who fired. Now, Agent Goldstein testified earlier that he had
8 an opinion that you fired first. That's his opinion. But our
9 facts are that we cannot state for certain. We don't know.

10 Q. Do you ever recall them submitting that opinion to you
11 prior to this date?

12 A. I don't recall him -- no. I think that, to the best
13 of memory, I don't remember him saying that he thought -- I
14 heard him earlier yesterday when he testified, maybe it was
15 this morning when he testified.

16 Q. When you use this word "return", when I hear the word
17 "return", that's something I don't like to do. When I buy
18 something -- did you ever buy something and have to return it?

19 A. You know, Mr. Blake, whatever words you like or don't
20 like --

21 Q. I'm saying, have you ever bought something and
22 returned it?

23 A. When I was writing the warrant and writing the report,
24 I didn't take into account words that, you know -- we try to
25 write these reports in a way that's understandable. If you

1 read a report and you write a report, and all you do is use cop
2 terminology, general people who are the average public that are
3 expected to read these and understand them --

4 Q. Well, the judge can read cop terminology?

5 A. Absolutely, absolutely, but the jury and citizens and
6 yourself and -- so what I'm saying is that "return fire", it's
7 a term that is used to say one person shoots, the other one
8 returns fire.

9 Q. Yeah, because I mean, if --

10 A. Didn't --

11 Q. -- you bought something from the store and you
12 returned it, returning means a subsequent order at that point.
13 So I would have to say that --

14 A. Doesn't mean -- I don't understand anything you are
15 saying. Sorry.

16 Q. If you buy something from the store and you return it,
17 right? Right?

18 A. Yes.

19 Q. Okay. Now, isn't that a subsequent order?

20 A. If you buy something and return it?

21 Q. Yeah.

22 A. Yes. If you purchase something and then you return
23 it. You were running. You turned around and pointed a gun.
24 He pulled his weapon and then y'all fired. There's a sequence
25 of events. You know, I am not trying to dispute that. I'm

1 just saying that I just don't know who fired first.

2 Q. Okay. Are you then saying that that statement in the
3 affidavit were both poor and an improper choice of words that
4 could be concluded as being ambiguous?

5 A. I didn't say that at all.

6 Q. So at this point, I think you wouldn't say it can't be
7 concluded ambiguous? I'm having difficulty understanding.

8 A. Mr. Blake, my affidavit states that, While fleeing
9 from Officer Goldstein, the defendant, Mark Lawrence Blake,
10 abruptly stopped and turned to face oncoming officer.

11 Defendant Mark Lorenzos Blake Jr. then pointed a gun, a
12 black-in-color Glock .22 caliber firearm and fired several
13 shots at the oncoming officer. Goldstein fired several shots
14 from his department-issued service weapon at the defendant.

15 I can't -- in English language, I can't -- if two
16 actions occurred at the same exact time, all I could do is list
17 the actions. I didn't put an emphasis on either occurring
18 first. I just -- you were running. You turned around with a
19 gun, and you fired. Officer Goldstein was running behind you,
20 pulled his gun and fired. That's -- I am not trying to be
21 ambiguous. That's just statements of fact.

22 Q. Okay. All right. Let's go to the investigative
23 report that Officer Goldstein submitted to you. Okay? Do you
24 recall what date that was, the investigative report?

25 A. You are talking about Officer Goldstein's statement?

1 Q. Yeah, that he provided to you.

2 A. Okay. I don't remember the date.

3 Q. Do you remember whether it was, like, after the trial
4 or -- I'm sorry, not trial. Was it after the preliminary
5 hearing or was it before?

6 A. I believe it was before the preliminary hearing that
7 he submitted his statement to me.

8 Q. You said the preliminary statement was when?

9 A. I believe it was May 14th, but you have the
10 transcript. It says on there.

11 Q. Yeah, I do. I just want to verify. I have this
12 incident report that -- do you want to review it?

13 A. Absolutely, yeah, I will look at it.

14 Q. Is this the incident report you conducted with Officer
15 Cory Goldstein?

16 A. Yes. You are both right. So this is a portion of my
17 investigative report. Any time SLED conducts an investigation,
18 we complete an investigative report which compiles various
19 interview statements, any video or ballistic reports, crime
20 scene reports. It compiles that into a workable report. And
21 Mr. Blake just handed me pages two and three of that report,
22 which, when we do an interview, if an interview is recorded or
23 written, we can't just copy and paste that into a Word
24 document. We have to summarize it. So what we will do is --
25 it says summary at the top. And we will summarize the

1 pertinent information provided by the witness in our
2 investigative report. And then at the bottom we list --
3 there's an attachment. So on this it says, On May 6th, 2013,
4 Special Agent Kelly --

5 THE COURT: Slow down. Slow down.

6 THE WITNESS: Sorry about that.

7 THE WITNESS: On May 6th, 2013, Special Agent Kelly
8 met with Officer Goldstein and obtained a voluntary written
9 statement attached hereto.

10 So the investigative report is a summary report. So
11 when someone is trying to get a general understanding of what
12 happened, they can read the summary report. And this report,
13 that report is eight pages long. And then it says Attachment
14 2, where you can go back and actually read the actual statement
15 provided by Agent Goldstein.

16 Q. Okay. What date is that that that was conducted?

17 A. This says May 6th, 2013.

18 Q. May 6th, 2013. So that was prior to the preliminary
19 hearing?

20 A. Yes.

21 Q. Now, there's a highlighted area down at the bottom.
22 Can you read it off for me?

23 A. All right. The driver pointed a black-in-color
24 handgun at him and said, Don't you move, Motherfucker. He and
25 the driver exchanged multiple gunshots.

1 Q. Can you stop right there? Now you are saying
2 "exchanged", right, which is a mutual statement? Right? Okay.
3 Now, going from initially "returning" and then "exchanging",
4 not being in a particular order of nobody, that's a big
5 difference.

6 A. So when we did the arrest warrant, so Mr. Blake was
7 shot multiple times. He had some pretty significant injuries.
8 Whenever somebody is injured, they are taken to M.U.S.C. and
9 treated. So Mr. Blake had been -- had shot a police officer.
10 So there would be charges. Given the fact that Charleston
11 County Sheriff's Office operates the detention center,
12 Charleston City does not, in order for Mr. Blake to be held at
13 the M.U.S.C. while he recovers, we need to have him arrested
14 and charged and then booked into Charleston County Detention
15 Center in order for Charleston County to then send deputies to
16 stand watch, because Mr. Blake would be put on 24-hour --
17 because he's technically arrested. So any time there's an
18 incident where a suspect has been injured and is in the
19 hospital, time is of the essence to get the proper personnel in
20 place to ensure his safety, the nurse and doctor's safety so
21 he's taken care of.

22 So this incident occurred on March 30th. By April
23 3rd, Mr. Blake was arrested. So we went with what we had at
24 the time. When I drew the warrant, I hadn't spoken to Agent
25 Goldstein or Mr. Blake.

1 Q. Drafted the warrant prior to even consulting with
2 Agent Goldstein to get the facts, correct?

3 A. No, sir, we had the facts.

4 Q. No, no.

5 A. We knew that you and him shot at each other.

6 Q. But you didn't --

7 A. It is against the law to unlawfully try to kill
8 somebody. It is against the law to shoot at somebody else.
9 Okay? And that's what y'all did. Y'all shot at each other.
10 And given the fact that Agent Goldstein --

11 Q. We both should have been charged.

12 THE COURT: Hold on a second. You both can't talk at
13 the same time. You ask him a question. You let him answer it.

14 THE DEFENDANT: My apologies. I thought he was done.

15 THE WITNESS: So when -- at the time of the incident,
16 we knew certain facts, that Agent Goldstein was shot and
17 Mr. Blake had been shot. We knew that they had been shot by
18 each other based on what our witness was able to tell us. And
19 there was no other evidence of anybody else being involved.
20 There were two guns recovered. There were two bloodstains. So
21 there's nobody else involved. So they shot at each other.

22 Agent Goldstein was on duty, you know, working as a
23 Charleston police officer, was in the City of Charleston,
24 responding to suspicious activity, the traffic stop. And when
25 he came upon the accident or the car being crashed on the

1 on-ramp and saw someone running, you know, he found that to be
2 suspicious. For whatever reason, he decided to give chase. So
3 he's performing his lawful duties.

4 So when you ran and you turn around and pointed a gun
5 at him and shot him, that's against the law. So we determined
6 pretty early on that Agent Goldstein, as a police officer, was
7 shot and returned fire. So we arrested you for attempted
8 murder because you shot him in the chest, in the arm and in the
9 leg.

10 THE DEFENDANT: Okay. Okay. I need to get some
11 exhibits. Court's indulgence, by the way.

12 BY THE DEFENDANT:

13 Q. These are Exhibits 39 and 42. Do you want to take a
14 look at these for me?

15 A. Yes, sir.

16 Q. Do those pictures right there look familiar? This is
17 also 45. I'm giving you the viewing of -- do those exhibits
18 look familiar?

19 A. I believe these were shown. And these are the
20 clothing you were wearing the night of the incident.

21 Q. So you verify those are my clothing I was wearing the
22 night of the incident, correct?

23 A. That's what has been presented. When the pictures
24 were shown yesterday. I mean, I saw them.

25 Q. I'm going to go to the big screen. Well, now, when

1 you say that Officer Goldstein apparently returned fire upon
2 myself, okay, now, when he states to you, right, that we got in
3 this shootout amongst each other, and his version of events
4 were I turned and then I started firing at him, right, okay,
5 now, based on him saying yesterday we were -- it was basically
6 a face off --

7 A. Uh-huh.

8 Q. Now, from you drafting the warrant to seeing this,
9 looks very different from a face-off, wouldn't you say? Have
10 you ever reviewed these pictures before, or is this the first
11 time?

12 A. No, I've seen them before. I know why -- I know the
13 issue.

14 Q. Can you explain to me the issue?

15 A. Okay. So when you were running from Agent Goldstein,
16 and we know that you were facing at him because he was shot
17 head on, and your injuries, based on what the doctor testified,
18 also stated that you were shot head-on, she stated you weren't
19 shot in the back.

20 Q. No, I never -- I agree I wasn't shot in the back. I
21 don't know how I wasn't.

22 A. You stated that your clothing was cut off. So when
23 SLED comes in to conduct an investigation. I am not a crime
24 scene analyst. I am not a ballistic expert. We have
25 individuals that are trained and get degrees in education on

1 that. I'm a cop and I'm an investigator. So I'm the first
2 line of how this starts. Our crime scene came down. And over
3 the process of -- so when I get there, Mr. Blake and Agent
4 Goldstein had been taken to M.U.S.C. So those are from
5 Charleston. West Ashley was here, the incident location.
6 M.U.S.C. is on the peninsula. So it's not like I can walk
7 right over there. Obviously, they are being treated and
8 whatnot. So these -- I think the clothing was with Mr. Blake
9 when they took him. So I didn't get it. I didn't see it. I
10 wouldn't look at it. My job is to conduct an investigation.
11 I'm the finder of fact. I put everything together.

12 Q. Isn't that part of the investigation, getting the
13 facts straight?

14 A. Absolutely getting the facts straight. We did get the
15 facts straight. So when our crime scene took this, okay, they
16 are going to look at it under a microscope. They are going to
17 take pictures of it. They are going to photograph it. I don't
18 have the technology or the training to look at something and to
19 determine if it's a bullet hole or it's not a bullet hole.

20 Q. But you work around these people, correct?

21 A. Yes, I do. I take their report. In their report,
22 they are the expert. So when they submit a report to me, I
23 compile it with my report, the overall investigating report,
24 and it is submitted. So I didn't put the tape on those jeans.
25 I mean, I know why it's there.

1 Q. What do the tapes indicate?

2 A. The tape is an evidence marker. Doesn't indicate
3 anything. I doesn't indicate anything other than they are
4 taking a picture of it and that's a scale. They put the scale
5 there. So when they take a photograph of it, they understand
6 how big it is.

7 Q. I beg to differ with that. And I would like to
8 approach again because it's clear that's what it indicates.

9 A. Okay. Absolutely. So that's a better picture.

10 Q. What does that say right here? Does that indicate
11 bullet hole or does not?

12 A. It states on there bullet hole.

13 Q. That's what it indicates then?

14 A. Well, it indicates that there's a potential for bullet
15 hole.

16 Q. It's not disputable. That's what it indicates. We
17 don't need to dance around this. Now, you got all the answers
18 all of a sudden.

19 A. Excuse me?

20 Q. I said, now all of a sudden you got all the answers.
21 I didn't come here to dance. I came here to get the facts.

22 THE COURT: Mr. Blake, you need to ask him questions.
23 Let him explain.

24 BY THE DEFENDANT:

25 Q. Okay. Agent Kelly, you forwarded your affidavit

1 quoting the information you obtained from the witnesses and
2 yourself, I guess, your investigation, which is very poor.
3 Okay. Can you recall the names of some of those witnesses that
4 supported your version of events?

5 THE COURT: Ladies and gentlemen of the jury, please
6 step in the jury room. Don't discuss the case.

7 (Whereupon, the jury leaves open court at 12:00 p.m.)

8 THE COURT: Mr. Blake, I realize you are acting as
9 your own attorney --

10 THE DEFENDANT: Yes, but I am not an attorney. I'm
11 just here defending myself.

12 THE COURT: I'm aware of that too. You are not
13 allowed to just have running commentary. I've tried to be very
14 flexible with it. I let you go on there for a while until I
15 finally had to stop you. You cannot comment like you are
16 doing.

17 THE DEFENDANT: Well, I was going to ask a question
18 with that, Judge.

19 THE COURT: But you can't say, you did your
20 investigation which was very poor. That's a running comment.
21 You don't get to make the statement "which was very poor". You
22 don't get to make statements as you kept walking back and forth
23 over here about the evidence. If you want to testify, you
24 certainly have the right to testify. But when you are asking
25 questions of witnesses, it's not -- this is common for people

1 who represent themselves. I am not saying it's uncommon. It's
2 something that seems to be hard to grasp when you are on your
3 feet in the well like that. But what you have to understand
4 is, when you are acting as an attorney, you are permitted to
5 ask questions of the witness. I am not saying every statement
6 is barred, but what you are saying now is not evidence and you
7 keep injecting that into the trial. So just try to be
8 careful.

9 THE DEFENDANT: Okay, Judge, I want to say something
10 about that. This incident was stemming for over five years.
11 I've got a lot of buildup, a lot of emotion built up. The one
12 statement Agent Kelly stated as far as --

13 THE COURT: It doesn't matter.

14 THE DEFENDANT: I just want to get my point across.
15 That's all I want to do. Just hear me out. Okay? It ruined
16 my public viewing. That one statement changed my life that day
17 when he drafted that warrant.

18 THE COURT: It doesn't change the rules.

19 THE DEFENDANT: I understand that, but I just want to
20 get that out, though. I had to get that out. It's been five
21 years. And I've got to get everything out.

22 THE COURT: I just said you can take the stand and you
23 can testify --

24 THE DEFENDANT: I will. I will testify and we are
25 going to get the real version of events.

1 THE COURT: Will you please not cut me off? I will
2 explain that to you in more detail later. I will talk to you
3 about your right to testify.

4 Let's take a five-minute break. You cannot discuss
5 your testimony with anyone during the break. Thank you.

6 (Whereupon, a brief recess occurs.)

7 THE COURT: The purpose in trying to have these
8 conferences that we just had outside the jury presence is to
9 try to avoid sabotaging the trial or messing up the trial. In
10 that vein, please quit commenting about him not talking to you
11 all.

12 THE DEFENDANT: Judge, I wanted to say something else
13 about that. Can you instruct the jury that he said this twice
14 and it's my constitutional right that I can remain silent,
15 therefore, it wouldn't be harm to it.

16 THE COURT: Do you want to be heard on that request?

17 MS. LINDER: I think that that is covered and part of
18 the jury charge at some length, that if he give statements to
19 police or doesn't, that is not to be held against him. I think
20 that the jury charge covers it. Plus, Mr. Blake indicated he
21 is going to testify. I think Mr. Kelly said a number of other
22 things, to not harp on it. If the Court feels that you should
23 address it now, that's also fine, but I believe the jury
24 charges are sufficient.

25 THE COURT: Well, there won't be a jury charge if he

1 testifies -- there went be a jury charge in that vein if he
2 testifies. So you want me to tell the jury, give a curative
3 instruction on that?

4 THE DEFENDANT: Yeah. Like, he keeps going into the
5 point to where he says --

6 THE COURT: I understand, but I'm asking you, because
7 when I do that, I'm going to call attention to it. So you've
8 got a tactical decision to make. You may want to talk to them.
9 They may want to talk to you.

10 THE DEFENDANT: Okay. Court's indulgence.

11 Okay. Judge, I just want to say I want to cancel the
12 instruction.

13 THE COURT: You do not want me to give a curative
14 instruction on that?

15 THE DEFENDANT: That's right.

16 THE COURT: Bring the jury back in.

17 If he asks you a question and you feel a need to go
18 into that, just let us know that you need to address it. Okay?

19 THE WITNESS: Yes, sir. Yes, sir.

20 (Whereupon, the jury returns to open court at 12:09
21 p.m.)

22 THE COURT: Thank you, ladies and gentlemen.

23 You may continue, Mr. Blake.

24 BY THE DEFENDANT:

25 Q. Agent Kelly, you quote in your affidavit, according to

1 the information you obtained, both witnesses and yourself. Can
2 you recall the names of some of the witnesses that supported
3 your version of events?

4 A. Yes, sir.

5 Q. Who was it?

6 A. So when we conduct these investigations, we talk to,
7 you know, whatever witnesses are available, are present for us
8 to talk to. We interviewed several. We interviewed Mr. Riner
9 in reference to what he saw on the back stoop of the hotel. We
10 interviewed several police officers. And at the time of --
11 like I said, at the time of this, we hadn't yet spoken to Agent
12 Goldstein.

13 Q. Okay. And can you confirm that at that time when you
14 conducted that -- what is that? -- incident report, Officer
15 Goldstein, the interview, the attachment, can you -- would you
16 confirm that he stated he didn't recall who shot first?

17 A. When I got the prepared statement from Officer
18 Goldstein --

19 Q. Anything else to supplement that maybe?

20 A. I'm just reading the summary of what you gave me of
21 Officer Goldstein statement that's in the investigative report.
22 Is that what you are talking about?

23 Q. Yeah, the one I gave you.

24 A. The investigative report that I did that has the
25 summary of Officer Goldstein's --

1 Q. He doesn't verify that, correct? He just says
2 exchanged gunfire, right?

3 A. Yeah, he and the driver exchanged multiple gunshots at
4 each other. That's what it states.

5 Q. You do recall Officer Goldstein informing you he
6 doesn't recall who shot first, correct? Do you need anything
7 to verify that?

8 A. I think that Officer Goldstein wasn't able to give me
9 a fact -- we are finders of fact. So we try to -- everybody
10 has an opinion about something and they can think they know
11 what is right. But when it comes to something, putting
12 something under oath or in an affidavit, we want to be as
13 accurate as possible. So if he doesn't remember something, he
14 doesn't remember something. You know, he could say after the
15 fact and officially, I don't remember it, but I think he fired
16 first. I didn't hear that, that he thought you fired first
17 until the testimony. So at the time that he spoke to me, he
18 did not --

19 Q. So that was very much in heat of that testimony
20 yesterday, that answer that he gave that --

21 A. Well, I never asked his opinion. I haven't seen him
22 in five years. We've never spoken about the case outside of my
23 interaction with it. So I've never had the opportunity to ask
24 his opinion. You know, I did the interview. I'm finder of
25 fact. So we try to say just the facts.

1 Q. Are you saying at that time Sean Riner, was the guy
2 that witnessed -- I mean, that you interviewed that was staying
3 at the Comfort Suites in that provided, I guess, maybe all the
4 information you needed to put together that arrest warrant?

5 A. Mr. Riner was a witness that provided a statement to
6 us that we used. He was part of it, yes.

7 Q. So Mr. Riner. Okay. Now -- I am not going to ask you
8 that.

9 Okay. Do you think that may be because you had input
10 that Officer Goldstein doesn't recall who fired first within
11 your affidavit, then that may have slimmed the chance of a
12 magistrate judge not signing off on the warrant for attempted
13 murder based on the said change in circumstances which wouldn't
14 have been sufficient enough to support probable cause or of
15 attempted murder? Do you think that would slightly change any
16 type of circumstances of signing off of the magistrate?

17 A. No.

18 Q. I mean, we don't have a magistrate to verify that or
19 not?

20 A. The warrant was signed before I interviewed Agent
21 Goldstein. You still shot him with a gun. And that's against
22 the law. So we had a probable cause to move forward with the
23 charge.

24 Q. Do you still have the warrant with you right now. Who
25 is the magistrate judge that signed off on that warrant?

1 A. I think it's Judge Koontz.

2 Q. And that's West Ashley area, correct?

3 A. I believe so. I think she's retired.

4 Q. Now, when you took that warrant to her, right, to get
5 signed off by her, right, exactly what do you remember her
6 saying amongst her signing off on the warrant as far as her
7 finding to be sufficient probable cause? Do you recall any of
8 that, or were you just in and out?

9 A. So when we -- SLED is kind of all over the place. We
10 rely on the magistrates a lot, because there are several
11 magistrates located in every county. The Lowcountry region
12 that I work for, we are responsible for 12 counties. So
13 there's lots of magistrates that we have to rely on. So some
14 magistrates we get to know very well. I'm from Berkeley
15 County. So some Berkeley County magistrates I've known over
16 the years. You know, I spent a lot of times in Charleston
17 County. So when you go in and talk to a magistrate, a lot of
18 times it's -- you try to -- you know, you are talking to a
19 judge. So if they want to talk to you, they have time, you
20 absolutely say, yes, ma'am, yes, sir, how are you doing? Then
21 we will have the affidavit. And what we will do is -- we just
22 have this part, the words that are written. That's what I
23 type. And her office will do this part. And that's what they
24 prepare. So I have to sit down with the judge and explain to
25 her the probable cause and say -- and, basically, read off the

1 four corners of this document. And that's what I based my
2 probable cause on.

3 I didn't say anything. There wasn't any additional
4 information to tell her that's not on here, you know. And I
5 wouldn't do anything improper to a judge, because I like my
6 job. I like, you know, having my bills paid. And so I'm going
7 to tell her true and accurate what's based on this paper. So
8 there were no side discussions. I mean, we may have talked
9 about the weather or something like that, just something
10 small-talk, but we didn't have any in-depth discussion about
11 anything else that wasn't related to this case that wasn't on
12 this piece of paper.

13 Q. Okay. So as I conclude that within the affidavit, can
14 you -- as a matter of fact, can you give, like, a brief
15 definition of what an affidavit is, for those who may not know?
16 Can you kind of go over that?

17 A. Okay. I am not an attorney. I'm just a police
18 officer who writes --

19 Q. You understand what affidavit is, right?

20 A. Yes. This is a charging document. We take this.
21 It's a sworn affidavit. That means she will swear me under
22 oath. So I will go to her office. I will prepare this. You
23 know, it's a Word document that I will prepare.

24 Q. It's factual, correct?

25 A. It's factual, yes, sir. So to the best of my

1 knowledge, facts that I have at this time, so on the facts that
2 I had on April 1st, three days after this incident, to the best
3 of my knowledge, in good faith, I went to her and said, hey,
4 look, this is what happened, this is what we believe happened,
5 that Mr. Blake fled from Officer Goldstein, Agent Goldstein
6 pursued him, that Mr. Blake turned around and fired and shot
7 Officer Goldstein. Officer Goldstein shot Mr. Blake. This is
8 what we have.

9 So I will go in. And her office will do the arrest
10 warrant part of it, which is the back part, which is the
11 paperwork that gets passed from the jail to the Solicitor's
12 Office and further along the prosecution. And that's what it
13 is. It's a sworn affidavit of myself in front of a judge
14 stating the facts of the case to the best of my ability and
15 knowledge at the time they were signed.

16 Q. Okay. Now, an affidavit is a solemn document,
17 correct?

18 A. Yes, sir.

19 Q. Okay. And it's supposed to be factual, right?

20 A. Yes, sir.

21 Q. Now, when it comes down to opinions, would you take an
22 affidavit, and it's just your conjecture and opinion, is that
23 sufficient enough for a magistrate to sign off on an opinion?

24 A. Well, this wasn't an opinion. I didn't say --

25 Q. I'm just asking the question.

1 A. But it's based on fact. There's not an opinion in
2 here.

3 Q. But I'm saying, would they sign off on an affidavit as
4 far as you giving an opinion on what you thought happened to
5 the best of your knowledge? Opinion needs to be factual,
6 wouldn't it?

7 A. Correct. But I wouldn't present an opinion in an
8 affidavit to a judge to be signed. There's a process that I
9 have to follow. I mean, I have a boss. And we are expected to
10 do our job. So I am not going to present an affidavit to a
11 judge and try to convince a judge to sign a bunch of stuff that
12 I think is right.

13 Now, if something that I can state is fact, okay, they
14 shot several times. Now, three days after the incident, I
15 don't know how many shots are fired. It's just -- it's
16 impossible for me to know because we haven't interviewed
17 anybody and we haven't ascertained how many bullets were in
18 somebody's gun. So we are just -- we know that bullets were
19 fired, because they shot each other. But I don't know, was it
20 15 or 17? I don't know. We have to wait for the ballistic
21 reports to come out. So I'm going to present to the best of my
22 knowledge the facts that I think are accurate at the time. And
23 if there's -- but the thing is, if I find something that is
24 wrong, I'm obligated to say, hey, look, we are totally off on
25 this. And that didn't happen in this case.

1 Q. Let's go back to the order within the search warrant
2 or the warrant affidavit where it goes -- I'm going to read off
3 on it. It says: Defendant, Mark Lorenzo Blake Jr. abruptly
4 stopped, turned to face the oncoming officer. The defendant,
5 Mark Lorenzo Blake Jr., then pointed a black-in-color Glock .22
6 firearm and fired several shots at the oncoming officer.
7 Goldstein fired several shots from his department-issued
8 service weapon at the defendant.

9 MS. LINDER: Your Honor, I'm going to object. Asked
10 and answered.

11 THE DEFENDANT: He didn't answer the question yet. Am
12 I good, Judge?

13 THE COURT: You haven't asked a question.

14 BY THE DEFENDANT:

15 Q. Now, my question to you now is, based upon what's done
16 in that order, now, it's clear that it's ambiguous. Right? It
17 can be understood more than one way at that point, right,
18 whoever wants to believe whatever they want to believe,
19 correct?

20 A. I don't know how to answer that question. I didn't
21 list a sequential order of events. These things happen in
22 real-time. Whether it's simultaneously or seconds apart, I
23 don't know. I wasn't there. When you read the affidavit, it's
24 a narrative that I have to put on there. So it begins with,
25 you know, Officer Goldstein, while acting as a police officer

1 for the Charleston Police Department, you know, conducted a
2 traffic stop.

3 So I have to kind of set the stage for what kind of
4 leads up to this. So I have to -- everybody has read a story,
5 everybody has written a paper. You have to communicate
6 effectively, tell things in an order to -- just for people to
7 understand.

8 So during the course of the traffic stop, Mr. Blake
9 exited the vehicle and fled on foot. Officer Goldstein engaged
10 in a foot pursuit of the defendant towards Sam Rittenberg.
11 While fleeing from Officer Goldstein, the defendant abruptly
12 stopped and turned to face the oncoming officer. Officer Blake
13 was shot in the chest.

14 You know, we have a witness who states that Officer
15 Goldstein was chasing Mr. Blake. You run forward. So we know
16 that Agent Goldstein was behind Mr. Blake. In order for Agent
17 Goldstein to be shot pointblank in the chest, it's obvious that
18 the evidence leads us to believe that Mr. Blake turned around
19 and fired.

20 Q. Believe?

21 A. Absolutely. At the time of us putting this warrant
22 together, we are going by what we believe to be true. I
23 wasn't --

24 Q. It's not factual. Because, you know, I've looked
25 in -- did you ever look up the word "belief" in, like, the

1 dictionary or thesaurus? I'm going to tell you that the word
2 "belief" coincides with opinion. And opinion is not factual.
3 Did you not know that?

4 A. So when we did the warrant, we wrote it to the best of
5 our knowledge, to the best of our ability and what the facts at
6 the time told us. This is three days after the incident. We
7 know that Officer Goldstein had been shot in the chest. He had
8 been shot in the arm. All his injuries appeared to be
9 front-facing. We knew, based on Mr. Riner's statement to us
10 that he was chasing after Mr. Blake. And based on Mr. Blake's
11 injuries and what we heard earlier, we know that Mr. Blake was
12 shot in the front as well.

13 So, again, I wasn't there. I don't have video or
14 audio to tell us. But the facts kind of fall where they are
15 that says, okay, they were facing each other and were shot. So
16 in telling the narrative, it's not my intent to sway one way or
17 the other. I just put the facts on the paper. And the facts
18 that we could determine at the time was Mr. Blake abruptly
19 stopped, turned to face the oncoming officer, pointed a gun at
20 Officer Goldstein and shot. Officer Goldstein pulled his gun
21 and shot Mr. Blake. Those are the facts.

22 Q. Do you not know that word, I guess, "belief", or how
23 you stated within the warrant, do you not know that it was
24 taken (sic) out so ambiguous that -- taken out of portion of
25 the fact that you got Post and Courier, you got all the news

1 channels broadcasting, because, I guess, you know, it's an
2 ambiguous statement. So at this point, they conjecture that I
3 fired first and he returned fire. They are saying he was able
4 to stand his ground and return fire in return.

5 A. It doesn't say that in the warrant. Just says y'all
6 fired at each other. I can't control what the press or -- it's
7 just a statement. Agent Goldstein responded to a stimulus of
8 you stopping and turning at him. That's what he -- that's the
9 first part. So he didn't shoot you in the back. He shot you
10 when you stopped --

11 Q. He didn't shoot me in the back, but he shot me from
12 behind. Okay? We have -- do we not have evidence admitted
13 into evidence to confirm that?

14 A. No.

15 Q. We don't? I just showed it to you.

16 A. Your jacket?

17 Q. My jacket and my pants.

18 A. You can't be shot from behind and not have a bullet
19 hole behind. So you had a hole in your jacket. Okay? There's
20 no corresponding bullet hole in the middle of your back. You
21 were shot in the front.

22 Q. I was shot in the front?

23 A. What I'm saying is that as y'all --

24 Q. I was shot from angles.

25 A. Absolutely, correct. I will correct that. You were

1 shot from an angle, because after Agent Goldstein was shot
2 multiple times, shot in the chest, his arm was disabled, as he
3 was trying to -- you know, it was fight or flight. So he had
4 to fight for his life. He is not going to stand there and keep
5 getting shot. He doesn't know how many weapons, what type of
6 weapons, how many bullets that Mr. Blake has. So after getting
7 shot multiple times, he's doing the best that he can to return
8 fire to end the threat.

9 And he did that, because he stated in his testimony
10 that he stopped firing when Mr. Blake stopped firing. So just
11 because -- I mean, at that point, you are going to engage
12 however you can. And as bodies turn and whatnot, I mean, if
13 you get shot from an angle, you shoot from an angle.

14 Q. Can you say that the evidence submitted coincides with
15 the testimony? Can you say that, all the evidence submitted as
16 far as me sustaining shots? I mean, can you say they
17 absolutely line up with the testimony in that version of events
18 to down to the T?

19 A. I can't say that anything -- I mean, I haven't been
20 present for all the testimony. I haven't seen all the
21 evidence. I can't state that for a fact. That's something for
22 the judge and jury.

23 Q. It was conducted by SLED? Am I wrong?

24 A. Correct. Correct. SLED conducts an investigation.
25 And we are finders of fact. So we compile the information that

1 is available to us. I was not there. I did not see this. I
2 can only go by the evidence. You know, I may not see that it's
3 raining outside. But if I go outside and everything is wet, I
4 can make the inference that, okay, it must have rained. So if
5 things are there, if things are presents, you can, you know,
6 draw conclusions based on fact.

7 Q. I'm going to ask you a question, because I know you
8 like going into this alleged traffic stop. Okay?

9 Now, what are we here for today? What's the charge
10 against me right now that I'm in trial for right before you?

11 A. Attempted murder.

12 Q. Okay. And am I being tried for failure to stop for
13 blue lights?

14 A. No, sir, I didn't charge you with that.

15 Q. Okay. Am I being tried right now for any traffic
16 citations?

17 A. No, sir.

18 Q. Okay. So we are strictly here for attempted murder
19 and attempted murder only, correct?

20 A. Yes, sir.

21 Q. Nothing outside of that, correct?

22 A. Nothing outside of that.

23 Q. Okay. Other thing I wanted to state for this, based
24 on your belief in your warrant, which is not factual, do you
25 not know that if you submit an affidavit as a law enforcement

1 agent and it's a belief and it was an opinion and it's not
2 factual, do you not know that that is an act of perjury?

3 A. I'm familiar it's an act of perjury, but that didn't
4 happen.

5 Q. So you are saying your opinion and your beliefs didn't
6 lead you to commit perjury at this point by not properly
7 investigating this investigation and then presenting the
8 warrant to Bonnie Koontz? Because she's not here. We don't
9 know how she viewed it. But, I mean --

10 A. So when this happened on March 30th, Mr. Blake was
11 suffering from some pretty significant gunshots wounds. We had
12 to prepare an arrest warrant to take him into custody. We knew
13 he shot a police officer. That's against the law firm. So we
14 knew that he would be arrested. So it's, you know, we can't
15 just wait six months for him to be better, hey, turn yourself
16 in. No. He's a threat to the public because he shot a police
17 officer. So we draw the warrant with the information that we
18 have at the time.

19 You know, if something had come out that exonerated or
20 changed something significantly, I'm obligated to notify the
21 Solicitor's Office as soon as possible and say, hey, look,
22 something is different. So at the time of us drawing this
23 warrant three days later, everything is true and accurate based
24 on what information we have at the time. You know, there are
25 certain witnesses who we weren't able to discuss the incident

1 with three days after the fact. You know, this investigation
2 went on for 45 days. So at the very beginning, we went with
3 what facts we thought were true and accurate to the best of our
4 ability. And that's how we got probable cause, you know, to
5 convict, and trial's beyond a reasonable doubt and all that
6 other stuff, but we had probable cause to move forward with the
7 charge of attempted murder. And that's what we did. There was
8 no attempt to perjure or lie or mislead.

9 Q. If you didn't know the whole story and it was just to
10 the best of your ability, and you say you don't have a dog in
11 the fight between me and Officer Goldstein, then why at any
12 point wasn't a warrant for his arrest submitted also so there
13 wouldn't be no -- it would be impartial?

14 A. So you ran from a traffic accident.

15 Q. Allegedly.

16 A. Allegedly, yeah. So a car was crashed on the side of
17 the entrance ramp to 526. Agent Goldstein saw you running from
18 that car. Agent Goldstein pursued you on foot. You shot him
19 with a gun you shouldn't have had. He returned fire because he
20 was getting shot at. So in his lawful duties as a police
21 officer, okay, he's sworn to protect and uphold the laws of
22 South Carolina, he is legally able to hold that weapon, to have
23 that weapon, to operate that weapon. You shot him in the
24 chest. You shot him in the arm. You shot him in the wrist.

25 Q. I'm aware of all of that.

1 A. So him getting shot, you using deadly force, he's
2 legally allowed and within the law to protect himself and to
3 protect the public. So he was lawfully within his right to, I
4 mean, to shoot you. And that's what happened.

5 Q. I want to go into that. I want to go into that. I'm
6 glad you arose (sic) that. You stated I am not allowed to have
7 legal possession of a weapon. Did you say -- that's what you
8 have said, correct? Right? That's what you said?

9 A. Yes, yes, sir.

10 Q. Now, do you have any documentation showing that I
11 signed any type of document saying I would never, ever in state
12 of South Carolina bear arms? Can you present that? Can you
13 present that I signed a document stating I would never, ever
14 bear arms?

15 MS. LINDER: Your Honor, we may need to approach to
16 discuss this.

17 THE COURT: I am not having a bench conference. Step
18 in the jury room, please. Don't discuss the case.

19 (Whereupon, the jury leaves open court at 12:33 p.m.)

20 THE COURT: Mr. Blake, you may pose the question. You
21 may want to consult, if you wish, with stand-by counsel as to
22 ramifications of that concerning opening the door.

23 THE DEFENDANT: Well, Judge, there's already a door
24 open. I mean, by you letting it in, I mean, you automatically
25 allowed the door to get open. I mean, do you or do you not

1 have a gun act that I signed --

2 THE COURT: I believe I'm in charge of the court.

3 THE DEFENDANT: You are. But you allowed it. So why
4 not go into it if he allowed it? I never signed a gun act. I
5 don't recall me ever signing a gun act saying I would never
6 bear arms in the state of South Carolina.

7 THE COURT: You may ask the question. I'm just
8 telling you, if you want to consult with stand-by counsel, you
9 may. If you don't, you don't have to.

10 THE DEFENDANT: As far as going into criminal history,
11 is that what y'all saying?

12 THE COURT: You are going to ask him why he said you
13 could not possess a gun.

14 THE DEFENDANT: I said do he have --

15 THE COURT: You cut me off one more time -- I have
16 excluded the reason. Now, if I'm wrong about that, I'm wrong
17 about that, but I have excluded the reason. Now, you want to
18 bring in the reason. If you ask him why you are not entitled
19 to possess a weapon, then you may be opening the door to him
20 saying because you are a convicted felon.

21 THE DEFENDANT: But it was a direct question about
22 whether I signed a gun act or not. That's a yes-or-no.

23 THE COURT: You don't understand opening the door
24 then.

25 THE DEFENDANT: That's a yes-or-no question, man. No

1 question around that.

2 THE COURT: Sir, you may have your beliefs all you
3 want. If you don't want to talk to them, that's fine.

4 Bring the jury in.

5 THE DEFENDANT: Listen, before we do that, just shut
6 me up, just show me a gun act that I signed off on, and I ain't
7 got to go no more than that. I will shut up about it. That's
8 all I want is evidence produced whether or not I signed a gun
9 act saying I would never bear arms in the state of South
10 Carolina. As part of my criminal conviction, I don't care
11 about that.

12 THE COURT: Are you talking -- addressing him?

13 THE DEFENDANT: I'm saying in general, I don't care
14 about that, because there's no signature I ever produced saying
15 I am not ever going to bear arms. I had the right to bear arms
16 if I choose to ever bear arms. I never signed no document
17 saying I'm going to render my Second Amendment not to bear
18 arms. Where is that at? I never promised nobody that.

19 THE COURT: You want to make a proffer of his answer?

20 THE DEFENDANT: It's a yes-or-no question. Do you
21 have documentation?

22 THE COURT: You keep addressing him, sir. You are
23 talking to me right now. Please. Do you want to make a
24 proffer of his answer to the question? Do you want him to
25 answer the question outside the presence of the jury? Because

1 if you do, you may.

2 BY THE DEFENDANT:

3 Q. What do you say to that, Kelly? What do you say to
4 it?

5 A. What's the question, Blake?

6 Q. Question was, do you have any type of documentation
7 where I signed a gun act saying I would never, ever bear arms
8 in the state of South Carolina? What would you say to that?
9 Would you go around it and then say your criminal states that
10 you are not supposed to, so ...

