

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Georgetown County
Honorable Steven H. John, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TY'SHUN MARIO BESSELLIEU,

APPELLANT

APPELLATE CASE NO. 2018-000622

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF GEORGETOWN) 2016-GS-22-001068 TO 001076

STATE OF SOUTH CAROLINA,)

Plaintiff,)

Transcript of Record

v.)

March 19-22, 2018

TY'SHUN MARIO BESSELLIEU,)

Defendant.)

B E F O R E:

Honorable Steven H. John
Georgetown County Courthouse
Georgetown, South Carolina

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VOIR DIRE

7

1 MARCH 19, 2018 - DAY ONE

2 VOIR DIRE:

3 THE COURT: All right, ladies and gentlemen, we are going
4 to pick a jury in the case of the State of South Carolina v.
5 Ty'Shun Bessellieu. Now, the State of South Carolina has
6 charged the defendant with a number of charges that will all
7 be resolved in this one particular trial. Now, the defendant
8 is charged -- I'm just organizing these; hold on a second.
9 All right. He is charged with four counts of attempted
10 murder; one count of possession of a weapon during the
11 commission of a violent crime; the unlawful possession of a
12 pistol; discharging a firearm into a dwelling; the possession
13 of marijuana with intent to distribute and possession of a
14 Schedule IV controlled substance.

15 Now, regarding these particular matters, these
16 indictments, I am going to read to you some basic information
17 contained in the indictments. Now, before I do that, let me
18 explain to you, the indictments are merely the charging
19 document, the document which brings the matter to court. It
20 is not evidence and cannot be considered by anyone as evidence
21 in this particular matter. The only reason I'm reading the
22 information to you is to see if you happen to know anything
23 about this matter, if you've got any information about this
24 that you need to bring to the Court's attention.

25 So, in the four counts of attempted murder, the state has

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VOIR DIRE

8

1 charged that Ty'Shun Mario Bessellieu, did in Georgetown
2 County, on or about August 31, 2016, attempt to kill certain
3 victims by the name of Shaniqua Kennedy, Shaniqua McGirt, M-C-
4 G-I-R-T, Tysha Moultrie, and Danesha or Danasha Anderson,
5 obviously in violation of the Code of Laws for the State of
6 South Carolina, 1976, as amended.

7 The state has also charged that the defendant on August
8 31, in Georgetown County, discharged or caused to be
9 discharged unlawfully, a firearm into a dwelling, house, or
10 other building, or enclosure regularly occupied by persons,
11 again in violation of the Code of Laws for the State of South
12 Carolina, 1976, as amended.

13 Also alleges that he did, on August 31 -- August 31,
14 2016, knowingly possess or acquire a pistol while he was under
15 the age of 18, again in violation of the Code of Laws for the
16 State of South Carolina. And that regarding possession of a
17 weapon during the commission of a violent crime, that he did,
18 in Georgetown County, on or about August 31 of 2016, possess a
19 firearm or visibly display what appeared to be a firearm
20 during the commission of or attempted commission of a violent
21 crime, again in violation of the Code of Laws for the State of
22 South Carolina, 1976, as amended.

23 They also charge that he did, in Georgetown County, on or
24 about August 31, 2016, possess with intent to distribute,
25 dispense, or deliver, or did aide, abet, attempt or conspire

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VOIR DIRE

9

1 to distribute, dispense, or deliver a quantity of marijuana, a
2 controlled substance, under the laws of the State of South
3 Carolina, again, in violation of the Code of Laws of the State
4 of South Carolina, 1976, as amended.

5 And regarding the possession of a Schedule I to V drug
6 that he did, on August 31, 2016, knowingly and intentionally
7 possess a quantity of Xanax, a schedule IV drug, again such
8 possession not being authorized by law and in violation of the
9 Code of Laws of the State of South Carolina, 1976, as amended.

10 Is there any member of the jury panel that knows anything
11 about this particular matter, has any information about this
12 particular matter that you need to bring to the Court's
13 attention at this time? If so, please stand.

14 (REPORTER'S NOTE: No response.)

15 THE COURT: Very good.

16 The possible or potential witnesses -- regarding this
17 particular matter, I'm gonna read to you a list of possible or
18 potential witnesses, it doesn't mean that all of these are
19 gonna be called, but that potentially or possibly they could
20 be called in this particular case and, at the end of it, I'll
21 ask if you know or have any contact with any of these
22 individuals: Alan Morris -- these are gonna be several, a
23 number of individuals from the Georgetown Police Department.
24 So, from the Georgetown City Police Department: Alan Morris;
25 Noel Smith; Ian Anderson; Shane Powers; John Gregory; Shep

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VOIR DIRE

10

1 Bone; Chanda, C-H-A-N-D-A, Robinson; Johnell, J-O-H-N-E-L-L
2 Sparkman; Blair Cribb; Jason Ward; and B. Bird. Those are the
3 Georgetown City Police Department. From the Georgetown County
4 Detention Center: Joanne Clary; Amy Glover. From the State
5 Law Enforcement Division: Larry Zivkovich; Lieutenant
6 Jennifer M. Nates; Chad M. Smith; Doris Yarbrough; Jackie M.
7 Davis; Maribeth McCormick; Amy Stephens Black; Isla Simmons.
8 Other witnesses: Danasha, D-A-N-A-S-H-A, Anderson; Shaniqua
9 Kennedy; Shaniqua Mcgirt, that's M-C-G-I-R-T; Vertrell
10 Gardner; Tysha Moultrie; Octavia Trappier, T-R-A-P-P-I-E-R;
11 Timmy Lee Sparkman; Kiara Logan. Dr. John M. Stover of
12 Tideland's Hospital; Dr. G.T. Deschamps, Jr., Tidelands
13 Hospital; Joshua Sapp, Georgetown Fire and EMS; Jennifer
14 Dehart, Georgetown Fire and EMS; Carey Shealy, Statewide
15 Security Systems; Steven Brown, 15th Circuit Solicitor's
16 office.

17 Is there any member -- and the defendant, Ty'Shun
18 Bessellieu.

19 Any member of the jury panel that knows any of these
20 potential witnesses or has any contact with them, either
21 professionally, business, or personally? If so, please stand.

22 THE COURT: All right. We'll start in the front row.
23 Yes, sir, tell me your name and juror number first, please.

24 JUROR 170: Yes, sir. Marshall Lambert, Juror Number
25 170.

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11

VOIR DIRE

1 THE COURT: And who is it that you might know?

2 JUROR 170: Ward.

3 THE COURT: All right, sir. Just assuming that Jason
4 Ward is a witness in this case, can you give to the State of
5 South Carolina and to the defendant a fair and impartial
6 trial; can you be a fair and impartial juror in this case?

7 JUROR 170: Yes, sir.

8 THE COURT: Thank you very much.

9 Yes, sir? Your name and juror number, please.

10 JUROR 173: Bryant Landers, 173.

11 THE COURT: And who is it that you might know?

12 JUROR 173: Alan Morris.

13 THE COURT: All right, sir.

14 JUROR 173: And Jason Ward.

15 THE COURT: All right. Very good. The fact that those
16 individuals might be witnesses in this case, Can you give to
17 the State of South Carolina and to the defendant a fair and
18 impartial trial; can you be a fair and impartial juror in this
19 case?

20 JUROR 173: Yes, sir.

21 THE COURT: Thank you very much.

22 All right. Yes, sir, in the middle there, can you tell
23 me your name and juror number, please?

24 JUROR 337: Juror 337, Bernard Wilson.

25 THE COURT: Yes, sir, and who is it that you might know?

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VOIR DIRE

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1 JUROR 337: Officer Gregory.

2 THE COURT: All right, sir.

3 JUROR 337: Sparkman, Officer Bird.

4 THE COURT: All right, sir. Very good.

5 JUROR 377: And --

6 THE COURT: I'm sorry, go ahead?

7 JUROR 377: -- I also know the defendant.

8 THE COURT: All right. So, very good. All right. So,
9 with that, assuming all, just can you give to the State of
10 South Carolina and to the defendant a fair and impartial
11 trial; can you be a fair and impartial juror in this case?

12 JUROR 377: Yes, sir.

13 THE COURT: Thank you very much.

14 All right. On the end of the row, ma'am, your name and
15 juror number?

16 JUROR 212: Debbie Moore, 212. I work at Tidelands with
17 Dr. Stover.

18 THE COURT: All right. Very good. Can you give to the
19 State of South Carolina and to the defendant a fair and
20 impartial trial; can you be a fair and impartial juror in this
21 case?

22 JUROR 212: Yes.

23 THE COURT: Thank you very much. All right.
24 Yes, ma'am, next to her?

25 JUROR 99: Juror 99, I work at Tidelands Health and I

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VOIR DIRE

13

1 also know Officer Glover.

2 THE COURT: All right. All right. Very good.

3 Can you give to the State of South Carolina and to the
4 defendant a fair and impartial trial; can you be a fair and
5 impartial juror in this case?

6 JUROR 99: Yes.

7 THE COURT: Thank you very much, ma'am. All right.
8 Yes, ma'am?

9 JUROR 94: Juror Number 94, Laura Forehand. I know
10 Officer Morris, Officer Shane Powers and also the defendant.

11 THE COURT: All right. Can you give to the State of
12 South Carolina and to the defendant a fair and impartial
13 trial; can you be a fair and impartial juror in this case?

14 JUROR 94: Yes, sir.

15 THE COURT: Thank you very much.

16 All right. Is there any member of the jury panel that
17 either you yourself or a member of your immediate family has
18 ever had any matters of any kind worked on, handled, touched
19 in any way by the 15th Circuit Solicitor's office, that is the
20 prosecuting office that covers Georgetown and Horry Counties?
21 If so, please stand.

22 (REPORTER'S NOTE: No response.)

23 THE COURT: All right. Is there any member of the jury
24 panel that's related by blood or marriage, close personal
25 friends or acquaintances of anybody employed by the 15th

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VOIR DIRE

14

1 Circuit Solicitor's office? If so, please stand.

2 (REPORTER'S NOTE: No response.)

3 THE COURT: Very good. All right. From the solicitor,
4 if you'd stand and identify yourself to the jury, please,
5 ma'am.

6 MS. RICHARDSON: My name is Alicia Richardson. I'm a
7 Deputy Solicitor for here in Georgetown County. Our elected
8 Solicitor is Jimmy Richardson; we are not related.

9 THE COURT: Very good. All right.
10 And for the defense?

11 MR. EDGEWORTH: Thank you, Your Honor.

12 My name is Josh Edgeworth. I have a law practice in
13 Pawleys Island, South Carolina.

14 THE COURT: All right. Very good. All right. Is there
15 any member of the jury panel that's related by blood or
16 marriage, close personal friends, acquaintances of these
17 attorneys that have introduced them to you; and in regards to
18 the defense and Mr. Edgeworth in this matter, is there any
19 member of the jury ever been a client of his either in the
20 past or current? If any of that applies to you, please stand.

21 (REPORTER'S NOTE: No response.)

22 THE COURT: Very good. All right. Is there any member
23 of the jury panel that you believe you have any kind of
24 personal, political, religious, philosophical belief that you
25 believe would prevent you from being a fair and impartial

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15

1 juror in this case? If so, please stand.

2 Yes, ma'am, your name and juror number please, ma'am?

3 JUROR 233: 233, Jessica Ortiz.

4 THE COURT: All right, ma'am, come up here and talk to me
5 please?

6 Counsel, you may approach.

7 (REPORTER'S NOTE: Bench conference is held off the record
8 with Juror 233 in the presence of but outside the hearing of
9 the jury. Juror 233 excused from the trial of this particular
10 case.)

11 THE COURT: All right. Is there any member of the jury
12 panel that either you or a member of your immediate family has
13 ever had any involvement or, again, had a case that's been
14 worked on, touched, looked at by any member of the 15th
15 Circuit Public Defender's office, either in Georgetown County
16 or Horry County? If so, please stand.

17 (REPORTER'S NOTE: No response.)

18 THE COURT: Thank you.

19 All right. Is there any member of the jury panel, either
20 you yourself or a member of your immediate family a former or
21 current law enforcement officer; so if it was yourself,
22 obviously you would've been a former law enforcement officer
23 and if it's a family member either current or former law
24 enforcement officer? If any of that applies to you, please
25 stand.

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VOIR DIRE

16

1 All right. Yes, ma'am, your name and juror number
2 please, ma'am?

3 JUROR 162: Juror 162.

4 THE COURT: Yes, ma'am.

5 JUROR 162: My name is Penny Kessler. My husband and my
6 father-in-law are -- one was a correctional officer and one
7 was law enforcement.

8 THE COURT: And what state was that please, ma'am?

9 JUROR 162: New Jersey.

10 THE COURT: All right. Can you give to the State of
11 South Carolina and to the defendant a fair and impartial
12 trial; can you be a fair and impartial juror in this case?

13 JUROR 162: Yes.

14 THE COURT: Thank you very much.

15 Right behind her, yes, ma'am, your name and juror number?

16 JUROR 181: 181, Susan Lytle.

17 THE COURT: Yes, ma'am?

18 JUROR 181: My grandpa was a sheriff here for 32 years.
19 He was a state trooper, and he worked with Kenny Johnson at
20 the Coroner's office.

21 THE COURT: All right. Very good. Can you give to the
22 State of South Carolina and to the defendant a fair and
23 impartial trial; can you be a fair and impartial juror in this
24 case?

25 JUROR 181: Yes, sir.

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VOIR DIRE

17

1 THE COURT: Thank you very much.

2 All right. Yes?

3 JUROR 317: Juror Number 317, Linda Trzop. My father is
4 a retired state trooper from Plymouth, Indiana.

5 THE COURT: All right. Can you give to the State of
6 South Carolina and to the defendant a fair and impartial
7 trial; can you be a fair and impartial juror in this case?

8 JUROR 317: Yes, sir.

9 THE COURT: Thank you very much, ma'am.

10 Yes, sir, you'll have to tell us your name and juror
11 number again?

12 JUROR 337: Juror 337, Bernard Wilson. I had two
13 officers, both police officers here in Georgetown County.

14 THE COURT: All right. Very good. Can you give to the
15 State of South Carolina and to the defendant a fair and
16 impartial trial; can you be a fair and impartial juror in this
17 case?

18 JUROR 337: Yes, sir.

19 THE COURT: Thank you very much.

20 All right. Yes, ma'am?

21 JUROR 97: Number 97, Eileen Fucello. My father was a
22 New York City Police Lieutenant.

23 THE COURT: All right, ma'am. Can you give to the State
24 of South Carolina and to the defendant a fair and impartial
25 trial; can you be a fair and impartial juror in this case?

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VOIR DIRE

18

1 JUROR 97: Yes.

2 THE COURT: Thank you very much.

3 Yes, ma'am?

4 JUROR 94: My name is Laura Forehand, Juror Number 94.

5 My uncle currently works with the Sheriff's Department.

6 THE COURT: Here in Georgetown County?

7 JUROR 94: Yes, sir.

8 THE COURT: Can you give to the State of South Carolina
9 and to the defendant a fair and impartial trial; can you be a
10 fair and impartial juror in this case?

11 JUROR 94: Yes, sir.

12 THE COURT: Thank you very much.

13 Yes, sir?

14 JUROR 274: 274, Adam Rusnak. My brother is a
15 correctional officer in Pittsburg, and yes.

16 THE COURT: All right, sir. Can you give to the State of
17 South Carolina and to the defendant a fair and impartial
18 trial; can you be a fair and impartial juror in this case?

19 JUROR 274: Yes.

20 THE COURT: Thank you very much. I'm required to ask the
21 question every time. All right?

22 All right. The next question is, is there any member of
23 the jury panel that either you or a member of your immediate
24 family is a member of any kind of victims' rights or law
25 enforcement support organization? Now, I'm just gonna give

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VOIR DIRE

19

1 you a couple of examples. I can't give you an exhaustive list
2 of any kind, but I'm just gonna give you a couple of examples
3 here: Mothers Against Drunk Driving, The Citizens Against
4 Violent Crime, The South Carolina Sheriffs Association, South
5 Carolina Law Enforcement Officers Association. Just some kind
6 of victim's rights or law enforcement support organization,
7 either you yourself or a member of your family is a member; if
8 so, please stand?

9 Very good.

10 All right. The next question I'm gonna ask, ladies and
11 gentlemen, is whether or not you yourself or a member of your
12 immediate family has ever been the victim of a crime. Now, I
13 am not going to ask you what occurred. I do not want you to
14 volunteer the information to me about what occurred. The
15 question is gonna be straightforward: Was it yourself or a
16 family member? And then I'll ask the general qualification
17 question. So, is there any member of the jury panel, either
18 you yourself or a member of your immediate family has ever
19 been the victim of a crime? If so, please stand.

20 All right, sir, right -- right up front, your name and
21 juror number, please?

22 JUROR 19: Phil Brady, Number 19.

23 THE COURT: And was it yourself or a family member?

24 JUROR 19: Myself.

25 THE COURT: Can you give to the State of South Carolina

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VOIR DIRE

20

1 and to the defendant a fair and impartial trial; can you be a
2 fair and impartial juror in this case?

3 JUROR 19: Yes.

4 THE COURT: Thank you very much.

5 Yes, ma'am?

6 JUROR 162: Juror 162, Penny Kessler.

7 THE COURT: Yourself or a family member?

8 JUROR 162: My husband.

9 THE COURT: Can you give to the State of South Carolina
10 and to the defendant a fair and impartial trial; can you be a
11 fair and impartial juror in this case?

12 JUROR 162: Yes.

13 THE COURT: Thank you very much.

14 Yes, sir?

15 JUROR 173: Bryant Landers, 173.

16 THE COURT: Yourself or a family member?

17 JUROR 173: A family member.

18 THE COURT: Can you give to the State of South Carolina
19 and to the defendant a fair and impartial trial; can you be a
20 fair and impartial juror in this case?

21 JUROR 173: Yes, sir.

22 THE COURT: Thank you very much.

23 You have to say your name and juror number every time.

24 JUROR 337: Bernard Wilson, Juror 337. A family member.

25 THE COURT: A family member. All right. Can you give to

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VOIR DIRE

21

1 the State of South Carolina and to the defendant a fair and
2 impartial trial; can you be a fair and impartial juror in this
3 case?

4 JUROR 337: Yes, sir.

5 THE COURT: Thank you very much.

6 Yes, ma'am?

7 JUROR 97: Number 97, Eileen Fucello, myself.

8 THE COURT: Can you give to the State of South Carolina
9 and to the defendant a fair and impartial trial; can you be a
10 fair and impartial juror in this case?

11 JUROR 97: Yes.

12 THE COURT: Thank you very much.

13 Yes, ma'am, on the end?

14 JUROR 212: Debbie Moore, Number 212, and it was a family
15 member.

16 THE COURT: Can you give to the State of South Carolina
17 and to the defendant a fair and impartial trial; can you be a
18 fair and impartial juror in this case?

19 JUROR 212: Yes, sir.

20 THE COURT: Thank you very much.

21 Yes, ma'am?

22 JUROR 60: Juror Number 60, Angela Cox, my family.

23 THE COURT: Can you give to the State of South Carolina
24 and to the defendant a fair and impartial trial; can you be a
25 fair and impartial juror in this case?

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1 JUROR 60: Yes, sir.

2 THE COURT: Thank you very much.

3 All right, ladies and gentlemen, it's my last question;
4 it's what I call my general or catch-all question. Do you
5 know of any reason, have any question in your mind, any doubt
6 in your mind, that you believe you cannot give to the State of
7 South Carolina and to the defendant a fair and impartial
8 trial, that is for any reason whatsoever you believe you
9 cannot be a fair and impartial juror in this case? If so,
10 please stand.