11 THE COURT: You may answer his question best you know
12 how.

13 THE WITNESS: You are a convicted felon. You are not
14 allowed to have a gun. That's my answer.

15 BY THE DEFENDANT:

16 Q. You got it documented?

17 A. It's in your rap sheet. You are a convicted felon.
18 You are not allowed to have a gun.

19 Q. Okay.

20 A. That's why.

21 Q. Yeah, I'm aware it's a misdemeanor. But if I signed a
22 gun act, it would be a felony.

23 THE WITNESS: Are we continuing? I'm confused. I
24 answered his question.

25 THE COURT: Are you ready for the jury?

1 THE DEFENDANT: Yeah.

2 THE COURT: All right. Bring the jury in.

3 (Whereupon, the jury returns to open court at 12:39
4 p.m.)

5 THE COURT: You may continue, Mr. Blake.

6 BY THE DEFENDANT:

7 Q. Are we here today, Agent Kelly, for a gun charge in
8 particular?

9 A. No, sir.

10 Q. What are we here for, once again, today?

11 A. Attempted murder.

12 Q. Okay. And we agreed, did we not, that that's what we
13 are here for? That's the charge that we are here for, right?

14 A. Attempted murder, yes.

15 THE DEFENDANT: That's all I got to say.

16 THE COURT: Redirect?

17 MS. LINDER: No redirect, Your Honor.

18 THE COURT: Thank you, sir. You may step down.

19 You got another witness?

20 MS. LINDER: Judge, if we could say break for lunch,
21 they will be here shortly. We do not have someone outside,
22 Judge.

23 THE COURT: All right. Ladies and gentlemen, we are
24 going to break for lunch. I need you back in the jury room,
25 please, at 2 p.m. I hope you have a pleasant lunch. Be back

1 in the jury room at two o'clock.

2 (Whereupon, the jury leaves open court at 12:40 p.m.)

3 THE COURT: Court's in recess. Oh, can you catch
4 Mr. Porcher? Can you get him before he leaves?

5 (Whereupon, the alternate enters the courtroom.)

6 THE COURT: I got a note from you yesterday,
7 Mr. Porcher, that you got a planned flight tomorrow to go out
8 of state; is that right?

9 JUROR 216: Yes, sir.

10 THE COURT: And you are requesting to be excused from
11 the jury?

12 JUROR 216: Yes, sir.

13 THE COURT: All right. Let me talk to them and I will
14 get back with you. Don't leave and don't discuss any of that
15 with your fellow jurors. But don't leave until I talk to you.
16 Thank you, step outside.

17 (Whereupon, the alternate leaves the courtroom.)

18 THE COURT: He's Juror No. 216. I shared the note
19 with both sides. He indicated in the note that he directs a
20 nonprofit that assists members of the armed forces who had been
21 wounded, are ill or injured, and that donations were made for
22 him to get a ticket to go to a camp in St. Petersburg. He's
23 flying out in the morning and he requested the opportunity.
24 Does the State have any input on this?

25 MS. LINDER: Judge, we will not be done by the end of

1 the day today as far as the defense. So it's likely the
2 only choice.

3 THE COURT: Defense have any issue with excusing him?

4 THE DEFENDANT: I don't have no excuse (sic). I mean,
5 if they decide to, they can all excuse themselves (sic) as far
6 as I care.

7 THE COURT: Bring him back in, please.

8 (Whereupon, the alternate juror enters the courtroom.)

9 THE COURT: Mr. Porcher, I'm going to excuse you from
10 the jury. I appreciate your service very much to the Court.
11 I'm assuming you don't need any kind of work excuse; is that
12 right?

13 ALTERNATE JUROR: Not if I'm excused, no.

14 THE COURT: Okay. And you need to understand that
15 there will be a check mailed to you. You are disqualified from
16 jury service for a year and you are exempt from jury service at
17 this level for three calendar years, so 2018, '19 and '20. All
18 right? Thank you very much.

19 ALTERNATE JUROR: Thank you very much, Judge.
20 Appreciate it.

21 THE COURT: Now, we are in recess until 2 p.m.

22 (Whereupon, a recess transpired.)

23 THE COURT: Ready for the jury?

24 MS. LINDER: Ready for the jury.

25 THE DEFENDANT: I'm ready for the jury.

1 THE COURT: Thank you. Bring the jury, please.

2 (Whereupon, the jury returns to open court at 2:07
3 p.m.)

4 THE COURT: Members of the jury, I excused one of the
5 alternates that requested to be excused, Juror 216, because of
6 a commitment he had out of state. So we are going to continue
7 with one alternate and twelve of you.

8 Call your next witness, Solicitor.

9 MR. SOWARDS: Thank you, Your Honor. The State calls
10 Lieutenant Kukila Wallace.

11 KUKILA WALLACE,

12 having been duly sworn, testifies as follows:

13 THE CLERK: Please state your name and spell your last
14 name for the record, please.

15 THE WITNESS: My name is Kukila Wallace. Last name is
16 W-a-l-l-a-c-e. First name is K-u-k-i-l-a.

17 DIRECT EXAMINATION

18 BY MR. SOWARDS

19 Q. Good afternoon, Lieutenant Wallace.

20 A. Good afternoon.

21 Q. Where do you work?

22 A. I work for the South Carolina Law Enforcement
23 Division, also known as SLED.

24 Q. What capacity do you work for SLED?

25 A. I'm supervisor of the crime scene investigations

1 department.

2 Q. And how long have you been with SLED?

3 A. I've been with SLED total of 13 years.

4 Q. Could you describe for the jury, please, your job
5 duties?

6 A. My job duties are to respond throughout the State at
7 the request of state, local and federal agencies to process
8 crime scenes.

9 Q. And were those your job duties on March 30th, 2013?

10 A. Yes.

11 Q. Did you respond to West Ashley in Charleston County on
12 that date?

13 A. I did.

14 Q. And what time did you arrive on scene?

15 A. I arrived on scene at approximately 1:30 a.m.

16 Q. And when you arrived on the scene, was the victim,
17 Cory Goldstein, there?

18 A. No.

19 Q. What about the defendant, Mark Blake?

20 A. No.

21 Q. Did you or someone else with SLED take photographs of
22 the scene?

23 A. Yes.

24 Q. Did you collect evidence while you were on the scene?

25 A. Yes, I did.

1 Q. Are those two functions kind of part of your job as a
2 crime scene tech, to take photographs and collect evidence?

3 A. That's correct.

4 Q. Did you collect any bullets or shell casings from the
5 scene?

6 A. Yes, I did.

7 Q. Did you collect any firearms?

8 A. I did.

9 Q. And do you know what was done with those items?

10 A. Those items were collected and transferred by me and
11 the person that I worked the scene with back to the SLED
12 forensic services laboratory and disseminated throughout the
13 lab for further processing.

14 Q. At this time, I show you a number of items. There's
15 quite a few, so I will call them out and hand them to you.
16 They've been previously marked for identification. I hand you
17 State's 10, 11, 12, 13, 14, 15 and 16.

18 A. Okay.

19 Q. Do you recognize those items?

20 A. Yes, I do.

21 Q. And how do you recognize those items?

22 A. I recognize these items as the items of evidence that
23 was collected in reference to this case. There are identifying
24 markers that I put on each item, which includes the lab number
25 that was created upon submission of the evidence and my

1 initials and date.

2 Q. And what are those items?

3 A. These items are cartridge cases, head stamped RP-45
4 auto.

5 Q. And now I will hand you what has been marked for ID
6 as State's 17, 18, 19, 20, 21, 22 and 23.

7 A. Okay.

8 Q. And do you recognize those items?

9 A. Yes, I do.

10 Q. And, again, how do you recognize those items?

11 A. I recognize these items as items that I collected from
12 the scene. It's the same lab number associated with the case
13 as when I logged it in, and my initials.

14 Q. And, again, I will hand you what has been marked as ID
15 only as State's 24, 25, 26, 27 and 28 and again have you look
16 at them and see if you recognize them.

17 A. Okay.

18 Q. And do you recognize those items?

19 A. Yes, I do.

20 Q. What are those items?

21 A. These are .40 caliber cartridge cases that were
22 collected from the crime scene.

23 Q. And how do you recognize those items?

24 A. I recognize these items with the same lab number
25 associated with the case and my initials.

1 Q. I will hand you now marked for ID as State's 29, 30
2 and 31. Do you recognize those items?

3 A. Yes, I do.

4 Q. And what are those items?

5 A. These are also .40 caliber cartridge cases that were
6 collected from the crime scene.

7 Q. Who collected those items?

8 A. I did.

9 Q. I will hand you now items that have been marked for ID
10 as State's 32, 33, 34 and 35. Again, ask you if you recognize
11 those items?

12 A. Yes, I do.

13 Q. And what are those items?

14 A. These are .45 caliber cartridge cases that were
15 collected from the crime scene.

16 Q. And when you say from the -- collected from the crime
17 scene, who collected those items?

18 A. I collected these items from the crime scene.

19 Q. I will hand you now what has been marked as State's 36
20 and 37. Do you recognize those?

21 A. Yes, I do.

22 Q. And what are those?

23 A. These are also .40 caliber cartridge cases that I
24 collected from the crime scene.

25 Q. And I will hand you now what had been marked for ID as

1 State's 38, 39, 40, 41 and 42. Do you recognize those items?

2 A. Yes, I do.

3 Q. What are they?

4 A. These are combination of fired projectiles. This is a
5 fired projectile. And this is a copper jacket that I collected
6 from within the crime scene.

7 Q. And, lastly, I will hand you what had been marked for
8 ID as State's 43, 44 and 45.

9 A. Okay.

10 Q. And are you able to identify those items?

11 A. Yes.

12 Q. What are those items?

13 A. State's Exhibit 43 and 44 are either fired bullets or
14 fired bullet fragments that I collected from within the crime
15 scene. And State's Exhibit 45 is a fired projectile that I
16 collected from the front of the officer's vest.

17 Q. And are those items in the same or substantially the
18 same condition as they were when you collected them from the
19 crime scene?

20 A. They appear to be, yes.

21 Q. And are those the items that you collected from the
22 crime scene and then transferred or handed off at SLED for
23 further testing?

24 A. Yes, I did.

25 Q. When those items -- or before those items were

1 collected on scene, were photographs taken to document their
2 locations?

3 A. Yes.

4 MR. SOWARDS: May I approach the witness, Your Honor?

5 THE COURT: Sure.

6 BY MR. SOWARDS:

7 Q. I will hand you now a number of photographs that have
8 been previously marked for ID. And I will have you quickly
9 look through those and see whether you recognize them. They
10 are marked for ID as State's 54, 58, 59, 64, 76, 77, 78, 85,
11 86, 94, 97, 99, 100, 102, 103, 106, 109, 111, 112, 114, 116,
12 119, and then 122 through 159. When you've had a chance to
13 look through those, let me know.

14 A. Okay.

15 Q. Do you recognize those items?

16 A. Yes, I do.

17 Q. And how do you recognize those items?

18 A. I recognize these items as being photographs that I
19 took at the crime scene and also when the vehicle was towed to
20 the Charleston Police Department to be further processed. And
21 I also identified these photographs as photos that I took at
22 the laboratory of the clothing.

23 Q. Are they a fair and accurate representation of the
24 crime scene and the vehicle and the testing that you conducted
25 in the lab?

1 A. Yes.

2 MR. SOWARDS: Your Honor, at this time, the State
3 would seek to admit the aforementioned exhibits.

4 THE COURT: Any objection to any of these?

5 THE DEFENDANT As far as what now?

6 THE COURT: He's tendered to be introduced into
7 evidence all these exhibits.

8 THE DEFENDANT: No objections.

9 (State's Exhs. 54, 58, 59, 64, 76, 77, 78, 85, 86, 94,
10 97, 99, 100, 102, 103, 106, 109, 111, 112, 114, 116, 119, and
11 then 122 through 159, are received in evidence.)

12 Mr. SOWARDS: The State would request at this time to
13 publish some of these to the jury.

14 THE COURT: Yes.

15 BY MR. SOWARDS:

16 Q. Can you describe for the jury what this picture
17 depicts?

18 A. This area depicts an area where that were multiple .40
19 caliber cartridge cases and a .40 caliber handgun with the
20 slide-lock back in its locked position down in the grassy area
21 near the Comfort Inn and Suites.

22 Q. How about State's 122?

23 A. This is a closer picture of the handgun that I
24 described in the locked position, .40 caliber handgun in the
25 locked position.

1 Q. State's 123?

2 A. Same photograph as I previously described, just from a
3 different angle.

4 Q. And Item Y?

5 A. Item Y is, again, the .40 caliber handgun in the
6 locked position.

7 Q. I show you now State's 109. What are we looking at
8 here?

9 A. This is an area where there are .45 caliber cartridge
10 cases marked in the roadway. And this is on Sam Rittenburg
11 Boulevard.

12 Q. And State's 114?

13 A. This is additional cartridge cases, .45 caliber
14 cartridge cases that are in the roadway. And there is a
15 flashlight in the grassy area.

16 Q. With respect to the .45 caliber casings, from where
17 did you collect those casings?

18 A. The .45 caliber casings were collected from the
19 sidewalk into the roadway of Sam Rittenburg Boulevard, so away
20 from 526.

21 Q. And did you find them all in one location?

22 A. Yes, they were all in a generalized location, pretty
23 much clustered together.

24 Q. And State's 116?

25 A. This is a picture of additional photographs of the .45

1 caliber cartridge cases that were collected from the roadway.

2 Q. You testified previously that you took photographs of
3 a vehicle. Why did you take photographs of the vehicle in this
4 case?

5 A. I took photographs of the vehicle because, upon the
6 initial contact on scene, the information that we were provided
7 was that there was a traffic stop on 526, well, getting on to
8 526. It was also my understanding that the vehicle wrecked
9 into a guardrail. And so as a part of the overall scene,
10 photographs of that vehicle in place were taken prior to the
11 vehicle being towed to CPD for additional processing.

12 Q. Did you analyze any clothing items or other equipment
13 items that were recovered from Officer Goldstein in this case?

14 A. Yes, I did.

15 Q. And what items did you look at and analyze?

16 A. The items that I looked at was the handgun that was
17 left on a cruiser inside -- within the scene. That gun was
18 collected. We also did any observation of the officer's duty
19 belt just to determine if there was any additional evidence
20 that needed to be collected from there. And then there was
21 also the front portion of his duty belt that was left on the
22 scene cruiser. And that was collected and taken back to the
23 forensic services laboratory for further examination.

24 Q. I will show you now what has been marked or, actually,
25 what has been previously admitted as State's 3 and 4. And have

1 you seen these items before?

2 A. Yes, I have.

3 Q. And where did you see these items?

4 A. I saw those items on the crime scene. And then I also
5 saw them back at the laboratory when I did the additional
6 examination.

7 Q. And did you do additional examination on this item?

8 A. Yes.

9 Q. What is this item I'm holding up?

10 A. That is the external part of the vest that would hold
11 the brown portion.

12 Q. This part?

13 A. Yes.

14 Q. And did you analyze this as well?

15 A. Yes, I did.

16 Q. And what is this?

17 A. That is the Kevlar part of the vest that goes on the
18 inside of the blue piece that he initially showed.

19 Q. Did you take photographs of those items as you
20 processed them?

21 A. Yes, I did.

22 Q. I show you what's been admitted as State's 148. Is
23 this the item that you processed?

24 A. Yes.

25 Q. And did you note anything about that item when you

1 processed it?

2 A. I did. In further pictures, you will see -- I'm not
3 sure if you can see if I point.

4 Q. I show you State's 150.

5 A. So the area where you see the white ruler there is
6 marked as a bullet hole.

7 Q. I show you State's 152. What does this show?

8 A. So that's where I took the interior piece out of the
9 exterior part for further examination.

10 Q. And 155?

11 A. This is where I cut the exterior part and noted the
12 defect on the yellow area.

13 Q. And finally, 157?

14 A. This is where I cut further into the vest and
15 recovered a projectile from the vest or bullet.

16 Q. And in this case, did you examine Officer Goldstein's
17 uniform?

18 A. Yes.

19 Q. And what did you note, or did you note anything when
20 you examined his uniform?

21 A. Yes, I did.

22 Q. And what did you note?

23 A. I noted additional holes within the front of the shirt
24 or within the shirt. And I could give specific details as to
25 where if I can see pictures.

1 Q. Where did you note those holes?

2 A. Do you have --

3 Q. Here's 135.

4 A. So that's the sleeve area, it looks like the left
5 sleeve, and toward the back part of the shirt.

6 Q. And what does this photograph show, State's 145?

7 A. This is a T-shirt with suspected blood on it. And
8 there's also a hole that's documented there as well with the
9 white bullet tape.

10 Q. And 142?

11 A. This is the back part of the officer's pants. So this
12 is the right rear side of the pants just below the butt area.

13 Q. And then State's 136.

14 A. This is the right front side of the officer's shirt
15 where a hole was noted there.

16 Q. I believe you testified previously that you collected
17 the officer's duty belt from the scene. I show you State's
18 112. Do you recognize that?

19 A. Yes.

20 Q. What is that?

21 A. The officer's duty belt.

22 MR. SOWARDS: Your Honor, may I approach the witness?

23 THE COURT: Yes.

24 Q. I now hand you what has been previously marked for ID
25 as State's Exhibit 8 and ask you if you recognize that. We

1 have gloves here if you need.

2 THE DEFENDANT: Your Honor, for the record, I just
3 want to renew --

4 THE COURT: Sir --

5 THE DEFENDANT: I'm sorry I interrupted. I will just
6 wait.

7 BY MR. SOWARDS:

8 Q. Do you recognize Item 8?

9 A. Yes.

10 Q. And what is Item 8?

11 A. Item 8 is a .40 caliber handgun with an empty
12 magazine.

13 Q. How do you recognize Item 8?

14 A. It has the lab number that is associated with the case
15 on it, as well as my initials.

16 Q. And who collection that from the scene?

17 A. I did.

18 Q. I just wanted to ask you a few questions about the
19 vest and the extraction of the bullet. You extracted the
20 bullet from the vest, as you tested previously. How did you do
21 that?

22 A. What I did was I took pictures of the vest layer by
23 layer, as noted within the pictures. Upon retrieving the
24 interior part of the vest, I take a clean scalpel and I cut
25 through each layer, being careful not to cause any damage or

1 anything to the vest. Once I get through all of the layers,
2 the projectile is recovered. It is submitted for evidence and
3 packaged and forwarded to the firearms department.

4 MR. SOWARDS: Beg the Court's indulgence.

5 THE COURT: Yes, sir.

6 Q. Just a few more questions for you. Agent, I'm going
7 to show you what has been previously admitted as Defendant's
8 Exhibit 42. And I will ask you if you recognize this?

9 A. Yes, I do.

10 Q. And how do you recognize that?

11 A. I recognize it as a pair of jeans that was documented
12 in the laboratory upon taking it back to the lab.

13 Q. And what is the tape that's present on these pants?

14 A. The tape that's present marks holes within the pants.

15 Q. And who applied that tape?

16 A. I did.

17 Q. I'm going to ask you about these holes. Did you apply
18 the tape and label the tape?

19 A. Yes, I did.

20 Q. And why did you label those items as bullet holes?

21 A. I labeled them as bullet holes because the initial
22 information was that there were shots fired between two
23 individuals. My initial thought was that they were suspected
24 bullet holes. And that's how they should have been documented
25 at the onset. However, I didn't put "suspected" there and just

1 put "bullet holes". But that's not an indication that there
2 are actually bullet holes. They are suspected bullet holes.

3 Q. Did you note any blood in the area around those holes?

4 A. No.

5 MR. SOWARDS: That's all the questions I have. Please
6 answer any the defense may have.

7 THE COURT: Cross-examination.

8 CROSS-EXAMINATION

9 BY THE DEFENDANT:

10 Q. How are you doing today?

11 A. Doing well.

12 Q. That's good. About that exhibit he just presented
13 regarding my pants, I am going to get it back up, Defendant's
14 Exhibit 42. Okay. Now, just an example, the State indicated
15 that those markings are not -- you don't really know and not
16 too sure if they are bullet holes or not. But you marked them
17 as bullet holes. Okay. Now, is there any type of procedure
18 indicating that just because there's been a shooting incident,
19 that what you suspect to be a bullet holes versus what you
20 don't suspect to be a bullet hole, SLED procedure, shall I say,
21 regarding if it's your suspicion, then you shouldn't mark it as
22 that, because that's not really what you can consider it as at
23 this point?

24 A. As I previously stated, I should have marked it as
25 suspected bullet holes instead of just putting bullet holes.

1 That was an error on my part. However, upon reviewing the
2 photographs further in preparation for this case, I did note
3 that they were marked as such. However, they should have been
4 marked as suspected bullet holes.

5 Q. Based upon there was a shooting of multiple gunshots
6 as you marked them as bullet holes, so you are saying at this
7 point, based upon the incident of shooting occurred between me
8 and an officer, that none of those are considered as bullet
9 hole penetrations to my pants?

10 A. They are suspected bullet holes.

11 Q. Okay. All right. That's all I got to say.

12 THE COURT: Redirect?

13 MR. SOWARDS: No, Your Honor.

14 THE COURT: Thank you, ma'am. You may step down.

15 MS. LINDER: Your Honor, we would ask that this
16 witness be excused.

17 THE COURT: Any objection to the witness being
18 released?

19 THE DEFENDANT: No. You know, I got one more
20 question. Court's indulgence. At this time, I can't find the
21 exhibit, Your Honor.

22 THE COURT: I'm sorry. I couldn't hear you.

23 THE DEFENDANT: I said at the time, I don't know
24 where -- whether somebody misplaced evidence or what. I will
25 substitute it with something else real quick.

1 Well, may I present the witness?

2 THE COURT: Yes, sir.

3 BY THE DEFENDANT:

4 Q. Are you familiar with that picture?

5 A. Yes.

6 Q. Okay. And what is that picture?

7 A. It's a picture of the back of a jacket.

8 Q. Suspected to be mine, right?

9 A. It was collected from within the crime scene.

10 THE DEFENDANT: Okay. As a matter of fact, let me
11 admit this into evidence.

12 THE COURT: Any objection to this being marked in
13 evidence?

14 MR. SOWARDS: No, Your Honor.

15 THE COURT: All right. Mark in evidence Defendant's
16 Exhibit.

17 (Defendant's Exh. 55, Mr. Blake's jacket, is
18 received in evidence.)

19 BY THE DEFENDANT:

20 Q. Okay. Ms. Wallace, this one in particular is rear of
21 my jacket, right?

22 A. It's to the rear of the jacket, yes.

23 Q. Okay. Now, out of all these suspected bullet, I
24 guess, exits, entries, whatever, whatnot, what would you now
25 classify this one as to the jacket versus the suspected ones to

1 the pants?

2 A. I would say the same thing. I marked it as a bullet
3 hole, but, again, it should have been marked as a suspected
4 bullet hole.

5 Q. So for the jacket too, is it correct?

6 A. Yes.

7 Q. Another question. Approximately how many times -- how
8 many shells, shall I say, you collected, .45 caliber shells you
9 collected the night of the incident; do you recall?

10 A. I didn't collect any .25 caliber.

11 Q. .45, I might have misstated.

12 A. I collected a total of 18.

13 Q. 18?

14 A. 18 .45 caliber cartridge cases were collected from
15 within the scene.

16 Q. How many .40 caliber cartridges did you collect the
17 night of the incident?

18 A. I collected a total of 10.

19 THE DEFENDANT: Okay. So that's 8. I'm sorry. All
20 right. That's all I got. Thank you.

21 THE COURT: Do you have anything else of the witness,
22 Solicitor?

23 MR. SOWARDS: Just very briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. SOWARDS:

1 (State's Exhibit 169, Photograph of jacket, was
2 marked for identification.)

3 Q. I hand you what will be marked State's ID-169. Do you
4 recognize that?

5 A. Yes.

6 Q. How do you recognize that?

7 A. I recognize it as a jacket collected from the crime
8 scene.

9 Q. And who collected that jacket?

10 A. I did.

11 THE DEFENDANT: That's the picture I was looking for.

12 MR. SOWARDS: At this time, the State would seek to
13 admit State's Exhibit 169 into evidence.

14 THE COURT: Any objection?

15 THE DEFENDANT: No objection.

16 THE COURT: Mark it in evidence, please.

17 (State's Exhibit 169 is received in evidence.)

18 BY MR. SOWARDS:

19 Q. Can you tell the jury what we are looking at here in
20 State's 169?

21 A. So this is the front side of the jacket that was --
22 that I collected from within the crime scene.

23 Q. And did you note anything on the interior of the
24 jacket in this picture?

25 A. No, I did not.

1' MR. SOWARDS: I have nothing further, Your Honor.

2 THE COURT: Thank you, ma'am. You may step down. Is
3 there any objection to her being released?

4 THE DEFENDANT: As of right now, I do have one
5 question I would like to re-question, if I can.

6 THE COURT: Go ahead.

7 THE DEFENDANT: Court's indulgence.

8 RECROSS-EXAMINATION

9 BY THE DEFENDANT:

10 Q. I'm going to ask you to do something, Ms. Wallace.
11 Get some gloves. Do you mind?

12 A. Sure.

13 Q. Are you familiar with this jacket right here? Does it
14 look identical to the one you identified earlier in the
15 picture?

16 A. Yes.

17 Q. Okay. Now, clearly, you can see the blood on the
18 right -- my left arm, correct? Do you see the bloodstain?

19 A. Correct.

20 Q. Now, I don't recall ever --

21 MR. SOWARDS: Your Honor, at this point, I would
22 object and ask that the witness show the -- Mr. Blake show it
23 to the witness and have her identify it and then put it into
24 evidence before he shows it to the jury.

25 THE DEFENDANT: Do I present it to the jury initially?

1 THE COURT: If you feel like -- no, no. If you feel
2 like you laid a foundation, you can offer it into evidence, if
3 that's what you wish to do.

4 THE DEFENDANT: I have not yet, so I have not made an
5 attempt because he objected.

6 THE COURT: Do you want to offer it in evidence?

7 THE DEFENDANT: Yes, I will offer it in evidence.

8 THE COURT: Any objection?

9 MR. SOWARDS: No objection.

10 THE COURT: All right. Does the bag have a number on
11 it? Is it a State's number?

12 MS. LINDER: No, Your Honor. It's not marked as a
13 State's exhibit.

14 THE DEFENDANT: Is not a State's Exhibit.

15 (Defendant's Exhibit 49, is received in evidence.)

16 Q. All right. This is the jacket I was wearing the night
17 of the incident, my favorite jacket, \$200 jacket. Okay. These
18 holes in the back you identified as a suspected bullet entry,
19 correct, when you had a tape around it?

20 A. Correct.

21 Q. This is where I sustained an injury at, on my left
22 arm, which is located right here. Okay? Bullet hole to show.
23 Now, did you recall marking any of the bullet holes that I
24 sustained on my left arm jacket?

25 A. I do not recall.

1 Q. You do not recall. Okay. So you marked bullet holes
2 in the back, but you didn't mark bullet holes on the actual
3 side where I actually sustained injury where the blood is at?

4 A. If it wasn't marked, it was overlooked when it was
5 being -- when the jacket was being examined.

6 Q. How long have you been doing this, Ms. Wallace?

7 A. I've been doing crime scene investigation for the last
8 eight years.

9 Q. And do you mean to tell me that these three bullet
10 shots was overlooked by yourself in marking?

11 A. If it wasn't marked, I overlooked it.

12 Q. Okay. That's all I have to say.

13 A. And I also state that this jacket was very saturated
14 with blood at the time of examination as well. So that's also
15 a potential for me overlooking any defects within that area.

16 Q. Okay. Well, I would have to say then that if the ones
17 to the back versus the actual wound sustained, I would have to
18 say have to say that maybe we can say that this is a potential
19 bullet hole versus an actual bullet hole?

20 A. If it was identified or observed at the time of
21 documentation, it would have been labeled as a suspected bullet
22 hole, as I stated in reference to the other bullet holes that I
23 did mark within the clothing. I wouldn't have handled it any
24 differently.

25 THE DEFENDANT: Okay. I think, Judge, that's all I've

1 got to say. I appreciate it, Ms. Wallace.

2 THE COURT: All right. Any objection to the witness
3 being excused?

4 THE DEFENDANT: No objections.

5 MR. SOWARDS: Not from the State.

6 THE COURT: You are free to go. Thank you, ma'am.

7 (Whereupon the witness is excused.)

8 THE COURT: Call your next witness.

9 MS. LINDER: The State calls Sean Riner.

10 THE DEFENDANT: Court's indulgence.

11 THE COURT: Come forward, sir.

12 SEAN RINER,

13 having been duly sworn, testifies as follows:

14 THE CLERK: If you can, please state your name and
15 spell your last name for the record, please.

16 THE WITNESS: Sean Riner, R-i-n-e-r.

17 DIRECT EXAMINATION

18 BY MS. LINDER:

19 Q. Good afternoon, Mr. Riner. Where do you live?

20 A. Georgia.

21 Q. And what do you do?

22 A. I'm an operations manager at a manufacturing company.

23 Q. And you are here today to talk about what happened
24 back in March of 2013. Where were you on March the 30th of
25 2013?

1 A. Went to the zoo and we did a Comfort Inn hotel.

2 Q. Was that here in Charleston?

3 A. Yes, ma'am.

4 Q. I would like to take you to about 10:30 that night.

5 Where were you approximately 10:30 that night?

6 A. We ate dinner, went downstairs to have cigarette on
7 back patio by the pool.

8 Q. Were there lots of other people on the back patio with
9 you?

10 A. There was nobody with me.

11 Q. When you were out there, did anything alert you or get
12 your attention?

13 A. I was sitting in the railing smoking, looked out and
14 seen blue lights and I seen where police officer stopped a car
15 and kind of noticed it, the blue lights. And there was an
16 officer getting out of the car approaching -- the police car
17 approaching the car he pulled over. And then I wasn't paying
18 much more attention to it. And then moments later, I could
19 hear somebody running down the sidewalk and somebody hollering,
20 Stop. And when he got to my left of me is when the person in
21 front stopped and turned. And then the shooting started from
22 both parties.

23 Q. Okay. I want to kind of take you back to the running
24 part that you talked about. How many people total were
25 running?

1 A. Two.

2 Q. Were they running together or was one in front of the
3 other?

4 A. One was in front of the other, probably about eight,
5 ten foot apart.

6 Q. Could you see the complexion of either person?

7 A. I could tell the one in the back had like gear on. It
8 was a police officer. I mean, I did see blue lights up on the
9 hill.

10 Q. So out of the two people, there's one in front, one in
11 back?

12 A. Correct.

13 Q. Which one was the police officer, the one in front or
14 the one in the back?

15 A. The one in the back.

16 Q. And when that running was happening, what, if
17 anything, any words, did you hear?

18 A. I heard the person in the back hollering, Stop, stop.
19 And then they finally stopped adjacent to my left side of me.

20 Q. And did the person in front stop?

21 A. He stopped. And then they turned to each other about
22 the same time, or the person in the back was following him and
23 the person in the lead turned.

24 Q. Okay. So the person in the front stopped, and he
25 turned to face the person in the back?

1 A. That's correct.

2 Q. Mr. Riner, in preparation of this trial, did you
3 review a surveillance video disk?

4 A. Ma'am?

5 Q. In preparation of this trial, being here this
6 afternoon, did you review -- did you have the opportunity to
7 watch a surveillance video disk?

8 A. Yeah.

9 MS. LINDER: Your Honor, at this time based upon
10 stipulations made prior to trial, the State would seek to admit
11 State's Exhibit 52.

12 THE COURT: Any objection to this?

13 THE DEFENDANT: The disk? No, no objection.

14 THE COURT: Mark it in evidence, please.

15 (State's Exh. 52, Video, is received in evidence.)

16 MS. LINDER: At this time, the State seeks to publish
17 the disk.

18 THE COURT: Yes, ma'am.

19 BY MS. LINDER:

20 Q. Mr. Riner, I would ask that you watch this. It's in
21 front of you. And can you identify any people you see in that?

22 A. That's me to the right smoking a cigarette.

23 MS. LINDER: I have no further questions for you,
24 Mr. Riner. If you can, answer any the defense may have.

25 THE COURT: Cross-examination.

CROSS-EXAMINATION

BY THE DEFENDANT:

Q. How are you doing, Mr. Riner?

A. Good.

Q. Your presence is long awaited, anticipated. Okay.
Mr. Riner, once again for the record, where was your exact
location within the time of said incident?

A. I was standing on the railing about 20 feet away.

Q. And that would be located where within the Comfort
Suites?

A. Say again.

Q. Where would that be exactly located within the Comfort
Suites Inn?

A. You've seen in the video.

Q. So it's the back patio?

A. Yes.

Q. Okay. And you guesstimated you were approximately how
many feet away from the actual incident?

A. About 20 feet.

Q. 20 feet? 20-foot? 20 feet at first -- no, as a
matter of fact, at first glance -- I'm sorry. At first glance,
when you first initially witnessed, how far were you away,
guesstimation?

A. Repeat.

Q. Okay. When you first initially saw the foot pursuit

1 between me and Officer Goldstein, initially how far away would
2 you say you were away?

3 A. When I first initially saw, 50 foot.

4 Q. It was 50 foot?

5 A. It was dark when I heard, Stop, stop, got closer to
6 me.

7 Q. So 50 foot, okay, when you first glance?

8 A. When I heard the, Stop.

9 Q. Okay. Mr. Riner, I've reviewed all of your statements
10 pertaining to the said incident, and in particular, a voluntary
11 statement you submitted to South Carolina Law Enforcement
12 Division dated back March 31st, 2013. Okay. Now, you were
13 cited several times within your statement emphasizing how
14 extremely dark it was the night of the incident. Okay? Now,
15 on a scale from 1 to 10, 1 being at least darkest and 10 being
16 pitch-black dark, about how dark would you rate the night of
17 the incident site?

18 A. About 5.

19 Q. 5? Okay.

20 THE DEFENDANT: Court's indulgence.

21 THE COURT: Yes.

22 The DEFENDANT: May I approach the witness?

23 THE COURT: Sure.

24 THE DEFENDANT: Or do I have to admit this first?

25 THE COURT: You have to get whatever you want

1 identified.

2 THE DEFENDANT: Identified? These are --

3 THE COURT: No. You have to identify it through a
4 witness unless they agree to admit them.

5 BY THE DEFENDANT:

6 Q. Review these photos for me. Let me know when you are
7 done. Let me know if you think you had enough.

8 Are you done?

9 A. Yeah.

10 Q. Do you recognize any of those photos?

11 A. This is the street I was at, where the hotel is where
12 I was standing at.

13 Q. Okay.

14 A. You want me to further identify?

15 Q. Yes. I will admit them in evidence.

16 A. This is the restaurants that was across the street.
17 And this is right outside where the sidewalk is.

18 Q. So you are able to identify what is within the
19 incident?

20 A. Yes.

21 Q. That's great.

22 THE COURT: Are you offering them in evidence?

23 THE DEFENDANT: Offer them in evidence. Any
24 objection?

25 MS. LINDER: Without objection.

1 THE COURT: Mark those in evidence.

2 (Defendant's Exhs. 34, 28, 32, 36, 29, 30, 31, 35,
3 32, are received in evidence.)

4 BY THE DEFENDANT:

5 Q. All right. Mr. Riner, this picture right here, all
6 right, will you tell --

7 A. Yes, street right here and the sidewalk. Right next
8 to it there are bushes outside of where the fence was where I'm
9 standing.

10 Q. All right. And can you identify this picture?

11 A. There was grass around the edge. And I believe there
12 was a bush to the right.

13 Q. Can you identify that with a yellow marker?

14 A. Yes.

15 Q. How about this?

16 A. That one I can't tell much of anything.

17 Q. It looks like maybe some street lights or something
18 like that, give or take. Okay. Can you identify all of that?
19 It looks like --

20 A. That's where the police car was out in the street.

21 Q. And that was on the side where --

22 A. To my left.

23 Q. Where the incident took place at, right?

24 A. Right.

25 Q. I don't know. Can you identify that?

1 A. No, I can't.

2 Q. Can you identify this one? Should be able to.

3 A. I can barely see the sidewalk, casing, J right there.

4 Q. And are you able to identify this? This is a view of
5 what?

6 A. Across the street where the restaurants are.

7 Q. Okay. So what angle was this exactly? Do you know?
8 Can you recall?

9 Q. Would this be from, like, the I-526 ramp? Would that
10 be that angle, or you can't recall?

11 A. I can't recall.

12 Q. How about this one?

13 A. That's where the street is and the police officer's
14 car is.

15 Q. That's where everything took place at, right,
16 proximity? That's the last one right here. I don't know.
17 This looks like a police car?

18 A. It is a police car. There's couple in the background
19 on the road where everything stopped at.

20 Q. All right. Now, this one in evidence, this right
21 here, all these pictures, okay -- now, you said you recall it,
22 on a scale of 1 to 5 -- scale of 1 to 10, you would give those
23 a 5 out of how dark the site was that night? That's close to
24 pitch-black dark, right? And you would consider it as a 5,
25 right?

1 A. You could see pretty good.

2 Q. You know, you got great eyes, man. You got eyes like
3 an owl. I never seen anybody that have better eyes than me.

4 Okay. Mr. -- you said a 5. Okay. That's your first
5 sight of the foot pursuit among Officer Goldstein and myself
6 approaching the rear of the Comfort Suites Inn. Could you
7 distinguish and make out who were before you, being that far a
8 distance from yourself in such a dark environment?

9 A. Could I tell who was out in front?

10 Q. Yeah. Between me and him, at first glance, did you --
11 were you able to distinguish at first glance what was going on
12 and the chase?

13 A. Hollering, Stop, and the silhouette of his size with
14 the gear on him.

15 Q. Okay. So I was about how far away?

16 A. About 50 foot.

17 Q. 50 foot. Darn, man, you are a sniper. Okay.

18 A. That's guessing the distance.

19 Q. That's guessing, 50 feet. Okay. You said it was 50
20 foot where you identified him as a law enforcement officer.
21 Okay. And you said you identified him based on the gear he
22 had?

23 A. Well, bulky vest and silhouette of him and yelling,
24 Police Officer, stop; hollering, Stop.

25 Q. So you said the bulkiness from his vest, which you

1 identified as a police officer, right?

2 A. Right.

3 Q. 50 feet away, right, approximately, guesstimation?

4 A. Yes.

5 Q. Now, this is the vest. This is State's exhibit, the
6 actual vest. Now, this is a vest. Okay. So you identified
7 the bulkiness of a vest 50 feet away in that type of atmosphere
8 right there?

9 A. Yeah.

10 Q. And that's how you, at first glance, identified him as
11 a police officer?

12 A. Correct.

13 Q. What color is that vest, give or take? Between black
14 and blue maybe?

15 A. Blue.

16 Q. It's definitely a dark color?

17 A. Correct.

18 Q. Okay. Now, being that dark out, would you say that it
19 wasn't that dark out? Along with yourself being a pretty good
20 distance away from both Officer Goldstein and myself, yet, you
21 were still able to Officer Goldstein as law enforcement based
22 on dark-in-color vest and equipment the night of said incident.
23 You confirmed that, right?