11 (REPORTER'S NOTE: No response.)

12 THE COURT: Very good.

13 Further questions from the state?

14 MS. RICHARDSON: None from the state, Your Honor..

15 THE COURT: From the defense?

16 MR. EDGEWORTH: None from the defense, Your Honor.

17 THE COURT: All right. Very good.

18 JURY SELECTION:

19 THE COURT: All right, ladies and gentlemen, this is how
20 the selection process is going to work. Your names have been
21 placed in a random order and with that, the Clerk of Court is
22 gonna call out a name. If and when your name is called, you
23 come, stand up and come forward and you come to a place
24 basically right in the center here, you turn and face to the
25 back of the courtroom. At that point in time, the clerk will

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1 inquire of the state to present or excuse the juror. After
2 that, the clerk will inquire of the defense to seat or excuse
3 the juror. If you are excused either by the state or the
4 defense, you go back and have a seat from whence you came. If
5 you are presented by the state, if you are seated by the
6 defense, the Clerk will ask you to go over to the jury box and
7 have a seat in the jury box as a member of the jury in this
8 particular case.

9 So, if you happen to have any item that you have with
10 you, a purse or a coat or whatever it might be, just bring
11 that along with you in case you are chosen to be a juror and
12 you can go directly to the juror box.

13 All right, Madam Clerk.

14 CLERK: All right. Juror Number 99, Mertis Gadson.

15 THE COURT: Yes, ma'am, just somewhere right there in the
16 middle. That's good right there.

17 CLERK: Turn around.

18 THE COURT: You've got to turn around and face the other
19 way. Thank you, ma'am.

20 CLERK: What says the state?

21 MS. RICHARDSON: Please present the juror.

22 CLERK: What says the defense?

23 MR. EDGEWORTH: Please seat the juror.

24 CLERK: Please take a seat in the jury box.

25 Juror Number 162, Penny Kessler.

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1 What says the state?

2 MS. RICHARDSON: Please present the juror.

3 CLERK: What says the defense?

4 MR. EDGEWORTH: One moment, Your Honor. Please excuse
5 the juror from the trial of this case.

6 CLERK: You may return to your seat.

7 Juror Number 243, Alison Pavy.

8 What says the state?

9 MS. RICHARDSON: Please present the juror.

10 CLERK: What says the defense?

11 MR. EDGEWORTH: Court's indulgence?

12 THE COURT: Yes, sir.

13 MR. EDGEWORTH: Please seat the juror.

14 CLERK: Please take a seat in the jury box.

15 Juror Number 132, Brian Holloway.

16 What says the state?

17 MS. RICHARDSON: Please present the juror.

18 CLERK: What says the defense?

19 MR. EDGEWORTH: Please excuse the juror from the trial of
20 this case.

21 CLERK: You may return to your seat.

22 Juror Number 164, Marlene Klosterman.

23 What says the state?

24 MS. RICHARDSON: Please present the juror.

25 CLERK: What says the defense?

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1 MR. EDGEWORTH: Please excuse the juror from the trial of
2 this case.

3 CLERK: You may return to your seat.

4 Juror Number 328, Danuel White.

5 What says the state?

6 MS. RICHARDSON: Please excuse this juror.

7 CLERK: You may return to your seat.

8 Juror Number 337, Bernard Wilson.

9 What says the state?

10 MS. RICHARDSON: Please excuse this juror.

11 CLERK: You may return to your seat.

12 Juror Number 323, Kelly Ward.

13 What says the state?

14 MS. RICHARDSON: What was the number again?

15 CLERK: 323.

16 MS. RICHARDSON: Please present this juror.

17 CLERK: What says the defense?

18 MR. EDGEWORTH: One moment please. Please excuse the
19 juror from the trial of this case.

20 CLERK: You may return to your seat.

21 Juror Number 197, Timothy McIntosh.

22 What says the state?

23 MS. RICHARDSON: Please present the juror.

24 CLERK: What says the defense?

25 MR. EDGEWORTH: Madam Clerk, the number, please?

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1 CLERK: 197.
2 MR. EDGEWORTH: Thank you.
3 Please seat the juror.
4 CLERK: Please take a seat in the jury box.
5 Juror Number 308, Jason Stungurys.
6 What says the state?
7 MS. RICHARDSON: Please present the juror.
8 CLERK: What says the defense?
9 MR. EDGEWORTH: One moment. Please seat the juror.
10 CLERK: Please take a seat in the jury box.
11 Juror Number 274, Adam Rusnak.
12 What says the state?
13 MS. RICHARDSON: Please present the juror.
14 CLERK: What says the state?
15 MR. EDGEWORTH: Number again, Madam Clerk?
16 CLERK: 274.
17 MR. EDGEWORTH: Please excuse the juror from the trial of
18 this case.
19 CLERK: You may return to your seat.
20 Juror Number 9, Justin Bauer.
21 What says the state?
22 MS. RICHARDSON: Please excuse this juror from the trial
23 of this case.
24 CLERK: You may return to your seat.
25 Juror Number 173, Bryant Landers.

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1 What says the state?

2 MS. RICHARDSON: Please present the juror.

3 CLERK: Any challenges from the defense?

4 THE COURT: No, ma'am.

5 CLERK: No? Flip?

6 THE COURT: Yes.

7 CLERK: Okay. What says the defense?

8 MR. EDGEWORTH: Thank you.

9 Please excuse the juror from the trial of this case.

10 CLERK: You may return to your seat.

11 Juror Number 313, Mavernette Thompson.

12 What says the state?

13 MS. RICHARDSON: Please present the juror.

14 CLERK: What says the defense?

15 MR. EDGEWORTH: Please seat the juror.

16 CLERK: Please take a seat in the jury box.

17 Juror Number 19, Philip Brady.

18 What says the state?

19 MS. RICHARDSON: Please present the juror.

20 CLERK: What says the defense?

21 MR. EDGEWORTH: Court's indulgence for one moment.

22 Please excuse the juror from the trial of this case.

23 CLERK: You may return to your seat.

24 Juror Number 122, Justin Harris.

25 What says the state?

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1 MS. RICHARDSON: Please present the juror.
2 CLERK: What says the defense?
3 MR. EDGEWORTH: My apologies, Madam Clerk, the number
4 again?
5 CLERK: 122.
6 MR. EDGEWORTH: Thank you very much.
7 Please seat the juror.
8 CLERK: Please take a seat in the jury box.
9 Juror Number 181, Susan Lytle.
10 What says the state?
11 MS. RICHARDSON: Please present the juror.
12 CLERK: What says the defense?
13 MR. EDGEWORTH: One moment, Your Honor.
14 Please excuse the jury from the trial of this case.
15 CLERK: You may return to your seat.
16 Juror Number 94, Laura Forehand.
17 What says the state?
18 MS. RICHARDSON: Please present the juror.
19 CLERK: What says the defense?
20 MR. EDGEWORTH: One moment, please.
21 Please excuse the juror from the trial of this case.
22 CLERK: You may return to your seat.
23 Juror Number 169, Kory Lambert.
24 What says the state?
25 MS. RICHARDSON: Please excuse this juror.

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1 CLERK: You may return to your seat.
2 Juror Number 136, Brandon Huestis.
3 What says the state?
4 MS. RICHARDSON: Please present the juror.
5 CLERK: What says the defense?
6 MR. EDGEWORTH: One moment please.
7 Please seat the juror.
8 CLERK: Please take a seat in the jury box.
9 Juror Number 165, Jane Kohlér.
10 What says the state?
11 MS. RICHARDSON: Please present the juror.
12 CLERK: What says the defense?
13 MR. EDGEWORTH: One moment please.
14 Please seat the juror.
15 CLERK: Please take a seat in the jury box.
16 Juror Number 187, Paul Marshall.
17 What says the state?
18 MS. RICHARDSON: Please present the juror.
19 CLERK: What says the defense?
20 MR. EDGEWORTH: One moment.
21 Please seat the juror.
22 CLERK: Please take a seat in the jury box.
23 Juror Number 81, Lauren Dulberger.
24 What says the state?
25 MS. RICHARDSON: Please present the juror.

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1 CLERK: What says the defense?

2 MR. EDGEWORTH: One moment.

3 Please seat the juror.

4 CLERK: Please take a seat in the jury box.

5 Juror Number 29, Nicholas Bryant.

6 What says the state?

7 MS. RICHARDSON: Please present the juror.

8 CLERK: What says the defense?

9 MR. EDGEWORTH: One moment, please.

10 Please seat the juror.

11 CLERK: Please take a seat in the jury box.

12 Juror Number 142, Rebecca Iglesias.

13 What says the state?

14 MS. RICHARDSON: Please present the juror.

15 CLERK: What say the defense?

16 MR. EDGEWORTH: Court's indulgence please.

17 Please seat the juror.

18 CLERK: Please take a seat in the jury box.

19 Juror Number 275, Olivia Russell.

20 THE COURT: So, we're doing two alternates. It will be
21 one and two on each alternate.

22 CLERK: What says the state?

23 MS. RICHARDSON: Please seat the juror.

24 CLERK: What says the defense?

25 MR. EDGEWORTH: Madam Clerk, the number, please?

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1 CLERK: 275.
2 MR. EDGEWORTH: 275, thank you.
3 Please excuse the juror from the trial of this case.
4 CLERK: You may return to your seat.
5 Juror Number 64, Kristin Dantoni.
6 What says the state?
7 MS. RICHARDSON: Please present the juror.
8 CLERK: What says the defense?
9 MR. EDGEWORTH: One moment please.
10 Please seat the juror.
11 CLERK: Please take a seat in the jury box.
12 Juror Number 170, Marshall Lambert.
13 What says the state?
14 MS. RICHARDSON: Please present the juror.
15 CLERK: What says the defense?
16 MR. EDGEWORTH: Please excuse the juror from the trial of
17 this case.
18 CLERK: You may return to your seat.
19 Juror Number 133, Geraldine Holmes.
20 What says the state?
21 MS. RICHARDSON: Please present the juror.
22 CLERK: What says the defense?
23 MR.. EDGEWORTH: Court's indulgence.
24 Please excuse the juror from the trial of this case?
25 CLERK: You may return to your seat.

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1 Juror Number 317, Linda Trzop.

2 What says the state?

3 MS. RICHARDSON: Please present the juror.

4 CLERK: Any challenges from the defense?

5 MR. EDGEWORTH: No, Your Honor.

6 THE COURT: Have a seat in the jury box, please.

7 All right. Is there any objections to the jury as
8 impaneled from the state?

9 MS. RICHARDSON: None from the state, Your Honor.

10 THE COURT: From the defense?

11 MR. EDGEWORTH: None from the defense, Your Honor.

12 THE COURT: Very good. All right. I find the jury has
13 been properly impaneled pursuant to *Batson v. Kentucky* and *JEB*
14 *v. Alabama*.

15 BY THE COURT:

16 THE COURT: All right, ladies and gentlemen, you're the
17 jury in this particular case. I'm going to ask that you go to
18 your jury room in just a few minutes and I want to ask that
19 you do one thing for me and that's gonna be, pick your
20 foreperson.

21 So, let me tell you what the foreperson's duties and
22 responsibilities are in this particular matter. If we're here
23 in the courtroom and the jury needs attention to some matter;
24 the witness needs to speak up or the lawyers or whatever it
25 is, the foreperson will raise their hand, gets the Court's

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1 attention, we'll handle that matter, whatever it might be. If
2 you're back in the jury room and some issue comes up, they'll
3 give you a pad and pen, you'll write out a note, you'll sign
4 it and you'll give it to the bailiff, it'll come to me and
5 again, we'll handle that matter, whatever it might be.

6 Now, when we've gone through the evidentiary portion of
7 the trial, we've heard all the witnesses testify under oath in
8 this matter that are gonna testify, received any kind of
9 documentary or physical evidence that might be introduced in
10 this particular case and we've finished with that evidentiary
11 portion, and then we hear the closing arguments of the
12 attorneys, and then I will give you the law that you will
13 apply to the facts and evidence you've heard in this
14 particular case. And then we'll send the case with you to the
15 jury room for your deliberations and your unanimous decision
16 in these matters. The foreperson's duties and
17 responsibilities change in this regard. The foreperson is
18 gonna act like the chairperson at a meeting, guide the
19 discussions, if necessary. An important duty and
20 responsibility that the foreperson has is that to make sure
21 that everybody that wants to has an opportunity to speak,
22 everybody's voice has an opportunity to be heard. Now, the
23 foreperson's voice and vote carries no more weight than any
24 other member of the jury. Everybody is equal in that regard,
25 but the foreperson needs to remain in charge and again, if

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1 there's any question that comes up, again the foreperson
2 writes out that note, signs it, gives it to the bailiff and
3 it'll again come to me and we'll handle the matter, whatever
4 it might be.

5 The final duty and responsibility of the foreperson is
6 once the jury has well and truly deliberated, you have reached
7 your unanimous decision in these matters, the foreperson will
8 take the verdict forms that the Court will provide to you,
9 check the appropriate block or write out the appropriate word,
10 thereafter sign their name as the foreperson indicating that
11 that verdict is indeed the unanimous verdict of each and every
12 member of the jury in this particular case.

13 So, with that, I'm gonna ask that you go to your jury
14 room. Go ahead and select your foreperson, knock on the door,
15 let the bailiff know who that foreperson is. Now, the -- the
16 two alternates in this matter, Ms. Trzop?

17 JUROR 317: Correct.

18 THE COURT: Okay. Very good. And Ms. Dantoni?

19 JUROR 64: Uh-huh (affirmative response).

20 THE COURT: All right. As alternates, y'all can vote on
21 the foreperson, but being alternates, the two of you cannot be
22 the foreperson. Everybody else is eligible, so, if you would
23 accompany the bailiff to the jury room and select your
24 foreperson, please.

25 (REPORTER'S NOTE: Jury exits courtroom.)

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1 THE COURT: All right, ladies and gentlemen of the jury
2 panel that were not selected for this particular case, I'm
3 gonna excuse you for the balance of today. I'm sure Judge
4 Culbertson talked to you about that juror information line
5 that the clerk of court's office has. If you would call that
6 number after 6 o'clock tonight, follow those instructions,
7 whatever they may be. It might very well be to have you call
8 back again, you know, tomorrow after 12 noon or something like
9 that, but just call after 6:00, follow the instructions,
10 whatever they are, and with that, you are now excused.

11 Thank you very much.

12 (REPORTER'S NOTE: Jury Venire exits courtroom. The following
13 takes place outside the presence of the jury.)

14 THE COURT: All right. Solicitor and Mr. Edgeworth,
15 could y'all come up here and talk to me for just one second,
16 please?

17 (REPORTER'S NOTE: Bench conference is held off the record.)

18 THE COURT: All right. You're excused until 2:30 then,
19 2:30; we'll resume at that point in time with the motion
20 hearing.

21 And for your information, counsel, the jury has selected
22 Juror Number 197, Juror Number 197 as the foreperson.

23 All right. Mr. Bailiff, if you would tell the jury that
24 they are excused until 3:30, please. Be back at 3:30.

25 BAILIFF: Thank you.

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1 THE COURT: All right. So, with that we'll resume at
2 2:30 with the motion hearing.

3 Thank you very much.

4 (RECESS.)

5 *****OFF THE RECORD*****

6 (On the Record.)

7 BY THE COURT:

8 THE COURT: All right, Solicitor, you ready to go?

9 MS. RICHARDSON: Your Honor, at the break, I decided not
10 to admit the video that we had talked about earlier ---

11 THE COURT: Okay.

12 MS. RICHARDSON: --- with the collection of GSR.

13 THE COURT: All right. So, are there any other motions
14 or matters we need to cover, Mr. Edgeworth?

15 MR. EDGEWORTH: No, Your Honor.

16 THE COURT: All right. So, well I told the jury to come
17 in -- I thought we were gonna have the motion hearing that's
18 why I came in. So, the jury is not coming back until 3:30.
19 Okay? So, at that point in time, we'll come in, we'll start
20 the preliminary charge to the jury, the opening arguments.
21 What -- we have some fairly short witnesses that you can
22 proceed with, Solicitor?

23 MS. RICHARDSON: Your Honor, my intention was just to
24 start with one of the victims first.

25 THE COURT: Okay. All right. That's fine.

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1 MS. RICHARDSON: And we may not get to but one of
2 them. And just for the record, we discussed the
3 identification issues a little more over the break. The
4 victim, Ms. Anderson was shown a photo at the hospital. We're
5 not attempting -- it was just one individual photo of the
6 defendant, we're not seeking to enter that. We talked in the
7 back about how there was some prejudicial elements to that as
8 far as the gestures he was making and visible tattoos.

9 THE COURT: Okay. And so, with that, I'm assuming you
10 don't intend to ask her questions about that then either?

11 MS. RICHARDSON: Not about that. She will be identifying
12 the defendant.

13 THE COURT: Okay. Based upon some past interaction with,
14 with him?

15 MS. RICHARDSON: Your Honor, she was familiar with him as
16 she had seen him on multiple occasions before, just didn't
17 know him by name.

18 THE COURT: Okay. All right.

19 MS. RICHARDSON: She knew his name, knew his face, but
20 hadn't put them together.

21 THE COURT: All right. So, the identification will be based
22 upon that and will not be based upon anything that happened at
23 the hospital then?

24 MS. RICHARDSON: Correct, Your Honor.

25 THE COURT: Okay. All right. Very good.

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1 We'll be at ease then until 3:30.

2 Thank you.

3 (RECESS.)

4 *****OFF THE RECORD*****

5 (On the Record.)

6 THE COURT: All right. Very good. All right. Is the
7 state ready for the jury to come in?

8 MS. RICHARDSON: Yes, Your Honor.

9 THE COURT: And the defense?

10 MR. EDGEWORTH: Yes, Your Honor.

11 THE COURT: All right. Ask the jury to come in, please.

12 (REPORTER'S NOTE: Jury enters courtroom.)

13 THE COURT: All right. Madam Clerk, if you would swear
14 the jury at this time, please.

15 CLERK: If y'all will all please stand and raise your
16 right hand.

17 (REPORTER'S NOTE: Jury duly sworn.)

18 THE COURT: Is there any member of the jury panel that
19 did not just affirmatively take the oath as given by the
20 clerk? If so, please stand.

21 (REPORTER'S NOTE: No response.)

22 THE COURT: No juror having stood, I find the jury
23 properly sworn in this matter.

24 All right, ladies and gentlemen, as I told you at the
25 very beginning when we were qualifying the jury panel as a

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1 whole, that the state has brought numerous charges against the
2 defendant, Ty'Shun Mario Bessellieu. And just to review with
3 those, there are four counts of attempted murder, one count of
4 possession of a weapon during the commission of a violent
5 crime, one count of discharging a firearm into a dwelling, one
6 count of unlawful possession of a pistol, possession of
7 marijuana with intent to distribute, and possession of a
8 Schedule IV controlled substance alleged to have been Xanax.

9 So, with that, you now understand that you are trying all
10 of those cases. Each of one them is a separate offense. So,
11 each one of them will require eventually from you a separate
12 decision as to each one of those charges because each one of
13 them is a separate case. There are different elements of
14 proof as to each crime alleged by the state. They'll be
15 different elements and facts that the state will have to prove
16 to you regarding each matter. So, at the end, there will be a
17 separate verdict form on each one of these alleged crimes and
18 a separate decision will have to be rendered by you on and
19 each and every one of these matters.