24 A. Correct.

25 Q. Okay. Would you like to say that, based on your

1 front-and-center visual observation viewpoint of the foot
2 pursuit among both Officer Goldstein and myself, it gave you to
3 a greater, better visual observation advantage, like
4 recognition of Officer Goldstein's black-in-color vest? Would
5 you be able to say, based upon where you were at that time, it
6 was like -- it was light out when we saw the video. Right?
7 Okay. That was lit up.

8 Now, based on your observation being maybe that far
9 away and being half lighted and stuff like that, wouldn't you
10 say that you would have a better visual advantage than myself,
11 per se?

12 A. Yeah.

13 Q. You were? Okay. And as Officer Goldstein and myself
14 were gradually approaching close proximity of your location of
15 the rear of the Comfort Suites Inn, what all do you recall
16 verbally hearing from either parties within the course of what
17 you beared (sic) witness to the night of said incident? What
18 all do you recall, everything that you heard within the time
19 that you --

20 A. Heard, Stop, repeatedly saying, Stop.

21 Q. Okay. Repeatedly saying, Stop. Was that in the whole
22 foot pursuit he was saying, Stop, from the beginning to the
23 end?

24 A. I can't say that because I didn't see beginning of it.
25 I only saw the end of it.

1 Q. How many times would you say?

2 A. At least three or four.

3 Q. Three or four times? Okay. And was the foot pursuit
4 still ongoing when you heard Officer Goldstein make command for
5 me to stop?

6 A. Yeah.

7 Q. Okay. And approximately how far away do you recall
8 him, Officer Goldstein, broke commands for me to stop?

9 A. Approximately 50 foot.

10 Q. 50 foot? Okay. Now, when you state you heard Officer
11 Goldstein yelling repeatedly for me to stop, are you clarifying
12 that Officer Goldstein identified himself as a law enforcement
13 at that particular point?

14 A. I did not hear him say, Officer; only, Stop.

15 Q. All right. Mr. Riner, Officer Goldstein stated within
16 his case supplemental report -- if you want to review it, if
17 you should like --

18 MS. LINDER: Objection, Your Honor. This is pitting
19 witnesses. He's relying on hearsay.

20 THE DEFENDANT: Well, I got it admitted into evidence,
21 the statements. So can I present it to Mr. Riner.

22 THE COURT: You can ask the question, but you can't
23 pit witnesses against each other. I would like to hear what
24 you are trying to do.

25 THE DEFENDANT: All right. Let me see if I can kind

1 of minimize it. Okay.

2 BY THE DEFENDANT:

3 Q. Within this foot pursuit between me and Officer
4 Goldstein, at any point, did you see myself that was in the
5 front come to an absolute complete stop to where my back is
6 just -- I gave up on the run and my back is turning, and I just
7 standing still and Officer Goldstein --

8 A. No.

9 Q. At no point?

10 A. No.

11 Q. You don't recall that?

12 A. Yeah, I do.

13 Q. You do?

14 A. When the run was going on, simultaneously, you spun
15 and the shooting started.

16 Q. It happened like that?

17 A. Yeah.

18 Q. So it didn't happen the ways -- there was a time, per
19 se, I stopped, and maybe like a few seconds --

20 A. No.

21 Q. Okay. Did you ever once recall Officer Goldstein, the
22 night of the incident, saying, Police, don't move, to myself?

23 A. Repeat?

24 Q. Do you once recall Officer Goldstein, ever once,
25 stating, Police, don't move, to myself?

1 A. No.

2 Q. Okay. Do you ever once recall me saying, You don't
3 move, motherfucker?

4 A. No.

5 Q. Do you think if you would have hear some stuff like
6 that, you would definitely remember, right?

7 A. Yeah.

8 Q. And at any point in time, did you ever hear him
9 acknowledge himself as a police officer?

10 A. No.

11 Q. Okay. Mr. Riner, going back to Officer Goldstein --
12 well, within the incident, I should say -- okay. Okay. Within
13 the incident, you state I simultaneously, with all this
14 happening, I turned around and firing started going on,
15 right?

16 A. Correct.

17 Q. Okay. As far as for the record on which you bear
18 witness to tonight, do you ever once recall myself, the
19 defendant, ever once verbally stating anything whatsoever the
20 night of the incident?

21 A. No.

22 Q. Okay. Mr. Riner, you state that you don't know who
23 shot first --

24 A. I do not.

25 Q. -- and fired initially between Officer Goldstein and

1 myself the night of said incident, right? Okay. And do you
2 recall ever providing any investigating authorities, such as
3 Special Agent Ryan Kelly from South Carolina Law Enforcement
4 Division, or Detective Richard Burckhardt from the City of
5 Charleston Police Department, any statements whatsoever in
6 which party shot and fired first within the incident?

7 A. No.

8 Q. Okay. And, Mr. Riner, are you absolutely for certain
9 of what you testified to today are your most accurate to your
10 knowledge?

11 A. Correct.

12 THE DEFENDANT: Thank you, Mr. Riner. I believe
13 that's it.

14 THE COURT: Redirect?

15 MS. LINDER: No redirect. I'm going to ask this
16 witness be excused.

17 THE COURT: Any objection to the witness being
18 excused?

19 THE DEFENDANT: No objection.

20 THE COURT: You are free to go, sir. Thank you.

21 (Whereupon the witness is excused.)

22 THE COURT: Any other witnesses?

23 MR. SOWARDS: Your Honor, the State has a witness
24 ready, if you would like for us to proceed.

25 THE COURT: Let's take a ten-minute break, ladies and

1 gentlemen. Don't discuss the case.

2 (Whereupon, the jury leaves open court at 3:22 p.m.)

3 THE COURT: Court's in recess for ten minutes.

4 (Whereupon, a recess transpired.)

5 THE COURT: Ready for the jury?

6 THE DEFENDANT: Your Honor, I wanted to raise a matter
7 at hand.

8 THE COURT: Yes.

9 THE DEFENDANT: This is regarding State's witness
10 Kukila Wallace. Okay. At the time that I was cross-examining
11 her, I was trying to get admitted the jacket in, my jacket,
12 which I thought that it maybe would have all the markings on
13 it, with her saying potential gunshots wounds and whatnot from
14 the jacket. Later on, while I came back, she was released,
15 right, Mr. King brought up some pictures regarding some
16 conflicting testimony with evidence regarding her testimony.
17 So my question to you, Judge, is there any way, any type of way
18 that I can get her back on this?

19 THE COURT: Can you get her back here?

20 MS. LINDER: Judge, as far as she's concerned, she
21 lives in Columbia. Her husband is out of town. She has to
22 pick up her child for daycare. That's why we put her when she
23 was right after lunch instead of different witness we were
24 going to do so we could get her back to Columbia.

25 THE COURT: I didn't mean now. Can you get her back

1 here tomorrow or something like that?

2 MS. LINDER: We can see if she's available. As far as
3 what Mr. Blake is talking about, when he asked her if they were
4 marked, she said, I don't recall. She didn't say, I did not
5 mark them. And then he was saying, well, you missed them, and
6 she said, if I missed them. At that point, he had the ability
7 to do it. After he crossed her the first time, he said he was
8 done. She was in the midst of getting up and getting off, and
9 then he came up with more questions, which is absolutely within
10 his right. And then he excused her again. I mean, I don't
11 know how many more opportunities he gets to cross. He said
12 he's had these SLED photographs, as he keeps saying, for over
13 five years.

14 THE DEFENDANT: I didn't have it over five years.

15 MS. LINDER: These are all the photographs that SLED
16 provided in initial discovery, all 883 photographs. He had all
17 of those before today.

18 THE DEFENDANT: Judge, I just want to say to that, she
19 said she overlooked the wounds. And we have indication showing
20 that she didn't overlook these ones that I sustained, the
21 actual one I sustained to my left arm, which it's a conflict of
22 her testimony to the evidence presented. And at the time I
23 walked off and I thought I was done. Jason King all of a
24 sudden came up with these pictures. And she was already gone
25 at that point.

1 THE COURT: Do I have to go call Chief Keel or
2 somebody to do this for me? Will somebody see if she is
3 available to come back?

4 MS. LINDER: Judge, I can -- my investigator stepped
5 out to get one of our witnesses, but I can have somebody
6 call.

7 THE COURT: Doesn't she work for SLED?

8 MS. LINDER: We can call and see if she can come
9 back.

10 THE COURT: That's all I ask. I want to know what my
11 options are so I can make a ruling.

12 THE INVESTIGATOR: What do you want me to ask?

13 THE COURT: If she can be back here tomorrow morning.
14 If she can't be back here tomorrow morning, I want to know why.
15 And when she can be, if she can be.

16 THE DEFENDANT: I just want to say, I don't do this
17 every day like Stephanie Linder does. It's a clear error. It
18 was an honest mistake. I overlooked it. I didn't have these
19 photos in my possession for five years. Jason King e-mailed me
20 these photos. SCDC does not allow us to have actual crime
21 scene photos in our possession. And that's a conflict, in my
22 case. And me and Mr. King, he can vouch for that. That's been
23 an issue. And every time I come down here, he has to give me
24 the photos. And I'm able to get it through like that.

25 THE COURT: Let me find out what my options are and

1 then I will tell you what I'm going to do.

2 So you've got another witness?

3 MS. LINDER: Yes, Judge.

4 THE COURT: And where is the witness?

5 MS. LINDER: In the hallway. Our next three witnesses
6 are all in the hallway.

7 THE COURT: Are you ready for the jury then?

8 MS. LINDER: Yes, Judge.

9 THE COURT: Are you ready?

10 THE DEFENDANT: I'm ready.

11 THE COURT: Bring the jury in.

12 (Whereupon, the jury returns to open court at 3:55
13 p.m.)

14 THE COURT: Call your next witness.

15 MR. SOWARDS: The State calls Chad Smith.

16 CHAD SMITH,

17 having been duly sworn, testifies as follows:

18 THE CLERK: State your name and spell your last name
19 for the record, please.

20 THE WITNESS: My name is Chad Smith, S-m-i-t-h.

21 DIRECT EXAMINATION

22 BY MR. SOWARDS:

23 Q. Mr. Smith, what is your occupation?

24 A. I'm a forensic scientist with SLED. Specifically, I
25 work in the firearms department. That's SLED's forensic

1 services laboratory in Columbia.

2 Q. How long have you been with SLED?

3 A. Little over 10 years now.

4 Q. And could you, please, give the jury an overview of
5 your education, background and experience?

6 A. Well, I attended Clemson University where I earned a
7 bachelor's of science degree in biological sciences. After
8 that, I worked for Clemson University for several years. Then
9 I came over to SLED. And entered the training program to
10 become a firearms examiner in its firearms department. That
11 training program lasts between three and five years. It's
12 supervised by court-qualified examiners of the firearms
13 department. It involves extensive reading and studying and
14 multiple examinations and practical tests given during that
15 time.

16 Later in my training, I helped other examiners prepare
17 their casework. I also attended various classes and seminars.
18 At the end of the training, I received a comprehensive
19 multi-part examination, which I successfully passed and began
20 to receive my own casework.

21 Q. Have you ever testified in court before?

22 A. Yes, sir.

23 Q. About how many times?

24 A. Over 50 times.

25 Q. And have you ever been qualified as an expert before?

1 A. I have.

2 Q. Again, how many times?

3 A. Over 50 times.

4 MR. SOWARDS: Your Honor, at this point, the State
5 would ask that Mr. Smith be declared as an expert in the area
6 of firearms identification.

7 THE COURT: Do you wish to ask to question any
8 witnesses -- I'm sorry. Do you wish to ask the witness any
9 questions about his qualifications?

10 THE DEFENDANT: Yeah, he can go into a little bit
11 about his qualifications, or do I have to ask him the
12 questions?

13 THE COURT: They tendered him as an expert. You have
14 a right to challenge if he's an expert or not.

15 THE DEFENDANT: I am not going to challenge that.

16 THE COURT: He's recognized as an expert in the field
17 of firearms identification. You may continue.

18 MR. SOWARDS: Thank you, Your Honor.

19 BY MR. SOWARDS:

20 Q. Mr. Smith, can you, in as simplistic a way as
21 possible, explain for the jury the process of firearms
22 identification?

23 A. Well, majority of my responsibilities includes the
24 examination of firearms and ammunition components, such as
25 bullets and cartridge cases. Majority of what I do on a

1 day-to-day basis is to try to determine if a specific
2 ammunition component, bullet or cartridge case, was fired by a
3 particular firearm. How I can do that is during the
4 manufacturing process of a firearm, the various parts, as they
5 are being machined and finished, there's marks that are left on
6 those parts, basically just through the process of
7 manufacturing them. So when a firearm is assembled and ready
8 to be fired, those parts interact with the cartridge, which is
9 a unit of ammunition during a firing process.

10 So, basically, the parts of the firearm, impart, draw
11 marks onto the components of the cartridge as it's being fired.
12 So what we can do is use those marks. They are microscopic in
13 nature. Basically, we are looking for tiny scratches. And we
14 can use those marks to try to determine if they were fired by a
15 particular firearm. If we have a firearm to examine, we can
16 test-fire that firearm and collect their own tests, again,
17 bullets or cartridge cases; compare those with submitted
18 evidence, and try to determine if they were fired by the same
19 gun based on the similarities of those markings.

20 Basically, the piece of equipment that we use is
21 called a comparison microscope. If you've never seen one, it's
22 basically just two microscopes connected by an optical bridge
23 system. So we can compare two samples simultaneously under
24 magnification and look for those markings that are created by
25 the firearm onto the cartridge case or bullet and try to

1 determine if it's a match or not.

2 Q. Have you ever examined Glock firearms before?

3 A. Yes, sir.

4 Q. What type of rifling do Glock firearms have?

5 A. Rifling -- first of all, what rifling is is a process
6 that firearm manufacturers put into the barrels of their
7 firearms. Basically, what that does is imparts a spin or
8 rotation movement as the bullets travel down the barrel. What
9 it does is basically stabilize that bullet as its traveling
10 towards its target and makes it more accurate and, basically,
11 give it farther distance. So, basically, it's kind of like a
12 professional football player. A quarterback throwing a
13 football wants that nice, tight spiral to hit his receiver.

14 The Glock uses what is called polygonal rifling.
15 There's two types of rifling. There's conventional and
16 polygonal rifling. Conventional means there's sharp edges to
17 it. And, basically, it's just a rotational grooves that's put
18 into the barrel. And it's got sharp edges.

19 The polygonal has a wave to it. So if you look at the
20 cross-section, it's more of a hill and valley than sharp edges.

21 So Glocks use the polygonal-type of rifle.

22 Q. Did you have an occasion to become involved in the
23 investigation of this case, State v. Mark Blake?

24 A. Yes, sir.

25 Q. And did you receive evidence for testing in this case?

1 A. I did. I received a number of items for examination.

2 Q. And what items did you receive?

3 A. Specifically, I received 18 fired .45 Auto caliber
4 cartridge cases; 10 fired .40 Smith & Wesson caliber cartridge
5 cases; six fired bullets; two fired bullet jacket fragments;
6 one fired bullet fragment; two metal fragments; one Glock model
7 .22 pistol; .40 Smith & Wesson caliber with magazine; one Glock
8 model 21, .45 Auto caliber pistol with magazine; eight unfired
9 .45 Auto caliber cartridges and grip sleeve; and also, I
10 received one Glock magazine, extra Glock magazine.

11 MR. SOWARDS: May I approach the witness, Your Honor?

12 THE COURT: Sure.

13 Q. I have a number of items here that have been
14 pre-marked. I would like to just take a minute and see whether
15 you recognize these items. I'm going to hand them to you out
16 of order, just for ease. This is State's 30, 29, 26, 44, 39,
17 45, 40, 41, 36, 37, 38, 43, 32, 33, 31, 28, 21, 25, 12, 15, 42,
18 14, 16, 10, 18, 19, 17, 13, 24, 11, 22, 23, 20, 27 and 34, one
19 more, 35. Do you recognize those items?

20 A. I do.

21 Q. And how do you recognize them?

22 A. Several ways. On the packaging itself, there has the
23 SLED lab case number, as well as SLED lab item number and my
24 initials. At the top, there's a heat seal with my initials and
25 a sealed date. And also, on the item itself, we engrave each

1 item with a SLED lab number and item number, and my initials if
2 there's room permitting. And with those packaging, everything
3 is intact.

4 Q. And that would be my next question. Are those in the
5 same or substantially the same condition as they were when you
6 received them into the lab?

7 A. Yes, they are.

8 MR. SOWARDS: Your Honor, at this time, the State
9 would seek to move all the items I just handed to Mr. Smith
10 into evidence.

11 THE COURT: Any objection to these?

12 THE DEFENDANT: No objection.

13 (State's Exh. 10 - 45, are received in evidence.)

14 THE COURT: I think they were already in.

15 MR. SOWARDS: I apologize, Your Honor.

16 THE DEFENDANT: Can we see if they are in or not?

17 THE COURT: You said you had no objection, so --

18 THE DEFENDANT: Yeah, but something else he's going to
19 present after this --

20 THE COURT: I don't understand.

21 THE DEFENDANT: Keep going.

22 THE COURT: They are in evidence without objection.

23 BY MR. SOWARDS:

24 Q. I think you testified as you read out the items that
25 you received for testing, testified that you received two

1 firearms. I'm going to ask you some questions about SLED Item
2 39, Officer Goldstein's firearm, which I think is State's
3 Exhibit 9. Were you able to identify any cartridges that
4 matched that firearm?

5 A. Yes, sir. All 10 of the -- excuse me. All of the 18
6 fired .45 Auto caliber cartridges that I -- cartridge cases
7 that I received were matched back to the officer's firearm.

8 Q. And did you receive any magazines associated with that
9 firearm?

10 A. I did. It was received with one magazine. And then
11 it was an extra magazine that was proper for use in that
12 firearm.

13 Q. And what was the capacity of that magazine?

14 A. Both magazines had a capacity of 13 cartridge.

15 Q. Did you receive any unfired bullets associated with
16 that firearm?

17 A. There were eight unfired .45 Auto cartridges.

18 Q. And assuming the magazine, the extra magazine, the
19 capacity was 13, if there were eight unfired bullets, how many
20 would you expect to be fired at the most from that magazine?

21 A. If the magazine was fully loaded and there were eight
22 cartridges that remained, then five would have been fired out
23 of that magazine.

24 MR. SOWARDS: May I approach the witness?

25 THE COURT: Yes.

1 BY MR. SOWARDS:

2 Q. Now showing you what's been marked as State's 8, looks
3 like SLED 38, I will ask you to have a look at it and see
4 whether you recognize it.

5 A. Ladies and gentlemen, as has been said already, this
6 firearm is safe to handle. Has zip ties running through the
7 action, so it cannot be loaded. Yes. This is the Glock, model
8 .22 Smith & Wesson pistol that I received for examination. And
9 how I can determine that it was the exact same firearm is this
10 also bears my engraved markings with SLED lab, case number,
11 item number, and my initials in three separate places, on the
12 slide, magazine well, as well as on the barrel.

13 Q. And is that in the same or substantially the same
14 condition as it was when you received it into your lab?

15 A. Yes, sir.

16 MR. SOWARDS: Your Honor, at this time, the State
17 would seek to admit State's Exhibit 8 into evidence.

18 THE COURT: Any objection to this?

19 THE DEFENDANT: Objection, pretrial.

20 THE COURT: Subject to previous objection, it's in
21 evidence.

22 (State's Exh. 8, Gun, is received in evidence.)

23 BY MR. SOWARDS:

24 Q. Mr. Smith, did you note anything about that gun when
25 it was received into evidence as far as the slide is concerned?

1 A. It was received in basically the same condition
2 without the zip ties, but the slide was in the rear in lock
3 position when I opened the container.

4 Q. And did you receive a magazine or any magazines with
5 that firearm?

6 A. Yes, I did. Here is the magazine that was submitted
7 with the firearm. It has been opened since sealing it, but
8 this is -- this is the same magazine. Again, has my item
9 number, the case number, and my initials engraved onto it.

10 Q. How many unfired rounds did you receive with that
11 firearm?

12 A. I did not receive any fired ammunition with this
13 firearm.

14 Q. I want to ask you a few questions about some bullet --
15 did you analyze any bullet fragments in this case?

16 A. I did. There were several fragments. There were two
17 fired bullet jacket fragments, as well as fired bullet fragment
18 itself. I mean, there were two miscellaneous metal fragments.

19 Q. And did you analyze those items to determine or try to
20 determine which gun fired them?

21 A. I did examine them, but they really didn't have any
22 markings that I could determine specific caliber. They were
23 basically small and damaged to a degree. So I couldn't
24 determine specific caliber, nor could I determine what firearm
25 could have fired them.

1 Q. Did you examine SLED Item 68.1, a bullet collected
2 from the officer's vest?

3 A. Yes, sir, I did.

4 Q. What, if anything, were you able to determine about
5 that?

6 A. I determined that it was most consistent with bullets
7 loaded into some .40 Smith & Wesson caliber, possibly 10
8 millimeter auto caliber cartridges.

9 Q. And was that item a match to any of the firearms that
10 you analyzed in this case?

11 A. I could not match them or match that particular bullet
12 to a firearm. Again, it had limited markings and some damage.
13 I was able to determine that based on the rifling impressions,
14 going back to the rifling of the barrel, the impressions that
15 is left on the bullet itself, I could determine that it was not
16 fired by the officer's .45 Auto caliber Glock based on one
17 caliber. It's a different caliber. But the rifling
18 impressions were different. It had six lands and grooves.
19 Again, going back to what I was talking about, the hills and
20 valleys. Those are called lands and grooves. The top part
21 would be the hill. And the bottom part is the groove. So
22 manufacturers specified how many lands and grooves they want in
23 a barrel. So that particular bullet had six lands and grooves.

24 And the .40 caliber Smith & Wesson Glock, let's see,
25 State's Exhibit 8, my Item 38, also had six lands and grooves.

1 Whereas, the officer's Glock, .45 caliber, had 8 of the lands
2 and grooves.

3 MR. SOWARDS: May I approach, Your Honor?

4 THE COURT: Yes, sir.

5 BY MR. SOWARDS:

6 Q. Finally, I will hand you what has been marked for ID
7 as State's Exhibit 51, and ask you if you recognize that?

8 A. Yes, sir. This is a copy of my report that I prepared
9 after my examinations were complete.

10 Q. And I know this may be asking you to state the
11 obvious, but how do you know that's the report you prepared?

12 A. Well, I've got a copy of the report that I printed
13 out. And I just made sure that the copy I was presented had
14 the same information, and it does. And, again, at the end,
15 it's signed with my name. And it has all the SLED lab
16 information on it as well.

17 MR. SOWARDS: Your Honor, at this time, the State
18 would seek to admit Exhibit 51 into evidence.

19 THE COURT: Any objection?

20 THE DEFENDANT: No objection.

21 THE COURT: Marked 51 in evidence, please.

22 (State's Exhibit 51, is received in evidence.)

23 MR. SOWARDS: Nothing further from the State at this
24 time. Please answer any questions the defense may have.

25 CROSS-EXAMINATION

1 BY THE DEFENDANT:

2 Q. How are you doing, Mr. Smith?

3 A. Fine.

4 Q. Okay. Question: As far as the .45 caliber rounds,
5 right, approximately how many were fired from the Glock .45
6 caliber?

7 A. The cartridge cases?

8 Q. Yeah, like fired, actually fired.

9 A. I received 18 of the .45 caliber cartridge cases.

10 Q. How many were left still in the magazine when you got
11 it unfired?

12 A. There were eight

13 Q. There were eight?

14 A. I received.

15 Q. You received that were unfired?

16 A. Yes, sir.

17 Q. Okay. As far as the magazine, the maximum holds is --

18 A. 13.

19 Q. 13? Okay. 18, let's do some math. So is it just
20 like -- okay. Let me go forward. How about the .40 caliber
21 Glock, how many shots were fired, approximately?

22 A. I received 10 fired .40 Smith & Wesson cartridge cases
23 of the firearm.

24 Q. So, give or take, 10 versus 8, 18, wouldn't you say
25 that's at a big disadvantage when it comes down to a gun duel

1 between two individuals, 18 versus 10?

2 A. That's really beyond my expertise.

3 MR. SOWARDS: Objection, Your Honor.

4 BY THE DEFENDANT:

5 Q. What did you say?

6 A. That's really beyond my expertise as far as advantage
7 and disadvantages, the different calibers, especially the
8 Glock --

9 THE COURT: Hold on. Do you want to object?

10 MR. SOWARDS: He already started answering.

11 THE COURT: Go ahead. I'm sorry. I didn't know if I
12 would rule or keep going.

13 THE WITNESS: Yes, Your Honor. Basically, just
14 depends on the caliber of the Glock, the particular capacity of
15 the magazine. Different model Glock and different calibers
16 can have different capacities. So whether it's an advantage or
17 disadvantage, I really can't say.

18 BY THE DEFENDANT:

19 Q. Okay. Now, if it holds approximately -- .45 caliber
20 magazine, if it holds approximately 13 or 14 --

21 A. It holds 13, yes, sir.

22 Q. Now, you say eight was found in there?

23 A. Right. The magazine that was submitted with the
24 firearm, there were eight unfired cartridges submitted with
25 that firearm?

1 A. Being 18 were fired, okay, that would leave a
2 remainder of what, give or take? Like, three more missing at
3 that point, three more shells missing?

4 A. Well, if there were two magazines used, I got a total
5 of 26 rounds, and then 18 were fired and there were 8 left,
6 then that would equal 26.

7 Q. Okay. So math is correct?

8 A. Yes, sir.

9 Q. Okay. Thank you.

10 THE COURT: Redirect?

11 MR. SOWARDS: No, Your Honor.

12 THE COURT: Thank you, sir. You may step down.

13 Does this witness need to be excused?

14 MS. LINDER: We would ask that he be excused.

15 THE COURT: Any objection?

16 THE DEFENDANT: No.

17 THE COURT: You are free to go, sir.

18 THE WITNESS: Thank you, Your Honor.

19 (Whereupon the witness is excused.)

20 THE COURT: Do you have other witnesses?

21 MS. LINDER: Yes, Judge

22 THE COURT: The matter I asked you all to check on,
23 can you tell me up here?

24 (Whereupon, a bench conference takes place off the
25 record.)

1 THE COURT: Call your next witness?

2 MS. LINDER: The State calls Sean Flaherty.

3 SEAN FLAHERTY,

4 having been duly sworn, testifies as follows:

5 THE CLERK: If you can, please state your name and
6 spell your last name for the record, please.

7 THE WITNESS: Sergeant Sean Flaherty, Charleston
8 Police Department, F-l-a-h-e-r-t-y.

9 DIRECT EXAMINATION

10 BY MS. LINDER:

11 Q. What's your occupation?

12 A. I'm currently the Team One sergeant of F Squad. Team
13 One is Calhoun Street north to North Charleston.

14 Q. And who's your employer?

15 A. Charleston Police Department.

16 Q. How long have you been employed by City of Charleston?

17 A. This January, this coming January, it will be 11
18 years.

19 Q. What was your job back in March 2013?

20 A. On March 2013, I was at the rank of senior police
21 officer. I was assigned to the Team Four community action
22 team. Team Four is West Ashley patrol. And my assignment was
23 specifically the Maryville and Ashleyville communities.

24 Q. Can you tell the jury a little bit about your
25 education, training and experience?

1 A. I have a bachelor's degree with a major in criminal
2 justice from University of Massachusetts in Boston. I was
3 Class 521 at the academy. I have received probably hundreds of
4 hours of additional training. I briefly served as a detective.
5 So I have multiple investigative classes, crime scene classes,
6 anything you can name, traffic stops. I was a patrol training
7 officer. Unfortunately, I don't get to train people as a
8 sergeant. You have to rank as an officer. I'm also a member
9 of the civil service unit, a squad leader and a quartermaster
10 of the civil service unit. And I'm also a member of the crisis
11 intervention team, which is members of the crisis intervention
12 team specifically called to scenes dealing with people with
13 mental health issues.

14 Q. Did you have any occasion to be working back on March
15 the 30th of 2013?

16 A. Yes, ma'am.

17 Q. And what vehicle were you driving?

18 A. I was driving a marked CPD, Charleston Police
19 Department, marked black-and-white Ford Taurus with blue lights
20 on top.

21 Q. Was your car equipped with a dashcam?

22 A. No, ma'am.

23 Q. What were you wearing that night?

24 A. I was wearing the standard Charleston Police
25 Department uniform, which is exactly what you see today with a

1 badge on my chest and a blue-and-yellow Charleston Police
2 patches on my sleeve, a single stripe for the rank and the duty
3 belt with audio equipment.

4 Q. And were you wearing a body camera back in March of
5 2013?

6 A. No, ma'am.

7 Q. Did your agency have body cams?

8 A. No. I believe it was probably about two years later
9 until we finally got body cams.

10 Q. What were you doing back on that night? And how are
11 you first brought in to this case?

12 A. So I was in my area of Maryville/Ashleyville until I
13 received a call for either a disabled vehicle or a
14 malfunctioning traffic light at the intersection of Savannah
15 Highway and 526. So I initially responded out to that area to
16 check on the traffic flow in the area.

17 Q. And how did you first hear about this whole incident
18 arising with Officer Goldstein and Mark Blake?

19 A. Officer Goldstein was able to broadcast the traffic
20 stop on the radio, which every officer has to keep an ear to
21 the radio to understand what's going on in the area. I heard
22 it was my area. And it was a vehicle that fled from him that
23 was a red sedan.

24 Q. And based on training and experience, how did the
25 radio transmissions affect you?

1 A. Knowing he was in my area and it was a vehicle fleeing
2 from the traffic stop, I was more alerted to it than if it was
3 miles away from me. So I believe he said he was traveling
4 towards Savannah Highway in his radio transmission. Seeing
5 that I was on Savannah Highway, 526 is a likely way for someone
6 to get away from a traffic stop. I just, essentially, paid
7 attention to my surroundings until I saw the vehicle fleeing
8 towards me.

9 Q. You said you saw the vehicle fleeing towards you. Can
10 you describe to the jury what exactly you saw on Savannah
11 Highway?

12 A. I saw a red sedan with no headlights on, swerving in
13 between vehicles. It appeared that he was speeding. I then
14 observed the vehicle turn onto the on-ramp to get on 526 east.
15 And the vehicle then stopped in the middle of the on-ramp.

16 Q. And where were you when you observed this?

17 A. I was at the intersection of 17 -- I'm sorry, Savannah
18 Highway, traveling north. I believe it was technically the 526
19 off-ramp that extends from Sam Rittenburg to Savannah Highway.

20 Q. Based on your training and experience, what was the
21 significant of witnessing this vehicle?

22 A. Officer Goldstein put out a red vehicle that fled from
23 the traffic stop toward my direction. I saw a red vehicle with
24 no headlights on that was traveling at a high rate of speed get
25 on 526 and stop. And I assumed it was the same vehicle that

1 fled from the traffic stop. So I initiated my blue lights and
2 attempted to drive towards the vehicle.

3 Q. After initiating blue lights, did you immediately turn
4 up the ramp?

5 A. I was -- I had to cut across the traffic because the
6 vehicle came southbound on Savannah Highway. I was traveling
7 north. So I had to wait for a couple of vehicles to pass. And
8 right before I turned, Officer Goldstein was able to cut in
9 front of me.

10 Q. And did you have your blue lights on as you went up
11 that on-ramp?

12 A. Yes, ma'am.

13 Q. When you turned up the ramp, how many vehicles were on
14 that on-ramp?

15 A. The red vehicle was on the on-ramp. And then Officer
16 Goldstein's marked CPD vehicle, which would have been a Crown
17 Victoria, and then my vehicle.

18 Q. Did you see anyone get out of the red car?

19 A. No.

20 Q. What did you see when you were going up the ramp?

21 A. Officer Goldstein did not have his blue lights on at
22 the time, but I believe his headlights were still flashing.
23 When we got up the ramp, I saw Officer Goldstein stop and get
24 out of the vehicle and immediately start running, getting over
25 the guardrail traveling northwest towards Sam Rittenburg.

1 Q. And what did you do?

2 A. I got out of my vehicle and threw my flashlight and my
3 gun, and I approached the red vehicle. And I cleared it, which
4 is essentially -- I was checking to see if there were any other
5 passengers inside the vehicle.

6 Q. When Officer Goldstein jumped over the guardrail and
7 took off running, did he have his gun out while he was
8 running?

9 A. No, ma'am.

10 Q. Did the officer start running, or did he give any
11 signals that he was going to do so or any indications?

12 A. He immediately started running and he put out on the
13 radio that he was in foot pursuit.

14 Q. Was the driver's side of the red vehicle, was that
15 door open or closed?

16 A. The driver's side door was open.

17 Q. What condition was that red vehicle in?

18 A. There was damage to the left front tire that I believe
19 was completely blown. And then there was also significant
20 damage to the front left quarter panel area of the vehicle.

21 Q. What did you do after you cleared that vehicle?

22 A. When I approached the vehicle slowly, made sure that
23 no other passengers were inside the vehicle, I holstered my
24 weapon and immediately ran in the direction I last saw Officer
25 Goldstein going.

1 Q. Why did you holster your weapon?

2 A. We are trained not to run after a suspect while
3 holding a firearm.

4 Q. Did you see Officer Goldstein at this time when you
5 started running?

6 A. No, ma'am.

7 Q. Did you see the defendant at this point?

8 A. No, ma'am.

9 Q. What direction did you start running?

10 A. I started running towards the Comfort Suites, the
11 hotel that is right at the intersection of Savannah Highway and
12 Sam Rittenberg Boulevard.

13 Q. How did you know where to run?

14 A. That was essentially the last direction that I saw
15 Officer Goldstein running in. And he did put out -- I believe
16 he said he was running toward Sam Rittenburg at that time,
17 which is the general direction I was running toward.

18 Q. What was the lighting like where you were running?

19 A. The parking lot of the hotel is very well lit. And
20 there's significant street lights on Sam Rittenburg Boulevard
21 as well as Savannah Highway. So it was very well lit in the
22 area.

23 Q. Where were you when you heard the gunshots?

24 A. I was underneath 526 at that time.

25 Q. And could you see Officer Goldstein or the defendant

1 at this time?

2 A. No, ma'am.

3 Q. Based on your training and experience and after
4 hearing the gunshots, what did you do next?

5 A. I immediately broadcast on the radio, Shots fired. I
6 continued running toward the parking lot. Myself and Officer
7 Terrell at that time scaled a fence in the parking lot at that
8 time. And we then drew our firearms and started walking
9 somewhat slowly through the parking lot. Because at that time,
10 we didn't know exactly where the subject and Officer Goldstein
11 were.

12 Q. Did you see any lay witness, as we call them here, or
13 citizens in the parking lot?

14 A. There's a small, I guess, back porch area by the
15 doorway. I know there was one gentleman standing outside.

16 Q. And did you make it all the way through that parking
17 lot?

18 A. Yes, ma'am.

19 Q. And what did you see when you made it through the
20 parking lot?

21 A. When I made it up to the opposite side fence, I
22 observed I believe it was Detective Feeters at the time, who
23 was shining a flashlight on a black male that was laying down
24 in the grassy area on the opposite side of the fence.

25 Q. Did you see any firearm on the ground?

1 A. Yes. There was a black, what I believe is a Glock
2 firearm, about two to three feet to the side of subject that
3 was laying down. The slide locked back off the top of it.

4 Q. And what do you mean "locked back"? What does that
5 position mean?

6 A. So I am not a firearms expert, but a semi-automatic
7 firearm, when you pull the trigger, the top of the gun called
8 the slide comes back. And it ejects the shell casing for the
9 round which was just fired, and pulls the next round into the
10 chamber to be fired. Either when the slide is locked back like
11 that, it either means that the gun has been shot until there's
12 no more rounds left in the magazine, or there was some sort of
13 jam, either the shell didn't fully eject and got caught in that
14 ejection cord.

15 Q. Did you give the defendant any commands?

16 A. Yes. I shouted, Police, don't move.

17 Q. What's the significance of that command, Don't move?

18 A. Don't move? There is a firearm that was laying, like
19 I said, two to three feet next to the defendant. By saying,
20 Don't move, it's ensuring that I don't have to use lethal force
21 if he should choose to reach over to the firearm.

22 Q. And what did you do next?

23 A. Well, we call it contact and cover. Officer Terrell
24 serves as a contact officer, meaning he was going to go forth
25 and make contact with the officer. And I served as cover

1 officer, meaning I kept coverage. I kept pointing my firearm
2 at him should he attempt to reach the gun or anything while
3 Officer Terrell went forward and handcuffed the subject.

4 Q. And what did you do after that, after the defendant
5 was handcuffed?

6 A. I stood by him until EMS got on the scene.

7 Q. And what did you do when you left the scene?

8 A. I actually went with the subject, with EMS to M.U.S.C.

9 Q. And did you have any conversation or did you try to
10 interview the defendant or anything like that?

11 A. No, ma'am.

12 Q. I would like to show you some exhibits. This is
13 State's 48, which has already been admitted. Do you recognize
14 that?

15 A. Yes, ma'am.

16 Q. And how do you recognize that?

17 A. It's the intersection of Savannah Highway and Sam
18 Rittenburg and 526.

19 Q. Can you mark on that map -- it's a touch screen in
20 front of you, but can you mark on that map where you were when
21 you saw the no-headlights red car?

22 A. I was in this general area right here, I believe at a
23 red light. There's a traffic light at that intersection.

24 Q. And can you show the jury the path that you drove
25 after you turned on your blue lights when you went up the

1 on-ramp?

2 A. I continued traveling north on 17. This is the
3 on-ramp right here. This vehicle is where -- like I said,
4 traveling south on 17. And I turned on to the on-ramp directly
5 behind Officer Goldstein.

6 Q. And after you cleared the car, can you show the jury
7 kind of the path you were running?

8 A. Yes. So I would estimate the vehicle was somewhere in
9 this area. I saw Officer Goldstein run, like I said, toward
10 possibly northwest towards Sam Rittenburg. So I started
11 running in that general direction, and was about there when I
12 heard the gunshots fired.

13 Q. Okay. After you heard the gunshots fired, can you
14 kind of just keep going with your finger and show the jury
15 where you went and approximately where you jumped over the
16 fence and the path you went all the way over to being contact
17 while the defendant -- or being cover while defendant was being
18 arrested?

19 A. Yes. So I continued in this direction to the fence
20 line right here at the Comfort Suites. Myself and Officer
21 Terrell both scaled the fence. We walked through the parking
22 lot and got to about this area, where I was able to observe the
23 defendant laying that general area, being with Detective
24 Feeter's flashlight shining on him. I was able to pop the
25 fence right here and basically stood approximately 10 feet away

1 from the defendant.

2 Q. At this time, I'm going to show you what's been marked
3 as State's 105. Do you recognize that?

4 A. Yes, ma'am.

5 Q. How do you recognize that?

6 A. That's the firearm that was laying next to the
7 defendant with the slide locked back.

8 Q. Does this appear in substantially the same condition,
9 and is this a fair and accurate depiction of what you saw back
10 on March the 30th of 2013?

11 A. Yes, ma'am.

12 THE COURT: That's in evidence?

13 MS. LINDER: The State would seek to admit State's
14 105.

15 THE COURT: Is there an objection?

16 THE DEFENDANT: Yeah, objection, pretrial.

17 THE COURT: Subject to previous objections, mark it in
18 evidence, please.

19 (State's Exh. 105 is received in evidence.)

20 Q. Okay. Officer Flaherty, I'm going to take you through
21 a couple of these pictures. And these pictures have already
22 been admitted. State's 55, can you explain to the jury what
23 State's 55 is?

24 A. This is the 526 on-ramp, front of Savannah Highway.
25 This is actually facing south.

1 Q. And do you see approximately where you were when you
2 saw the car with no lights?

3 A. Yes. The green light right here was the traffic
4 light. So that's where I was, in this general area right back
5 here.

6 Q. And can you describe the overall lighting that this
7 picture shows?

8 A. Same lighting as the incident location. Like I said,
9 you could see the multiple lights all along Savannah Highway.
10 You really can't see Sam Rittenburg Boulevard. I believe
11 these lights over here are the parking lot of Comfort Suites.
12 But it's a very well-lit area.

13 Q. I would like to show you State's 60. It's already
14 been admitted. Can you tell me about these vehicles up here?

15 A. Yes. This vehicle is my vehicle, the marked Ford
16 Taurus. This vehicle is Officer Goldstein's, the Ford Crown
17 Victoria. And this, I believe, was Detective Broadwater that
18 responded to the scene after the fact. That was his unmarked
19 Crown Victoria.

20 Q. Detective Broadwater's car, was that there when you
21 first pulled up on the ramp?

22 A. No, ma'am.

23 Q. State's 64, what is this?

24 A. That is my vehicle at the time.

25 Q. And can you describe that and point out things to the

1 jury, please?

2 A. That was Charleston Police Team Four, Unit 335. It's
3 a Ford Taurus that's fully marked. Blue lights are active on
4 top. That's my driver door that is open. And in front of that
5 is Officer Goldstein's vehicle with his driver's door open as
6 well.

7 Q. State's 69, please tell the jury about this.

8 A. That is the red vehicle I observed driving with his
9 headlights off on Savannah Highway that was stopped on the
10 on-ramp to 526. That is the vehicle that I cleared when
11 Officer Goldstein went running after the subject.

12 Q. State's 71?

13 A. That's the same vehicle. That's the damage as I
14 stated. It looks like the blown-out front left tire, the
15 damage to the quarter panel.

16 Q. State's 73?

17 A. That is the same vehicle, as you can see, the damage
18 up here to the front.

19 Q. Can you, please, tell the jury about State's Exhibit
20 68.

21 A. This is a view from approximately where our vehicles
22 were. And this is the parking lot. You know, this is the
23 general area that I jumped over the fence and with traffic
24 through the parking lot, continued on foot, like I said, in
25 this general direction of this area. And I believe right back

1 here is the patio that the gentleman was outside.

2 Q. State's 85?

3 A. That is the Comfort Suites as well.

4 Q. Did you do anything with the fence in this picture?

5 A. I believe that is the view from Sam Rittenburg
6 Boulevard. No, sorry. That is actually the -- this is the 526
7 off-ramp. I was confused by the road back here. This is the
8 general area that we jumped the fence and continued traveling
9 this way through the parking lot.

10 Q. State's 94?

11 A. This appears to be the area that the defendant was
12 found laying down by myself and Officer Terrell.

13 Q. And what is this back here in the picture?

14 A. It looks like the patio with several chairs on it that
15 I observed, I guess, the witness on.

16 Q. State's 106.

17 A. That's the same area where I -- where we found the
18 defendant laying down. And that's actually the firearm. And
19 I'm not sure if that's a bag or a jacket.

20 Q. And State's 105?

21 A. That's the black Glock firearm with the slide. You
22 can see the slide locked back right there.

23 MS. LINDER: Beg the Court's indulgence.

24 THE COURT: Yes, ma'am.

25 MS. LINDER: I don't have any other questions for you.

1 Please answer any questions the defense may have.

2 THE COURT: Cross-examination.

3 CROSS-EXAMINATION

4 BY THE DEFENDANT:

5 Q. How are you doing, Mr. Flaherty?

6 A. Good. How are you, sir?

7 Q. Holding up. Okay. Officer Flaherty, once you made
8 your encroachment on the east I-526 ramp, can you recall for
9 the record if Officer Goldstein's blue lights were illuminated
10 at the time?

11 A. No, his blue lights were not on.

12 Q. Okay. You say the area, side area, is well-lit,
13 right?

14 A. Yes.

15 Q. I want to show something to you.

16 THE DEFENDANT: Approach the witness?

17 THE COURT: Yes, sir.

18 BY THE DEFENDANT:

19 Q. Can you identify this picture?

20 A. That is one of the photos that was just shown, a
21 similar photo to the defense -- I'm sorry, the prosecution. It
22 is what appears to be the red sedan and the Ford Crown Victoria
23 which Officer Goldstein was driving. And you see the blue
24 lights from my vehicle beyond there.

25 Q. This picture right here, State's Exhibit 89, have you

1 reviewed it?

2 A. Yes, sir.

3 Q. It looks clear as day, correct?

4 A. It's a clear picture, yes, sir.

5 Q. Okay. We are going to do a little before and after.

6 THE DEFENDANT: Oh, as a matter of fact, I need to
7 admit this in evidence. I'm sorry.

8 THE COURT: Any objection to that?

9 MS. LINDER: Without objection.

10 (Defendant's Exh. 13 was received in evidence.)

11 BY THE DEFENDANT:

12 Q. This I recall, that doesn't look clear as day, does
13 it?

14 A. No, sir.

15 Q. Now, this is -- I'm assuming this has to be after,
16 because all the tape and all that stuff is out and it's bright
17 at this point?

18 A. Yes, it is.

19 Q. This I definitely didn't see now. My question to you
20 is, do you particularly remember either/or sites being like
21 these two?

22 A. Well, I would say more similar to the photo in your
23 left hand, because that is a different intersection. You can
24 see the on-ramp with the blue lights.

25 Now, when I came up the on-ramp, I also had -- I did

1 have the benefit of my flashing blue lights on to illuminate
2 the area, as well as my headlights and Officer Goldstein's
3 headlights.

4 Q. Okay. Can you look at this? This is -- can you
5 identify this picture right here?

6 A. That is a view from 526 on-ramp looking forward the
7 Comfort Inn Suites.

8 Q. Good observation. This is kind of like pointing
9 towards the rear of the Comfort Inn Suites?

10 A. Yeah. It's the same general direction that I ran in.

11 Q. That don't look clear as day right there, don't it?

12 A. No, sir.

13 THE COURT: Is that in evidence?

14 THE DEFENDANT: It's in evidence.

15 THE COURT: What number is it?

16 THE DEFENDANT: It's 12.

17 BY THE DEFENDANT:

18 Q. How dark would you rate it that night of the site from
19 a scale of 1 to 10 based on those pictures you've seen?

20 A. I mean, they both show varying levels of lighting. I
21 am not an expert on digital photography. I'm not sure how
22 those showed up. It is 10:30 at night, so it's dark. It's
23 dark in the area. So it's a well-lit parking lot with street
24 lights.

25 Q. Okay. And do you ever once recall Officer Goldstein

1 making verbal announcements of law enforcement to myself?

2 A. I never heard it, no.

3 Q. You never heard him say anything about, Police, stop?

4 A. No, sir. The brief moment that I saw him jump out of
5 the vehicle and start running, I didn't hear -- I didn't see --
6 I didn't hear him say anything.

7 Q. I thought I heard you saw "yeah" when Ms. Linder
8 crossed you, you could verbally --

9 A. No, I don't believe I heard him say, Charleston
10 Police. I didn't hear any verbal commands.

11 Q. Okay. All right.

12 A. I stated that I said, Police, don't move, when I
13 approached you on the ground. I didn't say Officer Goldstein.

14 Q. All right. For the record, you never ever once heard
15 him identify himself as a police officer, right?

16 A. No, no, sir.

17 THE DEFENDANT: All right. I thank you.

18 THE COURT: Redirect?

19 MS. LINDER: No redirect.

20 THE COURT: Thank you, sir. You may step down. Is
21 this witness excused?

22 MS. LINDER: We would ask that he be excused.

23 THE COURT: Any objection to this witness being
24 released?

25 THE DEFENDANT: No objection.

1 THE COURT: You are free to go. Thank you, sir.

2 (Whereupon the witness is excused.)

3 THE COURT: Do you have other witness?

4 MS. LINDER: Yes, Judge.

5 THE COURT: Call your witness.

6 MR. SOWARDS: The State calls Sergeant Robert
7 Feeters.

8 ROBERT FEETERS,

9 having been duly sworn, testifies as follows:

10 THE CLERK: If you can, please state your name and
11 spell your last name for the record, please.

12 THE WITNESS: Sure. My name is Robert. Last name is
13 Feeters, F-e-e-t-e-r-s.

14 DIRECT EXAMINATION

15 BY MR. SOWARDS:

16 Q. Sergeant Feeters, where do you work?

17 A. I work in the City of Charleston Police Department.

18 Q. How long have you been with the City of Charleston
19 Police Department?

20 A. I've been with City of Charleston Police Department
21 for 13 years.

22 Q. What's your current role with the City of Charleston
23 Police Department?

24 A. I'm supervisor for the department SSRT unit. We are
25 responsible for any active threat against any school, primarily

1 middle schools and private schools.

2 Q. And what was your role in March of 2013?

3 A. March 2013, I was a detective assigned to the major
4 crimes warrant unit.

5 Q. And what is your educational background?

6 A. I graduated from Rutgers University, New Jersey, 1998,
7 with a bachelor's in criminal justice and sociology.

8 Q. Have you received training associated with your
9 position as a law enforcement officer?

10 A. Yes, sir.

11 Q. And what training have you received?

12 A. Past the, you know, yearly legal updates, legal
13 training, domestic violence. I have training in criminal gang
14 investigations, equestrian encounters, racial profiling,
15 community awareness, undercover investigations, that interview
16 and interrogation techniques, stuff that would help me with my
17 assignments.

18 Q. And do you recall the evening of March 30th, 2013?

19 A. Yes, sir.

20 Q. And were you working that night?

21 A. I was working off-duty assignment. I don't know what
22 you are looking for.

23 Q. I didn't mean to cut you off.

24 A. I was in full uniform getting ready to work an
25 off-duty assignment.

1 Q. And where were you that evening?

2 A. That evening, I came in a little bit early. It was
3 the night before Easter. I was going to Food Lion on Savannah
4 Highway to get some -- wife wanted me to get jelly beans for
5 the kids. So I came a little early to get candy for the kids.

6 Q. Were you wearing a radio at that time even though you
7 were off-duty?

8 A. Yes, sir, radio was on Channel 3.

9 Q. And do you recall anything of significance coming over
10 the radio that night?

11 A. Yes. When we are working off-duty, we always, for
12 policy, have radio on in the area that you are working. I
13 heard traffic stop go out. It was nothing -- nothing
14 particular about it. But as I was walking into the Food Lion,
15 I heard the officer advise that the vehicle was not stopping.
16 And he gave the locations, was approaching where I was. So I
17 kind of slowed down walking in. I listened to him more
18 intently. When he said the vehicle was not stopping, it was
19 right around the corner. So I started going back to my car
20 because I wanted to assist.

21 At that point, the officer dispatched that he was in a
22 foot pursuit. Then I jumped in my car, exited the parking lot
23 of the Food Lion, turned north on Highway 17. He was in the
24 area of Sam Rittenburg and Savannah Highway. As I got closer,
25 I put my window down, because it was in the area. And we were

1 running, so I wanted, you know, to listen up. I heard some
2 gunshots. And this was immediately in the area as Sam
3 Rittenburg and 17. He had broadcast shots fired. As I turned
4 from Highway 17 north on Sam Rittenburg, I almost drove right
5 into Officer Goldstein. Officer Goldstein was standing in the
6 middle of the roadway. I almost pulled up right next to him.
7 He was in the process of firing his weapon into a dark area
8 adjacent to the Comfort Inn Suites.

9 I focused on Officer Goldstein. I saw him jerk back a
10 little bit. I was focused on that. I immediately exited my
11 vehicle. I said, are you okay? Are you hit? He said yes. I
12 immediately took him off line, put him behind a car out of the
13 firing where he said it was coming from there. So I took him
14 off line. I said, where is he? He said, he's over in the wood
15 line. So I gave him a quick medical. He told me he was hit in
16 the chest, in the arm and in the leg. So I propped him against
17 my car. I said, I will be right back. I grabbed my
18 flashlight. And I went to the area where he directed me. It
19 wasn't too far away, about 10 yards, going towards Comfort Inn
20 Suites when I heard some rumbling in the bushes. I turned my
21 flashlight on in that area where I saw the defendant lying in
22 the bushes between two small bushes. I scanned. I saw both
23 his hands. So I knew it was not a weapon. I provided cover.
24 I provided cover on him at gunpoint. I heard and looked up and
25 saw two other officers racing to my location. I said, I'm over

1 here, identified myself.

2 Let me back up real quick. When I first encountered
3 him, I said, Police, don't move; police, don't move. He
4 didn't. He complied. He did not move. He remained still.
5 His hands were open. So I knew there was no threat.

6 Back to the two officers approaching. I said, We are
7 over here, I got cover on him, I got cover on him. So that
8 meant, you know, I got him covered with my gunpoint. So as the
9 officers came, I said, you guys are contact. So they acted as
10 a contact team, which would put hands on him, detain him in
11 handcuffs. Once Officer Flaherty and Terrell arrived, they
12 were contact team. They secured him. I immediately disengaged
13 and went back to Cory to check his status, see if he was okay.

14 He was talking to me. I laid him down and assessed
15 his wounds. There was some blood seeping out of his leg, his
16 right leg. He said he got hit in the chest. I located an
17 entry wound to his shirt and vest. I listened to his breathing
18 in case -- didn't appear it went through. I didn't see any
19 blood coming through his T-shirt. I immediately advised
20 dispatch of our location, that we needed EMS. And I just
21 remained with him, tried to keep him calm and wait for backup.

22 MR. SOWARDS: May I approach the witness, Your Honor?

23 THE COURT: Yes, sir.

24 BY MR. SOWARDS:

25 Q. Sergeant Feeters, I will hand you several items here

1 and ask you to take a look at them and see whether you
2 recognize them. This is State's 49.

3 A. I do recognize this.

4 Q. State's 96. I will just go through them all.

5 A. I recognize 96.

6 Q. 98?

7 A. 98 contains my vehicle.

8 Q. 101?

9 A. 101, that appears to be the vest that was taken off
10 Cory on the scene, and his belt.

11 Q. 104?

12 A. That appears -- 104 appears to be the bushes where I
13 located the defendant.

14 Q. 107?

15 A. 107 appears to be my flashlight.

16 Q. 108?

17 A. I recognize 108.

18 Q. 110?

19 A. 110 is -- I recognize as my vehicle.

20 Q. 113?

21 A. I recognize 113.

22 Q. 115?

23 A. Correct, that's 115.

24 Q. 118?

25 A. I recognize 118.

1 Q. 120?

2 A. I recognize 120.

3 Q. 121?

4 A. I recognize 121.

5 Q. And are those fair and accurate representations of
6 what they depict?

7 A. Yes, sir.

8 Q. And you recognize all of them?

9 A. Yes, sir.

10 MR. SOWARDS: Your Honor, at this time, the State
11 would seek to admit the previously mentioned exhibits into
12 evidence.

13 THE DEFENDANT: No objections.

14 THE COURT: Without objection, mark those in the
15 record.

16 (State's Exhs. 49, 96, 98, 101, 104, 107, 108,
17 110, 113, 115, 118, 120, 121, are received in evidence.).

18 Q. Sergeant Feeters, I just want to show you a few of
19 these photographs and have you talk about what they show. I
20 will start with State's 49. And that screen right in front of
21 you is a touch screen. So feel free to mark on it, if need be.
22 What are we looking at here?

23 A. Okay. The Food Lion in question is right here. So I
24 parked my vehicle right about here when I started walking in.
25 The traffic stop was coming from the area over here. When I

1 heard it started going south when the vehicle was not stopping,
2 I went back to my vehicle, quickly exited Town Center Drive,
3 turned north on Savannah Highway. Around this point is when I
4 heard the gunshots, several of them. And as I turned right
5 around here is where I encountered Officer Goldstein standing
6 in the roadway when I observed -- heard and observed more
7 gunfire, at which point, I exited my vehicle, brought Cory to
8 the side of my vehicle, assessed him. And then I went to this
9 area right here where I located the defendant in the bushes.

10 Q. And I will show you State's 115. Can you describe
11 what we are looking at here, please?

12 A. This is my department-issued vehicle. I believe it
13 was 198. I did not move my vehicle from when I first got out
14 of it. So Cory was probably standing right here when I saw it,
15 when I pulled up. I pulled him over here by the apex of my
16 door. And that's when I went to this area here to locate the
17 suspect, the defendant.

18 Q. This is State's 118. Could you talk about what you
19 see in this picture, please?

20 A. This is the area where I encountered the defendant in
21 the bushes right here. He was lying right here. Using my
22 flashlight, I -- both his arms were right here open. I held
23 cover here. And Officer Flaherty and Officer Terrell came in
24 from this area over here.

25 Q. Just a couple more. State's 121, what do you see in

1 this picture?

2 A. This is the bushes from the other angle where I
3 encountered the defendant right around here. That's my vehicle
4 right there. And this is the area where I engaged.

5 Q. And, finally, State's 104.

6 A. This is the area where I engaged the defendant. He
7 was right around here at that point where I located and gave
8 him command, Police, don't move.

9 MR. SOWARDS: Beg the Court's indulgence.

10 That's all the questions I have. Please answer any
11 the defense may have.

12 THE COURT: Cross.

13 CROSS-EXAMINATION

14 BY THE DEFENDANT:

15 Q. How are you doing?

16 A. Good. How are you?

17 Q. Question: When you first responded to the incident,
18 right, okay, what all exactly did you see from Officer
19 Goldstein and myself?

20 A. When I first came on scene, I was focusing on Officer
21 Goldstein. He was -- I think he fired one or two rounds in the
22 area, the wood lines where I located you.

23 Q. So he still was firing when you arrived?

24 A. Yes.

25 Q. Okay. At that point, did you see me fire while he was

1 firing?

2 A. I did not see -- I was focused on him. I did not see
3 you firing, no, sir.

4 Q. So at that point in time, was there any other officers
5 around me at that point in time? I guess after he stops
6 firing, were you the first one to approach me?

7 A. Yes, sir.

8 Q. Okay. You say when you approached me, you say you had
9 a flashlight out, right?

10 A. Yes, sir.

11 Q. Now, flashlight indicating was it dark in that area?

12 A. It was dark.

13 Q. It was dark in this area? Okay. This picture right
14 here -- all right, of the scene, can we confirm that when
15 you -- this is where I was laying at right here, correct, where
16 the jacket is at, by the bush?

17 A. I believe it was over this area, because I believe I
18 remember seeing what I believe to be a gun.

19 Q. That's where I was lying at between those two?

20 A. I believed that area right there. But I believe what
21 I saw was possibly firearm, something to your lower right of
22 your hands when they were out like this.

23 Q. Do you remember my jacket being in that location?

24 A. No, I was just focused on you.

25 Q. So is it safe to say that when you arrived and

1 approached me, that this was not how you seen the incident as
2 far as the lighting, as far as the jacket and everything else
3 that you recall?

4 A. Well, the lighting -- this appears to be lighting from
5 our evidence technician. So there's big halogen lights. I
6 just had a single flashlight.

7 Q. Okay. So at this point, seeing as like you are the
8 only person that remembers the site being dark, on a scale of 1
9 to 10, what would you rate that site that night of the
10 incident, if you had to rate it?

11 A. I don't understand the question.

12 Q. One would be not dark at all. 10 would be
13 pitch-black. In between that area, what would you rate it, the
14 night of the incident, the site of that incident?

15 A. To answer your question, it was dark when I
16 approached. But when I turned my flashlight on and I heard you
17 and located you with the flashlight, my only concern was I
18 could see you and I could see your hands. So you weren't going
19 to hurt me or anybody else, that was primary concern.

20 Q. Now, when you approached me, do you recall me saying
21 anything?

22 A. No.

23 Q. Okay. When you approached me, did you say anything
24 other than, Police, don't move?

25 A. No, I didn't say anything else except to direct the

1 other officers over to us.

2 Q. And you were the first initial officer that approached
3 me after that?

4 A. Pardon me?

5 Q. You were the first initial officer that approached me?

6 A. Yes, yes.

7 Q. Do you recall checking my pulse?

8 A. No. My primary concern was to make sure you could not
9 hurt me or anybody else. Okay? Contact team would be
10 responsible for taking you into custody. All right. They are
11 responsible, you know -- they are dealing with you. My
12 responsibility is to go back to Officer Goldstein and render
13 aid.

14 Q. Okay. What position did you see me? Was I on my
15 back? Was I on my stomach?

16 A. I believe you were on your stomach. I remember one
17 hand -- you were laying on one arm and your one hand was out
18 stretched. Both hands were on the side of you. I saw both
19 your hands. There was nothing in them. So there was no threat
20 for me to respond to. I just held you there, you know, until
21 backup arrived.

22 Q. You said the only thing you recall saying is that,
23 Police, don't move, right, to myself?

24 A. Directed you to, yes, Police, don't move.

25 Q. And you shined your light on me, correct?

1 A. Yes, sir.

2 Q. Do you ever once recall saying, I believe it was, Shut
3 up, nigger, while I lay on the ground?

4 A. No, I never said that.

5 THE DEFENDANT: All right. That's it.

6 THE COURT: Redirect?

7 MR. SOWARDS: No, Your Honor.

8 THE COURT: Thank you, sir. You may step down.

9 (Whereupon the witness is excused.)

10 THE COURT: Thank you. How many more witnesses do you
11 have?

12 MS. LINDER: We have one witness left and he is
13 here.

14 THE COURT: Call your witness.

15 MS. LINDER: The State calls Ernest Terrell.

16 ERNEST TERRELL,

17 having been duly sworn, testifies as follows:

18 THE CLERK: State your name and spell your last name
19 for the record.

20 THE WITNESS: Ernest Terrell, T-e-r-r-e-l-l.

21 DIRECT EXAMINATION

22 BY MS. LINDER:

23 Q. Good afternoon.

24 A. Good afternoon.

25 Q. What's your occupation?

1 A. I'm a special agent with the Federal Bureau of
2 Investigation in Chicago.

3 Q. Who was your employer back in 2013?

4 A. City of Charleston Police Department.

5 Q. And what were your duties at the City of Charleston at
6 that time?

7 A. At that time, I was Team Four acting patrol
8 supervisor. I was a senior police officer.

9 Q. How long have you employed by the City of Charleston?

10 A. 10 years, approximately 10 years.

11 Q. Can you please tell the jury about your education,
12 training and experience?

13 A. Okay. I educated at Penn State. I have a bachelor of
14 science in economics and also criminal justice. I also have a
15 master's in accounting and finance.

16 Q. And what about your training and experience?

17 A. I have approximately a thousand hours of training
18 starting with the South Carolina Criminal Justice Academy. I
19 also have training in basic SWAT, narcotics training, detective
20 training, also advanced traffic stops, as well as FBI at the
21 academy training in Quantico.

22 Q. And did you have the occasion to be working back on
23 March the 30th of 2013?

24 A. Yes.

25 Q. In capacity were you working on that day?

1 A. I was the squad lead acting supervisor at the time.

2 Q. What were you wearing that night?

3 A. Full patrol uniform.

4 Q. Can you describe what that was?

5 A. It would be a short-sleeve dark-blue collared shirt
6 with dark-blue pants as well as badge and name tag and duty
7 belt.

8 Q. And did you have body-worn camera?

9 A. No, not at that time.

10 Q. Did your agency have any?

11 A. No. Our agency did not have any.

12 Q. What were you doing that evening and how were you
13 first brought in to all of this?

14 A. That night we were at the Motel 6 responding to an
15 intoxicated party. That's what we were dealing with when we
16 came to this incident.

17 Q. And how did you first get pulled into this incident?

18 A. Basically, we were -- myself, Officer Frederick and
19 Sergeant McGlock were dealing with intoxicated party when we
20 heard the transmission over the radio of a traffic stop, that a
21 person fled (sic) from another officer.

22 Q. Based on the radio transmissions, how did you respond
23 to that?

24 A. Basically, just heightened our suspicion in that area.
25 Basically, we were just -- let me take a minute. I'm sorry.

1 Pretty much, it heightened our senses that there was a car that
2 fled the area. And pretty much, we were just looking out for
3 that vehicle. But we had to deal with the situation that we
4 had in front of us as well.

5 Q. What, if anything, happened next?

6 A. While we were dealing with the intoxicated party, I
7 heard a vehicle or something crash in the guardrail above.

8 Q. What did you do after hearing that?

9 A. Looked up, and that's when I saw a red-in-color
10 vehicle kind of move a little forward on the guardrail and
11 someone -- someone got out and ran off.

12 Q. How many people did you see get out of the car?

13 A. One person.

14 Q. From what side of the car?

15 A. The driver's side.

16 Q. What could you see of that person?

17 A. All I could see was the head of that person, looked
18 like a black male with, like, a kind of like a short Afro.

19 Q. What is the lighting like at the Motel 6 and the
20 on-ramp?

21 A. Bright, very bright.

22 Q. Based on your training and experience, what did this
23 signal to you when you saw an individual fleeing the vehicle,
24 the crashed vehicle?

25 A. Well, initially, I thought it was a traffic accident.

1 But after seeing someone flee, it basically heightened my
2 suspicion that maybe that a crime has occurred or is, you know,
3 will be occurring soon.

4 Q. And what did you do next?

5 A. At that point, once I saw a gentleman or person jump
6 out of the vehicle, myself and Officer McLaughlin looked at
7 Officer Frederick, told him to see if he was okay, and turned
8 and we ran southbound in the parking or in -- yeah, parking
9 complex until we got to the Highway 17.

10 Q. And why would one run toward the action?

11 A. Well, initially, I thought -- like I said, I thought
12 it was a traffic accident. So I was going to, you know, render
13 aid. But once after seeing someone flee, that made me think
14 that something was happening, had to investigate what was going
15 on. After hearing there was a foot pursuit, my normal thing
16 was to actually go and help the officer that was in the
17 pursuit, actually help apprehend that person.

18 Q. So when you heard all of this at the Motel 6, can you
19 describe where you and I believe you said Officer Sergeant
20 McLaughlin ran?

21 A. There's a -- we were in the northwest corner of the
22 Motel 6. We had to run southbound towards Highway 17 at the
23 fence line.

24 Q. And when you made it to that fence line, where did
25 you -- what direction did you head next?

1 A. Made a right turn and started heading westbound
2 towards the Comfort Inn or across the ramp.

3 Q. Did you look at the ramp?

4 A. Yes.

5 Q. And what did you see when you looked up to the ramp?

6 A. I saw a red vehicle and two marked police units, as
7 well as Officer Flaherty. He was covering the vehicle.

8 Q. And what does covering the vehicle mean?

9 A. Basically, he was protecting all the responding
10 officers from the unseen danger that could have been in that
11 vehicle.

12 Q. Okay. So when you made it to the ramp and you looked
13 up the ramp, could you see Officer Goldstein at this point?

14 A. Not looking up the ramp, but once I got passed the
15 ramp.

16 Q. So once you got passed the ramp, did you see Officer
17 Goldstein?

18 A. Yes, ma'am.

19 Q. And did you see which direction he was running?

20 A. He was running toward the Comfort Inn Suites, kind of
21 toward 526 and Highway 7 area.

22 Q. Did you see anybody else aside from him running?

23 A. Yes.

24 Q. What did you do as a result of seeing Officer
25 Goldstein and that individual running?

1 A. Tried to give chase.

2 Q. About how far ahead of you were they?

3 A. I knew pretty far ahead, probably about 70 yards, I
4 would say.

5 Q. How far or close was Officer Goldstein to the
6 defendant?

7 A. It looked about 10 yards, I would say.

8 Q. Did you observe Officer Goldstein to have his gun
9 drawn while he was running?

10 A. No.

11 Q. What was the lighting like in that area where they
12 were running toward?

13 A. It was pretty bright. You had the hotel -- both hotel
14 lights were on. You had street lights in the area. And the
15 ramp lights were pretty much on.

16 Q. And did you hear anything when you were running?

17 A. No, I couldn't. I was pretty far back. All I heard
18 was the traffic from Highway 17.

19 Q. Did you ever lose sight of Officer Goldstein and the
20 other individual?

21 A. Yes. When they got to 526 and Highway 7, they rounded
22 the corner and made a left.

23 Q. What happened after you lost sight?

24 A. After I lost sight, probably a short time later, I
25 heard multiple shots fired.

1 Q. What did you do after hearing those shots?

2 A. Basically, once the shots -- once I heard those shots,
3 I started running more direct route toward where the firing was
4 happening, tried to get to the fence of the Comfort Inn Suites.
5 And eventually jumped over that and got into the parking lot
6 there.

7 Q. Did you hear any information at all over the radio the
8 entire time?

9 A. Yes.

10 Q. What types of information are you trained to give over
11 the radio?

12 A. Location, description of the suspect or vehicle,
13 direction of flight and any update.

14 Q. And why does law enforcement do that?

15 A. To kind of paint the picture for other officers coming
16 to the scene, to give them a description of the suspect and
17 their vehicle. That way they can set up perimeter.

18 Q. And were you able to be informed based on the radio
19 that night?

20 A. Yes.

21 Q. And what were you doing at this time when you were
22 getting close to the hotel?

23 A. Basically, just kind of listening, trying to figure
24 out exactly where he was. And that's when we got to the hotel
25 and jumped over the fence there.

1 Q. And did you eventually make it over to the defendant?

2 A. Yes.

3 Q. And when you made it over to the defendant, what did
4 you see?

5 A. Saw Officer Feeters standing there. He was covering
6 the defendant. And the defendant was basically on the ground.
7 His head was towards the Comfort Inn Suites. And his feet
8 were, like, toward the street.

9 Q. And did you see Officer Goldstein at this time?

10 A. Not at this time.

11 Q. And did you see any items near the defendant?

12 A. Yes, a firearm.

13 Q. And could you describe that firearm?

14 A. It was a black Glock. It was in a lock-back position,
15 kind of standing up on the slide.

16 Q. And what did you do upon seeing the defendant and
17 seeing Sergeant Feeters?

18 A. He had him covered. So I told him I will be contact
19 officer and went to cuff the defendant.

20 Q. After you cuffed the defendant, did you go over to
21 Officer Goldstein?

22 A. Yes.

23 Q. What did you observe?

24 A. He had, like, blood on his hands. It was on his arm
25 as well. His leg was wet with blood. Because of the dark

1 pants, we couldn't see it. He was -- his name tag had, like, a
2 hole. It was bent. And, basically, I tried to put my hand on
3 his leg and tried to apply pressure as much as I could.

4 Q. Did you remove anything from Officer Goldstein?

5 A. Yes. Since we saw that his name tag had been hit, we
6 removed his vest.

7 Q. And did you remove his equipment belt?

8 A. Yes.

9 Q. And just so the jury fully understands, what exactly
10 do you have on an equipment belt, typically?

11 A. Officer might wear a Taser, two magazine pouches,
12 baton, radio. Most carry two handcuffs, pouches, also a glove
13 pouch and pepper spray, firearm. And some people carry cell
14 phones.

15 Q. And was Officer Goldstein in full police uniform that
16 night?

17 A. Yes, ma'am.

18 Q. Did you stay on scene with Officer Goldstein until
19 further help arrived?

20 A. Yes.

21 Q. At this time, I'm going as to show you what's been
22 marked as State's 58, 59, 97, 99, 100, 102, 103, 111, 112 and
23 123. If you could please take a look at those. After you are
24 done taking a look at those, can you tell me, do you recognize
25 those?

1 A. Yes, ma'am.

2 Q. How do you recognize them?

3 A. These were pictures from the night of the incident.

4 Q. And do they fairly and accurately depict the night
5 back on March 30th of 2013?

6 A. Yes, ma'am.

7 MS. LINDER: Your Honor, at this time, the State would
8 seek to admit the aforementioned exhibits into evidence.

9 THE COURT: Any objection?

10 THE DEFENDANT: No objection.

11 THE COURT: Mark those in evidence, please.

12 (State's Exhs. 58, 59, 97, 99, 100, 102, 103, 111,
13 112 and 123 were received in evidence.)

14 BY MS. LINDER:

15 Q. At this time, I'm going to put up State's Exhibit 48.
16 Can you tell the jury what that is?

17 A. That is the West Ashley area of the incident here.

18 Q. And can you please mark for the jury where you were
19 dealing with that intoxicated party when you first were alerted
20 to a potential situation?

21 A. Right here.

22 Q. And where were you when you heard the car sound and
23 saw the vehicle?

24 A. At that location there.

25 Q. And can you show the jury approximately where you

1 heard or where you saw that red vehicle when it hit and
2 eventually came to a stop?

3 A. It would have been in this area here. (Indicating.)

4 Q. And what was the lighting like right there between you
5 and that Motel 6 and where that vehicle came to a stop?

6 A. It was well lit.

7 Q. And can you show the jury the path that you took when
8 you left the intoxicated party and started heading to assist
9 Officer Goldstein?

10 A. (Indicating.)

11 Q. All right. And at that point, could you see Officer
12 Goldstein?

13 A. Not at that point, I couldn't.

14 Q. Can you keep showing the path you took and stop where
15 you saw Officer Goldstein?

16 A. Right around there. (Witness indicates.)

17 Q. Can you put an X there for me?

18 A. (Witness complies.)

19 Q. And approximately where was Officer Goldstein at this
20 point?

21 A. I would say they were up around this area.

22 Q. All right. And then if you could, just kind of -- if
23 you can show where it was that you lost sight of the defendant
24 and Officer Goldstein?

25 A. A path like this, and turned the corner there, that's

1 where I lost sight. (Indicating).

2 Q. After the shots were fired, can you take your first X
3 down there and kind of show the path that you ran?

4 A. I was down here. I lost sight of him. Shots were
5 fired. And went over the fence there.

6 Q. And where -- can you show them ultimately your path
7 over to where you ended up making contact with the defendant?

8 A. (Indicating.)

9 Q. All right. Now I'm going to show you State's 60. Can
10 you kind of point out to the jury where you were when you heard
11 the sound and saw the car on the ramp?

12 A. I was in the -- back here. You could see the lights
13 there and the hotel. And I heard the -- you can pretty much
14 see a straight shot to that ramp. And you will see the top of
15 the car.

16 Q. Showing you State's Exhibit 7, can you explain what
17 this shows?

18 A. That's basically the fence right there that I had to
19 run, I guess, down the whole parking lot, ran around here. Up
20 here is the ramp. You could see the lights on the street here,
21 the lights at the Comfort Inn.

22 Q. Can you talk to the jury about State's 63.

23 A. Pretty much this would be my view as I'm coming around
24 the ramp. You can see the lights here. And this is where they
25 would have been further down.

1 Q. State's 84?

2 A. Again, that's looking back at the ramp, the Motel 6,
3 the lights there, the vehicles I would have seen, and the path
4 that we would run.

5 Q. State's 85?

6 A. This is the contents over here and this was the fence
7 that I would have jumped over.

8 Q. State's 123?

9 A. Back here would have been the fence I jumped over and
10 the back of Comfort Inn Suites. This is the firearm. This
11 would have been where the defendant would have been lying, head
12 facing here, feet down there.

13 Q. And you said that's the fence. What is this area
14 right here?

15 A. That looks like the swimming pool.

16 Q. State's 121.

17 A. Again, that would have been my view coming over.
18 Defendant would have been on the ground here. The firearm
19 there. And that's Feeter's vehicle. And Goldstein would have
20 been behind the vehicle there. Again, his head would have been
21 over here and his feet would have been down here.

22 Q. After serving as contact for the defendant, can you
23 explain what you did with State's Exhibit 110?

24 A. So, I would have run over here. This is where
25 Goldstein was laying down, here. Once I tried to render aid

1 and, you know, move his belt up here -- it's kind of blurry.

2 Q. Just try your best.

3 A. Okay. His belt and vest would be right there. In the
4 vehicle, I think, was a tourniquet and a neck brace here.

5 Q. Okay. And then lastly, State's Exhibit 101, what does
6 this show?

7 A. This is the -- his duty belt. Again, you can see a
8 firearm, taser that we would have worn, handcuff case over
9 here. You have your probably flashlight in there and magazine
10 pouches there. This is his vest right here. And right there
11 is where -- where the bullet hit the vest. That's where his
12 name tag was, what would have been.

13 MS. LINDER: Beg the Court's indulgence.

14 THE COURT: Yes, ma'am.

15 Q. At this time, I show you what's been marked as State's
16 Exh. 53. If you can look at this, please. Do you recognize
17 it?

18 A. Yes, ma'am.

19 Q. How do you recognize it?

20 A. My marked initials on it, CD video, contents.

21 Q. And have you reviewed that?

22 A. Yes, ma'am.

23 Q. And does that disk fairly and accurately represent
24 what happened back on March 30th, 2013?

25 A. Yes, ma'am.

1 MS. LINDER: Your Honor, at this time the State would
2 seek to admit State's Exhibit 53 into the evidence and publish
3 to the jury.

4 THE COURT: Any objection to this.

5 THE DEFENDANT: No objection, Your Honor.

6 THE COURT: Mark it in evidence.

7 (State's Exh. 53 is received in evidence.)

8 Q. What is this showing?

9 A. The parking lot of the Comfort Inn Suites. You can
10 see myself and another officer coming through the parking lot
11 here. This would be me. And that's the path we took to get to
12 the fence, to get to the defendant. And there's other backup
13 officers.

14 MS. LINDER: I don't have any other questions. If you
15 can please answer anything that the defense may have.

16 THE WITNESS: Yes, ma'am.

17 CROSS-EXAMINATION

18 BY THE DEFENDANT:

19 Q. How are you doing?

20 A. How are you doing, sir?

21 Q. I have a question. When you, I guess, jumped the
22 fence, as you said, at the Comfort Inn Suites, and you saw me
23 laying there, okay, and you made the approach among myself,
24 correct --

25 A. Yes, sir.

1 Q. -- do you recall me saying anything?

2 A. No, sir.

3 Q. Do you recall saying anything to me?

4 A. No, sir.

5 Q. Okay. Who was around while you were making your
6 approach to myself? Who also was around, additional officers
7 surrounding me?

8 A. I wouldn't be able to recall all the officers there.
9 I know Officer Feeters was there. That's the person I saw.

10 Q. And that's the person you saw standing over me
11 correct?

12 A. Yes, sir.

13 Q. Okay. At any time amongst you making your
14 approachment (sic) amongst the scene of me and Officer
15 Goldstein, did you witness Officer Goldstein fire any rounds?