20 I'm sure you're sitting there wondering, well, exactly
21 what is my job? Collectively you will be the judges of the
22 facts of this case. I will not indicate to you in any fashion
23 what I believe the facts of this case are because it's not my
24 job, my responsibility. It's my job to cover the law with
25 you, to govern the proceedings, that is how the case will be

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1 conducted as far as issues that might come up, but I will not
2 comment on any facts in this matter.

3 There will be presented to you -- first, we'll have these
4 brief opening remarks, opening statements by the attorneys.
5 Then, we'll have the evidentiary portion of the trial.
6 Witnesses will come before you, testify under oath. The state
7 may introduce certain exhibits and/or documents or physical
8 evidence that may or may not be part of this particular case.
9 After that, we'll have the closing arguments of the attorneys
10 and then I will give you the law that you will apply to the
11 facts and evidence you have heard in this particular matter,
12 and then I'll submit the case to you for your deliberations
13 and your unanimous decision on each and every one of those
14 charges.'

15 Regarding -- again I told you, I will not comment on the
16 facts, so please understand, during the course of the trial if
17 the attorneys make certain motions or objections, if I rule on
18 those in your presence, please remember about my duty of
19 governing the conduct of the trial, that is what is proper for
20 you to hear in this particular matter, but I will not comment
21 on the facts.

22 Now, in your job as the judges of the facts, a portion of
23 that or a part of that is judging the credibility and the
24 believability of the witnesses that come before you and
25 testify under oath. And if you're thinking how do I judge

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1 somebody's credibility and believability, if you think about
2 it, you do it every single day of your life. When somebody
3 tells you something, you are automatically judging in your own
4 mind whether or not you believe that person or believe what
5 they're saying. How do you do that? You use your good common
6 sense, you use your good judgment that you use in conducting
7 your own affairs. That's what we're gonna be asking you to
8 do; apply your good common sense and apply your good judgment
9 to the facts and evidence you hear, judging the credibility
10 and believability, and then ultimately making your decision on
11 all of these matters.

12 Now, to all of these charges that the state has brought
13 or levied against the defendant in this matter, the defendant
14 has pled not guilty. That immediately put the burden of proof
15 on the State of South Carolina to prove the defendant guilty
16 beyond a reasonable doubt of each and every one of the
17 charges, if it can do so. This burden of proof remains on the
18 State of South Carolina throughout the trial, throughout the
19 closing arguments, throughout the charge, into your
20 deliberations unless and until you believe the state has
21 proven the defendant guilty beyond a reasonable doubt of those
22 charges. That presumption of innocence, and I'll remind you
23 about this at the very end, it's something that remains with
24 the defendant throughout the entirety of the trial. The
25 defendant has nothing to prove to you. The defendant has

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1 nothing to show to you. I tell juries all the time, matter of
2 fact, the defendant need not even show up for trial because
3 they don't have anything to prove to you. They don't have
4 anything to show to you. It is all upon the State of South
5 Carolina to prove, if they can, the defendant guilty of the
6 crime they have charged him with. And so, on each and every
7 one of those charges that they've brought or levied against
8 the defendant, it's their duty and responsibility to present
9 to you evidence that if you find it to be believable and
10 credible, to see whether or not the state has proved that
11 defendant guilty of that crime beyond a reasonable doubt.
12 At the end, we'll be asking you to discuss the matter among
13 yourselves to discuss the case. It's your job to listen to
14 the facts and the evidence presented because you're the ones
15 responsible for being the judges of the facts. So, when
16 they're testifying, when the people are testifying and things
17 are being introduced, that's the evidence. That's what you
18 need to be paying attention to so that you can ultimately make
19 your decision on whether or not the state can prove the
20 defendant guilty beyond a reasonable doubt.

21 I know that you will do that and I appreciate the time
22 and effort that we are requiring of you in this matter. But,
23 I know that all of you will accomplish your duties in the
24 manner that is prescribed.

25 All right, Solicitor, your opening statement, please,

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OPENING BY RICHARDSON

1 ma'am.

2 MS. RICHARDSON: May it please the Court.

3 THE COURT: Yes, ma'am.

4 OPENING BY RICHARDSON:

5 MS. RICHARDSON: Good afternoon. We've all heard people
6 say, that was a close call. She dodged a bullet. It's a
7 brush with death. My life flashed in front of my eyes. We've
8 all heard those statements, but in this case, that was a
9 reality and it's an understatement how close of a call this
10 was. These four ladies seated back here, Danasha Anderson,
11 Tysha Moultrie, Shaniqua Kennedy, and Shaniqua Mcgirt, right
12 here in the City of Georgetown on August 31st, 2016, literally
13 dodged bullets.

14 Danasha was not quite as lucky as the others and she was
15 shot in the face. Miraculously, unbelievably, she was treated
16 and released from the hospital. A close call, a brush with
17 death, dodging bullets. These four friends that night had
18 been out to a little nightspot here in Georgetown, actually
19 two, little bar and grill. And there they came into contact
20 with Ty'Shun Bessellieu, the defendant in this case. There
21 was some argument that went on between Ty'Shun and Tysha and
22 it's a little confusing because we have two Ty's. We also
23 have two Shaniquas. There was some argument that went on,
24 some sexual kind of remarks and that sort of thing that were
25 made.

1 The girls left and went back to Shaniqua Mcgirt's house,
2 which is also here in the city. They were sitting out on the
3 porch, hanging out, talking, listening to music, just having a
4 good time, when they saw Ty'Shun drive by. He went to the end
5 of the road, turned around, drive back by. Some of them heard
6 a loud noise after that. Some of them went inside, peeped out
7 the window to see what was happening, and a little while
8 later, decided that it was safe to go back outside and that
9 they needed to make a plan to get some of the girls home.
10 Shaniqua and Danasha lived in this complex, but the other two
11 or three girls did not; there was a third girl that was with
12 them as well.

13 While they were out there on the porch, some of them saw
14 something out in the field, saw a person, what they described
15 as creeping, creeping around. Now, this time it's about 3
16 o'clock in the morning and in the shadows, they see someone.
17 And as they're trying to figure out what's going on, they see
18 something else, a gun. And then they hear it and see the
19 flash. Gunshots start ringing out. Some of the bullets hit
20 around where they are. They start scattering to get inside.
21 Of course, what happens when you're trying to hurry? The door
22 doesn't want to quite open, but they get inside and Danasha
23 realizes that she has been hit. EMS responds, law enforcement
24 responds, she goes to the hospital. Miraculously, she has
25 been hit in the face with a bullet and is here to tell you

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1 about it. It basically went in and out. It went in and out
2 or part of it went out. Some of it's still in her.

3 So, of course, some of the girls would start calling the
4 name of who they had had an argument with and who had just
5 been there. Law enforcement, because it's dark and late, they
6 start looking for him. They kind of separate. You know
7 they've got a team doing this and a team doing that.

8 The next morning when it's daylight, they get a metal detector
9 and they go out into this field, which is in this housing
10 complex, and that's the direction they were told the shots
11 came from, with a metal detector and they find some cartridge
12 casings, parts of the bullet out there. They collect those.
13 Also, where the girls had been sitting, they find a little
14 part of a bullet, projectile, they find that and law
15 enforcement takes those to be analyzed as evidence.

16 Also during the night, but before -- right before daylight,
17 probably right around daybreak, right around sunrise, they
18 come into contact with Mr. Bessellieu. He's taken into
19 custody and on him, they find a pistol. Now, at this time,
20 he's 17 years old. Under our laws, he can't legally possess a
21 pistol. They also, when they search his clothing, they find
22 some more -- there's some more ammunition. There's some
23 ammunition with the gun, a magazine. They also find some
24 pills, I think it was about 38 pills, and they find some
25 marijuana that's been packaged individually. I think there

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1 was about 29 little baggies of that. So, they take all that
2 into evidence.

3 So, you'll hear they send some of that stuff to SLED.
4 You'll hear that they tested the drug, the pills, that they
5 came back as a scheduled drug. You'll also hear somebody
6 tested the marijuana, weighed it and that sort of thing. And
7 you'll also hear from SLED that they compared the cartridge
8 casings, what was expelled from the gun and the projectile and
9 the cartridge casings matched the firearm that they pulled off
10 of Mr. Bessellieu. So, he is charged and what we're here
11 about today is the four counts of attempted murder. It's the
12 state's position that he tried to kill these four girls and
13 nearly did by firing a gun at them. He's charged with having
14 marijuana, and the way it was packaged that it was for
15 distribution and not for personal use, and he's charged with
16 having these pills. Additionally, he's charged with using a
17 gun during the crime and then with being too young to have a
18 gun on him in this state.

19 You'll hear from all of the girls. You'll hear from some
20 of the officers and SLED. You'll hear some stuff that may not
21 make sense to you, like why in the world is she boring us with
22 this. But you'll hear some details about who took the stuff
23 and how they packaged it and where they took it and initialed
24 it. So, you'll hear that -- that kind of stuff as well.
25 And after all the evidence is concluded, and like the Judge

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1 said, each charge is a different charge. I'd ask that you
2 weigh the testimony or the evidence that's been presented and
3 find Mr. Bessellieu guilty of each of those charges and for
4 the close call that these girls had that night.

5 Thank you.

6 THE COURT: All right, Mr. Edgeworth, for the defense?

7 MR. EDGEWORTH: Thank you, Your Honor, may it please the
8 Court.

9 OPENING BY EDGEWORTH:

10 MR. EDGEWORTH: Good afternoon, ladies and gentlemen of
11 the jury. Certainly, we appreciate your time here and your
12 service. Service not only to the Court, but to the state and
13 to Mr. Bessellieu. You know, one of the things that I like
14 about the opening is that the state will come in here and tell
15 you, present the case, and almost kind of make it seem really,
16 really easy. You know, this is what you're gonna hear and
17 this is the conclusion that you're gonna make and let's knock
18 this thing out, and they'll use catch-phrases like dodge a
19 bullet and brush with death thinking that means a lot to you.
20 Well, it should mean a lot to you, but there's always two
21 sides to a story, not just the easy one that they want you to
22 believe.

23 I think that probably the most telling thing that was
24 said is that they'll be some things that won't make any sense
25 and that's absolutely right. And that's what we're asking you

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1 to pay attention to. What are the things that don't make any
2 sense? What are the things that don't add up? Why did this
3 happen? Was there really a brush with death? Did someone
4 really dodge a bullet?

5 I'm asking you to listen to the evidence that's gonna be
6 presented from that jury box. Listen to the stories that the
7 victims in this case are gonna tell you and ask yourself what
8 doesn't make any sense. What is the truth?

9 Thank you.

10 THE COURT: All right, Solicitor, your first witness
11 please.

12 MS. RICHARDSON: The state calls Danasha Anderson.

13 THE COURT: All right. Please come around and be sworn.

14 Come right around, right over here, ma'am, and meet the
15 bailiff right over there, please.

16 DANASHA ANDERSON, HAVING BEEN SWORN
17 TESTIFIES AS FOLLOWS:

18 CLERK: Will you please spell your first and last name
19 for the Court Reporter?

20 MS. ANDERSON: D-A-N-A-S-H-A, last name A-N-D-E-R-S-O-N.

21 CLERK: Thank you, Ms. Anderson. Please have a seat and
22 get as close as you can to that mic. You may need to bring it
23 to you.

24 THE COURT: All right, Solicitor, go ahead.

25 MS. RICHARDSON: All right..

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1 DIRECT EXAMINATION OF DANASHA ANDERSON BY MS. RICHARDSON:

2 Q: Ms. Anderson, how old are you?

3 A: Twenty-seven.

4 Q: Okay. And what city do you live in?

5 A: Georgetown.

6 Q: Okay. And have you been born and raised here?

7 A: Yes, ma'am.

8 Q: And do you have children?

9 A: Yes, ma'am, two.

10 Q: Okay. And how old are they?

11 A: My daughter is six and my son is four.

12 Q: And do you have a job?

13 A: Yes, ma'am.

14 Q: Where do you work?

15 A: The Georgetown County Board of Disabilities and Special
16 Needs.

17 Q: Now, on August 31st of 2016, you remember that night?

18 A: Yes, ma'am.

19 Q: Did you go out with some friends of yours?

20 A: Yes, ma'am.

21 Q: Tell me who you went with?

22 A: Shaniqua Kennedy, Shaniqua McGirt, Tysha Moultrie.

23 Q: Okay.

24 THE COURT: You need to speak up just a little bit.

25 BY MS. RICHARDSON:

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1 Q: You may have to scoot up a little bit. Okay.

2 And where did y'all go?

3 A: At first we went to Fishtails Bar and Grill then we went
4 to Ming'z.

5 Q: Okay. And are both of those places here in Georgetown?

6 A: Yes, ma'am.

7 Q: And did anything happen while you were at Fishtails?

8 A: It got shut down early, so we moved -- that's what caused
9 us to end up going down to Ming'z.

10 Q: Okay. And tell me about Ming'z, how is it set up?

11 A: It's a long vertical building but it looks toward the
12 road, a little parking space in the middle and like a row of
13 bushes and then like another parking lot where you kind of can
14 stand around over there, like a little hangout spot.

15 Q: Is there a porch across it?

16 A: Yes, like a little patio deck.

17 Q: Okay. And so, who all went to Ming'z?

18 A: Me, Shaniqua McGirt, Tysha Moultrie and Shaniqua Kennedy.

19 Q: Okay. And how did y'all get there?

20 A: We drove. We were in two separate cars though. I was
21 driving my car. Me and Tysha met Shaniqua McGirt and Shaniqua
22 Kennedy was in Shaniqua McGirt's car.

23 Q: Okay. And what did you do when you got there?

24 A: We started around like it wasn't like it wasn't too much
25 of a crowd there, so there wasn't too much going on inside, so

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1 we was really standing around our vehicles outside laughing
2 and talking.

3 Q: So, just kind of hanging out in the parking lot?

4 A: Yeah.

5 Q: Okay. And were there other people out there?

6 A: Yes, there was a few people, not like a vast majority of
7 people, but it was a good bit of people outside, yeah.

8 Q: Okay. And did anything happen while y'all were there?

9 A: McGirt -- I mean, not McGirt -- Tysha Moultrie got into
10 an altercation out there with a guy making sexual advances
11 towards her, and she's fussing about wanting to be left alone
12 and going back and forth about that.

13 Q: Okay. And did you actually see and hear some of this?

14 A: Yes, it was actually happening right around our side of
15 us where we was standing around at. She went inside the bar
16 and came back outside, was followed outside, and that's when
17 we see what was going on between the two.

18 Q: Okay. And did you recognize the guy that she was having
19 this argument with?

20 A: Not by name, but by face from seeing him on a few
21 occasions. A few times like around Georgetown or whatever.

22 Q: Okay. And how often do you think you had seen him?

23 A: Probably like five or six times, just like in passing or
24 being in like the same place of business or something like
25 that.

1 Q: Okay. So, you knew his face?

2 A: Yes, ma'am.

3 Q: So, if you saw him, did you speak to him or how did that

4 ---

5 A: If it was like casually like you just seen somebody and
6 like they manage to just say, you know, hey or something like
7 that, but standing around, just a whole conversation, no.

8 Q: Okay. And is the person that you saw in here today?

9 A: Yes, ma'am.

10 Q: Okay. Can you point him out for us with your hand?

11 A: The defendant.

12 Q: Okay. Mr. Bessellieu?

13 A: Uh-huh, (affirmative response).

14 Q: And so, what were -- what was their demeanor, Tysha and
15 Ty'Shun, what was their demeanor when this was going on? How
16 were they acting?

17 A: In the beginning we didn't think -- I didn't think it was
18 like that serious until it got like the conversation got more
19 intense with her saying things to him, him saying things to
20 her, and the more they were going back and forth, then their
21 attitudes got like -- started rising more and more like,
22 that's when it became a little like aggressive like.

23 Q: Okay. And what kind of things were they saying; what
24 kind of comments were they making?

25 A: She was saying like, you know, making comments with

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1 reference with a sexual orientation and, you know, if you
2 don't get away from me, you're that, you're this. At this
3 point, he wasn't saying anything; he was taking in what was
4 being said to him and the fact that everybody that was outside
5 was pretty much staring on and watching what was going on at
6 that point. It's kinda like, okay, I'm being -- saying things
7 to me was kinda embarrassing and now it's got the attention of
8 everybody so at this point I'm really not saying nothing; I'm
9 observing the scene kinda thing.

10 Q: So, when you say she was saying this and that, what was
11 she saying?

12 A: Like you're gay and don't touch me, get away from me, I
13 don't want you, you a faggot, stuff like that.

14 Q: Okay. And so and there was a crowd that heard this?

15 A: Yeah, basically the people that was standing outside,
16 they already was basically alerted to the situation. So, at
17 this point, everybody's looking and paying attention to the
18 situation.

19 Q: Okay. And what was his reaction?

20 A: Like I said, he was backing away from her like -- at
21 first they were kinda close to each other. At this point,
22 he's backing away from her and like standing around, staring
23 at everybody that's out there, paying attention to the fact
24 that everybody is paying attention to what's being said to
25 him. In fact, at this point, he's not saying anything; he's

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1 basically backing away and moving back toward where the
2 vehicle he came in was.

3 Q: Okay. And did you see that vehicle?

4 A: Not until he pulled up when he was about to leave out of
5 the parking lot of the bar.

6 Q: Okay. So, -- so he's backing up and then what happens?

7 A: He goes and gets into the vehicle, the car, the vehicle
8 that he came in at this point. We're getting into our
9 vehicles because it's getting close to 2 o'clock anyway, so
10 the bar about to close. At this point, we like, okay, we
11 about to just get away from the vicinity of the place. Let's
12 go. Let's go.

13 Q: Okay. And then what happened?

14 A: As he was leaving, he stopped in front of my vehicle to
15 tell us to come meet him on the ave, but we like, whatever.
16 So, he closed the door and he left, and then we got in the
17 vehicle and we left. We actually left in the opposite
18 directions. He was going back down and we was going left on
19 the road out of the bar parking lot.

20 Q: Okay. So, describe how he pulled up to you?

21 A: When he came -- he pulled up like kinda fast and like
22 slam on brakes and then after he said what he had to say, he
23 just pulled off and left the scene of where we was at at that
24 point.

25 Q: Okay. And how did he seem at that point?

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- 1 A: At that point he was kinda like angry. It was basically
2 like the movement of him backing away from the argument, it
3 kinda like was a sense of embarrassment going on. So, at this
4 point, you're embarrassed and you're upset about being
5 embarrassed.
- 6 Q: Okay. And meet me at the ave, what is that?
- 7 A: That's on Main Street -- you know, that's the ave, but
8 like I said, he left to go that way and we left to go the
9 other way.
- 10 Q: Okay. And what did that mean to you?
- 11 A: At this point, I'm not sure. So, all I'm thinking is get
12 in the vehicle and leave. That's just to diffuse the
13 situation where it's at right now.
- 14 Q: Okay. And what kind of vehicle was he in?
- 15 A: A gold-colored -- I want to say a Lexus, an older model,
16 not like anything up to date.
- 17 Q: Okay. And who was with him?
- 18 A: Nobody.
- 19 Q: So, he was driving the vehicle and nobody else was in
20 there?
- 21 A: No.
- 22 Q: Okay. And where did you -- where did you go after that?
- 23 A: When we left from there we actually ended up sitting in
24 the housing authority on Shaniqua McGirt's porch.
- 25 Q: Okay. And when did y'all make the decision about where

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1 to go?

2 A: We were talking about it in the parking lot because we
3 kinda like didn't really want to go in the house, but there
4 really wasn't anywhere else to go. There's no place to go
5 after 2 o'clock in Georgetown. So, we was like well we can
6 just go sit on the porch and continue our conversation and
7 laughing and talking on the porch.