16 A. No, sir.

17 Q. Not physically?

18 A. No.

19 Q. Did you witness me firing any rounds from off the
20 ground?

21 A. No, sir.

22 THE DEFENDANT: Okay. I think that's pretty much it.
23 All right. Thank you.

24 THE COURT: Redirect?

25 MS. LINDER: No redirect.

1 THE COURT: Thank you, sir. You may step down. Any
2 objection to this witness being released?

3 THE DEFENDANT: No objection.

4 MS. LINDER: None from the State.

5 THE COURT: You are free to go. Thank you.

6 (Whereupon the witness is excused.)

7 THE COURT: All right. That's your last witness?

8 MS. LINDER: Yes, Judge. The State rests.

9 THE COURT: All right. Ladies and gentlemen, when I
10 outlined for you at the beginning of the trial how the case
11 would proceed, I told you that we would reach a certain stage
12 where I talk to the attorneys and parties about legal issues.
13 And we've reached that stage. So I'm going to let you folks go
14 home. I need you back tomorrow at 10 a.m., please. And,
15 hopefully, by then, we will be ready to proceed.

16 You may have more delays tomorrow. You may have more
17 times when you are out of the courtroom. That's just a normal
18 process. So, please, just bear with us. I will try to keep
19 you abreast of when I think the case is going to get to you, so
20 you will be able to plan best you can. But right now, I don't
21 know what to tell you. So I need you back tomorrow, please, at
22 10 a.m. I hope you have a pleasant evening. Remember all
23 those admonitions. Thank you.

24 (Whereupon, the jury leaves open court at 5:39 p.m.)

25 THE COURT: All right. We are going to have to

1 address an issue about whether the recalling of the witness
2 with SLED will be a situation where the witness is still
3 considered the State's witness or whether the State is allowed
4 to rest at this point. And then the defendant will be able to
5 call the witness, if he chose. My understanding is the witness
6 will be here tomorrow at 10 a.m.

7 MS. LINDER: Yes, Judge, she will be here tomorrow at
8 10 a.m.

9 THE COURT: Do you all have any comment about whether
10 it matters as to whether the defense calls the witness or
11 whether I should be indicating that this was still the State's
12 witness?

13 MS. LINDER: Judge, I think it's appropriate. He's
14 already entered exhibits. So it won't affect things further
15 down the way for him. I think it's appropriate for him to call
16 her as a witnesses. Again, she was walking off the stand
17 before and then there was a pause. And I absolutely understand
18 that Mr. Blake was trying to get everything together. And like
19 I said, we have no problem. Obviously, he's welcome to call
20 whoever he wants. She will be down here at 10 a.m. ready to
21 go. I think it would appear kind of unusual to a jury for me
22 to re-call her, for him to ask questions to her.

23 THE COURT: I understand. You wish to be heard on
24 this, sir?

25 THE DEFENDANT: No, I don't think -- I don't find

1 anything Ms. Linder saying is unreasonable.

2 THE COURT: All right. So I've assisted best I knew
3 how to get the witness back here. My understanding is she
4 plans to be back here at 10 a.m. So she would be available for
5 the defendant to call as a witness. Obviously, under the rules
6 as they've been modified over the years, you can impeach any
7 witness now. So I'm going to declare that the State has
8 rested. I would be happy to hear the motions tonight if you
9 want to hear the motions tonight. I can give you all a few
10 minutes. Court is in recess about five minutes.

11 (Whereupon, recess transpired.)

12 THE COURT: Are there any motions?

13 THE DEFENDANT: Yes, there are, Judge.

14 THE COURT: Okay. Let me hear from you. Let me hear
15 from you, please.

16 THE DEFENDANT: I move the Court for a directed
17 verdict, Rule 19A, Rule 29, South Carolina Federal Rules of
18 Criminal Procedure, not guilty based on the State omitted that
19 myself defendant acted in self-defense in the said incident.

20 THE COURT: Say that last part again.

21 THE DEFENDANT: Which part, Judge?

22 THE COURT: The State did what?

23 THE DEFENDANT: Omitted disputing that myself,
24 defendant, acted in self-defense within said incident.

25 THE COURT: Are you saying admitted?

1 THE DEFENDANT: No, omitted, like the absence.

2 THE COURT: Oh, okay. What's your next motion?

3 THE DEFENDANT: I can't hear you, Judge.

4 THE COURT: What's your next motion?

5 THE DEFENDANT: Judge, that's it.

6 THE COURT: Are you sure?

7 THE DEFENDANT: Yes, Judge, I'm positively sure.

8 THE COURT: Do you want to talk to them?

9 THE DEFENDANT: I mean, on top of that, I guess redo
10 any pretrial.

11 THE COURT: All right. What else?

12 THE DEFENDANT: And, I mean, on top of that, I mean,
13 reconsideration maybe of a new trial.

14 THE COURT: All right. There are jury issues
15 presented. As far as the matters I've already ruled upon, I
16 have no basis to change those at this point.

17 Self-defense argument, that's a -- that would be an
18 issue for the jury. There's sufficient evidence to determine
19 the requisite degree of intent. And there's sufficient
20 evidence for the jury to conclude, if it views it in a certain
21 way, that the defendant was not acting in self-defense.

22 I've also considered for the record whether there's
23 evidence as to each of the material elements of the offense
24 charged, and there is. So these are jury issues.

25 THE DEFENDANT: But they did not dispute myself at

1 all.

2 THE COURT: Oh, I think they did.

3 THE DEFENDANT: Personally, or are you talking about
4 the witnesses?

5 THE COURT: Witnesses.

6 THE DEFENDANT: Okay. But herself, she did not ask
7 none of the witnesses was my actions act of self-defense. I
8 don't recall once.

9 THE COURT: You keep seeming to think there's some
10 magic words that have to be said. There's no magic words.
11 They put up a case that you shot a police officer in the chest
12 after fleeing from the police officer. There's sufficient
13 evidence in the record for the jury to consider the charge of
14 attempted murder.

15 THE DEFENDANT: It wouldn't be sufficient, Judge,
16 because --

17 THE COURT: I'm not going to argue with you. I have
18 ruled.

19 THE DEFENDANT: Nobody else ever recalls Officer
20 Goldstein identifying himself as your police officer. So
21 there's lot in evidence.

22 THE COURT: There's evidence that he chased you in a
23 police car for miles with blue lights on.

24 THE DEFENDANT: He allegedly chased me --

25 THE COURT: Wait a minute.

1 THE DEFENDANT: -- with blue lights on. Okay. He
2 did, allegedly chase me.

3 THE COURT: We are going nowhere with this. I know
4 what I'm doing. They are jury issues. Thank you.

5 THE DEFENDANT: May I preserve for the record?

6 THE COURT: She's taking down everything we say.

7 THE DEFENDANT: Okay.

8 THE COURT: 10 a.m.

9 (Whereupon, a recess transpired.)

10 (Whereupon, the trial continues on November 15, 2018.)

11 (Defendant's Exhs. 50 through 67, was marked for
12 identification.)

13 (Court's Exh. 5, Jury Note, was marked for
14 identification.)

15 THE COURT: I received a note from Juror 35 which was
16 then shared with both parties. It reads that he has a medical
17 appointment, Mr. Lyle Brown, has a medical appointment at two
18 o'clock for a monthly injection. I'm going to bring him out,
19 see if I can find out more specifics about this.

20 Would you ask Mr. Brown to come in here. Tell the
21 media they are not to do any of this. Y'all, cut that stuff
22 off.

23 (Whereupon, Juror 35 enters the courtroom.)

24 THE COURT: I got a note that you have an appointment
25 at two o'clock this is afternoon.

1 JUROR 35: Yes.

2 THE COURT: How far do you have to go to the
3 appointment?

4 JUROR 35: West Ashley, Roper Hospital -- I mean,
5 St. Francis.

6 THE COURT: Is this something essential to your
7 health?

8 JUROR 35: Very.

9 THE COURT: How long do you think it would take?

10 JUROR 35: Maybe two hours if everything is going
11 right for them, because I've got some lab work to do too along
12 with it.

13 THE COURT: All right. We will try to work around it.
14 If we get out of here by 1, will you be okay?

15 JUROR 35: Yeah.

16 THE COURT: We will try to make sure you make your
17 appointment. You've got a cell phone?

18 JUROR 35: Yeah.

19 THE COURT: Before you leave, you probably need to
20 give us your cell phone number so we can find out how it's
21 going. All right?

22 JUROR 35: All right. Give it to --

23 THE CLERK: I got it.

24 THE COURT: Clerk says he has it already.

25 JUROR 35: Thank you, sir.

1 THE COURT: We will just try to work around it.

2 All right. Mr. Blake, I have to go over some things
3 with you now. The media can turn the equipment back on if you
4 would like. I need your responses under oath. I have to ask
5 everybody who is on trial these questions. So will you raise
6 your right hand.

7 (Whereupon, the defendant is sworn.)

8 THE COURT: Thank you. We've reached the stage of the
9 trial where the State has rested. And the next thing that
10 would happen is, your side is given the opportunity to present
11 evidence so the jury can consider. Do you understand where we
12 are in the trial?

13 THE DEFENDANT: Yes, I am.

14 THE COURT: And in that regard, you have a right to
15 testify, and you have a right not to testify. Do you
16 understand that?

17 THE DEFENDANT: I do.

18 THE COURT: No one can force you to testify. You have
19 an absolute right to remain silent. And if you choose not to
20 testify, I will tell the jury they cannot hold your silence
21 against you in any way at all. They can't discuss it in the
22 jury room. They are not to let it enter their minds in making
23 a decision whether you are guilty or not guilty. Do you
24 understand that?

25 THE DEFENDANT: I do.

1 THE COURT: This decision about whether you testify or
2 not is yours and yours alone. You know that?

3 THE DEFENDANT: I do.

4 THE COURT: I expect you might confer with anybody
5 whose opinion that you value on important decisions, but,
6 ultimately, it's your determination. Do you understand that?

7 THE DEFENDANT: I do.

8 THE COURT: Does he have a criminal record that would
9 subject him to impeachment if he takes the stand?

10 MS. LINDER: He does not have anything for
11 impeachment; however, he does have convictions if the door were
12 to be open.

13 THE COURT: Okay. All right. Mr. Blake, we talked
14 about the door opening sometime earlier. And I encourage you
15 to talk to your stand-by counsel about that. I will give you
16 an example of what's happening in trials out there. I've had
17 situations where I made rulings that the State could not ask
18 someone about their prior criminal record if they took the
19 stand. And then the person got on the stand and said something
20 like, I've never been in any trouble with the law. And truth
21 was, they had a record a mile long. So they opened the door to
22 be able to ask about that. That goes over the issue of his
23 credibility. So unless you open the door in some way by what
24 you testify or what someone else does to open the door, they
25 are not going to be able to ask you about any prior record. Do

1 you understand that?

2 THE DEFENDANT: Okay. I do.

3 THE COURT: Now, your presentation, your
4 cross-examination, everything, it's been impressive. You know
5 the case very well. You brought out factors that weigh in your
6 favor. I think some of the technical things we may disagree
7 on, but I encourage you to talk to your stand-by counsel on
8 this decision as well, get the benefit of their advice, if you
9 care to. Do you understand?

10 THE DEFENDANT: I understand.

11 THE COURT: All right. Well, I'm going to make a
12 finding at this point that you understand you have a right to
13 testify. You have a right not to testify. If you choose not
14 to testify, I'm going to tell the jury they cannot hold your
15 silence against you in any way at all. You understand that the
16 decision about whether you testify or not is your decision to
17 make. I'm going to maintain that ruling unless something comes
18 up. You have to let me know right away if some issue comes
19 up.

20 THE DEFENDANT: I want to ask if, like, if direct
21 examination witnesses, if I open the door for, like, I don't
22 know, for peacefulness, would that affect me in any way?

23 THE COURT: You want to put a character witness up?

24 THE DEFENDANT: Correct.

25 THE COURT: Do you have something in your record that

1 indicates that you have not been peaceful?

2 THE DEFENDANT: No, not that. I've never been in any
3 physical violence ever. This is my first time ever.

4 THE COURT: I guess it's hard for me to determine this
5 in the abstract. If somebody has a conviction for littering
6 and another person gets on the stand and says they know that
7 person, the defendant, they know that person's reputation for
8 peacefulness in the community and it's good, I am not going to
9 let them ask you about littering. But it depends on what you
10 may have convictions for. I don't know. They may have sent me
11 your criminal record --

12 THE DEFENDANT: I know Mr. King said it's considered
13 classified as a violent charge, which is trafficking cocaine.
14 It is classified as violent. If I was to present questions,
15 per se, to a character witness, I would strictly go into
16 basically physical violence, because trafficking is considered
17 still is a violent charge. I look at it, per se, just my
18 perspective, I look at it as it's not an act of physical
19 violence. But according to the law, it is an act of violence
20 defined in Chapter 16.

21 THE COURT: I am not allowed to give advisory rulings.
22 So I don't know where we can go with this. I think you need to
23 make a proffer or something. We can do that. But I understand
24 there are a lot of crimes that are classified as violent crimes
25 that don't have anything to do with actual violence. A lot of

1 them don't have anything to do with actual violence. You've
2 got possession of brass knuckles charge, is that right, 2009?

3 THE WITNESS: Yeah. It's misprinted on there wrong,
4 because I went to court for that. And it was a magistrate
5 judge. And it was from the city police department, magistrate
6 judge. And I disputed that it was a belt buckle. And they
7 charged me with brass knuckles and it was a belt buckle. And
8 the judge told me if you are going to get in any type of
9 traffic violation, any trouble within a 90-day time period,
10 then you ain't got to pay no fine and we can speed this up the
11 road. So I never got in any trouble for 90 days. And,
12 apparently, it's still on my record, so ...

13 THE COURT: I would have to see a certified copy.

14 THE DEFENDANT: I don't have the transcripts to that,
15 Judge. You know what I'm saying?

16 THE COURT: Well, again, I am not allowed to make
17 advisory rulings. If you want to talk to your attorney or
18 stand-by counsel about what they think may or may not be
19 allowable, you certainly may do that. Again, I've offered a
20 question about a proffer, if you can do that.

21 This lady, are you going to call the SLED agent,
22 Mr. Blake? Are you going to call the SLED agent?

23 THE DEFENDANT: Yes, I am.

24 THE COURT: Are you going to call her first?

25 THE DEFENDANT: I wanted to, but they said she's

1 running 30 minutes behind schedule.

2 THE COURT: I didn't know that. I am not saying she's
3 not. I'm saying nobody told me that.

4 THE DEFENDANT: So I would probably have to go with
5 the next available witness. Yeah, Judge, that's what I would
6 like to do as far as the proffer.

7 THE COURT: How many do you have?

8 THE DEFENDANT: I believe it's two.

9 THE COURT: All right. Call your first.

10 THE DEFENDANT: First one would be Leah Bryant.

11 LEAH BRYANT,

12 having been duly sworn, testifies as follows:

13 THE CLERK: Please state your name and spell your last
14 name for the record, please.

15 THE WITNESS: Leah Bryant, B-R-Y-A-N-T.

16 DIRECT EXAMINATION

17 BY THE DEFENDANT:

18 Q. How are you doing today, Ms. Bryant?

19 A. I'm doing great. How are you?

20 Q. I'm doing good. Will you please brief the Court on
21 your relations to myself?

22 A. Yes. I am Mr. Blake's aunt by way of his mother,
23 Elaina Blake..

24 Q. Okay. And how long have you been knowing myself?

25 A. Well, I've known you since the day you were born until

1 now.

2 Q. So you know me better than I know myself, right?

3 A. I think so.

4 Q. Okay. And all my life, you say you know me. Have you
5 known me, disregarding this incident in particular that we are
6 here today for, right?

7 A. Uh-huh.

8 Q. Do you ever once recall myself being an individual of
9 any type of physical violence?

10 A. No, I haven't.

11 Q. Okay. And so when you were informed of myself being
12 accused of myself of said incident, what were your immediate
13 speculations on those circumstances, since you never recall
14 myself being an individual of any physical violence?

15 A. Under the circumstances, after hearing about the
16 incident, being there at the hospital during the time, and
17 finding out exactly what happened, to my speculation, I thought
18 there was something wrong with what I heard.

19 Q. So that was your first --

20 A. That was my first initial --

21 Q. When you say "wrong", what do you exactly mean by
22 that?

23 A. Well, actually, I got a phone call. But I actually
24 saw the incident on television that morning, because I remember
25 it was Easter Sunday morning. I was getting up for sunrise

1 service. And after I heard what had happened and the way that
2 it was said that it happened, I didn't think that it was
3 possible for -- that it happened the way that it was being
4 told.

5 Q. Okay. And would you mind -- would you mind sharing
6 and expressing to the Court some of the characteristic traits
7 that you also are familiar with by myself?

8 A. Yes. As --

9 Q. I mean, let me rephrase the question. I want you to
10 state behind the scenes, by all means, go into everything.

11 A. Okay.

12 Q. Okay. Go ahead.

13 A. Like I said, I've known Mr. Blake since he was born.
14 We spent a lot of time together. His parents' job left him
15 where he was basically at my house doing homework their hours
16 of working. So we spent a lot of time together. And during
17 that time, we were able to talk and share a whole a lot of
18 things. I have always seen him as being an intelligent
19 individual, somebody that wanted to grasp every- and anything.
20 He was family oriented. He loved history of the family and
21 anything that was going on in the family. Whitty at times,
22 very talkative at times, but most of all, he showed integrity.
23 He believed in doing. And he always wanted to be one -- he was
24 challengeable. He was always the one that wanted to challenge
25 you in conversation, so ...

1 Q. Good. Putting it on the table. Okay. Ms. Bryant,
2 moving forward, disregarding this incident that brings us here
3 today, do you recall any prior life-threatening misfortunes
4 that I've suffered in the past? Do you recall?

5 A. No. Just vaguely, I know that there were some
6 incidents where your apartment was robbed. And you stated the
7 fact that you were uncomfortable with the idea that they had
8 put all your information in the newspaper, your address, where
9 you live and that type of stuff. Other than that, no.

10 Q. Okay. Do you recall about how long ago the said
11 incident regarding my apartment being broken into occurred,
12 just your best recollection?

13 A. Maybe about -- maybe, let's say, eight to seven years
14 maybe.

15 Q. Okay. All right. Ms. Bryant, that's it. That's all
16 I have for you.

17 A. That's all? Okay.

18 THE COURT: Do you want to question the witness at
19 this point?

20 MS. LINDER: Beg the Court's indulgence.

21 MR. SOWARDS: Your Honor, just to clarify, at this
22 point, are you offering me an opportunity to cross her, or
23 would you like for me to maybe argue why I think her testimony
24 opens the door to some of his prior history?

25 THE COURT: Both.

1 MR. SOWARDS: Okay. Thank you.

2 CROSS-EXAMINATION

3 BY MR. SOWARDS:

4 Q. Good morning, Ms. Bryant.

5 A. Good morning.

6 Q. You testified that Mr. Blake liked to challenge
7 things.

8 A. Uh-huh.

9 Q. What do you mean by that?

10 A. I think I said he challenged things in conversation.
11 Like, if we were talking about something and the idea of what
12 I'm saying or what I said, he didn't agree on, it was
13 challengeable.

14 Q. How would he respond to that?

15 A. How would who?

16 Q. Mr. Blake, if he was challenging you and you were
17 challenging him?

18 A. It was just a conversation.

19 Q. Just a conversation? Now, I think this goes without
20 saying. Where do you live right now?

21 A. Where I work right now?

22 Q. Where do you live?

23 A. I live in Charlotte, North Carolina.

24 Q. Where did you live when this incident took place?

25 A. I lived in Charleston, South Carolina.

1 Q. Where in Charleston?

2 A. West Ashley.

3 Q. Were you present that night when this incident took
4 place?

5 A. Yes. I stated that.

6 Q. Were you present at the scene?

7 A. No, I was not at the scene.

8 Q. Okay.

9 A. I told you I saw it on television.

10 Q. Were you in the car with him?

11 A. No, not if I was home getting ready for church.

12 Q. So you have no personal knowledge at all what
13 happened?

14 A. Yes, I do.

15 Q. You were there? You saw it with your own eyes?

16 A. No. I was there after the incident. I saw what
17 happened on television. I was called to the hospital. So I
18 was at the hospital the whole time until they released
19 information and let the family go in to see him. So I was
20 there present, not on the scene of the accident, no. But I got
21 enough information from the news that was on the television of
22 what happened. And being here throughout the years, the
23 incident also that the police did not release why there was a
24 blue light, why he was being blue lighted until three days
25 after the incident. So I was here to be knowledgeable enough

1 to know some of the facts, not all.

2 Q. But, again, my question was --

3 A. And I answered.

4 Q. -- you were not there; you did not witness the
5 shooting incident?

6 A. I couldn't witness the shooting incident. I think
7 there were but two people there, Mr. Blake and the officer. So
8 how could I witness the incident?

9 Q. Were you aware --

10 MR. SOWARDS: And I think, Judge, this is based on her
11 previous testimony about physical violence that she's opened
12 the door to this.

13 Q. So my question would be, were you aware that Mr. Blake
14 on a previous occasion, since he's been incarcerated,
15 threatened a jail guard with physical violence?

16 A. No, sir, I have not.

17 Q. You were not aware of that?

18 A. No.

19 MR. SOWARDS: Beg the Court's indulgence. That's all
20 I have, Judge.

21 THE COURT: Anything else of this witness and the
22 proffer?

23 THE DEFENDANT: No, I'm good, Judge.

24 THE COURT: Thank you, ma'am. You may step down. Who
25 is the next witness.

1 THE DEFENDANT: Harry Malloy.

2 THE COURT: Call your witness.

3 HARRY MALLOY,

4 having been duly sworn, testifies as follows:

5 THE CLERK: If you can, please state your name and
6 spell your last name for the record, please.

7 THE WITNESS: Harry Jr. Malloy, M-a-l-l-o-y.

8 DIRECT EXAMINATION

9 BY THE DEFENDANT:

10 Q. How are you doing, Mr. Malloy?

11 A. I'm doing fine.

12 Q. That's good.

13 A. Cold. And that's nothing to complain about really.

14 Q. Well, you look good. You look like you are holding up
15 good.

16 A. Thank you.

17 Q. Mr. Malloy, will you please brief the Court on your
18 relation to myself.

19 A. Okay. I am your uncle and you are my nephew.

20 Q. What side of the family are you kin to?

21 A. You are kin to my youngest brother, which is Mark
22 Blake, Sr.

23 Q. And that's on your -- that's on my --

24 A. On your father's side.

25 Q. Okay. And how long have you been knowing myself?

1 A. Ever since you were born.

2 Q. Okay. So you fairly well know me better than I know
3 myself?

4 A. Right.

5 Q. All my life, you knowing me, disregarding this
6 incident that brings us here today, do you ever recall myself
7 being an individual of any physical violence?

8 A. No.

9 Q. Okay. So when you were informed of myself being
10 accused of an assault within the said incident, what was your
11 immediate speculations of those circumstances, since you never
12 recall myself being an individual in any type of physical
13 violence?

14 A. I couldn't believe it.

15 Q. You couldn't believe it?

16 A. Because I thought that, you know, it wasn't like you
17 to do something like that.

18 Q. Okay.

19 A. It wasn't in your nature.

20 Q. And would you mind sharing and express to the Court
21 some of the characteristic traits that you are also familiar
22 with? When you answer this question, I want you to put
23 everything on the table. I want you raw and cut behind the
24 scenes of me?

25 A. Okay. As far as I'm concerned, you are a very quiet

1 person, like me. I am one of the quiet ones in the family.
2 And you are very intelligent. So am I, you know. And when you
3 stayed with me and my mother, you know, you had a pretty good
4 job and didn't have no problems during that time. You know,
5 there were no problems at all. You would go to work and come
6 back and, you know, and you would bring us pizza sometimes, you
7 know.

8 Q. So this is when I was working at the --

9 A. Pizza Hut, Papa John's, I think it was. And I
10 remember when you got another job at the car dealership, and I
11 won't mention much about that, but you were doing well because
12 you made salesman of the month three months in a row. And you
13 was doing well in that position. Unfortunately, there was some
14 things that happened and, you know, it caused you to not have
15 that position anymore.

16 Q. Is that all as far as characteristic traits?

17 A. Also, your experience, you were getting your
18 bartender-type situation, your situation to be a bartender, and
19 you were working on that. And you processed that pretty well,
20 you know. You did well on that. And you were very helpful in
21 the house with me and my mother before she passed away. You
22 know, you helped us, you know, as much as you can. You know,
23 you were dedicated grandson to my mother, you know, because you
24 stayed with us numerous times. And I felt that things that
25 went on in your life, you know, it happened for a reason. And

1 now it's making you a better man. You know, you have gotten to
2 know God and devoted your life to God now, you know, in that
3 situation. That's truly on the right path to make, when a man
4 or woman decide that they need to seek God in this situation,
5 which you did. And so that's the main thing is, you can kill
6 the body, but you can't kill the soul. Only God can do that.
7 And you've realized those things. And it made you a better
8 person.

9 And from what I was told, you know, you help out where
10 you are at now, you know, and as far as spiritual guidance and
11 the knowledge of what you have done so far. So, you know, even
12 though the system may say certain things about you, I know you
13 better and the way -- the person that you were and you still
14 are.

15 Q. I appreciate that, Mr. Malloy. Had to hold back tears
16 on that. Okay. Mr. Malloy, moving forward, disregarding this
17 incident that brings us here today, do you recall any prior
18 life-threatening misfortunes that I may have suffered in the
19 past, whether it be minor or major? Do you recall me ever
20 suffering from any life-threatening misfortunes other than --

21 A. No, no.

22 THE DEFENDANT: Okay. And that's all I got for you.
23 You have to hold up for cross-examination. I will step down.

24 THE COURT: Do you wish to question the witness?

25 MR. SOWARDS: Yes, sir, just briefly.

CROSS-EXAMINATION

BY MR. SOWARDS:

Q. Mr. Malloy, good morning. You testified that Mr. Blake lived with you?

A. Yes.

Q. When did he live with you?

A. He lived with me when we were on 24 Liverpool.

Q. And do you recall the year, the dates?

A. No, I don't. I can't --

Q. Was it around the time of this incident?

A. No.

Q. It was before the incident?

A. Right.

Q. How much before? Do you remember a year?

A. Years, as far as I'm concerned.

Q. You stated there were no problems during that time?

A. No problems at all.

Q. What do you mean by "no problems"?

A. I mean, he didn't get into any situation at all. There were no conflict of anything. He went to work, came back home, you know.

Q. This had happened in -- he lived with you around 2009?

A. 2009? No, because my mother died in 2009.

Q. Was it before that or after that?

A. What, that he lived --

1 Q. When he lived with you, yes, sir.

2 A. He lived with me before then.

3 Q. Okay. You stated that he had a good job and,
4 unfortunately, things happened that caused him to lose that
5 job. What happened?

6 A. Right. Well, there were an altercation that happened,
7 as far as I know about, and he was going to make a decision on
8 suing the company.

9 Q. An altercation at work?

10 A. Yes.

11 Q. What was the nature of the altercation?

12 A. There was --

13 Q. Physical altercation?

14 A. There was some disputing stuff that happened in that,
15 because --

16 Q. He lost his job? I'm sorry. I didn't mean to cut you
17 off.

18 A. I mean, they couldn't understand, you know, that him
19 coming into the workforce, and they were mostly, like,
20 jealousy-type situation, you know, where he made salesman of
21 the month three months in a row, being a new person, you know.

22 Q. You stated -- previously you testified that Mr. Blake,
23 you've never known him to be involved or threatening physical
24 violence; is that right?

25 A. Right.

1 Q. Did you know that he threatened a jail guard with
2 physical harm?

3 A. He threatened who?

4 Q. A jail guard.

5 A. No, I didn't know that. I spoke on the part that I
6 know about during the time when he was with us, not since he's
7 been apprehended.

8 Q. So when you say you don't know him to be a violent
9 person, that's just from when he was around you?

10 A. That's been most of his life until this situation came
11 about.

12 Q. Just one more question, Mr. Malloy. Mr. Blake asked
13 you what your impression was when you heard about this
14 incident, and you said, I didn't believe it.

15 A. No, I didn't.

16 Q. You didn't believe that it happened or you didn't
17 believe what?

18 A. I didn't believe that it really happened, because that
19 wasn't in his nature to do things like that.

20 MR. SOWARDS: Thank you, Your Honor.

21 THE COURT: Anything else of the witness and the
22 proffer?

23 THE DEFENDANT: No, that's it, Judge.

24 THE COURT: Thank you, sir. You may step down.

25 All right. My understanding of the law is, in general

1 terms, a defendant may offer evidence concerning such things as
2 reputation for truthfulness and veracity, if that is an issue
3 in the trial. Generally, that only becomes an issue once the
4 defendant testifies. Here, there are no statements of the
5 defendant in the record at all. So I don't see how anyone
6 could testify about reputation or truthfulness and veracity
7 unless he takes the stand first.

8 A defendant is also allowed to present evidence on
9 such things as a character being nonviolent, general reputation
10 of being nonviolent. Now, it's going to be difficult to
11 provide any kind of concrete statement of what exactly the
12 ruling would be, because it's going to depend on exactly what a
13 witness says in front of the jury and what objections to raise
14 and things of that nature.

15 Mr. Malloy seemed to go into pretty much everything
16 about the defendant's character, which seems to throw the door
17 wide open. Again, I would have to hear specifically what he
18 said in front of the jury. But he went into all kinds of
19 things about character. If brought out by the defendant, and
20 if there's no objection to relevance that would prevent him
21 from going before the jury, then it would seem to open the door
22 to a great deal of things.

23 Ms. Bryant is a little bit different. She certainly
24 can testify, as can Mr. Malloy, about the general reputation
25 for violence or nonviolence. If a witness does that, then the

1 door is open in almost every instance I can think of, except
2 Rule 403, relevancy. The door is open to present evidence that
3 counters it. So examples of violence would be permitted to be
4 offered in reply and the witness would be able to be asked
5 about other instances of violence, as to whether that would
6 acknowledge violence.

7 The question where you have a nonconviction is
8 different. And in a criminal case, it would certainly seem
9 that the minimum requirement would be the State would have to
10 produce outside the presence of the jury clear and convincing
11 evidence of any event which did not involve a conviction.

12 I will let you put on the record whatever it is you
13 want to put on the record now outside the presence of the jury.
14 I don't know what else to tell you.

15 THE DEFENDANT: Okay. Now, when we go into opening
16 doors for anything regarding violence, they are bringing up
17 this incident regarding me and a SCDC officer and allegedly
18 accused for making a verbal threat, which is not an act of
19 physical violence. And, I mean, I would like to say, how does
20 that cross intermixed with that? I see physical violence, not
21 verbal, I guess, a verbal violence or whatever you consider,
22 anything threat, I can sue you that that's a threat. We don't
23 see how this manner of threat is violence at this point. We
24 have no documents. I don't know if you even have a witness.

25 THE COURT: Well, what I was attempting to state

1 earlier was that if the State intends to offer evidence about a
2 specific incident of violence or alleged violence and it
3 relates to an incident for which the defendant has not been
4 convicted, I would have to hear what it is, and the evidence
5 supporting that would have to be at least clear and convincing
6 in order for me to allow them to go into it.

7 THE DEFENDANT: Well, since -- sorry, Judge.

8 THE COURT: What you asked the witness is atypical. I
9 understand you are not an attorney. And I don't know what
10 guidance you are seeking from your stand-by counsel. But,
11 generally, with these types of witnesses, they are usually very
12 short, usually just a few questions about establishing the
13 background, the knowledge that the person would have of you,
14 what you did. And then ask them if they are aware of their
15 reputation for some character trait which is relevant to the
16 events for which you are charged. Then ask what that opinion
17 is. Your questions asked both of them to speculate about what
18 they thought. And speculation is not a proper thing

19 THE DEFENDANT: It was opinion.

20 THE COURT: I am not going to argue with you. You can
21 pose the question whichever way you want. I will hear their
22 objections. I've really gone way beyond what I feel is
23 required to try to give you an opportunity to find out how to
24 proceed. I don't know what else to do. I cannot give you
25 advisory rulings. I cannot direct you what questions to ask or

1 what witnesses to put up. I'm just like an umpire. If that
2 pitcher hits the corner, I call it a strike. I may see it
3 wrong, but I call it as I see it. If you throw it over the
4 netting behind the catcher, I can't save you.

5 I encourage you to talk to your attorney, your
6 stand-by counsel, and then you make the decision. And whatever
7 you decide, I told you, your presentation so far has been
8 impressive. It really has. You know this case. And you've
9 asked witnesses questions in cross-examination that brought out
10 a good many things in your favor.

11 I will give you a few minutes, but then we are going
12 to get started. We are already almost an hour behind.

13 Is that witness here from SLED? She's here? If you
14 need to take her first, that's fine. We will be at ease for
15 five minutes.

16 (Whereupon, recess transpired.)

17 (Defendant's Exh. 68 was marked for identification.)

18 THE COURT: Ready to proceed, Mr. Blake?

19 THE DEFENDANT: Yes. Can we bring in witness Kukila
20 Wallace from SLED?

21 THE COURT: You want to call her first?

22 THE DEFENDANT: Yes.

23 THE COURT: Bring the jury in.

24 (Whereupon, the jury returns to open court at 11:00
25 a.m.)

1 THE COURT: Ladies and gentlemen, I apologize for the
2 delay. We've been working on a matter that came up this
3 morning that I did not anticipate.

4 I told you at the outset of trial that I would explain
5 to you how the case would proceed after this point. The next
6 thing that happens is that the defense is offered the
7 opportunity to present evidence for you to consider. This does
8 not change the burden of proof. The burden of proof remains
9 with the State throughout the trial. But the defense has
10 offered evidence -- I'm sorry, offered the opportunity to
11 present evidence for you to evaluate the State's case and
12 determine whether the State has met every essential element of
13 proof beyond a reasonable doubt.

14 If the defense offers evidence at this stage, then the
15 State can come back and reply. They can't go back through the
16 whole trial, but they can respond with whatever the defense may
17 bring out.

18 All right. Mr. Blake, do you have evidence to offer?

19 THE DEFENDANT: Yeah. Can we call a witness? I want
20 to call Lieutenant Kukila Wallace.

21 THE COURT: Where is she?

22 KUKILA WALLACE,

23 having been previously sworn, testifies as follows:

24 THE COURT: Ms. Wallace, you have already been placed
25 under oath; do you understand?

1 THE WITNESS: Yes, sir.

2 RECROSS-EXAMINATION

3 BY THE DEFENDANT:

4 Q. Okay. Good morning, Ms. Wallace.

5 A. Good morning.

6 Q. Have you been informed what brings you back here
7 today?

8 A. Just know you had some additional questions that
9 needed to be answered.

10 Q. Okay. Well, it's regarding testimony that you
11 provided yesterday regarding the potential bullet holes I
12 sustained through my clothing. Okay?

13 A. Okay.

14 Q. When you state -- when the State produced to you all
15 Officer Goldstein's photos personally marked, labeled and
16 confirmed by yourself as bullet holes, correct -- do you recall
17 that yesterday?

18 A. Correct.

19 Q. Now, let me allow myself to produce all the photos of
20 Goldstein's personal marked, labeled and confirmed bullet holes
21 by yourself..

22 THE DEFENDANT: May I approach the witness?

23 THE COURT: Yes.

24 THE WITNESS: Okay.

25 BY THE DEFENDANT:

1 Q. You got them? Now, let me allow you to produce some
2 photos personally marked and labeled as bullet holes by
3 yourself. These are the ones that you marked?

4 THE COURT: I can't hear you.

5 THE WITNESS: I was just --

6 THE COURT: You can't talk to her without talking on
7 the record.

8 THE WITNESS: I was just going to take the photos
9 back.

10 THE COURT: That's fine. You just have to speak loud
11 enough so she can take it down and hear you.

12 BY THE DEFENDANT:

13 A. Now you have a photo of the officer's shirt mixed in
14 yours.

15 Q. Okay. My apologies. This one is confirmed marked by
16 you though; is it correct?

17 THE COURT: I can't hear you. You have to speak loud
18 enough so that we can all hear you.

19 BY THE DEFENDANT:

20 Q. Okay. My question now to you would be, what is the
21 difference between Officer Goldstein's labeled marking
22 confirmed bullet holes by yourself and my alleged potential
23 bullet holes marked and labeled by yourself as actual bullet
24 holes? What's the difference between? I guess you labeled my
25 bullet holes I sustained potential and then you labeled his

1 actual bullet holes. What's the difference in the marking?

2 A. There is no difference on the markings. If you look
3 at both the photographs, in all of the photographs, it is
4 marked as either bullet hole or potential or suspected bullet
5 holes. And as I stated earlier, what I should have done was
6 mark them all as suspected bullet holes versus bullet holes.
7 So there is no difference in how I documented it.

8 Q. You mean, mark them all as far as my clothing and also
9 Officer Goldstein's clothing?

10 A. Correct. There is consistencies between the way that
11 I'm documenting both Goldstein's clothing and the defendant's
12 clothes.

13 Q. So we should just consider all the bullet holes
14 sustained by your marking as potential bullet holes and not
15 actual bullet holes, correct?

16 A. And that's what I stated on yesterday, they should
17 have been marked as suspected bullet holes.

18 Q. Okay. Ms. Wallace, there's something else in
19 particular that I brought you back here today regarding the
20 same subject matter. Yesterday when I revealed to you my
21 actual jacket the night of the incident and asked you if you
22 ever recalled putting a bullet hole marking on the left arm of
23 my jacket. You stated you don't recall and you may have
24 overlooked it, based on the left arm of my jacket was drenched
25 in blood; is that correct?

1 A. I said that if it was not marked, it's possible that I
2 missed it.

3 Q. Okay. I would like to present something to you.

4 THE DEFENDANT: Approach the witness?

5 THE COURT: Yes. You can't talk to her unless you
6 speak loud enough for all of us to hear.

7 BY THE DEFENDANT:

8 Q. Ms. Wallace, let me know if you recognize those
9 photographs.

10 A. Yes, I do.

11 Q. Okay. Can you verify both the label marking and the
12 exact location of the label marking on my jacket?

13 A. So the label markings on both of these photographs --

14 THE COURT: I don't know, are those in evidence?
15 Which ones are they? You got numbers on them?

16 THE WITNESS: This is Defendant's Exhibit 50 and
17 Defendant's Exhibit 51.

18 THE COURT: Are they in evidence?

19 Don't show them to the jury unless they are in
20 evidence.

21 THE WITNESS: Yes, sir. They are both marked as
22 bullet holes on the left arm of the jacket.

23 BY THE DEFENDANT:

24 Q. Okay. Now, whose initials are those on the vertical
25 label?

1 A. Those are mine.

2 Q. My question to you is, why would you testify as an
3 expert witness under oath and deliberately lie to the jury --

4 MR. SOWARDS: Objection, Your Honor.

5 THE COURT: It's an improper question. You need to
6 rephrase it.

7 BY THE DEFENDANT:

8 Q. Okay. You stated yesterday that you did not recall,
9 you might have overlooked putting a bullet hole marking on the
10 jacket, correct, on the left arm? I'm sorry.

11 A. My response to the question about whether or not I
12 marked it was, if they were not marked, it's possible that I
13 overlooked it.