8 Q: Okay. And where was the defendant when y'all were having
9 these discussions?

10 A: Out in the parking lot like in the vicinity of the
11 parking lot where everybody else basically was.

12 Q: Okay. And so who all went back to -- and you called it
13 the housing authority?

14 A: Uh-huh, (affirmative response).

15 Q: Who, who all went back there?

16 A: Me and Tysha went back in my vehicle and Shaniqua and
17 Shaniqua went back in Shaniqua McGirt's vehicle.

18 Q: Okay. And was there anybody else who came out there with
19 you?

20 A: Yeah, another female that was with us.

21 Q: Okay. And what's her name?

22 A: Latrell Gardner.

23 Q: Okay. And so when you got back, what did you?

24 A: We were just sitting around, laughing, talking on the
25 porch at Shaniqua McGirt's apartment.

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1 Q: Okay.

2 A: Some of us were in the yard and some of us like sitting
3 right up on the porch right there in the doorway of the house.

4 Q: Okay. And what happened then?

5 A: At this point, we're sitting there laughing and talking
6 and there ain't too much going on, that's when we seen the
7 gold Lexus coming riding by. We looking at -- at this point
8 we're paying attention and realize it's Mr. Bessellieu. So,
9 we go inside the house. Once we go in the house, me and
10 Shaniqua go on the stairs ---

11 Q: Okay. Which Shaniqua?

12 A: Shaniqua Kennedy go on the stairs and we're looking out ,
13 the window. As we're looking out the window, we see him like
14 go up to the stop sign of [REDACTED], the one coming up on --
15 and he goes like out and make a -- he's coming back by. So,
16 we walking down the stairs. As we walking down the stairs, we
17 hear a sound outside that sounds like gunshots, but we're not
18 sure because at this point, we all upstairs cause we can't see
19 what's going on out there.

20 Q: Okay. And then -- and then what happened?

21 A: So, we sitting around in the house for a little while and
22 we was like, okay, it's getting late at this point. The other
23 girls said they have to get home, so we're going outside and
24 we're like okay. After the incident with him -- with Mr.
25 Bessellieu and Moultrie at the bar, I'm not feeling

1 comfortable driving my vehicle home. So, I'm thinking I just
2 want my mom staying with me, let me go get her vehicle and I
3 can take the girls home, come back home and don't have to
4 worry about anything going on with me and my vehicle on the
5 road. But we're sitting on the porch at this point discussing
6 it, so we get a few more laughs and at this point ---

7 Q: Wait, wait just a second. So, you were gonna go get your
8 mom's vehicle?

9 A: Yes.

10 Q: And did you live right near there?

11 A: Yes, I live -- Shaniqua Mcgirt in the apartment buildings
12 and it's a single house between it and then the next go down
13 to the next building.

14 Q: Okay.

15 A: So, I was in walking distance from my house.

16 Q: Okay. Now let me ask you this, why did you go inside
17 when you saw him driving by?

18 A: It was just a moment, you don't know what's going on,
19 seeing the anger on his face when he left. And I was like,
20 you're riding this way where we didn't go where you wanted us
21 to meet you, so, not knowing what could've possibly happened.
22 It was better safe than sorry, go in the house.

23 Q: And how was he acting or how was he behaving when he was
24 driving?

25 A: He was riding by, he was just basically looking out the

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1 window, looking at us, staring at us. Still got this same
2 like upset expression that he had when he was leaving the bar.
3 Q: Okay. And that's when y'all decided you better go
4 inside?
5 A: Yeah, just go in the house.
6 Q: Okay. All right. So, you -- you were back outside
7 trying to make a decision about how to get the other girls
8 home?
9 A: Right.
10 Q: Okay. And who needed to be driven home?
11 A: Shaniqua Kennedy and Tysha Moultrie. Me and Mcgirt were
12 the only two who lived out there.
13 Q: Okay. And what about her Vertrell?
14 A: And Vertrell, yeah.
15 Q: Where did she live?
16 A: At this point, she stayed behind Piggly Wiggly, apartment
17 complex behind Piggly Wiggly.
18 Q: Okay. So, she needed a ride home, too?
19 A: Right.
20 Q: So, y'all were back out on the porch; who was in the
21 house?
22 A: At this point, it was the children was in the house.
23 Shaniqua Mcgirt's children was in the house, and two other
24 females that were there babysitting the kids while we were
25 out.

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1 Q: Okay. So, y'all were out still on the porch?

2 A: Uh-huh, (affirmative response).

3 Q: And then -- then what happens?

4 A: At this point when we were making the decision of how we
5 was gonna get home, so at this point, we're just standing
6 around getting a few more laughs and joking and stuff. So, me
7 and Mcgirt was sitting on the chairs on the porch, and we had
8 Kennedy and Moultrie standing in front of us, and Gardner
9 kinda like standing on the side of the building. And we
10 sitting here and we seen the person walk across the field, so
11 we and Mcgirt was looking like, who is this walking across the
12 field and who could this be this time of night. But as we're
13 watching the person turns like in an about face motion and
14 just pulled out a gun and started shooting straight directly
15 towards us. So, basically the first one, I got struck, so I
16 moved to the side to avoid getting hit again. At this point,
17 all of the girls are scrambling trying to get in the house
18 but, of course, the door messing up, locking up, can't really
19 get in the house, so we finally got the door open to get in
20 the house. We all went in the house and that's when I was
21 like, okay, we got to call 911, I got shot. At this point,
22 nobody knew I was shot because in the midst of trying to get
23 away and not trying to catch a bullet, nobody realized I was
24 already struck.

25 Q: Okay. And do you know how many gunshots there were?

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1 A: Probably was like six because after the first one, the
2 rest was coming right -- if me and Mcgirt was still sitting,
3 it would've been coming right between our heads, hitting the
4 wall right by us.

5 Q: Let me show you what has been marked as State's Exhibit
6 Number 1 for identification. Can you tell us what this is?

7 A: Yes, ma'am. Map of the housing authority that we live
8 in, actually.

9 Q: Okay. And where everything happened?

10 A: Yes, ma'am.

11 Q: And is this an accurate depiction of where everything was
12 that night?

13 A: Yes, ma'am, exactly the way it is.

14 MS. RICHARDSON: Your Honor, permission to step down in
15 front of the jury?

16 THE COURT: All right. Are you going to introduce that
17 into evidence?

18 MS. RICHARDSON: Yes, Your Honor.

19 THE COURT: Is there any objection to that, Mr.
20 Edgeworth?

21 MR. EDGEWORTH: No, Your Honor.

22 THE COURT: All right. So, State's 1?

23 MS. RICHARDSON: State's 1.

24 THE COURT: All right. So State's 1 is in evidence
25 without objection and you may publish it now. Ms. Anderson,

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1 when you do that, I'm sure the Solicitor will have you
2 standing right in front of those microphones so that -- you
3 need to keep your voice up.

4 STATE'S EXHIBIT NUMBER 1

5 ADMITTED INTO EVIDENCE

6 BY MS. RICHARDSON:

7 Q: Okay. Can you show us where your -- where Ms. McGirt
8 lived at the time?

9 A: Right there (indicating).

10 Q: Okay.

11 THE COURT: All right. Now, you got -- you got to speak
12 up, now. The court reporter has got to -- not only does the
13 jury, but the court reporter ---

14 BY MS. RICHARDSON:

15 Q: Okay.

16 THE COURT: The court reporter has got to hear you.

17 BY MS. RICHARDSON:

18 Q: All right. Right there you said?

19 A: Yes, ma'am, right here.

20 Q: Okay. And will you just write that on there?

21 (REPORTER'S NOTE: Witness complies.)

22 Q: Okay. And when you -- and so the porch is on this side
23 closest to the parking lot; is that right?

24 A: Yes, ma'am.

25 Q: Okay. And so that's where you were standing, where you

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1 put the end of the arrow?

2 A: Yes, ma'am.

3 Q: All right.. And in what direction, when you first saw the
4 vehicle, was it coming?

5 A: This way.

6 Q: That way. And then what did it do? Turned around there
7 and went back by?

8 A: Yes.

9 Q: Okay. And what area did you see the individual in the
10 field?

11 A: Walking behind this building.

12 Q: Okay. All right. The back of the field?

13 A: Uh-huh, (affirmative response).

14 Q: All right. And that's where you saw -- did you see the
15 muzzle flash; did you see the gunshots?

16 A: Yes, ma'am.

17 Q: Okay.

18 A: They walked straight up and once they turned toward us,
19 that's when we saw the gun flash.

20 Q: Okay. All right. If you would, have a seat.

21 And could you see this individual's face?

22 A: No, ma'am.

23 Q: Okay. Could you tell anything about him?

24 A: No, ma'am.* It was like a dark figure. It's 3 o'clock
25 in the morning, so, you know it's dark on there and they're

1 walking through the middle of a field. So, I couldn't really
2 see nothing but the figure walking in like the -- like motion
3 of the person.

4 Q: Okay. And could you tell if it was a black person, a
5 white person, a male, female?

6 A: He had the figure of a male. Can't tell the skin tone,
7 because as I said it was dark, but they could've been African
8 American because you know you kinda see -- if it were, you
9 know, a Caucasian person out there.

10 Q: Okay. And what sort of build did they have?

11 A: Not that tall, kind of slim.

12 Q: And did you notice anything about the clothing?

13 A: No, ma'am. It was dark out there. I do remember a white
14 T-shirt; that's all.

15 Q: Okay. All right. Let me also show you what's been
16 marked as State's Exhibit Number 2 for identification. Okay?
17 Do you recognize what that is?

18 A: Yes, ma'am.

19 Q: Okay. And how is it labeled?

20 A: First response photos.

21 Q: Okay. And have you had a chance to review the contents
22 of that?

23 A: Yes, ma'am.

24 Q: Okay. And how do you know that's the one you reviewed?

25 A: Because I signed and acknowledged that I viewed the

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1 photos.

2 Q: Okay. And is that -- those photos an accurate reflection
3 of the way things looked out there that night?

4 A: Yes, ma'am.

5 Q: And the injuries to you as well?

6 A: Yes, ma'am.

7 Q: And let me also show you what's been marked as State's
8 Exhibit Number 3 and do you recognize that?

9 A: Yes, ma'am.

10 Q: Okay. And how is that labeled?

11 A: Photos of injuries at the hospital.

12 Q: Okay. And have you reviewed the contents of that CD?

13 A: Yes, ma'am.

14 Q: And what's on there?

15 A: Photos that were taken by the officer before I was
16 treated for the gunshot wound.

17 Q: Okay. Pictures of you?

18 A: Yes, ma'am.

19 Q: Okay. And is that an accurate reflection of how you
20 looked that night?

21 A: Yes, ma'am.

22 Q: Okay. And how do you know that's what that is?

23 A: Because I signed and acknowledged it after I viewed the
24 photos.

25 Q: Okay. And again, Exhibit -- State's Exhibit Number 4,

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1 which is labeled [REDACTED] Apartment photos, have you reviewed
2 the contents of that CD?

3 A: Yes, ma'am.

4 Q: And what does that contain?

5 A: The scene outside during the time and how it looked after
6 the crime acknowledging the blood on the chair and everything
7 that was on those pictures.

8 Q: And is that an accurate reflection of where you were and
9 how things looked out there?

10 A: Yes, ma'am.

11 Q: Your Honor -- and again, how do you know that's yours?

12 A: Because I signed and acknowledged that I viewed the
13 photos.

14 MS. RICHARDSON: Your Honor, at this time, I'd ask to
15 enter Exhibits 2, 3 and 4 into evidence and to publish to the
16 jury.

17 THE COURT: All right. So any objection to that, Mr.
18 Edgeworth?

19 MR. EDGEWORTH: No, Your Honor.

20 THE COURT: All right. So, State's 2, 3, and 4 are in
21 evidence and you may publish or show them to the jury.

22 STATE'S EXHIBITS NUMBERS 2, 3, AND 4

23 ADMITTED INTO EVIDENCE

24 BY MS. RICHARDSON:

25 Q: We'll start with State's Exhibit Number 2. All right.

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1 That should come up on this monitor. Give us just a minute
2 and let us pull it up first. Okay. Now, this is the first
3 photo on that disc identified as Photo 697. Can you tell us
4 what that is?

5 A: It's the photo taken at the hospital of the entrance and
6 exit wound of the bullet.

7 Q: Okay. And you don't have a shirt on in this picture; can
8 you tell me about that?

9 A: No, ma'am, we got into the house and everything, and I
10 said I was shot and the blood was just pouring everywhere so I
11 had to remove my shirt from me.

12 Q: Okay. And when they first -- when the officers first
13 took pictures of you, where were you?

14 A: Sitting in the back seat of Officer Gregory's vehicle.

15 Q: Okay. Before you -- before the ambulance got there?

16 A: Yes, ma'am.

17 Q: Okay. And then the next one, and that's just a side
18 view, Photo 698?

19 A: Yes, ma'am, the exit wound.

20 Q: Okay. Just a close-up. And that's Photo 699?

21 A: Yes, ma'am.

22 Q: Okay. All right. Now, can you tell us what this is and
23 this is photo, just for the record, on State's Exhibit Number
24 2, Photo 700?

25 A: This is photo of Shaniqua McGirt's porch of where we were

1 actually sitting at when the shooting happened.

2 Q: Okay. And can you use the mouse to show us about where
3 you were?

4 A: I was sitting in the chair over here on the right side of
5 the porch.

6 Q: Okay. And who was seated beside you?

7 A: Shaniqua McGirt.

8 Q: Okay. And then where were the other individuals?

9 A: Tysha was standing right here in front of me. Kennedy
10 was more so right there and Gardner was more so to the side
11 where that pole is.

12 Q: Okay. All right. And Photo 701, just a close-up of
13 that?

14 A: Yes, ma'am.

15 Q: All right. And what about this in Photo 702?

16 A: Photo 702 is the actually the chair that Shaniqua McGirt
17 was sitting in and I leaned over the chair when I was trying
18 to run into the house.

19 Q: Okay. All right. And Photo 703, what does this show?

20 A: The -- that's Shaniqua McGirt's front door that we were
21 trying to get into to avoid the bullets.

22 Q: Okay. And had you been in this door earlier that night?

23 A: Yes, ma'am.

24 Q: Okay. What -- when you enter this door, what do you
25 enter into?

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- 1 A: It's like a small hallway and then you walk directly into
2 a set of stairs, but if you walk in and make a right it's like
3 a small hallway that leads into the living room.
- 4 Q: Okay. And where do the stairs go?
- 5 A: It goes upstairs to -- it's like up and then middle alley
6 and then you go up another flight of stairs.
- 7 Q: Okay. And where is the window in reference to that ---
- 8 A: I ---
- 9 Q: --- if you go up the stairs?
- 10 A: Right there to the left, basically -- if this photo was
11 larger, it was like right above where the Number 11 is.
- 12 Q: Okay. And now if we go to State's Exhibit Number 3.
13 Okay. The Photo Number 3, now obviously, where was this
14 taken?
- 15 A: At the hospital.
- 16 Q: Okay. And Photo Number 4, and is that a picture of the
17 two wounds that you had?
- 18 A: Yes, ma'am.
- 19 Q: And Photo Number 6, what is that?
- 20 A: That's a picture that they took at the hospital of the
21 entrance wound.
- 22 Q: Okay. And you see a little bit of metal in that?
- 23 A: Yes, ma'am.
- 24 Q: All right. Now, let's go to State's Number 4. Okay.
25 So, Photo Number 346?

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1 A: That is actually a photo of the front of the apartment
2 where the shooting occurred and that window that is pictured
3 is the window like adjacent to the stairs that we was actually
4 looking out of.

5 Q: Okay. And you were looking out of that window when?

6 A: Before the shooting, when we saw Mr. Bessellieu come by
7 and then went inside and we stood by the window, that's the
8 window that we were looking out of.

9 Q: Okay. And Photo 347, that's just the same photo in
10 daylight?

11 A: Yes, ma'am.

12 Q: Okay. All right. Now, tell me what this is, Photo 358?

13 A: That's a photo of the field like adjacent to McGirt's
14 apartment where we actually saw the shooter walking about.

15 Q: Okay. That's the same field across the road sort of that
16 you pointed to?

17 A: Yes, ma'am.

18 Q: Okay. And about, if you'll use the mouse and kind of
19 show us about in what area.

20 (REPORTER'S NOTE: Witness complies.)

21 Q: Okay. And then Photo 350 -- let's see that's 359; what
22 view is that?

23 A: That's the view of Shaniqua McGirt's apartment if you
24 were in the field facing us.

25 Q: Okay. And so just point out her porch for us, please.

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1 (REPORTER'S NOTE: Witness complies.)

2 Q: Okay. All right. We can turn the monitors off.

3 So, tell me how you felt when you realized you'd been
4 hit?

5 A: In the very beginning, I didn't even -- I realized I got
6 hit, but as to the pain and anything didn't take effect. All
7 I was thinking is stay out of the -- not to get hit again.
8 Once we got inside the house and it was like, okay, I did get
9 shoot, the blood is pouring everywhere, somebody call 911.

10 Q: Okay. And did you -- so, who called 911?

11 A: Shaniqua Kennedy called 911. At this point, I was
12 sitting in the restroom with Shaniqua Mcgirt and trying to
13 like stop the bleeding.

14 Q: Okay. And what about your family?

15 A: Me and -- actually, well, me and Shaniqua Mcgirt was in
16 the bathroom like with the peroxide and everything and trying
17 to stop the bleeding. I had her call my mother to let her
18 know like, don't panic, I got shot, but we don't know where
19 the shooter was because we ran into the house. So, don't come
20 outside until you see the police or the ambulance pull up.

21 Q: Okay. And what did they do for you at the hospital?

22 A: They cleaned up the wounds and they then stitched it up.
23 They didn't want to remove the bullet fragments because they
24 said it would have been more -- it would've more harm in
25 trying to remove them and take them out than if they remove

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1 them, so, it was best to just leave them where they were.

2 Q: So, did you have x-rays and that sort of stuff?

3 A: Yes, ma'am.

4 Q: Okay. And they just left some pieces of it in your face?

5 A: Yes, ma'am.

6 Q: And do you have any problems from that?

7 A: Just little pain like I can't drink anything too hot,
8 can't drink anything too cold either because it irritates the
9 bottom portion of these teeth right here.

10 Q: I have no further questions. Answer any questions that
11 Mr. Edgeworth may have for you.

12 THE COURT: All right, Mr. Edgeworth?

13 MR. EDGEWORTH: Thank you, Your Honor.

14 CROSS EXAMINATION OF DANASHA ANDERSON BY MR. EDGEWORTH:

15 Q: Good afternoon, Ms. Anderson.

16 A: Good afternoon.

17 Q: On the night in question, you guys went to Fishtails
18 first, correct?

19 A: Yes, sir.

20 Q: Okay. Were you drinking there, drinking alcohol?

21 A: We did but it wasn't -- we did, but no more than one
22 drink because as I said, as soon as we got there, they were
23 shutting the bar down early.

24 Q: At Fishtails?

25 A: Yes.

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1 Q: Okay. And, and was everybody drinking to your
2 recollection?

3 A: I don't think Tashay Moultrie was drinking. She walked
4 off from us and we were actually standing at the bar.

5 Q: Okay. You guys smoking cigarettes?

6 A: Yes.

7 Q: Okay. And so, you left Fishtails and went to Ming'z,
8 right?

9 A: Yes.

10 Q: Had you been to Ming'z before?

11 A: Yes.

12 Q: How often did you have the occasion to go there?

13 A: I actually -- I had actually been there constantly. My
14 aunt actually used to be a chef there, so, I was visit them
15 regular.