14 Q. Okay. But what you have in your hand right there, you
15 know what that's called?

16 A. What are you referring to?

17 Q. The pictures that you have, do you know what they are?

18 A. They are pictures.

19 Q. Do you know what else they are called?

20 A. No. You tell me.

21 Q. They are called conflicting evidence.

22 A. I don't understand your point.

23 Q. The point is, you stated that you might have
24 overlooked it when you didn't mark it. Okay? But now you are
25 stating that you see it and you didn't mark it with your

1 initials. So that's totally inconsistent with what you said
2 yesterday?

3 A. The operative words to my testimony on yesterday was,
4 if I did not mark them, I may have overlooked them. So now
5 pictures have been found where it has been documented. I
6 further stated in my testimony yesterday that if I did see
7 them, I would have marked them and documented them the same way
8 I did with all of the other items of evidence in terms of the
9 clothing. And this is what I did.

10 Q. Okay. Let me ask you a personal question. Do you
11 ever recall you and myself becoming acquainted in the past?

12 A. I do.

13 Q. How do you recall, because I can't recall, how do you
14 recall becoming acquainted with me in the past?

15 A. I became acquainted with the defendant at a Christmas
16 party. This was probably about six years ago. He was
17 accompanying a cousin of mine. It was a brief acquaintance. I
18 didn't realize that he was the defendant of this case until
19 well after I had already processed the crime scene. Once I
20 realized that, I disclosed that information to the Solicitor's
21 Office.

22 Q. And who exactly is your cousin you are referring to?

23 A. May I disclose the name?

24 MR. SOWARDS: Object on the grounds of relevance, Your
25 Honor.

1 THE DEFENDANT: I don't know if this is true or not.
2 I just want to confirm this is the actual person I know. I
3 don't know who she's referring to.

4 THE COURT: What's your cousin's name?

5 THE WITNESS: Her name is Kayavonte Arlana LaBrie
6 (ph). She goes by Lana.

7 THE COURT: Last name is what?

8 THE WITNESS: LaBrie.

9 BY THE DEFENDANT:

10 Q. Okay. And do you recall your cousin ever mentioning
11 anything bad to you about me during the course of her and
12 myself talking?

13 A. No. I met him that one time and that one time only
14 and his name never came up until after I worked this crime
15 scene.

16 Q. Okay. So never came back up after this? All right.
17 Can I ask you another question, because I am not convinced at
18 all. Back to conflicting evidence, okay, did you intentionally
19 lie under oath yesterday regarding the issues I addressed,
20 either for prestige or a financial gain?

21 A. None of my testimony was a lie. What he asked me
22 wasn't a yes-or-no question. What I responded to he asked, did
23 I or do I recall documenting the holes in the shirt. I said,
24 if I didn't, I must have overlooked it. That wasn't a lie.

25 Q. Okay. Well, are you aware, find it coincidental, that

1 both you and Special Agent Ryan Kelly from SLED provided the
2 exact same testimony yesterday to the T regarding my potential
3 bullet holes on my clothing?

4 MR. SOWARDS: Objection, Your Honor. This is an
5 improper question.

6 THE COURT: You can't pit one witness against
7 another.

8 THE DEFENDANT: I'm just asking if she's aware. But I
9 will move forward.

10 THE COURT: That's pitting. If you want to ask her
11 her testimony, you can ask her that. But I don't know where
12 you are going to go from there.

13 BY THE DEFENDANT:

14 Q. Okay. Can you confirm the complainant of this case we
15 are here today for? Who has this case that we are here for
16 today?

17 A. The State.

18 Q. No. Not the agency that's the complainant?

19 A. Yes, it is.

20 Q. So SLED is the complainant. Were you coerced by
21 Special Agent Ryan to sabotage my defense of self-defense
22 within this matter so I would be found guilty for attempted
23 murder?

24 A. No. My job is to respond to crime scenes, collect
25 evidence and present the evidence as I obtained it on the

1 scene. And that is what I'm doing, doing my job.

2 Q. Okay. Do you know that attempted murder is a serious
3 offense?

4 MR. SOWARDS: Objection, Your Honor.

5 Q. -- if found guilty?

6 MR. SOWARDS: This is improper.

7 THE COURT: I don't know what he means by "serious".
8 You mean serious in the statute?

9 THE WITNESS: Serious altogether. This is serious.
10 It's close to death. It's serious.

11 THE COURT: You may ask her if she knows it's a
12 serious charge.

13 BY THE DEFENDANT:

14 Q. Do you know it's a serious charge?

15 THE COURT: But matters related to sentencing are for
16 the Court, not for the jury.

17 BY THE DEFENDANT:

18 Q. The nature of the charge is serious; do you not know
19 that?

20 A. Yes.

21 Q. Are you aware lying under oath is considered perjury
22 and there can be both sentence and fines for that?

23 A. Yes.

24 Q. Okay. I just want to say, last thing is -- how do I
25 want to say it? Do you promise to do your best regarding this

1 incident or incidents, if it ever comes in the future, that
2 when it's time to mark evidence, you mark it as potential
3 bullet holes versus bullet holes? Will you promise to do that
4 so nobody else would have to go through these complications
5 that I have to go through? Because these are people's lives at
6 stake here. Will you promise --

7 MR. SOWARDS: Objection, Your Honor. This is not a
8 question. It's just a statement.

9 BY THE DEFENDANT:

10 Q. It's a question. Do you promise to do that so that
11 this will never, ever be a type of issue ever again?

12 THE COURT: The question asks for something that the
13 answer would be irrelevant.

14 THE DEFENDANT: Okay. That's all I got. I think the
15 State defends you more than they should have.

16 MR. SOWARDS: Objection, Your Honor.

17 THE COURT: Disregard the comment of the defendant.
18 Do you wish to question the witness?

19 MR. SOWARDS: I don't have any questions, Your Honor.

20 THE COURT: Thank you, ma'am. You may step down.

21 Is she released now?

22 THE DEFENDANT: She's released.

23 THE COURT: You can go now. Thank you.

24 You didn't mark anything into evidence. Do you
25 understand that?

1 You better -- wait a minute now. If you are offering
2 something in evidence, you've done it a number of times, you
3 know, show them to her.

4 THE DEFENDANT: She's seen them.

5 THE COURT: Not the witness, the attorney.

6 THE DEFENDANT: That's what I'm saying, doubt to any
7 objection.

8 MR. SOWARDS: We've seen them, Judge.

9 THE COURT: You know what they are?

10 MR. SOWARDS: We do.

11 THE COURT: Y'all have like a hundred photographs. Do
12 you know what he has in his hands?

13 MR. SOWARDS: We don't object to any of them in his
14 hand.

15 THE COURT: Mark those in evidence without objection.

16 THE COURT REPORER: Please read the numbers.

17 THE DEFENDANT: Defendant's Exhibit 57, 61, 62, 65,
18 66, 67, 64, 63, 68, 59, 8, 7, 52, 6, 58, 60, 53, 54, 11, 55,
19 56.

20 (Defendant's Exhs. 6, 7, 8, 11, 52-68, are received in
21 evidence.)

22 THE COURT: All right. You are free to go now, ma'am.
23 Thank you.

24 Call your next witness.

25 THE DEFENDANT: David Osborne, please.

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DAVID OSBORNE,

having been duly sworn, testifies as follows:

DIRECT EXAMINATION

BY THE DEFENDANT:

Q. State your name and spell your last name for the record, please.

A. David Osborne, O-s-b-o-r-n-e.

Q. How are you doing, Mr. Osborne?

A. I'm doing well.

Q. Okay. It's not Officer no more, correct?

A. That's correct.

Q. Just Osborne, Mr. Osborne?

A. That will work.

Q. Mr. Osborne, did you partake or do you recall yourself partaking in any incident report regarding aggravated assault involving Officer Cory Goldstein, incident dates March 30th, 2013?

A. I did.

Q. And what exactly did you partake in regarding the incident report?

A. On that date, I worked as a sergeant in charge of the violent crimes unit for the Charleston Police Department. I was off at that time. I was notified that there was a police-involved shooting. I responded to the scene. While we waited for SLED to respond, I coordinated the initial response,

1 finding witnesses, preserving the crime scene, taking initial
2 statements. When SLED arrived, they assumed primary
3 responsibility of the investigation.

4 Q. Okay. Do you recall the Officer Terry Ann Ferguson at
5 that point?

6 A. I knew of her.

7 Q. Knew of her? Okay. And due from my understanding,
8 based upon reports, you were a supervisor. Were you a
9 supervisor of Ms. Ferguson?

10 A. No, sir, I was not. She was a patrol officer who
11 worked in West Ashley. One of the first officers to arrive on
12 the scene. I was in charge of the violent crimes unit, which
13 we are all violent crime detectives.

14 Q. Do you ever once recall reviewing any of Officer
15 Ferguson's report regarding the incident?

16 A. I did review and approve her incident report.

17 Q. For recollection purpose regarding the incident
18 report, right, conducted by Ms. Ferguson, would you like to
19 review them for recollection purposes?

20 A. I have reviewed it in preparation for my testimony.

21 Q. Okay. So would you like to have a copy of it right
22 now?

23 A. Sure.

24 THE DEFENDANT: May I approach the witness?

25 THE COURT: Yes.

1 BY THE DEFENDANT:

2 Q. Now, let's establish for the record that you yourself
3 reviewed and approved the incident report, correct?

4 A. I reviewed and approved it, yes, sir.

5 Q. Did it ever occur to you that within the narrative of
6 the incident report, page 3, second column, second sentence,
7 where it quotes: The suspect engaged in gunfire and officer
8 instantaneously returned fire.

9 Were you conscious when you yourself both reviewed and
10 approved this incident report that the shooting incident
11 happened in that particular order?

12 A. I don't believe that's an inaccurate statement, if
13 that's what you are asking.

14 Q. You don't believe it's inaccurate?

15 A. No, I don't.

16 Q. So when one it says myself, per se, correct, me firing
17 first, and subsequently Officer Goldstein returning fire,
18 that's not indicating that it happened in that particular order
19 when you use the word "return"?

20 A. No. I do believe the evidence shows a pattern just
21 like you just said, that you fired first and Officer Goldstein
22 returned fire. I think that's accurate.

23 Q. That's accurate? Okay.

24 A. I do believe that, yes, sir.

25 Q. Okay. My next question will be, because there's

1 accusation made of myself shooting first within the incident
2 report and you believe it's accurate. It was never supported
3 by any other statement, by any other witnesses or officers,
4 including Officer Goldstein himself, regarding me shooting
5 first. Now I ask if you recall the source that provided
6 Officer Ferguson null and void in that purported statement made
7 by the narrative indicating that I shot first, Officer
8 Goldstein returned fire?

9 A. Yeah. There's a -- so, there's a few -- well, that's
10 actually kind of a loaded question. One, ultimately, it
11 doesn't matter who fired first. I think you understand that.
12 But the evidence did show that you did fire first, would be
13 that when Officer Goldstein was chasing you, you slowed down,
14 turned around, and engaged first, firing at Officer Goldstein
15 as he was trying to draw his weapon to return fire. That's
16 what the statement showed. And I believe that's what Mr. Riner
17 verified to some extent, that you were trying to evade arrest,
18 that you were running from him, and that you slowed down and
19 engaged him first.

20 Q. You are saying Ryan, Ryan Kelly?

21 A. No, Sean Riner.

22 Q. Oh, Sean Riner. That's who you are talking about?

23 A. Yes, sir.

24 Q. So the source came from Sean Riner, is that what you
25 are saying?

1 A. Well, that -- so all of the evidence tied in together
2 that Mr. Riner said that you were running, that you slowed
3 down, that you then turned around and then engaged him, and
4 combined with Officer Goldstein's statement. But, again, who
5 fired first is really irrelevant.

6 Q. Are you not aware that Officer Goldstein admitted in
7 his first statement that it was roughly, like, eight, nine days
8 after the whole incident. So he did not initially add a
9 statement in. Are you aware of that?

10 A. No, Officer Goldstein did give a statement.

11 Q. Okay. Do you recall when that was?

12 A. I do not. I did not take it.

13 THE DEFENDANT: Okay. Court's indulgence.

14 Can you please admit that into evidence?

15 THE COURT: Show it. I appreciate what y'all work out
16 among yourselves, but you've got to share it with me. Is there
17 an objection to these things?

18 MS. LINDER: Without objection.

19 (Defendant's Exhs. 50 and 51 are received in
20 evidence.)

21 BY THE DEFENDANT:

22 Q. This is the report Goldstein admitted. If you turn on
23 the back of it, can you please read the date that was
24 submitted, that report?

25 A. April the 9th of 2013.

1 Q. Again, approximately how long ago was that from the
2 actual incident that he submitted that report?

3 A. Nine, ten days.

4 Q. Exactly. But you are saying he was the source, right,
5 and he submitted a report around that time, right?

6 A. Well, again, he was part of the source to say that
7 Officer Ferguson's report indicating that the gunshots were
8 fired simultaneous wasn't inaccurate. I didn't believe it to
9 be inaccurate.

10 Q. Okay. Did you personally approve Officer Ferguson's
11 statement I just showed you?

12 A. Her report, yes.

13 Q. Her report?

14 A. Yes.

15 Q. Will you say it was a bogus theory of her own she came
16 up with, based upon it was kind of not fully accurate and
17 supported by the actual Officer Goldstein himself?

18 A. No, not at all.

19 Q. So you wouldn't say that within this report there's
20 not a bit of any type of falsehood or recklessness?

21 A. No, absolutely not.

22 Q. Okay. Are you not also aware that sometimes one word
23 can throw a whole sentence off sometimes? Are you aware of
24 that?

25 A. Sure.

1 Q. Okay. Have you ever experienced that before?

2 A. Oh, I don't know. I assume that people can
3 misconstrue things all the time, sure.

4 Q. Okay. What are you now, a prosecutor?

5 A. I am.

6 Q. Okay. And you used to be law enforcement official for
7 City of Charleston Police Department, correct?

8 A. I was.

9 Q. You wrote reports many times, correct?

10 A. I did.

11 Q. And have you ever wrote a report -- did you ever
12 recall writing a report where you made an ambiguous statement
13 and it was a bit of a dispute ever?

14 A. I wouldn't know; not that I'm aware of.

15 THE DEFENDANT: Okay. I'm good. Thank you.

16 THE COURT: Do you wish to question the witness?

17 MS. LINDER: No questions.

18 THE COURT: Thank you, sir. You may step down.

19 Who is your next witness?

20 MS. LINDER: Judge, may Mr. Osborne be excused?

21 THE DEFENDANT: Yeah, I don't object.

22 THE COURT: You're free to go. Thank you.

23 (Whereupon the witness is excused.)

24 THE DEFENDANT: Judge, I would like to call in Richard
25 Burckhardt. They say Richard Burckhardt is not here right now.

1 I would like to substitute for Leah Bryant.

2 THE COURT: You want to call Leah Bryant?

3 THE DEFENDANT: Yeah.

4 THE COURT: At this point?

5 THE DEFENDANT: Court's indulgence. Judge, can I
6 request a brief recess until Richard Burckhardt gets here?

7 THE COURT: Do you know where he is?

8 THE DEFENDANT: I believe I was informed that he works
9 across the street. I think that's at the federal courthouse.

10 THE COURT: I don't know.

11 THE DEFENDANT: I believe across the street.

12 THE COURT: All right. Ladies and gentlemen, I'm
13 going to ask you to step in the jury room. As soon as we are
14 ready, we will get you back in here.

15 (Whereupon, jury leaves open court at 11:36 a.m.)

16 THE COURT: We are at ease.

17 (Whereupon, a recess transpired.)

18 THE COURT: All right. Mr. Burckhardt is here?

19 MR. KING: Yes, Your Honor, he's here.

20 THE COURT: Bring the jury in, please.

21 (Whereupon, the jury returns to open court at 11:53
22 a.m.)

23 THE COURT: Mr. Burckhardt, come around, please.
24
25

1 RICHARD BURCKHARDT,
2 having been duly sworn, testifies as follows:
3 THE CLERK: State your name and spell your last name
4 for the record, please.
5 THE WITNESS: Richard Burckhardt, B-u-r-c-k-h-a-r-d-t.
6 DIRECT EXAMINATION
7 BY THE DEFENDANT:
8 Q. Is it Detective Burckhardt?
9 A. Formerly.
10 Q. Okay. So just Mr. Burckhardt?
11 A. That's fine.
12 Q. All right. Mr. Burckhardt, for the record, will you
13 please explain your role within this matter that brings us here
14 today?
15 A. On the night of this incident, I was contacted. I was
16 working in the violent crime section of the Charleston Police
17 Department, was my assignment when I was employed there. I was
18 first notified of the incident by telephone in my residence.
19 It was a police-involved -- police-involved shooting. And I
20 was requested, along with a number of other officers, to
21 respond to the scene, and started to conduct an investigation.
22 Q. Do you recall your reports in particular that you
23 conducted regarding this incident?
24 A. Reports?
25 Q. Yeah.

1 A. Yeah. I did, as I recall, that -- when I first
2 arrived on the scene, I was briefed as to the incident, as the
3 way it unfolded. I was given some detail of what had happened.
4 And at that point it was requested that I -- my first initial
5 responsibility was to go back to police headquarters and
6 construct a search warrant for the defendant's vehicle. I
7 went. I did that. Returned back to the scene.

8 CPD, as well as State Law Enforcement, was involved in
9 this investigation. They were present at the scene. The
10 defendant's vehicle, after the warrant, left -- after I
11 constructed the warrant, I went to see -- I believe it was
12 Judge Magistrate Gosnell who was resident who signed the
13 warrant. Then I went back to the scene. I delivered the
14 warrant to the crime scene supervisor, Judy Gordon. And they
15 had the defendant's vehicle towed to the CPD crime lab, was my
16 understanding where it went.

17 Q. Okay. So what reports do you recall conducting?

18 A. I did a summary of what I did, what I just told you.

19 Q. Kind of like, what, a case summary?

20 A. Not a case summary, but a summary on the events of the
21 actual actions that I took.

22 Q. Okay. How about a case supplemental report, are you
23 familiar with that?

24 A. I'm sorry?

25 Q. A case supplemental report, did you do one of those?

1 A. I did a report of what I was asked to do, what I was
2 advised of what happened. There was probably a couple of
3 supplementals in there to that effect.

4 Q. I have a case supplemental report. Do you want for
5 recollection, do you want to review it?

6 A. That's fine.

7 THE DEFENDANT: May I approach the witness?

8 THE COURT: Yes, sir.

9 BY THE DEFENDANT:

10 Q. Will you please confirm -- will you confirm that
11 that's the case supplemental report that you conducted?

12 A. The report reference State's assistant's search
13 warrant. That would be this report.

14 Q. Okay. And that report is dated, what?

15 A. March 31st; it looks like about close to 12:30 a.m.

16 Q. So you conducted a search warrant, correct?

17 A. I secured a search warrant. I didn't conduct a search
18 on the vehicle.

19 Q. You didn't do it on the vehicle?

20 A. No.

21 Q. Are you familiar with a search warrant regarding, I
22 believe, it was for a vehicle swabbing? Are you familiar with
23 that?

24 A. There was a second search warrant I did for the
25 defendant's body for DNA swab. That was taken at Medical

1 University Hospital. I believe it was the 2nd of April or
2 thereabouts.

3 Q. It would be for buccal swabbing, right?

4 A. Sir?

5 Q. Buccal swabbing?

6 A. Vehicle swabbing?

7 Q. Buccal swab?

8 A. Buccal swab.

9 Q. Okay. That's how it's pronounced, buccal. Do you
10 recall when you serviced this warrant, search warrant of buccal
11 swabbing, to myself?

12 A. Do I recall it? Yes, I remember going to the
13 hospital.

14 Q. What date was that? Do you recall what date it was?

15 A. There's a supplemental to that effect. And I believe
16 that was -- the hospital was on the 2nd of April. It's not on
17 the supplemental. There's another supplemental to that, I
18 believe.

19 Q. I got -- I have right here -- I have your search
20 warrant regarding buccal swabbing, DNA. Do you want me to
21 serve it to you for recollection?

22 A. Yes, I can take a look at it.

23 Q. Do you recall that being a search warrant for the
24 buccal swabbing?

25 A. Do I recall this search warrant for the buccal

1 swabbing?

2 Q. Yes.

3 A. I do.

4 Q. Let's go over these reports in chronological order,
5 starting with case supplemental report conducted 3/31/13 for
6 the Court. Would you mind reading the highlighted area of the
7 said report within case supplemental report?

8 A. IO, that would be me, investigating officer was
9 further advised that the gunfire was exchanged between CPD
10 officer and the offender.

11 Q. Okay. You said "exchanged", right?

12 A. Yes.

13 Q. Now, let's observe that statement. That there
14 statement really sums up said incident, correct?

15 A. Can you repeat that, please?

16 Q. Does that statement you just made, does that briefly
17 sum up that incident, correct?

18 A. That's information I received at the scene from the
19 officers that were already there.

20 Q. Okay. So we can now both further agree or conclude
21 that statement conducted by yourself on that date doesn't
22 specify who initiated the said incident, does it, or does it
23 not?

24 A. No.

25 Q. Okay. Moving forward. Now, on said search warrant

1 affidavit conducted by yourself dated April 1st, 2013, that's
2 approximately a day after the stated supplemental report. For
3 the record, can you now read off the little highlighted areas
4 within the said search warrant affidavit?

5 A. The driver, later identified as Mark Blake, black
6 male, date of birth 5/15/86, turned on Officer Goldstein and
7 shot a handgun at the officer, striking Officer Goldstein
8 multiple times. Officer Goldstein returned gunfire striking
9 Blake several times.

10 Q. Okay. Now, you said "return", correct?

11 A. Yes.

12 Q. Now, let's also observe that statement. Now, that
13 statement also briefly sums up the incident, correct?

14 A. To some degree.

15 Q. And now we also can furthermore agree or conclude that
16 particular said statement also conducted by yourself on said
17 date not only sums up the said incident, but also specifies the
18 version of events, right?

19 A. The events as relayed to me by the initial officers on
20 the scene.

21 Q. Okay. On the said incident, in the narrative now
22 indicating that I, defendant, was the initiator of said
23 assault, then after said officer returned fire upon myself. My
24 question to you now is, how did this narrative regarding the
25 incident initially change and alter within a matter of 24 hours

1 as far as how it's worded? It goes from an exchange and then
2 it goes from subsequently -- well, I fired first and then
3 returned fire. It goes from I exchanged gunfire, then it goes
4 from me initially shooting first and him returning firing. How
5 does it change?

6 A. There's two different references here.

7 Q. Two different references?

8 A. Yes.

9 Q. So --

10 A. Initially appearing on the scene, referring to this
11 report here, was an exchange of gunfire between yourself and
12 the officer. When the warrant was constructed, information
13 revealed is that you initiated gunfire and Officer Goldstein
14 returned gunfire. There's two different reports, essentially.

15 Q. Would you say that story has been altered and changed
16 at that point based on how it's worded?

17 A. I just worded it on the information that was given to
18 me on both accounts.

19 Q. And who was --

20 A. Both occasion.

21 Q. Who was the source of that provided information?

22 A. When I first arrived and met with -- the supervisor
23 was Sergeant Osborne at the time when I arrived from my house.
24 And I believe that's where most of my information is being
25 relayed to.

1 Q. Sergeant Osborne, correct?

2 A. Yeah, yeah.

3 Q. Just your opinion, would you say or not whether it
4 altered within a matter of 24 hours?

5 A. I don't have an opinion.

6 Q. I know it's different reports, like you said, but
7 would you say it is altered in any way?

8 A. I don't have an opinion that way.

9 Q. One looks like nobody has a dog in the fight. And the
10 second one looks like --

11 A. No. One specifically says one thing. The search
12 warrant specifically says another thing.

13 Q. Okay. Did you further witness any of the incident?

14 A. I did not, no.

15 Q. Okay. You said -- your information got relayed to
16 Osborne, correct?

17 A. To my recollection, there were a number of officers on
18 the scene, detectives, supervisors, there was a group set up at
19 a command center.

20 Q. But it wasn't --

21 A. The information was relayed from that initial meeting
22 of people. I believe it to be Sergeant Osborne at the time.

23 Q. But it definitely wasn't Sean Ryan? Can you say?

24 A. I can't say for sure whether it was or not. I do
25 remember having conversation with my supervisor, which would

1 have been in our chain of command Sergeant Osborne. Agent
2 Ryan's with SLED.

3 Q. Had you ever got any reports from Goldstein regarding
4 that incident?

5 A. Have I? No.

6 Q. So definitely didn't come from him?

7 A. Not that I remember.

8 Q. How about Agent -- Special Agent Ryan Kelly, South
9 Carolina Law Enforcement?

10 A. I don't recall seeing it. I mean, it's been a few
11 years. I may have reviewed some of the file. That's a
12 possibility, but it's been awhile. I can attest to what I did
13 and what's here in my writing.

14 Q. Okay. Something else I noticed within the execution
15 of your search warrant, I believe it was for buccal swabbing.

16 A. Buccal swab.

17 Q. What date was that again?

18 A. I believe it to be -- the hospital visit was the 2nd
19 of April, to my knowledge. And that's when the buccal swabbing
20 would have been obtained from you.

21 Q. Would you do me a favor and look on that search
22 warrant and verify that, what date it was? Do you have the
23 date on it?

24 A. That's what I'm looking for. It says on April 2 on my
25 return. It says I received the search warrant on the 1st and

1 that it was executed on the 2nd, according to this.

2 Q. Executed meaning you served it on me, right?

3 A. That's correct.

4 Q. But on the 1st --

5 A. It was obtained.

6 Q. From the magistrate?

7 A. That's correct.

8 Q. I couldn't help but notice that on the 1st of April
9 2013, that both Agent Kelly and yourself seemed like y'all
10 coincidentally executed both search and arrest warrant on the
11 same date by the same magistrate. Who was that magistrate?

12 A. Bonnie Koontz.

13 Q. Bonnie Koontz, correct. Now, different form of
14 question and therefore should be observed as nonobjectionable:
15 Detective Burckhardt, is it not both Agent Kelly and yourself
16 that conspired to say false narrative of myself triggering said
17 incidents in order to enable yourself to get said warrant
18 signed off by a magistrate?

19 A. Not a chance.

20 Q. So it's just y'all --

21 A. That's the answer to my question.

22 Q. Did you ever meet him?

23 A. I've known Agent Kelly for a number of years.

24 Q. I'm talking about execution of the warrants. Did you
25 all bump heads --

1 A. We collaborated somewhat during this investigation.
2 There was several moving parts, I'm sure, taking place. That's
3 not unusual.

4 Q. When you went to Judge Bonnie Koontz's office, was he
5 present?

6 A. I don't recall that.

7 Q. You don't recall him being present?

8 A. No.

9 Q. You haven't spoken with him that date?

10 A. I haven't seen Agent Kelly in a couple of years.

11 Q. I'm saying that date that you executed the search
12 warrant?

13 A. It's possible we may have. I mean, we're back and
14 forth.

15 Q. Detective Burckhardt, do you not realize and concluded
16 that fabricating and tailoring a search warrant for prejudice,
17 bias and ill reasons is unambiguously observed as a mere
18 perjury being that you provided this oath --

19 A. If the warrant was fabricated intentionally, you might
20 have something. But, no, that's not the case here, sir.

21 Q. You are saying it wasn't fabricated?

22 A. Yeah, that's what I'm saying.

23 Q. Does it matter whether it's intentionally or
24 unintentionally?

25 A. This warrant was not fabricated.

1 Q. You said it wasn't --

2 A. Neither are the reports. The warrants were not
3 fabricated.

4 Q. Okay. Going back to your search warrant or buccal
5 swabbing, okay, does it not state that Officer Goldstein
6 fired -- no. I'm sorry. I fired first and he returned fire,
7 does it not state that?

8 MR. SOWARDS: Objection, Your Honor. This is asked
9 and answered. I believe we've been over this.

10 THE COURT: Overruled. Do you know the answer to his
11 question?

12 THE WITNESS: It stated -- I'm only stating what was
13 stated in the warrants, the information.

14 BY THE DEFENDANT:

15 Q. Would you say that that's a bit of an inconsistency
16 issue?

17 A. I am not saying it's inconsistent at all. I think
18 what you are referring to is a warrant and a supplemental
19 report. When I first arrived on the scene, the initial
20 information I obtained is there was an exchange of gunfire.
21 That's what happened. After further that, if you want to know
22 the answer to that specific question, it was learned that you
23 fired it -- I was told that you fired, and Officer Goldstein
24 returned fire.

25 Q. No. I read a few other reports, different officers,

1 responding officer at the time. And some officers, their story
2 lines basically coincide to the T. It ain't nothing -- you
3 know what I'm saying? You can't ambiguously misunderstand what
4 they are saying. So my question to you is, is it not an
5 obligation when you are inputting in an affidavit, you have to
6 be accurate and correct before getting a magistrate to sign on
7 it?

8 A. Absolutely, that's correct. And the information that
9 was put into my warrant was based on the information that was
10 told to me and relayed to me.

11 Q. But you did not do an investigation. You just got
12 that relayed to you?

13 A. So maybe you should understand that in this particular
14 case, I wasn't the lead agent. I didn't access reports. I
15 didn't interview other detectives, other officers on the scene.
16 That probably would have been done by the lead, I would
17 imagine. Therefore, I had no access to any other reports that
18 involved this incident. Okay? I had specific duties that
19 evening. There was a search warrant, the two search warrants
20 there at the scene for the car and then again at the hospital
21 for yourself.

22 Q. What's the duty of a detective? Is it not to
23 investigate?

24 A. Sure, it is.

25 Q. So would it not be hearsay at that point if you don't

1 do an investigation and you take what somebody else says and
2 put in your warrant?

3 A. No, it's not hearsay, no.

4 Q. Why not?

5 A. Because there's several detectives that are working
6 the scene. And somebody has to take the lead, one person. And
7 collectively, that information is gone over with and given to
8 that person, whoever the lead may be.

9 Q. Okay. You said it was Osborne, correct?

10 A. I believe on the City's case; however, it was going to
11 be turned over to SLED because it was a police-involved
12 shooting.

13 Q. That's just one person. That's not several.

14 A. That's an agency.

15 Q. Yeah, that's an agency. But you said --

16 A. It's a number of people involved.

17 Q. Source can't be one person, Osborne, correct?

18 A. To my recollection, that was my supervisor the night
19 that I arrived, and that's who I met with.

20 Q. And you also confirmed that you got this warrant
21 signed off before doing any detective work, which is one of
22 your requirements as a detective?

23 A. Now, sir, I was assigned to -- I was tasked with a
24 search warrant for your vehicle, a search warrant for your
25 body, your DNA. That's what I was tasked with.

1 Q. Did you not base that off hearsay?

2 A. No.

3 Q. So what detective work did you do other than getting a
4 warrant?

5 A. I had served a search warrant for your vehicle. I
6 secured a search warrant for your vehicle, as I stated earlier,
7 and I was tasked with getting a DNA sample, a buccal swab from
8 yourself at the hospital. There are other detectives involved
9 in doing other things. That's pretty much the standard
10 operating procedures of any investigation.

11 Q. Another question, my last question, do you not know
12 that by inputting -- not doing any real detective work and
13 investigating and inputting something that's in a search
14 warrant from somebody else that you've been told by the version
15 of what happened, you are not verifying for yourself, don't you
16 know that sometimes when you put words in these search
17 warrants, sometimes it can be ambiguously misunderstood and
18 that can cause damage? And when it cause damage, do you not
19 know sometimes that the media could eat that up and have you
20 looking like a bad guy, like I'm looking right now?

21 A. That's an opinion.

22 MR. SOWARDS: Objection, Your Honor.

23 THE COURT: Hold or a second. Yes?

24 MR. SOWARDS: It's -- I think there were maybe four or
25 five questions in there.

1 THE COURT: Do you want to be heard on this?

2 THE DEFENDANT: I think he's intelligent enough to
3 answer the question. Detective --

4 THE COURT: Ask the question again.

5 The DEFENDANT: Let me explain it like this.

6 THE COURT: You are asking him to explain why the
7 media would do something?

8 THE DEFENDANT: I'm asking him about inputting the
9 wrong information that can be ambiguously understood, ambiguous
10 statement in a warrant. Right? I'm asking him in regards to
11 that, about do he not know the severity that can cause by
12 putting in an ambiguous statement instead of being precise
13 within a search warrant affidavit, how damaging that can be.
14 BY THE DEFENDANT:

15 Q. Do you not know that?

16 A. Oh, it could be very damaging if that was
17 intentionally done, even accidentally done. But in your case,
18 in this particular case, that was direct information I received
19 from a fellow detective, sergeant, supervisor, whoever it may
20 be, which is generally what's done on most crime scenes. And
21 I've worked hundreds of them in my career. That's not unusual.
22 You have to retrieve that information from a detective that you
23 are working with on that particular case that night and relay
24 information. Not everybody can run to the judge. Some people
25 have to stay at the scene. Not everybody can run to the

1 hospital. Some people have other things to do. So we rely on
2 that information to be true and accurate. And to the best of
3 my knowledge, the information in this warrant was true and
4 accurate.

5 Q. So you don't realize reckless disregard is
6 unacceptable also --

7 A. I don't see any disregard in this at all, sir.

8 THE DEFENDANT: Okay. That's all I got.

9 THE COURT: Do you have any questions of this witness?

10 MR. SOWARDS: No, Your Honor.

11 THE COURT: Thank you, sir. You may step down. You
12 are free to go.

13 (Whereupon the witness is excused.)

14 THE COURT: All right. Who is your next witness?

15 THE DEFENDANT: Me.

16 THE COURT: Come around, please.

17 MARK LORENZO BLAKE, JR,

18 having been duly sworn, testifies as follows:

19 THE CLERK: Please state your name and spell your last
20 name for the record, please.

21 THE WITNESS: My name is Mark Lorenzo Blake Jr. Last
22 name is Blake, B-l-a-k-e.

23 THE COURT: All right. What do you want to tell the
24 jury, Mr. Blake.

25 THE WITNESS: Regarding the night of the incident --

1 so is it a narrative?

2 THE COURT: You can tell them what you want to tell
3 them.

4 THE WITNESS: Okay. I believe it was the night was
5 March 30th, 2013. It started off, I was leaving my apartment.
6 And after leaving my apartment, I stepped out of my apartment
7 into the vehicle that I was in. And I was on my way to get up
8 with a female acquaintance that I just had met that Friday. So
9 this is Saturday night. So I met her that Friday. She was
10 employed at the Wells Fargo. I think that's Sam Rittenburg and
11 Orleans Road. And she called me. And she wanted to meet up
12 with me to a bar, and I agreed. So I was headed out to meet
13 her.

14 Amongst me entering my vehicle, this is something
15 seemed like it wasn't right that night. And I don't know of
16 any other experience, like a gut feeling. But something about
17 the night wasn't right, but I still went forward. I needed a
18 drink. So I got in the vehicle and I made my way to King
19 Street Grill, which is located at Citadel Mall. And King
20 Street Grill, I believe it's a bar, so it's open until two
21 o'clock. And it's connected to the Citadel Mall right
22 next-door, across the street from the Planet Fitness, which is
23 also open.

24 So amongst me entering the side of the mall parking
25 lot, I turned and was coming off of Orleans Road. And I turned

1 into the first entrance. I don't know if y'all are familiar,
2 that first entrance would be by the movie theaters. Okay? I
3 stopped at a stop sign, made a left turn. I'm by the Target
4 area. And amongst me approaching, I believe it was like a part
5 of the mall that was closed, but I was just going throughout
6 the whole mall, trying to make my way to the bar. And I got a
7 text message by the same female acquaintance. She was at Wells
8 Fargo Bank that I met that Friday. And she stated that to meet
9 her across the street because she was getting money out of the
10 teller. And she also indicated in the text message something
11 about there was a dark area and I guess she knows better than
12 me that a couple of people that got robbed trying to get money
13 out of the ATM, so she wanted me to come and meet her there so
14 she would be more safe. So I agreed.

15 So I pull out of the parking lot of the mall. And I
16 made my way back on Orleans Road. I'm pulling out of the
17 parking lot and I make a right. And now I'm at the light of
18 Orleans and Sam Rittenburg. Light is red right now. So light
19 turns green. I go past the light. And after I go past the
20 light, I make a left turn within the Best Buy shopping center
21 that's connected with the Wells Fargo. And all of that stuff
22 is connected, same shopping center. So I make a left. And
23 when I make a left, a car made a left behind me. And after
24 this car made a left behind me, this car is like riding me, you
25 know, riding my bumper. So I'm thinking that this car was

1 trying to maybe go around me. So I pull over, try to let this
2 car go.

3 So after I pull over, this is car pulls over. And we
4 like in the front, in the center, in the middle of Best Buy
5 parking lot. So the car pulls over behind me. It's real dark
6 that night. I recall it being real dark within that parking
7 lot. So after the car pulls behind me, I'm looking in the
8 rearview mirror. So I'm thinking like maybe this is the girl,
9 maybe this is her. So we had a standstill at this point. I'm
10 like, I am not ready to go out of the car. Let her call me.
11 So we are parked at this time now. I'm feeling it ain't right.
12 So I call her number, and she don't answer. So I'm like
13 looking in the rearview mirror. I'm like, that's crazy. So I
14 call her back again. And she didn't answer again for the
15 second time.

16 So now I'm just looking in my rear view mirror and
17 nobody is getting out of the car, nothing. We both just
18 literally standing right there. So I pulled up maybe, like,
19 two feet, stopped. And then this car behind me did the same
20 exact thing. So after that, I just -- I said, something ain't
21 right. So I just sped out of the parking lot. I sped out of
22 the parking lot doing maybe, like, roughly 45, 50. And I made
23 my way on Dupont Road. Once I made my way on Dupont Road going
24 up towards Savannah Highway, I was probably hitting up to maybe
25 about 65. And at that point, I think I had shook the vehicle.

1 that was behind me. And at that point, I made my way up by
2 Savannah Highway and Dupont Road.

3 So amongst me making my way up towards the corner, the
4 light was yellow, so I turned right. And I had the
5 right-of-way. So at this point, I'm by the Honda dealership on
6 Savannah Highway. And the light was red. And it then turned
7 green and there were a couple of cars in the middle. So I was
8 in my left lane and I crossed over to my right lane and then I
9 crossed back over to my left lane. So amongst all of that, I'm
10 calling this female again. And this female is not answering.
11 So now I mean, I'm just getting some type of funny feeling once
12 again. So I'm like, you know what, I'm just going back home.

13 Amongst me making my way passed the McDonald's and the
14 Motel 6 on Savannah Highway and I'm entering the ramp, I get
15 maybe halfway or maybe a good bit up the ramp. And all of a
16 sudden, my car just cuts off. My car cuts off and the wheel
17 locks left. So at this point, it's drifting over left and I'm
18 trying to straighten the wheel up so I avoid a bad accident.
19 So the car ended up crashing. And once the car crashed, I
20 looked around in the car. And all of a sudden, I looked up in
21 the rearview mirror and I see this other car coming up full
22 speed ahead behind me. And I'm thinking like, darn, this car
23 ain't stopping, seem like it's just sailing. So only option is
24 I jar the door. And I remember leaving my phone in the car.
25 And at this point, I had a firearm on me, of course. And it

1 was tucked on my side, on my right side. As I remember, it
2 wasn't showing or nothing because my shirt was over and I had a
3 jacket on.