16 Q: So, you're used to being at Ming'z?

17 A: Yes.

18 Q: Okay. And so on this particular night, you had indicated
19 that, I guess, Ms. McGirt, Kennedy, and Tysha, Tysha -- I
20 apologize, I butchered that -- you guys were there?

21 A: Yes.

22 Q: Was anybody else there with you?

23 A: With us, nobody other than Vertrell Gardner.

24 Q: Say that again?

25 A: No one other than Vertrell Gardner.

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DANASHA ANDERSON - CROSS BY EDGEWORTH

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- 1 Q: Okay. But, she was there with you, too?
- 2 A: Yes.
- 3 Q: Okay. How about Mr. Akim Moultrie?
- 4 A: No, he wasn't there with us.
- 5 Q: Was he there at the bar?
- 6 A: If he was, he may've been in the parking lot. But like I
- 7 said, we got there and we didn't even go inside the bar.
- 8 Q: Right, but do you have recollection whether he was the
- 9 parking lot where everybody was on that night?
- 10 A: He may have. Like I said, if he was there, we were out
- 11 there in our little group of people that came together.
- 12 Q: And who is he or do you know?
- 13 A: Who is Akim Moultrie?
- 14 Q: That's right?
- 15 A: Yes, I just know him as Tysha Moultrie's brother.
- 16 Q: Okay. All right. And is he also friends or have any
- 17 connection with any of the other girls that were there that
- 18 night?
- 19 A: Shaniqua McGirt.
- 20 Q: Okay. And what kind of connection do they have, if you
- 21 know?
- 22 A: That's her child's father.
- 23 Q: Okay. So, they -- they've got children together,
- 24 correct?
- 25 A: One child.

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DANASHA ANDERSON - CROSS BY EDGEWORTH

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1 Q: Okay. One child. And when you guys were out, my
2 understanding was is that Ms. McGirt had babysitters staying
3 home with the kids?

4 A: Yes.

5 Q: Okay. And y'all stayed out to what, about 2 o'clock?

6 A: Maybe like 2:15.

7 Q: Okay. Now, were you drinking at Ming'z?

8 A: No, we didn't even enter the bar at Ming'z; we were in
9 the parking lot.

10 Q: You never went inside?

11 A: No.

12 Q: Okay. Just hanging out talking?

13 A: Yes.

14 Q: All right. What were you talking about?

15 A: Nothing much, laughing and talking, joking about anything
16 really.

17 Q: In your experience at Ming'z is it common for guys to hit
18 on girls?

19 A: Yes and no. Some -- in Georgetown, Georgetown's small;
20 everybody know everybody. So, people pretty much know their
21 limit with certain people.

22 Q: Okay. Well, have you -- were -- have you ever been hit
23 on while you were there?

24 A: No.

25 Q: Okay. Have you ever seen anyone hit on while they were

1 there?

2 A: Every now and then, but it's like if you're trying to hit
3 on somebody and they tell you, leave me alone, it's pretty
4 much, okay, I understand, and leave you alone.

5 Q: Okay. And, and you were present for the, what you called
6 the argument between Ms. Moultrie and Mr. Bessellieu?

7 A: Yes.

8 Q: And when you say argument, were they both arguing?

9 A: In the beginning, he was like basically, nobody don't
10 want you, whatever, whatever in reaction to what she was
11 saying then. It was going back and forth and then she started
12 saying the sexual orientation comments and that's when he
13 wasn't saying anything else.

14 Q: Right. So, so in the beginning, he was hitting on her,
15 correct?

16 A: Yes.

17 Q: And she didn't like those advances, correct?

18 A: Uh-huh, (negative response).

19 Q: At least in your eyes?

20 A: Yes.

21 Q: And when she started to make comments about him, he
22 backed off; is that correct?

23 A: Not in the beginning. In the beginning, he was reacting
24 to her telling him like I'm not feeling that, leave me alone,
25 whatever.

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DANASHA ANDERSON - CROSS BY EDGEWORTH

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1 Q: Okay. But eventually he backed off?

2 A: Yes.

3 Q: Did he -- did you see him make any type of action that
4 would lead you to believe that he was going to hurt Ms.
5 Moultrie?

6 A: No, at that point, that's when he was backing away like
7 whatever, watching, everybody watching them.

8 Q: Right. So, as you would say, you know your limits, you
9 back off?

10 A: Right.

11 Q: Okay. So, when you were at the house, you guys were
12 outside, I'm assuming, were you drinking at the house?

13 A: No.

14 Q: Okay. Were you smoking cigarettes?

15 A: Yeah.

16 Q: Okay. Just talking?

17 A: Yes.

18 Q: And in this area where you're talking about at the house,
19 is it well lit?

20 A: Yes, we have, down [REDACTED] we have big street lights
21 along with the cameras.

22 Q: Along the drive?

23 A: Yes.

24 Q: Okay. How about in the field?

25 A: There's one like all the way in the rear.

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DANASHA ANDERSON - CROSS BY EDGEWORTH

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1 Q: Okay. And, and when you're saying that you guys at some
2 point saw someone coming across the field, correct?

3 A: Yes.

4 Q: Okay. How far away was that someone whenever you saw a
5 shot fired?

6 A: They were very far out there, but it wasn't as far as the
7 light because the way the light shined on the person, it was
8 like enough to eliminate that it was a figure, but not show
9 you who it was.

10 Q: Right, as you said, you saw a person; you didn't -- you
11 wasn't really sure whether they were white ---

12 A: Right.

13 Q: --- African American, et cetera, correct?

14 A: Right.

15 Q: Okay. And, and with the litness, however lit it was back
16 there, you were saying how far away was it; a good bit away?

17 A: Yeah, it was a good bit away.

18 Q: It -- do you know how long a football field is?

19 A: Yeah.

20 Q: Okay. Was it that far away?

21 A: Probably about that -- like from her front porch to
22 there, yeah.

23 Q: Okay. And that's where the shots came from, correct?

24 A: Yeah.

25 Q: All right. When, when you get -- you indicated that you

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DANASHA ANDERSON - CROSS BY EDGEWORTH

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1 saw Mr. Bessellieu drive by; is that right?

2 A: Yes.

3 Q: And you saw him drive by?

4 A: Yes.

5 Q: Did he make any indication that -- towards you that you
6 saw he was going to harm you?

7 A: He was riding by and just staring.

8 Q: Okay. Just staring. You didn't -- you didn't see him
9 brandish a gun or anything like that?

10 A: No.

11 Q: Could you see if there was anyone else in the car?

12 A: No.

13 Q: Do you know if anyone else was in the car?

14 A: I didn't see anybody else in there.

15 Q: All right. Thank you. Now when you -- when you saw the
16 first gunshot or saw the first flash, right?

17 A: Uh-huh, (affirmative response).

18 Q: You saw it?

19 A: Yes, sir.

20 Q: Okay. Were you sitting in the chair?

21 A: Yes.

22 Q: Okay. You weren't standing up?

23 A: No.

24 Q: Okay. And, and, and which -- you're facing me now as if
25 you're sitting, point to which side Tysha was -- was.

1 A: If I'm sitting right here, she's standing right directly
2 in front of me.

3 Q: Okay. And then where was everyone else?

4 A: She's standing there; Kennedy is standing right there;
5 Gardner is off to the side; I'm sitting here; and McGirt is
6 sitting here.

7 Q: Okay. And, and was there any light above you in this
8 little area where y'all were sitting or was it dark?

9 A: It was dark. We didn't have the porch light on or
10 anything.

11 Q: So, there would be no way of knowing who's actually in
12 there, right?

13 A: On the porch, no.

14 Q: Okay. Now, when, when you indicated that you thought you
15 heard, well, obviously more than one shot, right?

16 A: Yes.

17 Q: Okay. How many, and I think you said about six?

18 A: Yes.

19 Q: Okay. How long did it take you from the time that you
20 heard the first shot to get inside?

21 A: I didn't actually get inside until the shots stopped
22 because at this point, with them scrambling to get in the
23 door, I'm thinking at this point, don't get shot again, but
24 there's no point in jumping up front and go in and they can't
25 even get in the door.

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1 Q: Okay. And, and did you -- did you go to the ground or
2 anything like that?

3 A: No, I was crouched at the -- I was straight in the chair
4 like this, so I just crouched over in the corner.

5 Q: Until you were able to get out, right?

6 A: Yes.

7 Q: Okay. And then you went inside and realized that you had
8 been shot?

9 A: Yeah.

10 Q: Okay. Now, with the -- prior to that, you guys said that
11 you went inside after you saw Mr. Bessellieu drive by,
12 correct?

13 A: Yes.

14 Q: How long were you in there before you decided to come
15 back out?

16 A: Probably like 20 minutes, 20 minutes. It wasn't very
17 long, but it wasn't like we went in and came right back
18 outside.

19 Q: Right. But you went inside and then when you felt safe,
20 you came back outside?

21 A: Yeah, because at this point, it's -- it's getting late
22 and everybody got to go home.

23 Q: Okay. And, and that being the case, but did you come
24 back outside and hang out a little bit longer?

25 A: We came outside to have the conversation of how we were

1 gone get the girls home.

2 Q: Okay.

3 A: In which that's what was all that me wanting to get my
4 mother car because, at the same time, when we was at Ming'z
5 and everything happened, my car was present, Mcgirt's car was
6 present, so I didn't feel like it was a good idea for neither
7 one of us to be traveling to take them home.

8 Q: Right. Understandable. Why didn't you have that
9 conversation inside?

10 A: We came outside after we had the conversation. We just
11 walked outside and, you know, in the midst having a
12 conversation, just get up and get caught up for a second.

13 Q: Sure.

14 A: And how long were you outside -- once you came back out,
15 how long were you outside before you heard a gunshot?

16 A: It wasn't even 10 minutes.

17 Q: So, you had been out there approximately 10 minutes
18 before something happened?

19 A: Yeah.

20 Q: Okay. So, with the 20 minutes of being inside and then
21 additional 10 minutes once you were back outside, it was about
22 30 minutes between the time you saw Bessellieu drive by and
23 the time of the first gunshot, correct?

24 A: Yes.

25 Q: Okay. I have no further questions, Your Honor.

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DANASHA ANDERSON - REDIRECT BY RICHARDSON

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1 THE COURT: All right. Redirect?

2 REDIRECT EXAMINATION OF DANASHA ANDERSON BY MS. RICHARDSON:

3 Q: He had asked about Ms. Gardner, Vertrell Gardner, what
4 was her condition; how was she?

5 A: She was intoxicated. She had already been drinking prior
6 to us going to Fishtails and everything. So ---

7 Q: I have no further questions.

8 THE COURT: Anything on that question?

9 MR. EDGEWORTH: No, Your Honor.

10 THE COURT: All right. You may step down, ma'am. Thank
11 you.

12 Could y'all come up and talk to me for a second, please?
13 (REPORTER'S NOTE: Bench conference is held off the record in
14 the presence of but outside the hearing of the jury.)

15 BY THE COURT:

16 THE COURT: All right, ladies and gentlemen, we are gonna
17 stop for the evening. Now, when you go home and you see your
18 husband, wife, boyfriend, girlfriend, person down the street,
19 if they happen to know you're on a jury panel, that's fine,
20 but you can't talk about this case. You can't talk to them
21 about what's happening, what you're doing, because it's gonna
22 be the 12 of you that decide this case at the very end and,
23 right now, I'm gonna ask all of you not to talk about it among
24 yourselves until you hear all of the testimony. That is
25 because if we take a break and you've heard two witnesses or

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BY THE COURT

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1 however many and you start talking about the case, it might
2 very well be that the very next witness you hear, changes your
3 opinion in some manner. Then you've already put it out there
4 I believe X and now you gonna have to say I believe Y, and so
5 we're not gonna do that. We're not gonna talk about the case
6 at all, okay, until I give it to you at the very end. You'll
7 have all the time you deem necessary to talk about it at that
8 point in time. So, after the trial is over with, you can tell
9 everybody all about it if you want to, or you can tell them
10 nothing; that's gonna be your choice. But until the trial is
11 over with, you may not discuss it with anyone else and don't
12 talk about it among yourselves until I give it to you at the
13 very end.

14 Now, we're gonna start, come back -- have you come back
15 in from the jury room tomorrow morning at 9:30. So, the
16 bailiffs will probably tell you that be here a little bit
17 earlier so that they can get you assembled and into the jury
18 room by 9:30.

19 So, with that, you are now excused.

20 Thank you very much.

21 (REPORTER'S NOTE: Jury exits courtroom. The following takes
22 place outside the presence of the jury.)

23 THE COURT: All right. Any matters we need to cover
24 before we break for the evening, Solicitor?

25 MS. RICHARDSON: No, Your Honor.

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BY THE COURT

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1 THE COURT: All right. From the defense?

2 MR. EDGEWORTH: No, Your Honor.

3 THE COURT: All right. We'll -- as I indicated, we're
4 gone start at 9:30. So, if y'all could be back in the
5 courtroom and try to get assembled by 9:15. Okay?

6 MR. EDGEWORTH: Yes, sir.

7 THE COURT: All right. Thank you very much.

8 END OF DAY ONE.

9 (RECESS.)

10 *****OFF THE RECORD*****

11 (On the Record.)

12 MARCH 20, 2018 - DAY TWO

13 BY THE COURT:

14 THE COURT: All right. Is the state ready for the jury
15 to come in?

16 MS. RICHARDSON: Your Honor, we're waiting on the victims
17 to arrive, the next witnesses.

18 THE COURT: They are the next witnesses?

19 MS. RICHARDSON: Yes, Your Honor. They should be here
20 any minute now.

21 THE COURT: Is there anybody else that you can call
22 besides that person?

23 MS. RICHARDSON: No, Your Honor.

24 THE COURT: Have we tried to call them?

25 MS. RICHARDSON: Yes, Your Honor. Oh, they are here.

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BY THE COURT

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1 Okay. They're here. We just need a few moments. They're
2 coming upstairs.

3 THE COURT: Okay.

4 MS. RICHARDSON: Your Honor, in the meantime, we do
5 intend to admit a firearm into evidence. Does the Court wish
6 to inspect it or look at it?

7 THE COURT: Do you have it secured with a -- with a lock?

8 MS. RICHARDSON: It's with a zip tie. May I approach?

9 THE COURT: Yes, Mr. Edgeworth, you want to look at it?

10 MR. EDGEWORTH: Yes, Your Honor.

11 MS. RICHARDSON: I have the magazine.

12 THE COURT: All right. And so just the weapon or do you
13 intend to introduce ---

14 MS. RICHARDSON: All of it, but I understand they have to
15 be kept separately.

16 THE COURT: Okay. All right. Very good.

17 MS. RICHARDSON: Your Honor, I'm gonna check on them for
18 just a ---

19 THE COURT: All right. Thank you, ma'am. All right.
20 The state ready?

21 MS. RICHARDSON: Yes, Your Honor.

22 THE COURT: All right. Defense?

23 MR. EDGEWORTH: Yes, Your Honor.

24 THE COURT: Ask the jury to come in, please.

25 (REPORTER'S NOTE: Jury enters courtroom.)

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1 THE COURT: All right. Is the state ready with its next
2 witness?

3 MS. RICHARDSON: Yes, Your Honor.

4 THE COURT: All right.

5 MS. RICHARDSON: State calls Shaniqua Kennedy.

6 BAILIFF: Left hand on the Bible; raise your right.

7 SHANIQUA KENNEDY, HAVING BEEN SWORN

8 TESTIFIES AS FOLLOWS:

9 CLERK: Will you please spell your name for the Court,
10 your first name?

11 MS. KENNEDY: S-H-A-N-I-Q-U-A Kennedy, K-E-N-N-E-D-Y.

12 CLERK: Thank you. And when you have a seat, you can
13 pull that mic up to you. Okay?

14 THE COURT: Just get as close as you can to that
15 microphone.

16 All right. Go ahead, Solicitor.

17 DIRECT EXAMINATION OF SHANIQUA KENNEDY BY MS. RICHARDSON:

18 Q: Ms. Kennedy, where do you live?

19 A: In Georgetown.

20 Q: And have you always lived in the City of Georgetown?

21 A: Yes.

22 Q: And have you always lived in Georgetown?

23 A: Yes.

24 Q: Born and raised here?

25 A: Yes.

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- 1 Q: Okay. And how old are you?
- 2 A: Twenty-nine.
- 3 Q: All right. And do you have children?
- 4 A: Four.
- 5 Q: And where did you go to high school?
- 6 A: Georgetown High.
- 7 Q: And do you know Shaniqua Mcgirt?
- 8 A: I do.
- 9 Q: How do you know her?
- 10 A: From school and around.
- 11 Q: Okay. So, how long have you known her?
- 12 A: Probably about 20 years.
- 13 Q: Okay. And would you consider her to be a good friend?
- 14 A: Yes.
- 15 Q: And what about Danasha Anderson?
- 16 A: School.
- 17 Q: You've known her a long time as well?
- 18 A: Yes.
- 19 Q: What about Tysha Moultrie?
- 20 A: I'm just getting to know Ty. I've known her for a couple
- 21 of years.
- 22 Q: And she's younger than you?
- 23 A: Yes.
- 24 Q: And what about her Vertrell Gardner?
- 25 A: She's my cousin.

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1 Q: And do you know the defendant, Ty'Shun Bessellieu?

2 A: I know Ty from around the way.

3 Q: Okay. So, you've called him Ty sometimes and you call
4 Tysha Ty?

5 A: Yes.

6 Q: Okay. So, let's try to ---

7 A: Ty'Shun.

8 Q: So, you do know him?

9 A: Yes.

10 Q: Okay. And how do you know him?

11 A: From around the way.

12 Q: And before this, did you know him if you were to see him?

13 A: Yes.

14 Q: By sight and by name?

15 A: Yes.

16 Q: Okay. And tell me what you did on August 31st of 2016?

17 A: I know that we went out that night. I don't remember the
18 first part; I remember when was at Ming'z. I don't remember
19 when we was at Fishtails, because I was drinking that night,
20 all night, so, we all was at Ming'z. We was outside, sitting
21 in the car, you know, talking, laughing, or what not.
22 Moultrie and Bessellieu got in a little altercation. He was
23 trying to hit on her and she wasn't feeling it, and she start
24 saying oh, you gay, don't bother me, little words like that
25 back and forth or what not. I was in the car and back and

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1 forth going inside Ming'z and came back out or what not. And
2 by then, Ty'Shun was real mad over that -- he just keep saying
3 stuff or what not and he was like, I bet you want come in the
4 alley or something like that or what not, and she just
5 laughing, giggling or whatever. So, by then we all left. I
6 got in the car with ---

7 Q: All right. Who all was there of your friends?

8 A: There was me, Ty, Shaniqua McGirt, and Vertrell.

9 Q: Okay. And when you say Ty, you mean you were with which
10 Ty?

11 A: Moultrie.

12 Q: Tysha Moultrie?

13 A: Uh-huh, (affirmative response).

14 Q: Okay. And what about Danasha?

15 A: Yes, Danasha was there. I don't really remember Nasha
16 until we got to the projects. I don't remember seeing her at
17 -- she was with us, but I wasn't paying her no attention. I
18 was in -- I can't remember Nasha being at Ming'z.

19 Q: Okay. And so who was Ty'Shun Bessellieu with?

20 A: He was by hisself. I saw him by hisself.

21 Q: Okay. And did you see him in a vehicle?

22 A: No, I didn't.

23 Q: Okay. And so, again, can you describe what his demeanor
24 was or how he was acting when you were at Ming'z?

25 A: At first he was just acting regular and then he got angry

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1 with Ms. Moultrie when he noticed that the crowd was paying
2 attention, that what she was saying, it really got him -- he
3 was very angry.