4 And I jumped over the railing. And once I jumped over
5 the railing, I'm like going down a ramp, adjacent ramp. So my
6 momentum is going forward. I didn't even intended to go all
7 the way down. My momentum is going forward at this point and
8 I'm underneath a bridge, I-526 bridge at this point. And next
9 thing you know, I hear somebody saying, Stop. So I look back.
10 I try to look back and peer over my shoulder, but it's
11 pitch-black dark. And I see a person in all dark-colored
12 clothing. So I don't know if this is the same person that was
13 behind me or this is a different person. I don't know who this
14 person is. I'm just hearing this person saying, Stop, stop.
15 I can't identify this person.

16 So I'm trying to running at the same time going down
17 this ramp. And there's all type of debris. So I'm more
18 precaution for my safety as far as making sure I don't get a
19 sprained ankle trying to get down this ramp. That was my main
20 focus and concern at the time. And I got all the way down the
21 ramp. And I heard this person saying -- I believe I heard him
22 saying, Stop, again. So now I'm looking back. And he's like
23 maybe, give or take, maybe 15 feet away, 15 or 20 feet in
24 between away from me. So I'm running.

25 And this is the crazy thing. It's a Saturday night.

1 And I'm familiar with West Ashley area. Okay? Now, we are in
2 the middle of Sam Rittenburg Boulevard and Savannah Highway.
3 At this particular point, ain't no cars coming down nowhere.
4 It's just pitch-black dark. There's nothing illuminating the
5 roads or nothing. As I'm running, I see a Comfort Inn Suites
6 that I'm approaching. And the area that the Comfort Inn
7 Suites, the parking lot area is lit. So my concern is running
8 to safety from whoever this is pursuing me.

9 So after I get up by the Comfort Inn Suites and I'm
10 crossing the street that goes up to the rear of Comfort Inn
11 Suites, after that, I make it to the sidewalk. And after I
12 make it to the sidewalk, I hear shots ringing. I hear a few
13 shots ringing. And after a few shots rung from the back, I
14 think -- can I demonstrate, Judge?

15 THE COURT: Yes.

16 THE WITNESS: So I'm running. Every motion I do at
17 this point is simultaneously. So as I'm running, I hear the
18 shots. I'm ducking. And at the same time, I'm grabbing for my
19 weapon. And then next thing I know, one of the shots hit me in
20 my right leg. So after the shot hit me in my right leg and
21 I'm on my left leg, okay, and I come down on my right leg, and
22 after I come down on my right leg, my leg gives out and
23 buckles. After it buckles, my momentum is sliding me towards
24 here.

25 So I got a gun in my hand. Coming down on my right

1 leg, my leg buckles, because I've been shot, of course. I
2 think I broke a bone. And after that, it swing me. One only
3 thing I could do at this point was blind fire to get this
4 person off me. So I blind fire. Boom, boom, boom. I remember
5 that. And after that, my leg still was locked. And after it
6 was locked, I did a 360 and fell, fell like this. (Witness
7 indicates.) Okay?

8 When I fell like that, the gun was out. So at this
9 point, there's no more shots going off. So I'm on the ground,
10 gun right there. I grabbed the gun. So I'm thinking the
11 shooter already fleeing. So at this point, no longer shots
12 going off. I don't hear nothing. So I tried to get up on my
13 knees. Tried to get on my right leg. And as I'm trying to get
14 on my right leg, I can remember it is snapping and cracking.
15 So I fall again. Now I'm face down again.

16 So I'm like, man, this is crazy. So after that, I get
17 up, I try to get on my left knee. And at this point, I try to
18 get up and balance myself on my left leg. And I'm putting all
19 my body pressure on my left leg. Okay? Now I'm trying to get
20 up. I get up half way, and then I come down again, and my leg
21 gave out on me and I hear crack noise again.

22 So at this point, I'm still laying on my stomach. So
23 now, I'm like, well, look, I'm going to try to get up a
24 different way. So I roll over on my back. And once I roll
25 over on my back, I try sitting up. And I didn't even sit up

1 all the way. I'm sitting up halfway. I see a person standing
2 in the middle of Sam Rittenburg Boulevard, gun in hand locked
3 on me, fires a weapon. It hit me in my left arm.

4 The momentum was so impactive, it knocked me down at
5 this point. So I'm knocked down. So I'm just laying there.
6 So I'm thinking to myself, if I get up again, next shot is
7 going to be a fatal shot; I'm going to be dead. So at this
8 point, I just start blind firing to get this person off me.

9 So I'm out of bullets after I blind fire. There's no
10 more shots going off. And something told me to take a chance
11 and look again. So I look up. And when I look up like this,
12 I'm on my right arm. And my left arm, there's no feeling at
13 all. It's like I had a manikin arm on me at this point,
14 because of the nerve damage. I didn't have no feeling in my
15 left arm. So I look up. And I see a person in all dark
16 clothing the middle of Sam Rittenburg Boulevard. And now they
17 are like in a crouched position. And then I see him fall down
18 to the ground like this. So I'm looking him.

19 And then I see cars coming and they are illuminating.
20 Their lights are illuminating the road. And all I remember
21 seeing that first glance is just a bunch of shells hanging
22 around this person. So I'm still looking up. Cars coming
23 towards me. And I'm breathing hard. And I see my vision was
24 kicking in. And this looked like a police officer. So I lay
25 back down, trying to get myself together. And next thing you

1 know, I hear another shot. So I jump up again. So I come to
2 the conclusion -- I came back to the conclusion that I don't
3 have no more rounds at this point. So I'm like, oh, man, I got
4 to try to get to safety. This person will finish me off. I
5 have no more rounds.

6 So I try getting up. I roll over on my stomach again.
7 And after that, I tried getting up again, pushing up. And I
8 try getting on my left leg again. And after that, I lifted up
9 and I came down again and fell again. And I was face down.
10 And after I was face down, only thing I could recall after that
11 was hearing a woman's voice in the background. And I was just
12 happy to hear that voice.

13 And next thing you know, moments later, I saw a
14 flashlight hovering over me. So this person comes up and he
15 checks my pulse. And I'm breathing hard. So I tell him, I
16 said, hey, whoever this is, you know, I've been shot and I
17 don't know whoever that is still out there or not, you know,
18 but I've been shot. And then all I can recall, that officer
19 saying after that was -- the exact accusation as I can
20 remember, he said, Shut up, Nigger, before I let you bleed out
21 or die.

22 So after that, I thought my life was over. You know,
23 I thought whoever this person was, had it been an officer, he
24 really was going to let me bleed out and die that night. So
25 after that, luckily some more officers came around and put me

1 in handcuffs. And then EMS came. I heard the EMS. And they
2 took me in and asked me a couple of questions. And then I just
3 answered a couple of questions to try to keep me conscious.

4 I don't know if y'all have ever been shot before, but
5 if you've ever been shot before, the pain is just so extreme
6 that you just want to close your eyes. But they just try to
7 keep you up. So that's what they did for a little while. And
8 after that, that's the only thing I can recall.

9 And after maybe, like, two days later, I woke up from
10 surgery. And I saw two detectives sitting across the from me.
11 And I don't know how -- I don't think I had handcuffs on,
12 because I just got out of surgery. And I went back to sleep.
13 And then I woke back up. And after I woke back up, I think
14 there were some detention center officers in the room next to
15 me.

16 And only thing I recall next is, I think maybe it was
17 Agent Ryan Kelly tried to interview me about the incident. And
18 at that point in time, I was on heavy medication. So I wasn't
19 willing to give a good statement of what happened. And,
20 therefore, I declined to give any information regarding the
21 incident without my lawyer being present at that time. So
22 that's the only thing -- that's all I remember from that night.

23 My intentions that night were definitely not to --
24 definitely not looking for trouble. It's a rental car I was
25 in. One of my best friends, she rented a car for me. I was

1 trying to pursue a job that I ended up landing at a dealership
2 on Ashley Phosphate Road at the time. And my intentions that
3 night was just to rendezvous with this female, have a couple of
4 drinks. But I did not step out of my house that night to get
5 involved in this big act of violence that got me right here
6 right now. That's my testimony.

7 THE COURT: Cross.

8 CROSS-EXAMINATION

9 BY MS. LINDER:

10 Q. All right. Mr. Blake, I want to start by kind of
11 going through and making sure that I understand, make sure I am
12 not misunderstanding anything that you just testified to.

13 Okay?

14 A. Okay.

15 Q. That's how I want to kind of start going through this.

16 A. Okay. That's cool.

17 Q. So you're leaving your apartment, about to get into
18 the vehicle, right?

19 A. Yes, after I step out of my apartment.

20 Q. All right. So when you are getting into that
21 vehicle -- your friend rented it for you?

22 A. That's correct.

23 Q. And you didn't rent it because why?

24 A. At that time, I don't really -- I can't remember the
25 reason. But what it was, I think I was going through a whole a

1 lot around that time. So she offered to provide me with a
2 rental car, you know. So I just took up her offer. And that's
3 just what it was, as a friend.

4 Q. So you are going to meet a female who you had met the
5 day before, right?

6 A. Yeah, it was the day before, that Friday.

7 Q. And she worked at that Wells Fargo on Sam Rittenburg
8 by the Best Buy?

9 A. Yeah, correct, she did at that time.

10 Q. What's her name?

11 A. I just knew her first name. Her first name was
12 Shundra (ph). I forgot her last name.

13 Q. Do you know how that's spelled?

14 A. Shundra, I would have to say S-h-u-n-d-r-a maybe.

15 Q. You don't know her last name?

16 A. No, I don't know her last name. I didn't get to know
17 her that good to know her last name. When I'm meeting women,
18 I'm trying to keep up with the first name.

19 Q. Do you know about how old she was?

20 A. I was 26. She seemed older. She seemed older. She
21 seemed like maybe she, like, was a couple of years older than
22 me, maybe like 28.

23 Q. And she worked at that Wells Fargo? What did she do
24 at that Wells Fargo?

25 A. When I met her, she was assisting me on getting some

1 financial documents. So I guess she was like, you know, when
2 you go into a bank, they assist you, and then you've got to sit
3 in the cubicle.

4 Q. I'm sorry. Go ahead and finish.

5 A. Yeah, I don't really know those people, I don't know
6 if they call them bankers. I'm not familiar with the job
7 title.

8 Q. I thought you just testified that you met her on
9 Friday night at a bar, and you were going to meet up with her
10 Saturday night at a bar?

11 A. No, I never met up with her at the bar. I initially
12 met her Friday before the incident. So we was trying to
13 rendezvous Saturday. That's when she was supposed to be, I
14 guess, available.

15 Q. Okay. So what area of town did she live in?

16 A. I believe it was like either Summerville or Goose
17 Creek. It was one of those areas.

18 Q. And did she have any kids or anything?

19 A. You are talking like grandkids or just kids in
20 general?

21 Q. Did she have children?

22 A. I think she said she had one child at the time.

23 Q. You said you didn't remember her last name. Do you
24 remember anything about social media, you know, her Instagram
25 account or Facebook account or anything? How did you all first

1 get into that?

2 A. How did we get into --

3 Q. Were you friends on Facebook or anything?

4 A. No. At the time, I didn't have a Facebook. And we
5 didn't have any -- we didn't exchange no Facebook or social
6 media. I don't recall us exchanging any -- I think I had a
7 Twitter or something like that. But we didn't exchange through
8 social media. We exchanged through numbers, phone numbers.

9 Q. And so the plan on Saturday was that you were going to
10 go meet her at the bar?

11 A. Correct.

12 Q. What time were you supposed to meet her?

13 A. I think she called me around 10-ish maybe. And she
14 told me -- as a matter of fact, let me rephrase that. She
15 never called me. She texted me. She texted me that she was on
16 her way and she was not too far from King Street Grill.

17 Q. And who picked that spot?

18 A. I think we both decided on it, because, I mean, I
19 definitely like that spot. That was one of my spots.

20 Q. She was coming from Summerville, though, right?

21 A. Yeah, she was coming from Summerville, around that
22 area. So she agreed to come all the way to where I was at.

23 Q.. All right. So you are driving this rental car. And
24 you are not an authorized driver on the rental car, right?

25 A. See, at that time, I was unaware, I was uninformed

1 that I wasn't an unauthorized driver of this rental car.

2 Q. I'm going to show you State's 129. It's already been
3 admitted into evidence. If you can't see it because of the
4 glare, let me know. And you can look at it closer up. Okay.
5 Can you read this line right here?

6 A. States: No other drivers permitted.

7 Q. Okay. And you already said you weren't the one who
8 rented the car?

9 A. That's correct.

10 Q. So you weren't allowed to be legally driving the car,
11 right?

12 A. Yeah, we agreed.

13 Q. So you weren't allowed to be legally driving the car?
14 According to that legal contract, you were not allowed to
15 legally be driving that car, right?

16 A. Well, first of all, I never read the contract, so I
17 was still uninformed. When we came together, as far as the
18 rental car situation, she never -- it was in between us, me
19 being misinformed and uninformed, so I definitely did not read
20 the contract.

21 Q. All right. Did you have a driver's license at the
22 time or was it suspended?

23 A. Did I have a driver's license? I did have a driver's
24 license.

25 Q. Suspended?

1 A. No, it wasn't suspended, not to my recollection it
2 wasn't.

3 Q. So --

4 A. As a matter of fact, it couldn't have been suspended,
5 because I'm working at a dealership. And, I mean, they run all
6 that stuff. So I couldn't have got possibly hired as a
7 salesman if I'm operating vehicles. So, to my knowledge, my
8 license was not suspended at that point in time.

9 THE COURT: We are going to stop soon to accommodate
10 that juror. So let me know when we get to a --

11 MS. LINDER: Judge, if you would like, I'm happy to
12 stop now, but I think this is going to take awhile with him.

13 THE COURT: Okay. All right. Give me a minute. All
14 right. Ladies and gentlemen, I want you to be back at 3:15 in
15 the jury room. I'm not sure if we will be able to start right
16 then or not. And I'm going to try to get all of the evidence
17 in today. Hopefully, we can do that.

18 I told you yesterday there may be some extended
19 breaks, things that come up even beyond that day that I did not
20 know about. So I have to break now and ask you to be back at
21 3:15 in the jury room. Don't discuss the case.

22 And, Mr. Brown, will you stay so I can talk to you a
23 second. All right. Thank you.

24 (Whereupon, the jury leaves open court at 12:45 p.m.)

25 THE COURT: If there's any way you can reschedule any

1 of this, like the lab work or whatever is not essential for
2 your health, would you please try to do that?

3 JUROR 35: Yeah, I can try, but it's never been done
4 before.

5 THE COURT: I understand.

6 JUROR 35: Yeah, let me try. I could try. But I want
7 to -- I'm going to need those injections this week and ought to
8 be finished around 5. And they are so busy. You know, I just
9 never tried to interrupt the schedule.

10 THE COURT: All right. Well, if you could, tell the
11 person that you are on a jury. Don't tell them what kind of
12 case, and the judge asked if you could please --

13 JUROR 35: I got you.

14 THE COURT: They don't care. That might make it
15 worse, but I am not talking about any person or hospital in
16 particular, but I understand. They are very busy.

17 JUROR 35: Yeah.

18 THE COURT: Just see what you can do. Try to expedite
19 it, if you can. If you can reschedule some of it, whatever you
20 can do to get back here as quick as you can.

21 And you got his phone number?

22 JUROR 35: I will see if I can try for tomorrow. I
23 can see if they can reschedule for tomorrow.

24 THE COURT: Can you do that now?

25 JUROR 35: I will try.

1 THE COURT: Can you call them now?

2 JUROR 35: Yeah.

3 THE COURT: We will just wait on you then. Tell the
4 rest of the jurors -- have they left?

5 THE BAILIFF: Not yet.

6 THE COURT: Tell them to stay in the jury room. Take
7 him somewhere where he can call in quiet. We will be at ease
8 until we find out.

9 (Whereupon, a recess transpired.)

10 THE COURT: I think he got it set up for tomorrow.
11 He's rearranged it for tomorrow. And I told the jury -- they
12 are trying to call jurors now to tell them to be back at 2:15.
13 So we are in recess until 2:15. Thank you.

14 (Court's Exh. 6, Jury note, was marked for
15 identification.)

16 (Whereupon, a recess transpired.)

17 THE COURT: Bring the jury, please.

18 (Whereupon, the jury returns to open court at 2:17
19 p.m.)

20 THE COURT: I appreciate everybody responding to our
21 change in plans.

22 You may continue.

23 MS. LINDER: Thank you, Your Honor. May it please the
24 Court.

25 BY MS. LINDER:

1 Q. All right. Mr. Blake, I believe where we left off was
2 you driving this rental car when you didn't have permission to
3 drive it, right? You didn't have permission, according to the
4 contract, to drive it?

5 A. Document, yeah, that's what it states, I wasn't an
6 authorized driver.

7 Q. And your license was suspended, right?

8 A. I mean, I just don't recall my license being
9 suspended. I just had picked up a job the day before working
10 at a dealership that required me to operate vehicles. And they
11 ran all of that information. And, therefore, it wasn't
12 suspended. I never had a driving under suspension ever in my
13 life according to this incident. So I never was fully aware at
14 all that my license was subpoenaed. So this is new to me.

15 (State's Exh. 170, Mark Blake's driving record, was
16 marked for identification.)

17 BY MS. LINDER:

18 Q. I'm going to show you what's been that marked State's
19 Exhibit 170. Do you recognize that?

20 A. Yes. It's a photo printout of my license,
21 apparently.

22 Q. Okay.

23 A. My driving record, I'm sorry, my driving record.

24 Q. And can you -- on the first page of the driving
25 record, can you read what I highlighted up there, what it said

1 about whether your license was suspended or not?

2 A. Yes, it does say suspended.

3 Q. It says suspended?

4 A. It does.

5 Q. And I think you just testified that you never had your
6 driver's license suspended for anything?

7 A. Never.

8 Q. Okay. So I would like you to look at the next page.
9 I would like you to read the highlighted part and what that
10 says.

11 A. Okay. It says, S-U-S-B. I'm guessing that's the
12 abbreviation for suspension, driving under the influence.

13 Q. So is it your testimony that your license was not
14 suspended when you got convicted for a DUI?

15 A. Well, based on I never got sanctioned for a DUS, I
16 didn't have indication my license was suspended. I caught that
17 charge we're referring to, it was back maybe 2012, and it was a
18 magistrate by the name of Bonnie Koontz. And they wanted --
19 they was trying to suspend my license. And I stipulated to
20 her, and I guess it was like a prosecutor within her office in
21 the magistrate, I said, I couldn't have my license suspended at
22 this point because I need my licenses. And they was like, we
23 need you to plead guilty to this. And I said, I am not
24 pleading guilty to this, I'm taking it to trial. And at this
25 point, we came to an agreement that they would -- if I pled

1 guilty on it, then they would drop it down as a refusal to
2 blow. And, therefore, I would just have to be required to pay
3 the ticket, which I thought was unfair because I already had
4 bonded out on that and then they want me to pay an extra
5 thousand dollars.

6 So I told the lady, I was like, if I pay this extra
7 thousand dollars, then won't my license be suspended? And she
8 was like, no. So she was like, well, what we are going to do
9 is, we are going to have it at your discretion, whenever you
10 can, sign up for a class. She never informed me whatsoever
11 whether it was mandatory at the time or not. So at this point,
12 I'm still thinking my license is good, because they gave me
13 discretion issue to where I can sign up to this class to get
14 this thing all cleared up. And that was part of the
15 stipulation and agreement. But that's what I get for not doing
16 a follow-up on it and trusting in my, I guess, higher public
17 officials, as you say.

18 THE COURT: Hold on. Ladies and gentlemen, I need to
19 give you a limiting instruction. I told you earlier that there
20 was evidence that had been admitted related to other wrongs or
21 acts alleged to have been done by Mr. Blake in operating a
22 vehicle. At this point, I need to give you a limiting
23 instruction, which, again, means that the evidence that you
24 just heard was admitted for a limited purpose. And if you use
25 that evidence for any purpose, you can only use it within the

1 limited purpose of which it's submitted.

2 I charge you, ladies and gentlemen, that the evidence
3 of other crimes, wrongs or acts, is not admitted to prove the
4 character of an accused in order to show acts in conformity
5 with that character. In other words, the fact that someone may
6 have been involved in a prior bad act cannot be used to prove
7 that he had the character to commit another bad act. This
8 evidence was admitted for a limited purpose. And if you
9 conclude it to be true, you can only use it for the limited
10 purposes that the rules of evidence allow.

11 It may only be used, if at all, in assessing the
12 following issues, I told you earlier, you could assess that
13 other evidence related to motive or intent. And I need to add,
14 you could evaluate this, if you conclude it to be true, on the
15 issue of the credibility of the witness, and for no other
16 purpose. Evidence of alleged bad driving is not to be used for
17 any other purpose.

18 You may continue.

19 MS. LINDER: Thank you, Your Honor.

20 BY MS. LINDER:

21 Q. Isn't it true then that on June 27, 2012, is when you
22 pled guilty to the DUI in magistrate court; right?

23 A. That's incorrect. I told you, me, the judge and I
24 think it was like a prosecutor that we came to an agreement
25 that, verbal agreement, that they would not suspend my license

1 and they would drop the DUS down to a refusal to blow. And,
2 therefore, I could keep my license at the time. I would just
3 have to go to class and pay a thousand dollar fine, which I
4 already paid a fine prior to that. So I really thought the
5 penalty was really stiff.

6 Q. So, Mr. Blake, you are not disputing that you pleaded
7 guilty to a driving offense. You are saying it was -- you were
8 pleading guilty to a refusal to blow as opposed to a DUI?

9 A. That's correct. And that's how it's supposed to be in
10 the record.

11 Q. Okay. But you entered a guilty plea that day, isn't
12 that true?

13 A. I did.

14 Q. And that guilty plea then ended up suspending your
15 license, as you read off of the driving record?

16 A. Okay. I was very uninformed of that, because I never
17 caught a charge for DUS.

18 Q. All right. So I want to take you back. You were
19 talking about when you were driving that rental car you weren't
20 supposed to and driving at all were you weren't supposed to --

21 A. I never said nothing about I wasn't supposed to --

22 Q. You pulled into the Citadel Mall parking lot. I want
23 to make sure. You said when you were testifying that you
24 pulled through there, but you said King Street Grill and Planet
25 Fitness was open, correct?

1 A. That's correct, approximately around, like, 10,
2 10-ish.

3 Q. Would it surprise you to know that Planet Fitness
4 didn't open until 2015?

5 A. 2015? What Planet Fitness are you talking about?

6 Q. The Planet Fitness at the Citadel Mall opened in 2015.

7 A. Planet Fitness in Citadel Mall did not open in 2015.
8 I've been actually inside the Planet Fitness. I mean, I go to
9 the mall every day just for leisure time when I don't have
10 nothing to do. So that's incorrect. You got to show me
11 documented proof on that. I mean, I know a few people that had
12 memberships at Planet Fitness. I used to go to King Street
13 Grill almost every week to get lunch. I mean, show me some
14 document on that.

15 Q. All right. So when you left the mall, you said that
16 you stopped at that stop sign, and you got a text. And this
17 girl Shundra, right -- Shundra or Shaundra?

18 A. I believe it was pronounced Shundra, Shundra.

19 Q. She worked at the Wells Fargo and helped you with all
20 your financial documents the day before?

21 A. That's correct.

22 Q. And she texted you saying that, you know, she was
23 going to go to the Wells Fargo, even though it was 10:30 at
24 night, because she was going to get money out, right?

25 A. That's what she, yeah, stipulated in a text.

1 Q. So then you ended up leaving the mall parking lot.
2 And you never went in King Street Grill? You left the mall
3 parking lot?

4 A. I left the mall parking lot and never pulled up to
5 King Street Grill.

6 Q. And then you said, I believe, and correct me if I'm
7 wrong, I believe on your testimony you said that you were
8 stopped at the red light at Orleans Road and Sam Rittenburg; is
9 that right?

10 A. That's correct.

11 Q. And talk to me about that, about the lighting at that
12 corner. What's around that corner? If you are sitting there
13 on Orleans Road and you got the stop light at Sam Rittenburg,
14 what is directly to your right? Isn't that Harrell Square?
15 Isn't there like a Panera and stuff in there?

16 A. Yeah, there's another shopping center at that light,
17 yeah, there is.

18 Q. And all those lights were on, right?

19 A. I can't say, because I was not paying attention. I
20 was at the light and looking at my phone. So I cannot say. I
21 don't know.

22 Q. Who was behind you at that stop light?

23 A. I don't know. I just know it was a car at that point.
24 I didn't know who it was at the stop light when I was stopped.
25 There was a car behind me.

1 Q. Oh. I didn't -- I thought in your testimony you were
2 just stopped at that light, and then you didn't notice this car
3 until it made a left behind you into the Best Buy parking lot?
4 Is that not true now?

5 A. I mean, I know I was in traffic. So, obviously
6 there's cars behind me. I'm saying this particular car that
7 pulled up behind me, I didn't notice, you know what I'm saying,
8 car was following me at this point and riding me.

9 Q. All right. So when the light turned green, you went
10 straight. Is it your testimony that you used all the proper
11 signals when you turned left into Best Buy?

12 A. That's correct.

13 Q. And car made a left behind you; is that right?

14 A. That's correct.

15 Q. And describe that car to me.

16 A. The car? I can't really describe the car to you. It
17 looked like a new model car, to the best of my ability, the way
18 I could see it in my rearview. And the parking lot -- I recall
19 the parking lot being very dark. And I'm familiar with the
20 West Ashley area. Like, Sam Rittenburg Boulevard is just a
21 dark road, especially the closer you get to Savannah Highway.
22 Just always been like that. So when I pulled up in the parking
23 lot and this is car was behind me, I'm thinking -- this is a
24 conjecture -- this is a new model vehicle that's behind me. I
25 couldn't really tell you what type of vehicle.

1 Q. Was it light or dark?

2 A. The car?

3 Q. Yes.

4 A. Like I said, it was a dark setting. So I don't know
5 whether this car was blue, black. I don't know. I can't -- I
6 couldn't tell you.

7 Q. With your brake lights illuminated and with your turn
8 signal illuminated, when you were turning in, you couldn't see
9 that along with the headlights of that car behind you?

10 A. I wasn't looking in the rearview mirror the whole
11 time. I was looking back and forth and back and forth. And I
12 could not identify -- I couldn't even see a figure when I
13 was -- when I was looking through. So, I mean, I couldn't see.

14 Q. All right. So you are saying that this newer model
15 vehicle, unsure what color, was riding your bumper as you were
16 going through that Best Buy parking lot; is that right?

17 A. That's correct.

18 Q. And you said that you pulled over because you thought
19 that dark -- or, I'm sorry, you thought that that vehicle,
20 unknown color, was going to try to go around you?

21 A. Yeah, because usually it's just typical driving, in my
22 experience. Even when somebody is trying to ride you, I mean,
23 nine out of ten, either -- they are trying to, you know, go
24 around you. So that's just what I thought it was.

25 Q. The Best Buy was closed, though, right?

1 A. Yeah, at that point, Best Buy was closed.

2 Q. I don't remember if Michael's was there at that point.
3 Was that Michael's closed too? All the businesses there were
4 closed for people to be walking in and out of them?

5 A. Talking about Michael's? Talking about the store
6 exactly across the street from the mall?

7 Q. Michael's is attached to Best Buy. Am I right?

8 A. See, I don't know. I thought that was kind of
9 like a -- you are talking like the store, if I'm facing -- you
10 are talking about a little smaller store on the side of Best
11 Buy? I know it's a bookstore. There was a bookstore and then
12 there was a Best Buy and a smaller store.

13 Q. You know, Mr. Blake, my years are off. I believe you
14 are right. There's a bookstore, Books-A-Million, before that
15 that closed. People stopped reading books. And before that
16 happened, you know, that was next-door to that. So were people
17 walking out of Books-A-Million or walking in and out of the
18 Best Buy at 10:308 night, or the business was closed?

19 A. I would to say that -- and, I mean, you know the
20 answer. The business, clearly established it was closed. I
21 mean, it's ten o'clock.

22 Q. Okay. So is it your testimony that there are not
23 overhead lights within the parking lot of Best Buy?

24 A. To say that there's not?

25 Q. Yeah. Is that your testimony?

1 A. I am not saying that it's not. I'm saying it's poorly
2 lighted, from my recollection of the night of that incident. I
3 have very good eyes. And I just did not -- everything that
4 night was dark.

5 Q. All right. So this dark vehicle was behind you. And
6 you said you had a bad feeling; is that right?

7 A. Yeah. Well, it was initially I had a bad feeling,
8 before I jumped in the car. Then it came back on at this
9 point, yeah.

10 Q. When you had a bad feeling and there was this new
11 model who-knows-what-color car behind you in the Best Buy
12 parking lot, why didn't you call the police for help?

13 A. Well, to tell you the truth, it was happening so fast
14 that that wasn't on my mind for calling police for help at that
15 point. Maybe I'm thinking this person behind me has the wrong
16 person. Maybe they are mistaking me for somebody else's,
17 maybe. I don't know. But that didn't even come to mind of
18 calling the police. I just went with my first mind is trying
19 to ...

20 Q. So your testimony is that when you came to a complete
21 stop and this is newer model, unknown color in the Best Buy
22 parking lot with lights, but you are saying they weren't on or
23 however, you are saying nobody in the car behind you started to
24 get out?

25 A. Nobody. I mean, we was parked for a while. And it

1 was -- I couldn't see no other cars passing by. And me and
2 this other car behind me were, like, the only two cars in that
3 parking lot. And I was looking up periodically the whole time
4 between looking at my phone and looking at the rear view. And
5 nobody ever got out of the car.

6 Q. And is it your testimony then that you did not see the
7 police car was behind you in the Best Buy parking lot?

8 A. That's correct. I did not know that that was a police
9 car at that point in time that was behind me within that Best
10 Buy parking lot.

11 Q. And is it your testimony that you did not see blue
12 lights in that Best Buy parking lot?

13 A. It's my testimony that I absolutely did not see blue
14 lights when I was in that parking lot.

15 Q. Is it your testimony that you did not hear a siren
16 from a police car from right behind you in that Best Buy
17 parking lot?

18 A. Even though my radio was on, it was low, but I
19 definitely did not hear a siren.

20 Q. All right. So you then made the decision. I believe
21 you said you sped out of the lot. You approximated your speed
22 at 45, 50 miles per hour; is that right?

23 A. Yeah, that's about right.

24 Q. And you turned off your headlights?

25 A. I don't recall turning off my headlights.

1 Q. All right. So you didn't turn off your headlights and
2 you started speeding away from this new model, unknown color,
3 out of this business parking lot. And I believe it's your
4 testimony, you took Dupont towards Savannah. And you were
5 going about 65 miles per hour; is that right?

6 A. Yeah, that's about right.

7 Q. So for that stretch down Dupont all the way to
8 Savannah Highway, is it your testimony that you did not see
9 blue lights at all that whole time down Dupont Road?

10 A. I'm trying to tell you, from beginning all the way to
11 the end, I never seen blue lights activated.

12 Q. Okay. And so is it your testimony that you never
13 heard any sirens that entire way, all the way down Dupont from
14 when you sped away from this new model, unknown color car in a
15 business parking lot, with your suspended license and a rental
16 car you weren't supposed to drive, you did not hear sirens the
17 whole way down Dupont; is that right?

18 A. I have to say this again, all the way from the
19 beginning to the end, I never, ever heard sirens. I never -- I
20 was uninformed that my license was suspended. I was in between
21 misinformed and uninformed that I was not a listed driver of
22 the vehicle. Little small charges like that, I don't care
23 about. I mean, I will take my charge for that. I mean, I am
24 not going to run from nothing small like that.

25 Q. Okay. Again, like I said, Mr. Blake, I'm just trying

1 to make sure that the jury understands every single one of
2 these details what you are saying happened.

3 A. Okay.

4 Q. You said that once you got on Savannah Highway, you
5 said -- I think you said you thought you shook the vehicle
6 behind you; is that right? Is that what you testified to?

7 A. Yeah. As I was setting on Dupont and made that right
8 on Savannah Highway, and at this point, I did not see the same
9 particular looking vehicle in sight. So I automatically
10 thought that I shook this vehicle.

11 Q. What vehicles did you see on Savannah Highway?

12 A. I saw vehicles in front of me, which was traffic in
13 front. And it was some vehicles coming, like, further behind
14 down Savannah Highway. I think maybe that's behind Captain
15 D's. I think they were at the light.

16 Q. All right. I have to ask, though, if you just know it
17 was a newer model car and you don't know the color, how do you
18 know that you shook this vehicle?

19 A. Well, --

20 Q. Or is that the feeling you had?

21 A. Well, I wasn't too sure really whether it was a newer
22 model car. I just assumed it was because, I guess maybe a
23 little bit of the body, maybe if it was. But how do I know I
24 was sure? Because, I mean, I didn't see this person on my tail
25 at that point when I got on Savannah Highway. So that's how I

1 thought I shook the car.

2 Q. So after you shook the car, I mean, wouldn't you turn
3 your headlights back on?

4 A. Well, once again, I don't recall ever my highlights
5 being on. Now, I am not saying that -- I am not going to
6 dispute whether my headlights were on or not. But, I mean, I
7 could have been going so fast behind the wheel to the point
8 that I knocked the headlights off. So, I mean, I can't say
9 that my headlights weren't off, but definitely it wasn't an
10 intentional act by myself.

11 Q. All right. So I believe the next thing you testified
12 about is after you shook that vehicle, and you are on Savannah
13 Highway, you are in the left lane and the right lane and the
14 left lane, and you said you tried to call that female, and she
15 didn't answer; is that right?

16 A. Yeah, for the third time, I called her and she did not
17 answer the phone again.

18 Q. And, again, I was taking as many notes as I could.
19 You said that you had a funny feeling about it, so you headed
20 home, is that right?

21 A. Yeah, I had a gut feeling as if, I don't know, like
22 I'm -- kind of like I'm-being-set-up type of feeling.

23 Q. All right. So when you had that funny feeling, why
24 didn't you call the police for help then?

25 A. Well, just like I said -- I probably have to get into

1 it. I'm from -- how I came up as a boy, I grew up in a
2 downtown area, stuff like that. And people of my, I guess, my
3 age level and stuff like that, and being in the neighborhood, I
4 mean, when trouble arises, I mean, we never, ever really looked
5 at it like our first option is calling a cop or nothing like
6 that. So I don't know, it grew on me as a teenager that's not
7 my personal initial thing is to call a cop. I didn't really
8 think it was that serious to call a cop.

9 If my car get stolen, I mean, I did call a cop when my
10 car got towed. I remember experiencing that situation, but
11 that just came to my mind at the time.

12 Q. Is that because, kind of as you said, as you grew up,
13 cops wouldn't really help you?

14 A. Yeah. And being in my youth, you know, you encounter
15 harassments from cops all the time. It's normal where I grew
16 up in. It's kind of like an urban culture environment, stuff
17 like that. So, like, you know, our viewpoints and stuff like
18 that just kind of little different on law enforcement.

19 Q. Okay. Do you remember in 2011, it was October of 2011
20 when City of Charleston Police Department contacted you? They
21 contacted you because they found your wallet. Do you remember
22 that? They contacted you because they found your wallet. It
23 had your license. It had a card in it and it had \$1,000 cash.
24 And they called you to return it. Do you remember that?

25 A. They called me to return it? You said they called me

1 to return it?

2 Q. They called the number for you.

3 A. Yeah.

4 Q. And then you ended up getting your wallet returned to
5 you from the City, do you remember that, 2011?

6 A. Yeah, I do remember. I do remember that incident.

7 Q. So the police did something good for you?

8 A. Actually, it was -- when I got down to the police
9 department, it was a guy that was in a laundromat. He pulled
10 up in a Mercedes-Benz. And I looked to the left of him and I'm
11 like, this guy is in a Mercedes-Benz, what are you doing in a
12 laundromat? Anyway, it was that same guy who turned my wallet
13 in to the police. And that's what the police department told
14 me anyways.

15 Q. I bet you were happy you got that money back and your
16 wallet, right?

17 A. Yeah, I have to say I was. I woke up to that call.
18 And my dad called me and told me something about my wallet
19 being missing, which I didn't even know at the time. And then
20 after that, I got in touch with the City of Charleston Police
21 Department. And they told me the situation. And I was on my
22 way to work at the time. And I actually got to work late. And
23 I got it. And I was thankful. And I told my employees and
24 stuff like that how grateful I was that all my stuff was in --
25 still in the same place.

1 Q. All right. So even though that happened less than a
2 year and a half before, you just didn't want to call the
3 police, no matter how you were feeling that night with
4 everything, right, because of how you grew up, what you've just
5 testified to?

6 A. Can you repeat that question, please?

7 Q. Because of how you grew up, which is what you've just
8 testified to, you didn't want to call the police that night,
9 even though you had a funny feeling, you had a bad feeling,
10 funny feeling, you used a bunch of different words to describe
11 for that night?

12 A. Well, it wasn't the fact that I didn't want to call
13 the police. It's just that didn't come to my mind. Just going
14 on, like, so fast. You know what I mean? Like, I was absent
15 minded in regards to that.

16 Q. All right. So then I believe you testified that you
17 had passed McDonald's and Motel 6 and you were starting to go
18 up the ramp. Am I right so far?

19 A. That's correct.

20 Q. You were going up the ramp, and the car cuts off. The
21 wheel locks left and you crash; is that right?

22 A. That's correct.

23 Q. How fast were you going up that ramp?

24 A. At that point, I broke my speed down. So I wasn't
25 going that far up the ramp -- I mean, that fast up the ramp. I

1 think it had to be maybe between 35, 40 miles per hour maybe.

2 Q. When you get a rental car, they usually don't rent old
3 cars to you, do they? They usually rent new cars to you,
4 right?

5 A. Depending on the rental company.

6 Q. The Elantra, the rental car you were driving that
7 night, that was a new car, right?

8 A. It was, yeah, a newer model car.

9 Q. And, in fact, the odometer when it was rented only had
10 600 miles on it at that point.

11 A. Yes.

12 Q. But the car just cut off on you? All of a sudden, it
13 made you crash? Is that what you are saying?

14 A. Mysteriously, I don't know what happened. I don't
15 know if I took off too fast. I mean, it was like a
16 four-cylinder. So I don't know if it a factory defect. I
17 don't know. I can't say. I'm not a car expert.

18 THE COURT: Folks, can we take a break? I've got
19 something that's come up. Ladies and gentlemen, please step
20 into your jury room, just in case.

21 (Whereupon, the jury leaves open court at 2:45 p.m.)

22 THE COURT: We'll be at ease for a few minutes..

23 (Whereupon, a recess transpired.)

24 THE COURT: I'm sorry. I had a personal matter.

25 Ready for the jury?

1 MS. LINDER: The State's ready.

2 MR. KING: Your Honor, I hate to interject. I know
3 he's on the stand and I can't discuss his testimony, but can I
4 discuss a legal issue with him?