4 Q: All right. So, when you left Ming'z, where did you go?

5 A: Went to Shaniqua McGirt house on [REDACTED].

6 Q: Okay. And that's in the City of Georgetown?

7 A: Yes.

8 Q: And who all went back to Shaniqua's house?

9 A: It was me, Tysha Moultrie, Shaniqua McGirt, and Danasha.

10 Q: Okay. And what about Vertrell, what happened to
11 Vertrell?

12 A: Oh, yeah, she, she was there. She was all over the
13 place, but I believe she was there, but then she ended up
14 leaving. I don't know. It was like she was there, but she
15 wasn't there.

16 Q: Okay. And what was her condition?

17 A: She was intoxicated.

18 Q: All right. So, what did y'all do when you got Shaniqua
19 McGirt's house?

20 A: We was just sitting on the porch chilling, listening to
21 music.

22 Q: Okay. And how are you listening to music?

23 A: I was listening to music on my phone.

24 Q: And you have an app or something that you use?

25 A: I was listening to Pandora.

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1 Q: And so, what time -- do you know about what time it was
2 when you got there?

3 A: It should've been like, probably like 2:15 maybe, 2:10,
4 2:15 because Ming'z close at 2 o'clock.

5 Q: Okay. And so y'all are sitting outside?

6 A: Yes.

7 Q: Did anything happen when you were sitting out there?

8 A: We all were just sitting out there. By this time as time
9 passed and as we are just chit-chatting or what not, Ty'Shun
10 Bessellieu rolled by.

11 Q: Okay. And what did he ride by in?

12 A: It was a Lexus Jeep, I mean car, a Lexus, I believe
13 that's what it was.

14 Q: Okay. A car though?

15 A: Yes.

16 Q: All right. And how did you know that was him?

17 A: Just his image. Like that just had looked like Thank
18 you. And time we went in the house over that, me and Danasha
19 was looking at the window, I couldn't really see, but then
20 that's when she like, yeah, that was Ty or whatever and
21 then...

22 Q: Okay. So, why did you go in the house?

23 A: Because we saw him ride by, so we wanted to see where he
24 was going.

25 Q: And did you see where he was going?

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1 A: No, I believe he made -- well, he was at the stop sign.
2 I can't say which way he turned because I couldn't really see
3 out the window.

4 Q: Okay. So, after that, what did you do?

5 A: We went back outside.

6 Q: Okay. And did you go immediately back outside or ---

7 A: No, we actually stayed in the house for a second because
8 it was a loud noise. We didn't know what the noise was at
9 first. So, we just stayed in the house. We was in the house
10 probably like probably I'd say like 10 or 15 minutes.

11 Q: Okay. And when did you hear the loud noise?

12 A: When we was on the steps, coming back off the steps.

13 Q: After he had passed by?

14 A: Yes.

15 Q: And so after that little bit of time, you went back
16 outside?

17 A: Yes.

18 Q: All right. And who all went back out?

19 A: It was all of us outside.

20 Q: Okay. And how long were you out there?

21 A: We was outside for -- I don't know how long we was
22 outside for, a little second. We was trying to figure out how
23 we was getting home because by then, Nasha didn't want to take
24 us home in her car because we just had saw Ty -- Ty'Shun
25 Bessellieu, we just had seen Ty'Shun Bessellieu, so she didn't

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1 want to drive her car; she wanted to drive her mom car because
2 he already was making threats to Tysha Moultrie.

3 Q: Okay. How do you know he was making threats to Tysha?

4 A: Because he -- as telling her, I bet you want come in the
5 alley; I bet you want come in the alley.

6 Q: Okay. And so did you live out there where Shaniqua
7 McGirt and Danasha live?

8 A: No, ma'am.

9 Q: On [REDACTED], you didn't live out there?

10 A: No, ma'am.

11 Q: Okay. So, you needed a ride back into town?

12 A: Yes, ma'am.

13 Q: And that's what you were talking about?

14 A: Yes, ma'am.

15 Q: Okay. So, where -- where was everybody situated?

16 A: Danasha and Shaniqua, they was sitting in the chair. I
17 was standing on the sidewalk, and Ms. Moultrie, she was
18 standing on the sidewalk, also.

19 Q: Okay. And which way were you facing?

20 A: I was facing Shaniqua and Danasha.

21 Q: Okay. So, away from the street?

22 A: Yeah, my back was turned to the street.

23 Q: And what were you doing while you were standing there?

24 A: I was just listening to the music.

25 Q: Okay. On your phone again?

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- 1 A: And just moving back and forth.
- 2 Q: Okay. And then what happened?
- 3 A: By then, I saw Danasha and Shaniqua, they looking in the
4 field trying to see like well who that is this time of night
5 out here, they just keep looking. And by looking at their
6 face, I just saw like their eyes got big and they just like
7 trying to get up and that's when I heard a gunshot. I never
8 get to turn around. We was trying to scramble in the house.
9 The door couldn't open. The door had gotten jammed or
10 whatever and we finally got in there, and then that's when
11 Danasha said, y'all, I think I got hit.
- 12 Q: And so you never saw anything as far as anybody in the
13 field or anything like that?
- 14 A: No, ma'am.
- 15 Q: Okay. And how many gunshots did you hear?
- 16 A: It was like five; I heard like five shots.
- 17 Q: Okay. And so you all went inside?
- 18 A: Yes.
- 19 Q: And could you tell where the bullets were going or ---
- 20 A: No.
- 21 Q: Okay. And once you get inside, you saw that Danasha was
22 hit?
- 23 A: I called 911. When she, she noticed that she -- you know
24 how she turned on the light and that's when we noticed the
25 blood dripping everywhere so I called 911.

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1 Q: All right. I have no further questions. Answer any
2 questions that Mr. Edgeworth may have for you.

3 THE COURT: Cross examination?

4 MR. EDGEWORTH: Thank you, Your Honor.

5 CROSS EXAMINATION OF SHANIQUEA KENNEDY BY MR. EDGEWORTH:

6 Q: Good morning, Ms. Kennedy?

7 A: Good morning.

8 Q: On the night of August 31st, I guess it would be 2016,
9 you were out with your friends, right?

10 A: Yes.

11 Q: And do you recall going to Fishtails at all or were you
12 not there?

13 A: I don't remember going to Fishtails. They said we was at
14 Fishtails, but I don't remember going there.

15 Q: Do you not remember because you yourself were
16 intoxicated?

17 A: I wasn't intoxicated, but I just don't remember going to
18 Fishtails.

19 Q: All right. Were you -- were you high; had you smoked
20 marijuana that night?

21 A: I can't recall.

22 Q: Okay. So, after Fishtails, you do recall being at
23 Ming'z?

24 A: Ming'z.

25 Q: Okay. And were you drinking there?

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- 1 A: I did have a couple because I was basically back and
2 forth going inside Ming'z to outside or coming back outside.
- 3 Q: Okay. So, do you recall where everybody was? Where were
4 you going back and forth to?
- 5 A: From the car to inside Ming'z. We was all in the front
6 on the side, like it wasn't in the front, it was like the
7 patio, not the patio, it's like the parking lot and we was
8 like pulled to the side right there.
- 9 Q: Okay. And you don't recall Ms. Anderson being there?
- 10 A: They were right behind -- sir?
- 11 Q: You go ahead and finish your statement?
- 12 A: By then I already -- no, I wasn't drinking a lot, I was
13 just drinking a couple of drinks.
- 14 Q: Well, I mean did you have occasion like y'all sneak
15 around the back and go smoke a joint and then come back?
- 16 A: I don't recall.
- 17 Q: Okay. So, were you with Ms. Moultrie when Mr. Bessellieu
18 came up to her?
- 19 A: I was outside, but I was not with her. I was in the car
20 when I heard them two back and forth.
- 21 Q: Okay. So, so you didn't hear what he said to her; is
22 that correct?
- 23 A: I did hear when he told her -- like he was hitting on
24 her. I don't know the exact words that he was saying, but I
25 know that he was hitting on her. They was back and forth with

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- 1 each other or what not.
- 2 Q: Well, I mean you made a statement though that you, you --
- 3 you said you heard him invite her to the alley, correct?
- 4 A: Yeah, he did say that.
- 5 Q: Okay.
- 6 A: He said I bet you won't come to the alley.
- 7 Q: Do you think that that was a form of hitting on her?
- 8 A: Not just that -- by then that was when he was about to
- 9 leave. Before he said that, he was saying sexual stuff to Ms.
- 10 Moultrie.
- 11 Q: Yeah, so it was a sexual comment, correct?
- 12 A: That wasn't a sexual comment.
- 13 Q: Okay. Was he inviting her there to have sex?
- 14 A: I don't know what he was calling her to the alley for.
- 15 Q: Okay.
- 16 A: He was mad by then, so I don't know why.
- 17 Q: Okay. Did you see him leave?
- 18 A: I did see him left.
- 19 Q: You did see him leave? Where did he go or do you know?
- 20 A: All I know is that he made a right on that road.
- 21 Q: Okay. And do you know Mr. Akim Moultrie?
- 22 A: I do know him.
- 23 Q: Okay. Was he there that night?
- 24 A: I don't recall seeing him that night.
- 25 Q: Okay. Do you not recall because you were high?

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SHANIQUEA KENNEDY - CROSS BY EDGEWORTH

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- 1 A: No.
- 2 Q: Okay.
- 3 A: I didn't see him at all.
- 4 Q: Okay. Do you know who he is?
- 5 A: Yes.
- 6 Q: Okay. Who is he?
- 7 A: That is Tysha Moultrie brother.
- 8 Q: Okay. And, and he has a child with Ms. McGirt, right?
- 9 A: I'm not sure.
- 10 Q: You don't know that?
- 11 A: No, sir.
- 12 Q: How long have y'all been friends?
- 13 A: For like 20 years.
- 14 Q: Okay. And you don't know that she has a child with Mr.
- 15 -- Mr. Moultrie?
- 16 A: No, I don't.
- 17 Q: Okay. Now, so you were standing with your back to the
- 18 field, correct?
- 19 A: Yes.
- 20 Q: Okay. So, you didn't see who was back there?
- 21 A: No.
- 22 Q: Okay. And who were you standing right in front of?
- 23 A: I believe I was standing in front of Shaniqua, I believe.
- 24 Q: Ms. McGirt?
- 25 A: Yes.

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SHANQUA KENNEDY - CROSS BY EDGEWORTH

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1 Q: Okay. Who was standing in front of Ms. Anderson?

2 A: I believe it was Ms. Moultrie.

3 Q: Okay. And Ms. Moultrie was the one who the advances were
4 from Mr. Bessellieu?

5 A: Say that again?

6 Q: I'll ask it a different way. Was her back to the field
7 as well?

8 A: I'm not sure.

9 Q: Okay. Well, she was -- you said she was standing in
10 front of Ms. Anderson?

11 A: Yes, but she could have been standing sideways. I don't
12 know.

13 Q: You don't recall?

14 A: I don't.

15 Q: Okay. Now, when you went inside in between and seeing
16 Mr. Bessellieu drive by, how long were you in there?

17 A: In the house?

18 Q: That's right?

19 A: To when we came back outside?

20 Q: Yeah, how long were you in there before you came back
21 out?

22 A: We was like in the house for like 15 or 20 minutes.

23 Q: Okay. And then you came back outside and started
24 listening to music?

25 A: Yes. Oh, no, no, by then we was ready to go home. We

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1 was trying or I was trying to find a ride to get home and
2 Nasha was like, I'm gonna see if I can get my mom car.

3 Q: Okay. But you didn't go -- y'all didn't go back out
4 there and start listening to music?

5 A: No, we just went outside because we was about to leave
6 and, during that time, you know, we just sitting -- sitting
7 around and just start back talking before we actually was
8 about to leave.

9 Q: Okay. Well ---

10 A: But we never left.

11 Q: And I guess you're getting to my point. How long were
12 you out there before something happened?

13 A: Probably was outside about like I'd say about 15 to 20
14 minutes.

15 Q: Okay. So, you're inside for about 20 minutes, correct?

16 A: Probably 15 minutes.

17 Q: Okay, so 15 to 20 minutes and you come back outside or
18 standing around for about 15 or 20 minutes, correct, before
19 something happened?

20 A: Yes.

21 Q: Okay. And at any time did you turn, when you were trying
22 to get in the house, did you turn and look back towards the
23 field?

24 A: I didn't.

25 Q: You did not?

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SHANIQUEA MCGIRT - DIRECT BY RICHARDSON

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1 A: No.

2 Q: Okay. No further questions.

3 THE COURT: Any redirect?

4 MS. RICHARDSON: No, Your Honor.

5 THE COURT: All right, ma'am, you may step down.

6 All right. Your next witness please, ma'am?

7 MS. RICHARDSON: The state calls Shaniqua Mcgirt.

8 BAILIFF: Raise your right hand.

9 SHANIQUEA MCGIRT, HAVING BEEN DULY

10 SWORN TESTIFIES AS FOLLOWS:

11 CLERK: Would you please state your full name and spell
12 it for the court reporter?

13 MS. MCGIRT: Shaniqua Mcgirt, S-H-A-N-I-Q-U-A, Mcgirt, M-
14 C-G-I-R-T.

15 CLERK: Thank you. Please have a seat.

16 THE COURT: Solicitor.

17 DIRECT EXAMINATION OF SHANIQUEA MCGIRT BY MS. RICHARDSON:

18 Q: Ms. Mcgirt, where do you live?

19 A: [REDACTED].

20 Q: And that's in the City of Georgetown?

21 A: Yes.

22 Q: And that's the location we've been talking about since
23 this trial began?

24 A: Yes.

25 Q: And how long have you lived in Georgetown?

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SHANQUA MCGIRT - DIRECT BY RICHARDSON

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- 1 A: My whole life.
- 2 Q: Born and raised?
- 3 A: Born and raised.
- 4 Q: Okay. And do you work?
- 5 A: Yes.
- 6 Q: Where do you work?
- 7 A: Board of Disability and Special Needs.
- 8 Q: And do you have children?
- 9 A: Two.
- 10 Q: And do your children live with you?
- 11 A: They do.
- 12 Q: And how old are they?
- 13 A: Cassidy is nine, and T.J. is two.
- 14 Q: Okay. So, back in August of 2016, he would've just have
- 15 been an infant?
- 16 A: Yes.
- 17 Q: Okay. And do you know the defendant, Ty'Shun Bessellieu?
- 18 A: I do.
- 19 Q: How long have you known him?
- 20 A: I know his mother. So, I knew him since he was a little
- 21 boy.
- 22 Q: Okay. And how do you know his mother?
- 23 A: Like family ties.
- 24 Q: And on August 31st, 2016, you and your friends went out?
- 25 A: Yes.

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SHANIQUEA MCGIRT - DIRECT BY RICHARDSON

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1 Q: Okay. And who was -- who did -- I know everybody has
2 been talking about it, but just from your point of view, who
3 -- who went out that night?

4 A: When we left -- when we left my house, it was me,
5 Danasha, Tysha, I think, because we was in crowds earlier that
6 day and then we went behind the Piggly Wiggly and picked up
7 Vertrell and Shaniqua Kennedy.

8 Q: And is this something you usually did as far as going out
9 to Ming'z and that sort of thing?

10 A: No.

11 Q: Okay. And why this night?

12 A: Because I had a babysitter that night and I wanted to go
13 out for a couple of drinks.

14 Q: And so where did y'all go?

15 A: We went to Fishtails first, and then we went to Ming'z.

16 Q: Okay. And do you remember anything happening at
17 Fishtails?

18 A: No.

19 Q: And then about what time do you think you got to Ming'z?

20 A: Probably like, I can't recall, but I know we got to
21 Ming'z like -- we wasn't at Ming'z that long before they
22 closed. Probably like 1:30.

23 Q: And y'all went out kinda late anyway; is that right?

24 A: Uh-huh, (affirmative response).

25 Q: You need to say yes or no.

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SHANIQUA MCGIRT - DIRECT BY RICHARDSON

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- 1 A: Yes.
- 2 Q: Okay. All right. So, describe to us our Ming'z is kinda
3 set up?
- 4 A: When you pull in the parking lot, there's a couple of
5 things that's attached to Ming'z and Ming'z at the end. You
6 pull in the parking lot and like Ming'z is at the -- it's like
7 a long building and Ming'z is at the end.
- 8 Q: Okay. And it has a porch across the front?
- 9 A: Yes.
- 10 Q: Okay. And there's a lot of parking lot in the front of
11 it?
- 12 A: Not too much.
- 13 Q: And then is there a patio area?
- 14 A: In the back, yeah.
- 15 Q: Okay. And what kind of place is Ming'z?
- 16 A: A bar and grill.
- 17 Q: And so when you got there, what did you do?
- 18 A: Well, I was mingling not only with my friends but with
19 people that was already out there. So, I got out the car and
20 I was -- from the front of Ming'z, my car was parked in front
21 of the barber shop. So, I wasn't like way -- like I was all
22 over the place like, you know, because I don't get out often.
23 So, I was like interacting with other people.
- 24 Q: Okay. And did anything happen while you were there?
- 25 A: Well, when the situation with Tysha and Ty'Shun start, I

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- 1 don't know -- I didn't know what happened. When I asked Ty
2 like what's going on, she was like, he was making sexual
3 whatever whatever at her. And I was like, come on, let's go.
4 I was the one that said, come on, let's go or whatever, but
5 she was like running from him. He wasn't right in behind her,
6 but he was like walking like -- I guess he was trying -- he
7 was very loud. His voice is very light and quiet like. Him
8 screaming -- he wasn't screaming at the time like. All I know
9 was I could hear Tysha saying like, boy, you gay, like
10 whatever he did or said to her must be pissed her off and
11 whenever she said that gay comment, pissed him off. So ---
12 Q: Was there some reason everybody was a little more
13 sensitive to the gay comment?
14 A: I'm sure he was.
15 Q: Okay. Had anything been going on at that time? ^
16 A: Oh, I don't know.
17 Q: And so, how -- how long did this go on between the two of
18 them?
19 A: This didn't even go on that long, probably about five or
20 six minutes.
21 Q: Okay. And who was with him?
22 A: He was by himself.
23 Q: And were there other people outside in the parking lot?
24 A: Yeah, there was like 20 people out there.
25 Q: And did it start to cause a scene?

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1 A: It did.

2 Q: Okay. And as that happened, what was the demeanor of
3 Tysha and Ty'Shun?

4 A: Tysha was loud, like she was mad. Ty'Shun had like, like
5 I said, he was like, kinda like a, I don't know like, you
6 know, I never really had a conversation with him, but his
7 whole demeanor is like, he got like quiet like he wasn't loud.
8 You know, like you could just tell that he was deranged by his
9 face because he had his face like you know she had made like,
10 you know, embarrassed him rather.

11 Q: Okay. And so what happened after that?

12 A: Okay, he came -- I don't where he went, he came from
13 somewhere with a car, a Lexus. Like I said, my car was closer
14 to the road. So, we was getting in the car and he yelled out,
15 meet me on the ave, which I don't know what that means, but he
16 was trying to tell her at the time. He made a right; we made
17 a left. We went to -- well, we went to [REDACTED]. There
18 was people already out there on -- it was people all in the
19 parking lots on both sides.

20 Q: Let me interrupt you for a second. So, when he left he
21 was in the Lexus?

22 A: Yeah.

23 Q: Was he driving?

24 A: He was.

25 Q: Okay. Was anybody else with him?

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1 A: Not that I see -- I didn't see anybody else with him.

2 Q: Okay. And how did he leave?

3 A: He like he peeled off, like you know he was mad.

4 Q: All right. So y'all left and went back to your place?

5 A: Right.

6 Q: All right. And who all went with you?

7 A: Me and Vertrell, Tysha Moultrie, Shaniqua Kennedy and
8 Danasha Anderson.

9 Q: Okay. And were y'all in the same car?

10 A: No.

11 Q: Okay. And what about your children, where were they?

12 A: They were at home with the babysitter.

13 Q: And so, when you got to your place, what did you do?

14 A: We kinda like were hanging outside because the kids was
15 in the house sleeping.

16 Q: Okay.

17 A: So, we didn't go in the house. We like -- it was early
18 too. Like I said, when you don't -- I really don't get out,
19 it was like a little after 2 o'clock, so we kinda like mingled
20 outside and there was people out there. There was people
21 still outside because it's an apartment complex or whatever,
22 and we just chill outside, you know, listen to Shaniqua
23 Kennedy's phone, talk, laugh, you know, and then somebody
24 yelled from across the street, that's that boy, that's that
25 boy. Y'all need to get in the house. So, I didn't really

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1 know -- I didn't see him come onto [REDACTED]. All I know is
2 somebody yelled and say, that was him, that car, I guess, and
3 I went -- I had to use the restroom anyway, so I went
4 upstairs. Keep in mind my kids was downstairs sleeping. So,
5 I had got in like, you know, whatever, like it was quiet down
6 there so, me, Danasha. -- me, Danasha, and Shaniqua went
7 upstairs and I went in my upstairs bathroom, which the lights
8 was cut off. So, Danasha was looking at the top of the steps
9 because you could see through that window when you at the top
10 of my steps. And she was like, he was at the stop sign on
11 [REDACTED] and Rainey, and then she said she believed to see him
12 come back to go to the other, like turn around, make a U-turn
13 and come back down on [REDACTED].

14 Q: Okay.

15 A: Or whatever, but then when we was coming downstairs, we
16 heard something but not -- didn't think, you know, that it was
17 gunshots or whatever. You know, I didn't think it was a
18 gunshot or whatever. So, we waited for like 20 minutes and we
19 was like -- Vertrell was like all over the place and she was
20 kinda, you know, loud and I didn't want her to wake my kids
21 up, so I was like, you know we got to figure out a way to take
22 Tysha, Vertrell, and Shaniqua Kennedy home or whatever. But
23 when we got back outside, we kinda like, we was just laughing
24 like, you know like didn't think nobody was coming in the
25 field to shoot at us. Because at this point in time, there

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1 was nobody left in the parking lots. Everybody was kinda
2 gone.

3 Q: Okay. And so, y'all -- y'all were all back outside; it
4 was all five of you?

5 A: Yeah.

6 Q: Okay. And what were you doing out there?

7 A: We was talking. I mean, we was standing up, and then me
8 and Danasha, we started like laughing and, you know, joking
9 around, you know sitting down on the two chairs. I was by the
10 door, Danasha was by the wall on the porch or whatever. And
11 it was longer than 20 minutes or whatever, it was probably
12 like a good 30 or 35 minutes before we saw somebody. But like
13 I said, this is an apartment complex. People roam around that
14 apartment complex all the time, all time of the night. We
15 didn't think that it was nobody because the person, we could
16 have -- when the person was visible behind the other building
17 that was across the street from my house, the person had a
18 white T-shirt on and the person made us believe like -- like
19 -- like kept walking like 'cause he was going in a different
20 direction. He never looked at the porch. Nobody never looked
21 at the porch. We was just like, who is that? Like me and
22 Danasha was like, who that is, because we just that nosey,
23 like, who is that. And by the time we said who is that, it's
24 like the person just had turned around lift his arm up and I
25 was like stuck in my chair, like in disbelief, like a movie

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1 and I couldn't get up until I actually saw the first shot,
2 like the fire from them, and that's when I ran to the door. I
3 was the first one at the door trying to get the door open and
4 I couldn't get the door open. The only person that didn't
5 move out their chair was Danasha. She kinda like, you know,
6 like was in the corner, but everybody else was kinda behind
7 me. We was trying to get the door open, banging on the door.
8 We finally got the door open, we ran in the house. Danasha
9 came in there and she was -- she wasn't -- she did good like
10 she came in the house like, oh, I got shot, I got shot. We
11 turned on the light and the blood was just leaking, took her
12 in the restroom while Shaniqua Kennedy called 911. Put her
13 shirt -- I took her shirt off and I put her shirt close to
14 her, outside in her chair and we waited for the people to
15 come.

16 Q: Okay. So, she was pretty calm?

17 A: Yeah, she was very calm.

18 Q: How about you?

19 A: Oh, no, I was acting crazy after I saw that. I thought I
20 had got hit by a bullet. I -- nothing like that ever happened
21 to me, so when I got in my house, I was just grabbing my shirt
22 and just made sure I was straight because I, I felt like
23 something burning across my chest and that's the feeling that
24 I felt and I don't know what it was, but I had welt, but I
25 never got it treated or anything, I just welt and it was

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1 burning and I just had like, you know, ripped open my shirt to
2 make sure I didn't get shot.

3 Q: So, you thought you had been shot when you ran in?

4 A: Yeah.

5 Q: And then after they called 911 then everybody responded
6 to your house?

7 A: Correct.

8 Q: And out in your apartment complex, how, how is the
9 lighting?

10 A: They got big street lights down [REDACTED] like down all them
11 roads.

12 Q: Okay. And how about in the field?

13 A: They don't have as much in the field.

14 Q: Let me -- let me ask you this. When you saw the person
15 in the field, could you tell anything about them?

16 A: No, they was just walking in slow motion like a person
17 wasn't walking fast. The person was moving like slow motion
18 like as if they was just walking to -- I thought they was
19 probably walking to the landing or something, the direction
20 that they was walking from behind the other building. But it
21 actually looked like the person was right behind the building
22 that, you know, across the street.

23 Q: Okay.

24 A: But he guess -- but that's what it looked like with a
25 white T-shirt on.

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1 Q: And could you tell if it was a black person or a white
2 person?

3 A: You could tell it was a black guy.

4 Q: You could tell it was a guy and not a girl?

5 A: Yeah, because they didn't have nothing on they head and
6 then it was like a white shirt and you could tell that the
7 person, which not many Caucasian people walk out there like
8 that.

9 Q: And could you tell anything about their body size and
10 type? I mean, was it like a 300-pound football player person
11 or a short, fat person; could you tell?

12 A: It was a small guy.

13 Q: And small as in this way, or short?

14 A: Like not too short, not big at all.

15 Q: And let me show you what has previously been marked as
16 State's Exhibit Number 1 and if I could ask if she would step
17 down for the jury?

18 THE COURT: Yes, 'ma'am. Just make sure you stand by a
19 microphone, please. Thank you.

20 Q: All right. So, and you've seen this map before?

21 A: I did.

22 Q: Okay. And is this where you live?

23 A: I do.

24 Q: Okay. And show me about where the person was that you
25 saw in the field?

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1 A: Okay. This is the building behind.

2 Q: Uh-huh, (affirmative response).

3 A: I mean, across the street from my, my apartment. Then
4 like mine's right here.

5 Q: Okay.

6 A: But they didn't turn off right here, they were walking --
7 walking towards the old people's building, which is right
8 there.

9 Q: Okay. And you called this -- the Senior Citizens Center?

10 A: Right.

11 Q: Okay. And when you said towards the Landing, where is
12 Georgetown Landing?

13 A: Right here.

14 Q: Okay. So, they were walking in this direction?

15 A: Yeah.

16 Q: Okay. All right. If you'd return to your seat.

17 And could you tell anything about the person's mannerisms
18 or anything like that, like the way they were walking?

19 A: They were walking slow like, like just walking. Nobody
20 was walking fast. It wasn't no fast walk. It was like a slow
21 motion walk.

22 Q: Okay. And could you -- based on the body size and the
23 way they were moving and walking, did you recognize who it was
24 or did you have indication of who it may be?

25 A: No, but after it happened, it was like ironic, like who

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1 would shoot a porch full of girls like, that's just how I had
2 thought it at first. Like, you know, like I don't -- nobody
3 had no problems, why would somebody shoot at my porch.

4 Q: Okay. And after this, did you see that there was any
5 damage to the outside of your apartment?

6 A: It was, they pulled out a bunch of -- well, they pulled
7 out a couple of bullets from the siding of the building and
8 then the next-door neighbor had I think a bullet like right
9 under her window or something.

10 Q: All right. I have no further questions. Answer any
11 questions that Mr. Edgeworth may have for you.

12 THE COURT: Cross examination?

13 MR. EDGEWORTH: Thank you, Your Honor.

14 CROSS EXAMINATION OF SHANIQUEA MCGIRT BY MR. EDGEWORTH:

15 Q: Good morning, Ms. McGirt. You say you have two children?

16 A: I do.

17 Q: Okay. Ages two and nine?

18 A: Uh-huh, (affirmative response).

19 Q: Who is the father of the nine-year-old?

20 A: Shakim White.

21 Q: Okay. And about this two-year-old?

22 A: Tamay K [REDACTED] (spelled phonetically).

23 Q: Okay. Do they know each other?

24 A: My baby fathers?

25 Q: Yeah?

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- 1 A: They do.
- 2 Q: Okay. Now, do you -- do you recall on the night of the
3 incident whether they were at Ming'z?
- 4 A: Who?
- 5 Q: Your children's father?
- 6 A: They were not.
- 7 Q: Okay. And on the -- on the night that you guys went out,
8 were you drinking?
- 9 A: Oh, I had like one cup before we left Fishtails and I
10 didn't drink all of that because it got closed down.
- 11 Q: Okay. And were you smoking marijuana on that night?
- 12 A: I was smoking marijuana.
- 13 Q: Okay. Now, when you -- you guys went to Ming'z around
14 1:30 you said?
- 15 A: Yes.
- 16 Q: Okay. So, what time did you leave if you recall?
- 17 A: Like a little after 2:00.
- 18 Q: Okay. And so, approximately 30 or 35 minutes?
- 19 A: No. Probably like right after 2:00 because they close at
20 2:00.
- 21 Q: Okay. I'm just saying about how long you were there?
- 22 A: Oh, like, yeah ---
- 23 Q: So, if you came at 1:30 ---
- 24 A: --- 30 to 35 minutes.
- 25 Q: Okay. And you were -- you said you were running around

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1 the whole time there because you hardly ever get to get out
2 and so you were just meeting and greeting?

3 A: Yeah, like it's Georgetown, so a lot of people know --
4 everybody know everybody.

5 Q: Okay. So, is it fair to say then that you -- you didn't
6 necessarily know who was there?

7 A: Well, it wasn't that much people there in the first
8 place. Like there wasn't too many people there.

9 Q: Well, what kind of bar is Ming'z; you said bar and grill,
10 but ---

11 A: It wasn't really even nobody inside. If they was inside
12 they was like going inside to get something to drink and
13 coming back out.

14 Q: Okay. Have you -- have you ever been to Ming'z before?

15 A: Yes.

16 Q: Have you been there and seen a fight break out?

17 A: No.

18 Q: Have you been there and seen any type of violence?

19 A: No.

20 Q: Have you heard about any type of violence there?

21 MS. RICHARDSON: Your Honor, I object to that.

22 THE COURT: Sustained.

23 BY MR. EDGEWORTH:

24 Q: So, on this particular night when you say you saw that
25 Tysha and Ty'Shun were, quote/unquote, arguing. You said that

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1 he was just being quiet, right?

2 A: I said he being like low, like, you couldn't really hear
3 what he was saying. Tysha over -- her voice overpowered his
4 voice.

5 Q: Okay. Was he acting violent?

6 A: Well, he was acting deranged like, you could tell he was
7 upset.

8 Q: Did he hit her?

9 A: No.

10 Q: Did he -- did he even touch her?

11 A: No, he couldn't because she was running from him.

12 Q: Okay. So, so, at no point in time while they were did he
13 commit any type of violence against, against Ms. Moultrie?

14 A: He didn't.

15 Q: Okay. And when he left, how long between the time that
16 you left, or excuse me, he left that you saw him leave and you
17 would go home?

18 A: We left right after he left.

19 Q: Okay. So, at that point in time -- did, I mean, were you
20 in fear of Mr. Moultrie?

21 A: Mr. who?

22 Q: Excuse me, Mr. Bessellieu?

23 A: No.

24 Q: Okay. And you go to your house and you guys are just
25 hanging out, correct?

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1 A: Yes.

2 Q: Okay. And how long were you hanging out before you guys
3 went inside?

4 A: Like how long was we outside before they say that he was
5 coming down the road?

6 Q: Did you in fact see him coming down the road?

7 A: I saw him on -- I think that's Washington, whatever --
8 like right by the -- like right by the senior citizen
9 building, but I didn't know he made that left onto [REDACTED], like
10 I was already going in -- I already had to use the restroom
11 anyway, but I was procrastinating outside, but once they said
12 that, I -- you know, I peeped off the porch, saw the car
13 because it wasn't coming fast and I went in the house and I
14 ran upstairs to use the restroom.

15 Q: Okay. So, you did or did not see him in a vehicle
16 outside your house?

17 A: I saw the vehicle on the road.

18 Q: But you didn't see him in particular?

19 A: No.

20 Q: Okay. Okay. So, when you guys came back out -- came
21 back outside at some point later and you said you're hanging
22 out for about 30 or 35 minutes before the first gunshot; is
23 that correct?

24 A: Right.

25 Q: Okay. Now, you pointed out on the map for the jury, how

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1 far away was the person that was in the field?

2 A: I don't know.

3 Q: Well, do you not know because you would have to guess?

4 A: I would have to guess, because actually where they found
5 the shell casing at, I didn't think that the person was that
6 far from where I was looking at on the porch.

7 Q: Okay. But, but now that you know where that might have
8 found shell casings, it was a pretty far away, away, correct?

9 A: Yes.

10 Q: Okay. And there was damage in and around the building?

11 A: On the porch, it was in the middle where we was sitting
12 at, it was like some hit -- well, me and Danasha head was
13 right there. It was like in the middle, it was above our
14 heads, it was by the windows, it was by my neighbor window.

15 Q: It's fair to say it was just all over the place?

16 A: Yeah, it was.

17 Q: Okay. No further questions.

18 THE COURT: Any redirect?

19 MS. RICHARDSON: No, Your Honor.

20 THE COURT: All right, ma'am, you may step down.

21 All right, Solicitor, your next witness please, ma'am?

22 MS. RICHARDSON: The state calls Tysha Moultrie.

23 TYSHA MOULTRIE, HAVING BEEN DULY

24 SWORN TESTIFIES AS FOLLOWS:

25 CLERK: Okay. Will you please spell your name for the

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1 Court?

2 MS. MOULTRIE: T-Y-S-H-A, Moultrie, M-O-U-L-T-R-I-E.

3 CLERK: Thank you very much. If you'll have a seat and
4 just pull that mic up to you.

5 DIRECT EXAMINATION OF TYSHA MOULTRIE BY MS. RICHARDSON:

6 Q: Tysha, where do you live?

7 A: Georgetown, South Carolina.

8 Q: Okay. And born and raised here?

9 A: Yes, ma'am.

10 Q: You all right?

11 A: Uh-huh, (affirmative response).

12 Q: You need some water? Okay. All right. You a little
13 nervous?

14 A: (Indicates affirmatively.)

15 Q: You're gonna have to answer out loud? You're nervous?

16 A: I'm ready.

17 Q: Okay. All right. So, I think we said you were born and
18 raised here in Georgetown?

19 A: Yes, ma'am.

20 Q: Okay. Where did you go to high school?

21 A: Georgetown High School.

22 Q: Okay. And how old are you?

23 A: Twenty-three.

24 Q: And do you have a job?

25 A: Yes, ma'am.

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1 Q: And what do you do?

2 A: I work at the Walmart Super Center. I do services at the
3 service desk.

4 Q: And your family is all here in Georgetown, too?

5 A: Yes, ma'am.

6 Q: Okay. And there's some mention of your brother; is that
7 right?

8 A: Uh-huh, (affirmative response).

9 Q: How many brothers do you have?

10 A: I have seven.

11 Q: Okay. And you have some sisters, too?

12 A: Uh-huh, (affirmative response), two sisters.

13 Q: Okay. So, back on August 31st, 2016, I know you've heard
14 testimony about what had occurred, but we're gonna go back
15 over it with you in particular. So, what did you do that
16 night?

17 A: Well, me and Shaniqua Mcgirt, we chilled all day, and
18 then we decided to go out.

19 Q: Okay. And where did you go?

20 A: We went to Fishtails and then we went to Ming'z Bar &
21 Grill.

22 Q: Okay. And about how late was it when you went to
23 Fishtails, do you remember?

24 A: It was like after, a little after 12:00.

25 Q: Okay. And did anybody else go with y'all?

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- 1 A: Yes, ma'am.
- 2 Q: All right. Who else was with you?
- 3 A: Shaniqua Kennedy, Shaniqua McGirt, Vertrell Gardner,
4 Nasha Anderson, and me.
- 5 Q: Okay. And how long have you known this group of girls?
- 6 A: Well, I knew them from being around Georgetown for I knew
7 them for a quite many ---
- 8 Q: And most of them are a little older than you?
- 9 A: Uh-huh, (affirmative response).
- 10 Q: You need to answer out loud?
- 11 A: Yes, ma'am.
- 12 Q: Okay. So, did anything happen when you were at
13 Fishtails?
- 14 A: No, ma'am. Well, I sat in there for a little while and
15 then I went outside and I was chilling with a friend.
- 16 Q: And do you know the defendant, Ty'Shun Bessellieu?
- 17 A: Well, I don't know him that much, but I know him from
18 being around Georgetown.
- 19 Q: Okay. So, prior to this, if you were to see him on the
20 street, would you know who he was?
- 21 A: Yes, ma'am.
- 22 Q: And so, y'all are at Fishtails for a while and then
23 Fishtails closed, and then where did you go?
- 24 A: We went to Ming'z Bar & Grill.
- 25 Q: Okay. And it was all five of you that went to Ming'z?

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1 A: Uh-huh, (affirmative response).

2 Q: All right. And when you got to Ming'z was Ty'Shun there
3 as well?

4 A: Yes, ma'am.

5 Q: Okay. So, tell me what happened at Ming'z?

6 A: Well, I saw him when I first went through the door.
7 Well, my girls they sat in the car, but I saw him when I first
8 went through the door because he made a remark when I first
9 went through the door. But my girls sat in the car and I went
10 in and I got a couple of drinks and I played a game of pool.
11 But I saw him when I first went in the door.

12 Q: Okay. And when you said he made a remark, just tell us
13 what it was?

14 A: He just -- he just keep saying, dang, Tysha, and I was
15 able to handle it when I first went in the door because I
16 wasn't drinking and having a good time.

17 Q: Okay. And when he said that, how did you take it; what
18 kind of remark was that?

19 A: I mean, I took it -- I took it in and I left it alone
20 because I wasn't drinking. I was -- you know, I felt like I
21 was all right and so I knew how to handle the situation. I
22 knew how to laugh it off and kept walking.