5 THE COURT: Yes.

6 (Whereupon, a brief precess is taken.)

7 THE DEFENDANT: Your Honor, I just want to say that
8 regarding that whole -- me being on the stand and Ms. Linder
9 presenting documentation as far as my driving record, referring
10 to the DUI, I just want to move for a mistrial at this point.
11 I don't know how that even came into play.

12 And Brian Kelly from SLED's testimony regarding me
13 remaining silent, which was my absolute constitutional right to
14 do so, he was trying to, I guess, question me about the
15 incident that day at the hospital.

16 THE COURT: Well, you discussed that in your direct
17 testimony, about not talking to the police. And that witness's
18 testimony was a long time ago and there was no mistrial motion
19 at that point.

20 With regard to her asking you about your driving
21 record, I've given curative instructions. And the motion for
22 mistrial is denied.

23 THE DEFENDANT: I just can't recall the evidence being
24 admitted.

25 THE COURT: I can't hear you.

1 THE DEFENDANT: I never recall one time the evidence
2 being admitted of this evidence in this trial.

3 THE COURT: It was admitted when you went on the
4 stand. Have a seat up here. There was no objection to it
5 contemporaneously when it was offered. But aside from that,
6 I've given a curative instruction. The motion is denied.

7 Now get on the stand.

8 Bring the jury.

9 THE DEFENDANT: I would also like to preserve --

10 THE COURT: You don't talk to me while you are walking
11 away from me.

12 THE DEFENDANT: I would just like to preserve for the
13 record, Judge.

14 THE COURT: Everything is preserved for the record.

15 (Whereupon, the jury returns to open court at 3:15
16 p.m.)

17 THE COURT: You may continue.

18 MS. LINDER: Thank you, Your Honor.

19 BY MS. LINDER:

20 Q. So I think where we left off, we were talking about
21 when you went on the on-ramp. You said the car cuts off and
22 your wheel locks left; is that correct?

23 A. That's correct.

24 Q. And then you said at this point, as you had previously
25 testified, during Best Buy parking lot, you kept looking in

1 your rearview mirror; is that right?

2 A. That's correct.

3 Q. You are looking in your rearview mirror and saw a car
4 full speed behind you; is that right?

5 A. At what point in time is this?

6 Q. You said when you are on the on-ramp.

7 A. Oh, okay, at this point, yeah.

8 Q. Describe that vehicle for me.

9 A. The vehicle, I can't really describe. It was going so
10 fast. And that ramp was dark. So, I mean, I just saw the
11 headlights. And it was kind of like fast. So after I glanced
12 at it and saw it for a second coming real fast and it wasn't
13 stopping, slowing up. I took my eyes off my rearview mirror
14 and drove.

15 Q. And are you aware that Motel 6 is right there and they
16 have some lights, right?

17 A. Yeah.

18 Q. And this car that was coming full speed right behind
19 you, is this that same new model, unknown color car from
20 before, or is this a different car?

21 A. At this point, it's going fast. And I just glanced at
22 it. You know? So, I mean, I really can't say.

23 Q. All right. So I believe at that point your testimony
24 was that you left your phone and then you said, I believe, I
25 had a firearm on me, of course; is that right?

1 A. Yeah, I did say that.

2 Q. All right. And you are aware that you are not allowed
3 to have a firearm?

4 A. Well, based upon I never signed an act, I mean, I am
5 not fully aware, because I never signed my act saying I would
6 never, ever carry a firearm in the state of South Carolina.
7 But to answer your question --

8 Q. You don't have to sign something for you to not be
9 allowed to have a firearm. Do you understand that?

10 A. Not fully.

11 Q. So talking about this gun, what kind of gun was it?

12 A. It was a Glock.

13 Q. Where did you get the gun?

14 A. Well, I got the gun -- where did I get the gun?

15 Q. Yes.

16 A. I got the gun from -- I believe it was like a mutual
17 friend, mutual party, third-party person.

18 Q. A gun salesman?

19 A. Well, he wasn't a gun salesman. From my
20 understanding, he collected guns. And friend of mine had knew
21 him. I don't even remember the guy's name. I only seen him
22 one time, and that was to purchase, I believe, firearm from the
23 guy.

24 Q. When did you buy that gun?

25 A. I believe it was bought, like, beginning of that year,

1 if I'm not mistaken.

2 Q. How much did you pay for the gun?

3 A. I believe he sold it to me for maybe 4-, 450, around
4 that area.

5 Q. So are you disputing that you were not allowed to have
6 a gun?

7 A. You say am I disputing that?

8 Q. Yes.

9 A. I mean, if you say I wasn't allowed to have a gun, I
10 mean, okay.

11 Q. So you left your phone, which your phone could have
12 been used to call police, right?

13 A. You said if I left my phone, my phone could have done
14 what now?

15 Q. You left your phone in the car. Your phone could have
16 been used to call the police?

17 A. Could have been.

18 Q. But you already testified that's not what you do,
19 right?

20 A. I mean, yeah, I testified that's not usually what I
21 do, but at the same time, this situation was happening so fast,
22 my mind was racing. So my mind at that point was not on
23 calling a police officer, period.

24 Q. When that car came up real fast on you, did it hit
25 your car?

1 A. No, I don't believe it did.

2 Q. Did that car stop?

3 A. After -- I mean, I would have to say it never stopped.
4 At what point it stopped, I don't recall what point it stopped.

5 Q. So why did you grab your gun?

6 A. Why did I grab my gun?

7 Q. Why did you grab that gun you weren't supposed to
8 have?

9 A. Why did I grab? At what point?

10 Q. Why did you grab it when you were getting out of your
11 car?

12 A. Because -- I grabbed it because, obviously, I'm
13 already feeling some type of way about somebody suspected of
14 following me, so why wouldn't I bear arms to try to protect
15 myself.

16 Q. I thought you shook the person back on Savannah
17 Highway; wasn't that your testimony?

18 A. That's correct.

19 Q. And so you shook the person back on Savannah Highway,
20 so the issue, the threat was over. And then you yourself, in
21 your vehicle, wrecked that car, right, because it locked up on
22 you, right?

23 A. Well, I do take partial responsibility, but, I mean, I
24 am not fully, because me, myself, it's not like I ran into a
25 ramp intentionally. I mean, the car locked up. I tried to

1 secure my safety by turning the wheel so it wouldn't be that
2 bad of an accident.

3 Q. But you don't know if that -- but that car didn't hit
4 your car?

5 A. Which car are you talking about?

6 Q. This mysterious car that showed up on the on-ramp.

7 A. No, it did not.

8 Q. Where did it drive?

9 A. I don't recall ever hitting that go car.

10 Q. All right. Where was that car that showed up on the
11 on-ramp? Where were you and where exactly did it drive? At
12 what point -- where was that car on the on-ramp when you had
13 enough time and thought to grab a gun you weren't allowed to
14 have and get out of your car? Where was that other car that
15 you can't describe?

16 A. Linder, you got to understand, I'm running underneath
17 the bridge. It's pitch-black dark. I am not viewing -- it's
18 not like I'm running backwards looking at where the car was and
19 whether it hit it or not. I am not focused on that. I'm
20 focused on my safety. So I can't tell you and describe to you
21 exactly where -- what particular point where it was at. I'm
22 running underneath the bridge in pitch-black dark.

23 Q. All right. Mr. Blake, I thought earlier you said you
24 went up the ramp, the car cuts off, your wheel locks left,
25 crash. You're looking in your rearview mirror and you see

1 another car full speed behind coming at you. That's when you
2 left the phone, but you had a firearm on you, of course, the
3 one you weren't allowed to have. I'm asking you, at what point
4 and where was this other car that all of a sudden appeared when
5 you had the mindset to grab your gun from wherever it was in
6 the car and then get out? Was the car at that point behind
7 you, since your car already crashed? Had it already continued
8 up the on-ramp to 526? Where was this other car?

9 A. I mean, the car was coming -- of course, it was coming
10 behind me at a full rate of speed. When I jumped out of the
11 car, I suspect that the car that was behind me still was
12 coming. I didn't see at what point that it stopped.

13 Q. Okay. So you don't know if that car stopped?

14 A. I mean, as me knowing the incident as I do today,
15 obviously, the car stopped.

16 Q. So you left your phone, which could have been used for
17 many reasons. You thought you shook this new model, unknown
18 colored car from Best Buy. And then another car shows up that
19 you can't describe from your memory from that night. And you
20 grab the gun that you weren't allowed to have and decided to
21 take off running; is that right?

22 A. Yeah, correct.

23 Q. All right. So you jump the railing with this gun.
24 You said you put the gun on your right side; is that right?

25 A. That's correct.

1 Q. You got a holster?

2 A. I didn't have a holster.

3 Q. Where did you put the gun?

4 A. It was on the waistband, inbetween my boxer area and
5 my jeans.

6 Q. All right. So you put it in there and you start
7 running. I believe you testified, and correct me if I'm wrong,
8 you jump the railing, and your momentum was taking you forward
9 because it was down that hill.

10 A. Correct.

11 Q. Okay. At what point did you start hearing that
12 person, being, entities, whatever, yell, Stop. You said you
13 heard someone yell, Stop. Where were you?

14 A. At that point, we were underneath the I-526 underpass.
15 We were directly underneath it when I first heard a person
16 saying, Stop.

17 Q. Okay. So you are under the underpass. You are
18 hearing, Stop. Earlier when I asked you, you testified that
19 Motel 6 has got some lights, right?

20 A. I mean, yeah, Motel 6 got lights, of course.

21 Q. And I believe on your -- when you testified
22 previously, before I got the opportunity to come up here, you
23 testified that that Comfort Suites had a bunch of lights,
24 right?

25 A. Yeah. But you got to understand, like, the lights

1 that's within these hotels that you are discussing, they are
2 within that proximity. They are not like a bunch of lights
3 where it is lighting up a whole, you know, football-field type
4 of outside of the establishments. Those lights are within.

5 Q. All right. So you heard somebody else, Stop. You
6 said you -- I believe you testified that you looked back, but
7 you said it was pitch black, right?

8 A. It was pitch-black dark.

9 Q. So when you looked back, where did you look back?
10 Where were you looking back to? What area were you looking?

11 A. You said when I initially looked back?

12 Q. Yep?

13 A. When I initially looked back, when I heard the guy
14 saying, Stop, behind me, I looked back and I peered over my
15 right shoulder.

16 Q. Where are you looking? You are looking back toward
17 where you just left, where you were running from initially?

18 A. Yeah. When I looked back, I glanced, and then I kept
19 going.

20 Q. So you were looking back toward the on-ramp?

21 A. Yeah, I was..

22 Q. All right. And did you notice Officer Flaherty's blue
23 lights flashing on his car there?

24 A. At that point, I didn't. I didn't see any blue lights
25 at that point when we were underneath the bridge.

1 Q. Okay. So you said you looked back and you saw the
2 person had on dark clothing?

3 A. That's correct.

4 Q. And you testified with me and I think also previously
5 that you have good vision.

6 A. Yeah.

7 Q. So you have good vision. You look back. You can see
8 dark clothes, but you can't see blue lights from Flaherty's car
9 on the on-ramp, right?

10 A. Initially, no, I did not see blue lights.

11 Q. So you are running. You said there's a bunch of
12 debris when you go down the on-ramp, and you were trying not to
13 sprain your ankle. Is that what you were testifying to?

14 A. Yeah. As I was running, I heard the guy saying, Stop.
15 And I looked back, glanced. And I just saw a person in
16 all-dark clothing. And at that point, I felt the gravel uneven
17 on my way down. So I was like, man, I got to focus on what's
18 in front of me before I start tumbling down like a tumbleweed.

19 Q. Are you saying there's gravel underneath that area?

20 A. Yes, at that point in time there was.

21 Q. So after you made it through the grassy area, I
22 believe it was your testimony that you already made it through,
23 I guess, the gravel area you are now saying, you made it down
24 the ramp, the angled part. And then when you were -- you said,
25 and it was kind of crazy, because you said there were no cars.

1 There was nothing right there, like, where the on-ramp came
2 off?

3 A. There was no cars and nothing. The first time I ever
4 seen anything like that at that point in time on a Saturday.
5 Usually you have traffic back and forth coming off I-526 on
6 Savannah Highway, Sam Rittenburg. There was no cars in sight
7 at all. I thought it was crazy.

8 Q. No cars. All right. And you said at that point, you
9 heard, Stop, again, right?

10 A. I did hear, Stop.

11 Q. And you said you looked back?

12 A. Yeah.

13 Q. And with your good vision, you could tell that person
14 was 15 to 20 feet behind you?

15 A. Give or take, yeah. He was a good distance, yeah,
16 good distance behind me.

17 Q. And when you look back with your good vision, you
18 could tell this person was 15 to 20 feet behind you. At this
19 point, could you see Officer Flaherty's blue lights that had
20 been going on on the on-ramp for your whole run?

21 A. I seen -- when I glanced back, I think when I heard,
22 Stop, once again, I think at this point, I was like almost by
23 the Comfort Inn Suites. Like, I was right across the street.
24 And when I glanced back, I saw blue lights at this point, but I
25 was already by the Comfort Inn Suites.

1 Q. Okay. So you saw blue lights around the same time you
2 heard, Stop?

3 A. You said I heard blue lights --

4 Q. You saw blue lights --

5 A. Yeah.

6 Q. -- when you glanced back?

7 A. Uh-huh.

8 Q. And this was close to the same time that you heard,
9 Stop?

10 A. Yeah. After I -- I heard, Stop. And then after that,
11 I glanced back. And then as I glanced back, I saw, like, a
12 blue light illuminating. And I kept going. I mean, I don't
13 know whoever this guy is that's still chasing me.

14 Q. Okay. So you said -- you testified as you approached
15 the Comfort Inn Suites, that parking lot was well-lit, right?
16 The parking lot of Comfort Inn Suites was well-lit?

17 A. Yes, Comfort Inn Suites inside is well-lit.

18 Q. You said by -- I just want to make sure, because this
19 is where, you know, you are getting really, really specific
20 with everything. So I want to make sure I'm right here. You
21 said by the time you made it to the sidewalk, when you say
22 sidewalk, do you mean like those pictures we saw earlier where
23 that sidewalk starts, where I guess it's kind of Sam
24 Rittenburg, that part that curves at the Comfort Inn Suites, is
25 that what you mean when you say you made it to the sidewalk?

1 Is that the sidewalk you are talking about?

2 A. You got to give me a better --

3 Q. You betcha. I will show you a picture. I want to
4 make sure we are on the same page.

5 A. I want to make sure I'm answering the question
6 correctly.

7 Q. I appreciate that, Mr. Blake. Just give me a second.
8 All right. I'm going to show you State's 89. All right. So
9 this is the on-ramp. And you were running.

10 A. Hold on. Hold on. Where is the on-ramp? This is,
11 like, underneath the bridge right here.

12 Q. So you said you were running --

13 A. Okay. Go ahead.

14 Q. My question is, when you said you made it to the
15 sidewalk, is this the sidewalk you are talking about?

16 A. Yeah, down this side. Yeah, that's the sidewalk.

17 Q. All right. I just want to make sure.

18 A. I don't know how to erase that.

19 Q. All right. So it's your testimony that when you made
20 it to the sidewalk, this person who yelled, Stop, was 15 to 20
21 feet behind you?

22 A. Uh-huh.

23 Q. And when you glanced back, you saw a blue light?

24 A. Yes.

25 Q. On the on-ramp?

1 A. Yeah.

2 Q. And at that point, I believe you said when you made it
3 to the sidewalk, you heard shots?

4 A. That's correct.

5 Q. From behind you?

6 A. That's correct.

7 Q. So 15 to 20 feet behind you is kind of like across the
8 street, still, like, near that underpass, right?

9 A. 15 to 20 feet behind me? I can't really say. I can't
10 really recall exactly where this person running behind me at
11 the time was his location. I just know that I made it to the
12 other side of the hotel. And I was on that sidewalk. So this
13 person, he was gaining ground on me, definitely. But I don't
14 know where exactly he was at positioned. Because, like I said,
15 I was peering over my shoulders. I'm trying to do this and
16 trying to run. I can't get a good visual lock on this person.

17 Q. Sure. Sure. But you said -- I believe you testified
18 previously when you made it to the sidewalk, you heard shots
19 fired from behind?

20 A. That's correct.

21 Q. Okay. And I believe you said you heard, boom, boom;
22 you heard two shots fired?

23 A. It was like a few.

24 Q. A few?

25 A. Yeah.

1 Q. So you heard a few shots fired by the time you made it
2 to that sidewalk?

3 A. Yeah, that's correct.

4 Q. All right. Just making sure. And then you said, I
5 think you said then, like, every motion was simultaneous, I
6 think. You said at that point, after the, boom, boom, I
7 believe you testified, and correct me if I am wrong, you said
8 there was a break, and then you began ducking and grabbing for
9 your gun; is that right?

10 A. Yeah, I done all that simultaneously.

11 Q. So, and then you were hit in your right leg from
12 behind?

13 A. That's correct.

14 Q. How far down the sidewalk were you at this time?

15 A. At this point, I had to have been -- I had to get
16 probably another visual to answer it.

17 Q. Do you think you were about halfway down from where
18 that sidewalk started?

19 A. Halfway? I guess, yeah, if I had to say, I would
20 probably say halfway.

21 Q. Okay. I'm going to try my best. I'm trying to grab
22 three pictures so we can see them all. All right. I'm going
23 to show you State's 90. And if you will just wait, I will show
24 you them all and try to overlap them a little bit. So State's
25 90, okay, this is the edge of that sidewalk where it first

1 starts. Do you agree with that?

2 A. Yeah, that's edge where it starts at, correct.

3 Q. This is the sidewalk we are talking about, right?

4 A. Correct.

5 Q. So if you look at this white van in State's 90 --

6 A. Okay. I believe I was way farther than that, yeah.

7 Q. Okay. So now I want you to look at State's 91. Here
8 is the white van again. So you have kind of an idea -- I can't
9 really zoom out. Here's the white van again. And here's the
10 giant stretch of the sidewalk. Right? So you are along here
11 then?

12 A. At this angle, I can't really identify. Can you
13 present something, like, as far as where, exactly where the --
14 like, where I was kind of positioned where they found me at?
15 That will be a better recollection for me.

16 Q. Well, I'm just trying to go from what you testified to
17 when you spoke with the jury. And how you explained it was you
18 made it to the sidewalk, when you just made it to the sidewalk,
19 you were 15 to 20 feet behind, you looked back, you saw it was
20 a dark figure, because you have good vision, you heard two
21 shots, boom, boom. And then you, simultaneously, I believe you
22 said, started ducking and grabbing for your gun?

23 A. Uh-huh.

24 Q. So if it's when you made it to the sidewalk is when
25 you heard the, boom, boom, you looked back and saw the one blue

1 light --

2 A. Yeah.

3 Q. And you heard somebody 15, 20 feet behind yelling
4 stop?

5 A. Uh-huh.

6 Q. I want to know, how far down was it in that
7 simultaneous movement you did, to duck and grab for your gun
8 that you weren't supposed to have?

9 A. Best way I'm going to give you, most accurate way I
10 can answer that question.

11 Q. Okay.

12 A. Where they found me laying at, where testimony where
13 they found me laying at, it was not too far from where they
14 found me laying at.

15 Q. Okay. So you were ducking and grabbing for your gun
16 after there were two shots from the beginning of the sidewalk
17 area. And then I believe you testified that after that, you
18 were hit in your right leg from behind; is that right?

19 A. Well, the shooting happened from behind. It did.

20 Q. Okay.

21 A. Now, as far as where I was actually hit at, I was hit
22 on my side, side angle of my right leg. As I was kicking up,
23 like, my right foot is going up, that's when I felt it, I felt
24 the impact of, you know, the impact, I felt it.

25 Q. So you are running. You make it to the sidewalk.

1 Well, you are running. You glance back. You hear someone
2 yell, Stop. You see dark clothing. That's what you testified
3 to, right?

4 A. That's correct.

5 Q. So then you run more. You make it to the sidewalk?

6 A. Uh-huh.

7 Q. You hear, Stop. You glance back. You see a blue
8 light, right?

9 A. Yeah.

10 Q. And when you make it to the sidewalk, someone from
11 that direction, you hear two gunshots, boom, boom, two shots
12 fired at you?

13 A. Well, you keep going into two shots. Maybe when I did
14 my demonstration, I was just trying to give indicating shots
15 were fired. But they weren't exactly two shots. They were
16 like three shots.

17 Q. Okay. Two or three shots, is that fair, Mr. Blake?

18 A. That's fair.

19 Q. All right. So two or three shots were done when you
20 first made it to the sidewalk?

21 A. Yes.

22 Q. But those did not hit you, right?

23 A. Which ones?

24 Q. The first two or three when you were running, when you
25 first made it to the sidewalk?

1 A. Well, I can't say, because I don't know whether if the
2 bullet skidded off the ground and ricocheted and hit me in my
3 leg or it was a direct hit. I was running, so I can't say.
4 But I know it kind of like -- if I would have to say, I would
5 have to say probably would have been a ricochet, because it's
6 not like I heard the shots and then actually next thing, you
7 know, I'm hit.

8 Q. Okay. Again, Mr. Blake, you know, this whole thing,
9 we've been talking about the order, the order, the order of
10 things. You've been very focused on that. That's why I'm
11 trying to be focused on that now. And that's why I'm asking
12 you. And I want to make sure I've got your testimony correct.

13 A. Uh-huh.

14 Q. You made it to the sidewalk. You heard shots from
15 behind, two or three?

16 A. Uh-huh.

17 Q. And then you said, again, correct me if I am wrong,
18 then every motion simultaneous, you were ducking and grabbing
19 for your gun, and then you were hit in your right leg from
20 behind and your leg buckled?

21 A. That's correct.

22 Q. Okay. So were you hit in your leg back at that first
23 part of that sidewalk when you first heard it?

24 A. Yeah.

25 Q. You were then, or you were not?

1 A. You are saying was I hit when I first intended the
2 sidewalk?

3 Q. Correct.

4 A. No. It wasn't when I first hit the sidewalk. It was
5 like -- just like I said, where I was laying at, the best
6 answer I can give you is where I was laying at, I got to the
7 point where I was laying at, that's where I made it all the way
8 up to when shots started going off.

9 Q. Okay. So shots happened from behind you?

10 A. Yeah.

11 Q. When you made it to the sidewalk?

12 A. Uh-huh.

13 Q. But you were not hit?

14 A. Yeah, I was hit. I was hit when I was -- you know,
15 like, when I crossed over. And then, you know, shots go off
16 and then I was hit.

17 Q. So -- I am not -- I am not -- I'm trying to
18 understand. So you were or you were not hit when you first
19 made it to the sidewalk and those two to three shots came from
20 behind you, when the guy yelled, Stop, and there was a blue
21 light?

22 A. Listen. When I first made it to the sidewalk, okay,
23 now, first entering the sidewalk is one thing. I'm running
24 past the first -- you know, those little segments you say when
25 it first enters. I'm running past that part. Now I'm all the

1 way up. Shots go off little way after that.

2 Q. The first round of shots or the second round of shots?

3 A. The first round of shots.

4 Q. Okay. So when you testified earlier that when you
5 made it to the sidewalk, the shots happened, when you first
6 made it to the sidewalk, that's not accurate. What is accurate
7 is you made it to the sidewalk, you looked back, you saw the
8 blue light, you heard, Stop, saw a dark figure 15 to 20 feet,
9 and then a little further down is when you were actually hit?
10 Is that when the first shots went off, you are saying?

11 A. Yeah. It was a little further down. Like I said, not
12 too far from where I was laying.

13 Q. Okay. You know, that's different than you said
14 earlier. So I'm just trying to make sure. I hope you
15 understand, I'm trying to make this as clear as possible.

16 A. Well, my main objective was to let you know that I
17 made it, actually made it to the other side. And I don't know
18 exactly, the person who was pursuing me at the time exactly
19 where he was positioned at. But I know I had made it to the
20 other side. Now, I can't tell you whether it was halfway to
21 the other side or it was three-fourths. You know what I'm
22 saying? I am not good when it comes down to measurements and
23 stuff like that, dealing with yardage and stuff like that.

24 Q. Okay. So after you were hit from behind, after this
25 person is chasing you, yelling, there's blue lights, and you

1 are hit from behind, and there's been two or three shots, we
2 don't know if that's at the front of the sidewalk or further
3 down or if it's the first or second sequence is when you were
4 hit, but you were hit in the leg, is what you are saying?
5 Right?

6 A. Yeah.

7 Q. So after you were shot then, I believe you said you
8 had to blind fly it, boom, boom, boom, boom, you did a 360?

9 A. No, I said blind fire.

10 Q. Blind fire?

11 A. Yeah.

12 Q. Okay. That's why I'm asking. So you had to blind
13 fire it. And I believe you were demonstrating that you were
14 running and your leg and you kind of did this kick up and you
15 just shot? Is that pretty much what you did?

16 A. You said I was running and my leg buckled, correct, it
17 did.

18 Q. And you did a 360?

19 A. My momentum from my leg buckling, it turned me toward
20 that direction.

21 Q. And you did a 360 and you fired that gun, right? Is
22 that what you are saying?

23 A. Well, at that point, I was turning around facing the
24 person who was pursuing me. So as I'm turning around facing
25 the person pursuing me, my right hand is extended. And I'm

1 blind firing. And as I'm still standing on the leg I'm shot
2 on, I am not even conscious and aware that all my weight is on
3 this leg that got shot. And next thing I know, I just go down
4 360 down to the ground facedown.

5 Q. And -- okay. I think I kind of understand what you
6 are trying to say.

7 A. I know it sounds like an action movie, but, I mean,
8 that's exactly how it happened.

9 Q. So I think then you said you fell onto the ground and
10 the gun was on the ground; is that right?

11 A. Yeah. When I fell, the gun came out of my hand.

12 Q. And you never held it again?

13 A. Yeah, I held it again.

14 Q. But I thought you testified earlier that when you fell
15 on the ground, the gun was on the ground. It fell out of your
16 hand, the gun was on the ground, and you had already fired all
17 your bullets?

18 A. No, that's incorrect. I said after the gun fell on
19 the ground, I was laying face down. Okay? The gun was
20 probably not too far from me. It was in arm's reach. I got
21 short arms, so it was in arm's reach. I saw it in front of me,
22 reached up, grabbed it at this point. I'm trying to get up.

23 Q. Okay. So, like an action movie, you were trying to
24 get up on your right knee, and you heard a crack. You tried to
25 get up on your left knee. You got up halfway. You fell again.

1 You are laying on your stomach; is that right?

2 A. That's correct.

3 Q. You said you roll on your back and tried to sit up.
4 What's happening during all of this? Is it just kind of
5 silence, or are you just hanging out?

6 A. It was complete silence. There was nobody saying
7 nothing. You know, that supposed blue light that I glanced at,
8 thought I may have seen, I don't know where this person was at,
9 but, you know, the shooting going on, seems like, if that's the
10 case, they would have been more closer. And so it was a big
11 pause for a second. And at this point, I don't even know where
12 this person -- I thought he fled, because there wasn't nothing
13 else, no more shots going on or nothing. And I figured he had
14 to flee, because I'm laying down on the ground and I'm trying
15 to get up. An attack at that point had me at a huge
16 disadvantage where I could have been executed.

17 Q. Right. So somebody could have killed you if they
18 wanted to, right?

19 A. Of course. Man, I was ...

20 Q. All right. So and then you roll on your back and you
21 are trying to sit up. And you said that's when you saw a
22 person with a gun on Sam Rittenburg; is that right?

23 A. Yeah, after I made a few attempts trying to get up and
24 was unsuccessful, I then turn over on my back. And then after
25 that, I sat up, and not even all the way sitting up. I then

1 see same dark person, dark-colored clothes in the middle of Sam
2 Rittenburg Boulevard, and a gun point position both hands on
3 his gun and lining me up. And then I got shot in my arm after
4 that.

5 Q. And how do you know it was the same person?

6 A. That's the crazy thing. I mean, I don't know if it
7 was the same person at that point.

8 Q. You said it was, like, pitch-black where you were when
9 this was happening, right?

10 A. Yeah.

11 Q. So you just testified that you saw the same person,
12 but now you are saying it wasn't the same person; you don't
13 know?

14 A. You said I testified I saw the same person. I said,
15 this person had on dark-in-colored clothing. I don't know the
16 identity of this attacker until later on when car started
17 coming down and this guy is laying in the middle of the street.
18 That's when I kind of glance and get an identification.

19 Q. So you saw this person in the middle of Sam Rittenburg
20 in the pitch-dark, but you could see a gun?

21 A. . It was a shadow. And based on the shadow I saw and,
22 you know, I used to go to the gun range, and I could determine
23 that this person was in the middle of the street in the shadow,
24 in dark-colored clothing, and he was standing in a gun
25 position.

1 Q. And so you see this person -- where are they standing
2 in Sam Rittenburg?

3 A. Standing in the middle of the road.

4 Q. The very middle of the road?

5 A. Very middle of the road. And no cars were coming.
6 That's the crazy thing about it.

7 Q. Okay. And you said then that person in the pitch-dark
8 shadow, in the pitch-dark, you could see that person fired and
9 hit your arm, and it knocked you down?

10 A. Knocked me down.

11 Q. All right. And at that point, you testified that you
12 were worried because you were out of bullets post-blind-fire;
13 is that right?

14 A. No. At this point when he knocked me down, I still
15 had ammunition.

16 Q. So we need to believe now that you still had
17 ammunition, not what we heard, like an hour ago, when you said
18 that you were worried because you were out of bullets
19 post-blind-fire?

20 A. Linder, you are jumping ahead of yourself. I told you
21 after I got knocked down, then the next thing I was thinking
22 about was me sitting back up again. And next shot being a
23 fatal shot. So what I did was, I did not get back up. Still
24 had the gun in my right hand, so I blind fired.

25 Q. A second time?

1 A. Second time, off, yeah, trying to get this person off
2 of me still.

3 Q. So you then testified that you looked up again and you
4 saw a person in the pitch-black with dark clothes on the ground
5 in the middle of Sam Rittenburg Boulevard; is that right?

6 A. Yeah, that's correct. After I blind fired for the
7 second time, I ran out of ammunition. And it was -- at this
8 point, it was no -- there was no more firing going on. And
9 amongst me blind firing, I was hearing shots -- you know what
10 I'm saying? -- coming right past me. So at that point, I was
11 out of ammunition. And I decided to lift my neck, halfway up
12 maybe so I wouldn't -- you know what I'm saying? -- get hit
13 again. And now I'm seeing this dark, you know, figure,
14 shadow-type individual in the middle of Sam Rittenburg. And
15 now he seemed like he's, like, in a stumbling, falling
16 position, not too far from falling. And next thing I know, he
17 just falls to the ground, in that exact same position that I'm
18 in.

19 Q. And you said in your testimony initially that you saw
20 he was crouched in dark clothes. He fell to the ground. And
21 you could see this because cars were going by and they had
22 lights. And so you also could see all the casings at that
23 point; is that right?

24 A. Yeah. At that point, when he went down to the ground,
25 I think a car came off of, if I'm not mistaken, 526, and they

1 turned right. So they was coming toward the direction. And
2 after that, I saw -- the first thing I saw illuminating was the
3 lights and nothing but shells surrounding him, the actual
4 person that was on the ground. And then as I looked on, as the
5 car came closer, it looked like to seem like it was a law
6 enforcement official at that point.

7 Q. And now, when this dark figure, shadowy figure, when
8 he was shooting at you, how was he? Was he moving around? Was
9 he just firing straight at you? What was happening?

10 A. At what point in time?

11 Q. Throughout.

12 A. Throughout the whole from beginning to end?

13 Q. Sure.

14 A. Okay. Ask me that question again. What did you say?

15 Q. Tell me the positions and how this dark, shadowy
16 figure was shooting at you?

17 A. Well, the first time when I got shot in my leg, I
18 don't know -- I don't know what position he was in. I can't
19 tell you that. I mean, I know -- I don't know if he stopped.
20 I don't know if he still was running. I mean, I don't know
21 what position the first time he was in. But I know what
22 position he was in the second time when I was on the ground.

23 Q. Okay. Go ahead. What was that position?

24 A. It was like I said, him having both his arms extended
25 and facing towards me and --

1 Q. Was he standing still?

2 A. Yes, at this point, looked like he was standing still,
3 had his target locked and standing still.

4 Q. All right. So I believe you testified that after the
5 visual kicked in and you thought it was a police officer, you
6 laid down to gather your thoughts. And then I believe you said
7 you were trying to crawl to make it to safety; is that right?

8 A. Well, I mean, I just was planning on laying down at
9 this point and catching my breath and stuff like that. And I
10 didn't start crawling back for safety until I heard another
11 shot go off after, you know, after I was out of ammunition.

12 Q. And you were trying to get up. And then you fell.
13 And you were trying to get up. I believe you were showing you
14 were trying to get up like this, almost like a push-up?

15 A. Yeah. I was on my back when I heard the shot, that
16 last shot. And just like I said, just going passed me. And
17 then I got myself together. And then I turned on my stomach,
18 and I was trying to attempt to try to get back up again. I was
19 just trying to get out of the way.

20 Q. And can you show us even from there, how were you
21 trying to get up?

22 A. When I was trying to get up --

23 Q. Pushing up?

24 A. Yes. Second time, I was trying to do -- I was pushing
25 up with my arms. I got on my left leg a little bit. And then

1 trying to get back on my right leg. And, I mean, I just was
2 just -- at this point, that was the most pitiful point in my
3 life. You ever heard the terminology, you fall and you can't
4 get up? It was that type of situation.

5 Q. So when you were pushing up with both your arms, did
6 your left arm all of a sudden just start feeling better?
7 Because I thought you said moments prior, when you had a visual
8 kicking that it was a police officer, you heard a shot, and you
9 said your arm had no feeling. You thought your arm was blown
10 off. And then moments later, you are trying to get up. You
11 just showed us.

12 A. Yeah.

13 Q. Trying to get up with both arms?

14 A. Yeah.

15 Q. But you didn't have feeling in your arm?

16 A. No, I didn't. See, before I actually turned over, my
17 arm was hanging like this. Right? Okay. Now, I didn't have
18 no feeling in my arm. So what I did was, I took my right arm,
19 and then I brought it over. And I rolled over. And at this
20 point, so when I'm trying to push up, I'm trying to push up off
21 of both arms, but I don't have no feeling on my left arm.

22 Q. All right. So, ultimately, the shooting stopped,
23 right?

24 A. Yeah, shooting had stopped at that point.

25 Q. And who was this mysterious woman in the background?

1 You said you heard a woman's voice in the background. Who was
2 this mysterious woman? Was this a shadowy figure or who was
3 she?

4 A. That, I never saw this woman, because I was laying
5 down. That's the first voice I heard, yeah.

6 Q. So I just want to make sure that we are understanding
7 this. It's your testimony that you never saw blue lights or
8 heard sirens in the Best Buy parking lot?

9 A. I did not.

10 Q. Is that correct?

11 A. That's correct, I did not.

12 Q. And it's your testimony that you never saw blue lights
13 or sirens all the way down Dupont Road; is that right?

14 A. That's correct.

15 Q. And it's your testimony that you never -- that there
16 was a car that, more or less, was coming up to ram you when you
17 were on the on-ramp; is that correct?

18 A. That's correct.

19 Q. And it's your testimony that you chose to pick up a
20 gun that you weren't allowed to have, and you left your cell
21 phone in your car when you took off running, right?

22 A. That's correct.

23 Q. And it's your testimony that when you were running
24 under the bridge, I guess you said, or under that overpass, you
25 heard someone yelling stop and you looked back; isn't that

1 right?

2 A. That's correct. I got to correct you on that. I
3 never said that I wasn't allowed to have a gun. You said that.
4 That wasn't my testimony.

5 Q. Are you disputing that?

6 A. I am not disputing it. I'm just correcting you. You
7 said that I testified that I said that I wasn't allowed to have
8 a gun. And that wasn't my testimony.

9 Q. Are you saying you are allowed to have a gun?

10 A. No, I'm saying that you said that. That's what I'm
11 saying.

12 Q. Are you saying that you are allowed to have a gun?

13 A. Linder, I'm saying I am not disputing that issue. I'm
14 disputing the issue that that's not what I testified to. I'm
15 playing the A on that. You said that -- I didn't say that.

16 Q. Okay..

17 A. And I told you. And I said clearly, I am not
18 disputing that, but if that's what you say, that's what it is.
19 Did I not say that?

20 Q. I believe you said something like that. I just didn't
21 really hear that as you agreeing that, in fact, you were not
22 allowed to have a gun. Are you agreeing that you were not
23 allowed to have a gun?

24 A. I am not saying that I'm agreeing. I can basically
25 disagree to agree. If that's what you say, why are you trying

1 to make me say that? I am not disputing you. So why are you
2 trying to make me say that?

3 Q. You are disputing if you are not acknowledging,
4 Mr. Blake. That's why I'm asking you. I'm trying to just get
5 through this last part to make sure that we all are of the same
6 understanding of what you are saying in your testimony. And
7 that, Mr. Blake, is why I'm asking you, do you agree that you
8 were not allowed to have a gun?

9 A. I'm going to tell you like this. I'm going to go into
10 the gun situation. The reason why I was toting a firearm that
11 night, this incident happened to me in 2010 where I got robbed
12 and I got shot for nothing. Okay? I was at a friend's house.
13 And I was walking to my daughter's mom's house. And an
14 incident kicked off to where I didn't have a firearm. Okay?
15 And two guys approached me. Right? And when they approached
16 me, they were wearing dark-colored clothing at this point,
17 young-looking guys. And I was on my phone. So they wanted
18 money. And I said, look, just take my money and leave me my
19 phone. So they wanted everything. So at this point, they
20 shoot me when they leave.

21 So at this point, I go to the hospital. I'm
22 questioned by City of Charleston Police Department, who these
23 guys are. And next thing you know, the next day on the news
24 is, I guess, it's -- police write it off as a drug deal gone
25 bad. And that was not clearly the issue. So at that point

1 particular point in time, I had to clarify that. And I said to
2 myself that I would not go without having a firearm again. And
3 that's just as to why I present to have a firearm.

4 So you are telling me -- so I went into the issue why
5 I had a firearm protecting my life. I don't tote firearms just
6 looking around, looking for trouble, trying to shoot cops.
7 That's not my MO.

8 So your dispute is, well, am I saying that I am not
9 allowed to have -- that's not my testimony. That was your
10 testimony. And I don't understand why you are trying to make
11 me say that.

12 Q. Mr. Blake, I was not asking you the reason for your
13 justification for having a firearm. What I was asking you is,
14 were you allowed by law to have a firearm back on March the
15 30th of 2013?

16 A. Linder, I answered your question. I mean, how do you
17 want me to answer that question? I answered the question
18 three, four different times the same way.

19 Q. All right. So you ended up running with this firearm.
20 And you heard, Stop. And you looked back?

21 A. Correct.

22 Q. And you kept running. You heard, Stop. You looked
23 back 15 to 20 feet. You saw someone. And you saw a blue
24 light, right? That's what you've just testified to, Mr. Blake?

25 A. I said I saw someone and I saw blue light? This was