23 Q: Okay. But his demeanor when he was saying that; what did
24 you take it that he meant from those comments?

25 A: That he wanted me.

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- 1 Q: Okay. In a sexual way?
- 2 A: Uh-huh, (affirmative response).
- 3 Q: Answer out loud for me.
- 4 A: Yes, ma'am.
- 5 Q: Okay. So, you played pool, then what happens?
- 6 A: I just went into Ming'z for a little bit and then I
- 7 played pool and I got a drink and I came back out.
- 8 Q: Okay. And did you have any more interaction with Ty'Shun
- 9 Bessellieu?
- 10 A: Yes, when I came out.
- 11 Q: And that's when you were in the parking lot?
- 12 A: Yes.
- 13 Q: Okay. Tell me about that.
- 14 A: Well, when I came out and I -- I already had my couple of
- 15 drinks or whatever, he said, dang, Tysha, you have a fat rear
- 16 end, and I said ---
- 17 Q: Now, did he use the word rear end or are you being
- 18 polite?
- 19 A: No, he used another word and I -- I said, boy, leave me
- 20 alone, and then I started walking and he said it again, and I
- 21 said leave me alone now. You know you -- I just was talking
- 22 just -- I was talking because I was drinking, that's all. And
- 23 I said leave me alone, you gay.
- 24 Q: Okay. And what was his reaction to that remark that
- 25 you're gay?

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1 A: He reacted like he was angry.

2 Q: Okay. And was there any particular reason why this was a
3 sensitive subject?

4 A: No, I was just talking because I was drinking.

5 Q: All right. And had there been any mention of a -- of
6 another person that was also gay?

7 A: Jamal Simpson.

8 Q: Okay. And tell me about that sorta situation?

9 A: There's no situation, I was just talking. I saw him the
10 day before at Jamal house. I just was talking. I was
11 drinking, so I was just talking. I didn't know it was gonna
12 make him that upset.

13 Q: Okay. And had there been some rumors regarding Jamal?

14 A: Uh-huh, (affirmative response)

15 Q: And so, you said he got upset when you said that.
16 Explain to me what he did.

17 A: He said, girl, please, don't nobody want you anyway. He
18 was talking trash to me, too. But I was like, I really didn't
19 hear a lot of his words because I was drinking and I was loud,
20 so...

21 Q: Okay. And was he using any profanity?

22 A: Uh-huh, (affirmative response).

23 Q: Okay. So, when he said ain't nobody want you, what, I
24 mean what did he really say?

25 A: He said don't nobody want your ass anyway.

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1 Q: And so how long do you think y'all kinda went back and
2 forth like that?

3 A: Probably like five minutes before one of my girls,
4 Shaniqua McGirt, she told me, she was like, girl, come on.

5 Q: Okay.

6 A: Shaniqua McGirt, she was like, come on.

7 Q: All right. And did he touch you in any way?

8 A: He kinda like -- no, he didn't.

9 Q: Okay. And nothing with your clothes or your jeans or
10 anything?

11 A: (Indicates negatively.)

12 Q: Okay. So, when this back and forth was going on, where
13 were you?

14 A: I was on the way to the car.

15 Q: And what-- were other people around?

16 A: Uh-huh, (affirmative response).

17 Q: And was the crowd reacting to what was going on between
18 the two of you?

19 A: Well, I wasn't paying attention to the crowd, I was
20 really bickering with him. So, I wasn't really paying
21 attention to the crowd. I do remember my girls standing at
22 the car.

23 Q: And were you angry?

24 A: I was angry because he kept doing it and -- yeah, I was
25 angry..

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- 1 Q: Okay. And what about him, could you tell what his
2 reaction was?
- 3 A: Yeah, he was angry, too.
- 4 Q: So, who left first; do you remember?
- 5 A: He left first.
- 6 Q: And do you remember how he left?
- 7 A: Uh-huh, (affirmative response), he drove off.
- 8 Q: And what was he driving?
- 9 A: Everybody say it was a Lexus, but I thought it was gold
10 -- I think it was -- well, they said it was a blue Lexus, but
11 I thought a gold Lexus.
- 12 Q: And was anybody with him?
- 13 A: Huh-uh, (negative response).
- 14 Q: So, after he left, then you and your friends left?
- 15 A: Uh-huh (affirmative response).
- 16 Q: And y'all went where?
- 17 A: We went to Shaniqua McGirt's house.
- 18 Q: Okay. And who was with you?
- 19 A: It was me, Shaniqua, Vertrell, Shaniqua Kennedy, and
20 Nasha Anderson.
- 21 Q: Okay. And what -- and y'all went back to Shaniqua
22 McGirt's house at [REDACTED]?
- 23 A: Yes, ma'am.
- 24 Q: All right. And what were y'all doing?
- 25 A: We was just sticking around at the time, just sitting

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1 around having a good time.

2 Q: You were outside?

3 A: Uh-huh, (affirmative response).

4 Q: Okay. And then what happened?

5 A: We saw like, we saw a car, the same car that he left -- I
6 saw his car, the same car I saw when he was coming up toward
7 the projects and when he made -- I sat on the porch -- I seen
8 when he drove by and everything. I saw him when he looked
9 over, but I was just thinking -- like I didn't know what was
10 his plans, so I wasn't actually scared at the moment, but when
11 I saw him make the U-turn, I knew -- the girls ran in the
12 house. And when I saw him make the U-turn at the stop sign, I
13 ran in the house, too.

14 Q: So, you actually saw the car drive by?

15 A: Uh-huh, (affirmative response).

16 Q: And you actually saw that it was him?

17 A: Uh-huh, (affirmative response).

18 Q: Okay. And was anybody else with him?

19 A: (Indicates negatively.)

20 Q: I need you to answer out loud for me.

21 A: No, ma'am.

22 Q: So, he went to the end of the road and turned around?

23 A: Uh-huh, (affirmative response).

24 Q: And then what did you do?

25 A: I ran.

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1 Q: And why did you run?

2 A: Because he turned around and just look obvious -- I
3 didn't know -- I didn't know what to think at that point.

4 Q: And so, did you go inside?

5 A: Uh-huh, (affirmative response). Yes, ma'am.

6 Q: Okay. And what did you do inside?

7 A: I sat in there for a little while, but we came back out
8 the door because we was kinda loud.

9 Q: And there were children asleep in there?

10 A: Yes, ma'am.

11 Q: Okay. And so when you came back out, what did you do?

12 A: Well, we was really planning on getting home, so we sat,
13 we sat, but us just being girls, we still talking at the same
14 time, not thinking he was gonna come back.

15 Q: Okay. And were you sitting or standing or what were you
16 doing?

17 A: I was standing up in front of Nasha Anderson and my
18 friend Shaniqua Kennedy was standing beside me, and Vertrell
19 was on further in, and Shaniqua Mcgirt was sitting down, too.

20 Q: And what happened then?

21 A: We was just sitting around and I saw Shaniqua Mcgirt face
22 and then I looked back too and I see the person in the field
23 and it just looked kinda weird, so, and then I couldn't see as
24 he was -- as the person was walking, he had his head down and
25 I saw when he turned our way and all I saw was the gunshots

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1 then and so we start panicking and running in the house.

2 Q: And what was the person wearing?

3 A: A white T-shirt.

4 Q: And could you tell, and this was kinda far away?

5 A: Yes, ma'am.

6 Q: Could you tell anything about the person?

7 A: I just knew he was a male.

8 Q: Okay. And could you tell his size and shape or anything
9 like that?

10 A: He was skinny, kinda tall.

11 Q: And did you notice anything about the demeanor or the way
12 the person carried themselves?

13 A: No, ma'am.

14 Q: So, you saw -- then you saw the fire from the gun?

15 A: Yes, ma'am.

16 Q: Okay. And did you -- how many shots did you hear?

17 A: Like seven.

18 Q: And you ran inside?

19 A: Yes, ma'am.

20 Q: Okay. And ---

21 A: Well, I tried to run inside, but it was like the door
22 wouldn't open and I could feel Nasha Anderson behind me, but I
23 knew she was behind me, but I knew she wasn't -- I knew she
24 was like in the corner or something, but I was panicking when
25 we was trying to get in the house.

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1 Q: And then 911 was called and the police came?

2 A: Uh-huh, (affirmative response).

3 Q: And did you see the injuries to Danasha as well?

4 A: Yes, ma'am.

5 Q: And you were actually the one that told the police about
6 what had happened with Ty'Shun Bessellieu at the club?

7 A: Yes, ma'am.

8 Q: Okay. And how, how did you feel about what happened?

9 A: I felt like -- I felt -- I told the police because it was
10 on my conscious. I felt like the bullet was supposed to been
11 for me. Because if it wasn't for me, it wouldn't have
12 happened.

13 Q: So, you feel bad about that?

14 A: Yes.

15 Q: And could you tell where the bullets were hitting when
16 you were running?

17 A: No, ma'am. I just knew they was -- I just knew the guns
18 -- the gun was going off, so I knew it was aiming for us, the
19 way -- the way the person was standing in the field. So, I
20 knew the bullets was coming our way.

21 Q: Okay. So, you were standing up, but you actually turned
22 and looked?

23 A: Uh-huh, (affirmative response).

24 Q: Okay. And you saw the person?

25 A: Uh-huh, (affirmative response).

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1 Q: And you could tell which direction the gun was pointed
2 in?

3 A: Uh-huh, (affirmative response).

4 Q: And if you'd answer out loud for me.

5 A: Yes, ma'am.

6 Q: All right. When you were at Ming'z, was there any
7 conversation about meeting him somewhere?

8 A: Yes, he did. Before he pull out, he did say meet me on
9 the ave, and I was just like -- it was like, we not going to
10 no ave, so we just -- we went the other way.

11 Q: Okay. And what, what was his demeanor or tone? What did
12 you think he meant by that? Was it -- you know people can say
13 things in different ways, so was that a sexual comment or what
14 sort of comment was that to you?

15 A: I just knew he was mad, so I thought it was a mad
16 comment.

17 Q: Okay. All right. I have no further questions. Answer
18 any questions that Mr. Edgeworth may have for you?

19 THE COURT: Cross examination?

20 MR. EDGEWORTH: Thank you, Your Honor.

21 CROSS EXAMINATION OF TYSHA MOULTRIE BY MR. EDGEWORTH:

22 Q: You indicated that -- well, first, good morning, Ms.
23 Moultrie. You indicated that you were chilling out with Ms.
24 Mcgirt all day; is that right?

25 A: Yes, sir.

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1 Q: And when you say chilling out, were you guys drinking,
2 having a party?

3 A: No.

4 Q: Just together?

5 A: We were just having -- just together.

6 Q: Like a day off a work?

7 A: Yes.

8 Q: Okay. And you got out to Fishtails at 12:00, and then
9 headed on over to Ming'z?

10 A: Uh-huh, (affirmative response).

11 Q: All right. So, how long were you in Ming'z shooting
12 pool?

13 A: Probably like 20 minutes at the most; 10 or 15, 20
14 minutes at the most.

15 Q: And that's when you started drinking?

16 A: Uh-huh, (affirmative response).

17 Q: Okay. How many drinks did you have while you were in
18 there?

19 A: Probably like two.

20 Q: Okay. And did you order one before you headed back
21 outside?

22 A: No, I'm not a drinker like that. So, I had one I got
23 there and one when I was on the way out, before I went out.

24 Q: Okay. But when you were outside, did you have a drink
25 with you?

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- 1 A: Huh?
- 2 Q: Did you have a drink like in your hand while you were
3 outside?
- 4 A: Oh, no, sir.
- 5 Q: Okay. And you're saying that all your friends were in
6 the car at this time; why is that?
- 7 A: Well, they was outside in the car, but they was basically
8 standing at the car like they around by the car.
- 9 Q: So, they weren't with you while you were inside?
- 10 A: I mean, we separated, I mean, we just separated. It was
11 out of -- I'm not sure if any of them came in, but I knew I
12 went in.
- 13 Q: Right. And so, when you go to a bar, is it typical that
14 you might get hit on?
- 15 A: No.
- 16 Q: It's not?
- 17 A: Hu-huh, (negative response).
- 18 Q: Okay. Have you ever been hit on at a bar before?
- 19 A: No.
- 20 Q: Okay. Have you ever been hit on by another man before?
- 21 A: No.
- 22 Q: No guys have made any sexual advances towards you ever?
- 23 A: I mean, yes, but not in a disrespectful way.
- 24 Q: Okay. Well, sounds like you're saying you were
25 uncomfortable with Mr. Bessellieu's advances; is that correct?

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- 1 A: Uh-huh, (affirmative response).
- 2 Q: Okay. But you didn't consider them out of the ordinary?
- 3 A: I don't know, I guess not.
- 4 Q: Okay. And so, so when -- when you guys went outside, he
- 5 continued to make sexual comments?.
- 6 A: Yes, sir.
- 7 Q: What did you take by that? What did you think he was
- 8 trying to do?
- 9 A: I guess he was trying to talk to me like ---
- 10 Q: Do you think he was trying to make sexual advances
- 11 towards you to have sex with you on that night?
- 12 A: Yeah.
- 13 Q: Okay. And so, when you're making comments to him to get
- 14 him to back off, it didn't have anything to do with anything
- 15 other than just to get him to back off, right?
- 16 A: Yeah.
- 17 Q: You just wanted to stop the advances?
- 18 A: Yes.
- 19 Q: Okay. And, and so at that point, your friends were close
- 20 by, I guess?
- 21 A: Uh-huh, (affirmative response).
- 22 Q: And, and you guys decided to go home at that point?
- 23 A: Yes, ma'am -- I mean, yes, sir.
- 24 Q: And he left -- he left out before you?
- 25 A: Uh-huh, (affirmative response).

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1 Q: Okay. But you don't really know where he went?

2 A: No, sir.

3 Q: Okay. And so, is it possible then that him asking you to
4 meet you somewhere was for the purposes of sex?

5 A: Well, he was angry when he said it. I know when he said
6 meet him to the --- I knew it wasn't about sex anymore. I
7 knew after I made the comment about the sexuality, I knew it
8 wasn't about sex anymore.

9 Q: Okay. But you've already testified that there was
10 nothing to the, the homosexual comment, it was just a comment
11 to get him off your back, right?

12 A: Uh-huh, (affirmative response).

13 Q: Okay. So, so, when you guys were at the house, you're --
14 you're outside for a while and then you, you see him come down
15 -- down the road?

16 A: Yes, sir.

17 Q: Okay. And you guys went inside at that point?

18 A: Well, I didn't went inside because I just figured he was
19 riding by, but I knew -- I knew he was out -- I just knew he
20 was up to something, but I wasn't sure. So, I didn't actually
21 ran inside like the girl did.

22 Q: Did you in fact stay outside? Did you talk to him? Did
23 you wave at him? Did you do anything?

24 A: No, I just saw him ride by.

25 Q: Okay. And, and so, you -- you were perfectly fine to

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- 1 stay out there while he rode by?
- 2 A: Say that again?
- 3 Q: You stayed out there while he rode completely by?
- 4 A: Yes, sir.
- 5 Q: It didn't bother you one bit?
- 6 A: I didn't.
- 7 Q: Okay. Now, when you were -- when you were standing
- 8 outside, your back was to the field, correct?
- 9 A: Well, I was sitting down at the moment because they
- 10 already got up in their seat, so I sat down.
- 11 Q: Okay. Maybe I should make my question a little bit more
- 12 clear. You guys went inside for a period of time, correct?
- 13 Did you go inside ever after he rode by?
- 14 A: Yes, after he rode by and made a U-turn at the stop sign,
- 15 I went inside.
- 16 Q: Right. Okay. And how long were you inside?
- 17 A: For like 15, 20 minutes.
- 18 Q: Okay. And then you came back out and everyone was there,
- 19 correct?
- 20 A: Uh-huh, (affirmative response).
- 21 Q: Okay. At that time, was your back to the field?
- 22 A: Yes.
- 23 Q: Okay. Now, and then at some point, you heard gunshots
- 24 and that's when you guys tried to go back inside?
- 25 A: Well, I saw the facial expression on one of they faces

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1 looking toward the field. So, I looked back, too, and I saw
2 the person in the field, so it was kinda weird because it was
3 late ---

4 Q: Right.

5 A: --- for a person to be walking.

6 Q: You saw a person in the field, correct?

7 A: Uh-huh, (affirmative response).

8 Q: Okay. And, and at that point though what I'm trying to
9 figure out is how long from the time that you guys came back
10 outside before there were gunshots?

11 A: 15, 20 minutes.

12 Q: Okay. So, so a total of from the time that he rode by
13 ---

14 A: Uh-huh, (affirmative response).

15 Q: --- and you guys went inside and chilled for a little bit
16 and then came back outside, that's a total of what, 40 to 60
17 minutes?

18 A: I guess.

19 Q: Okay. And were you struck by any of the bullets?

20 A: No, sir.

21 Q: And was -- the person that was struck by a bullet, they
22 were where?

23 A: They was in the seat that I was sitting in when he rode
24 by.

25 Q: They were -- they were behind you?

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1 A: They was in front of me and I was facing their way.

2 Q: Okay. Thank you. No further questions.

3 THE COURT: Redirect?

4 MS. RICHARDSON: Yes, Your Honor.

5 REDIRECT EXAMINATION OF TYSHA MOULTRIE BY MS. RICHARDSON:

6 Q: So, you said something about not being hit on before in a
7 disrespectful way. What was disrespectful about this?

8 A: Because he say, just how he say -- he say, dang, you have
9 fat -- and I just didn't like the way he said it.

10 Q: Okay. So, it wasn't just the words he said, but it was
11 how he said it?

12 A: Yeah.

13 Q: Okay. And it was a few times that he had done this?

14 A: Well, that was the first time he had said it like that.

15 Q: Okay. But while you were there, it happened more than
16 once?

17 A: Uh-huh, (affirmative response).

18 Q: Okay. So, the point he got angry was when you said
19 something about him being gay?

20 A: Uh-huh, (affirmative response).

21 Q: Okay. And is -- did his demeanor change at that point?

22 A: It did.

23 Q: Okay. Tell me how that happened. What do you mean by
24 that?

25 A: He, he was angry and he was yelling and screaming --

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1 well, he was fussing with me just like I was fussing with him.

2 I was angry about his comment and he was angry about mine.

3 Q: Okay. But that's when it changed?

4 A: Uh-huh, (affirmative response).

5 Q: Okay. And so, you said when he first rode by, you
6 weren't as concerned?

7 A: No, I wasn't.

8 Q: When you were back at the project. But when he turned
9 around, that's when you became ---

10 A: Concerned.

11 Q: Okay. And Mr. Edgeworth has asked you about timeframes.
12 Do you know exactly any of the sort of timeframes that you
13 were outside or inside?

14 A: I just know that we was outside for a little while before
15 he came, and I knew once he made the U-turn we was inside, and
16 then we came back outside. So, I'm not sure what time, but I
17 just knew that we -- it was like 20 minutes before we came
18 back outside after he leaved.

19 Q: Okay. And the time that you were outside, y'all were
20 talking, and ---

21 A: Yes, ma'am.

22 Q: Okay. And did y'all have telephones?

23 A: Yes, ma'am.

24 Q: Cell phones?

25 A: Uh-huh, (affirmative response).

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1 Q: All of you?

2 A: Yes, ma'am.

3 Q: Okay. Let me show you what has previously been marked
4 as State's Exhibit Number 4.

5 Your Honor, I'm gonna ask to publish this to the jury
6 again, since she can see it.

7 Madam Clerk -- if you'll give me just a minute, here to
8 set up.

9 All right. And I'm showing you Photo Number ²347 on
10 State's Exhibit Number 4. I'm bringing you a mouse so that
11 you can point. Now, do you recognize that?

12 A: Uh-huh, (affirmative response).

13 Q: Answer out loud.

14 A: Yes, ma'am.

15 Q: Okay. And what is that?

16 A: Shaniqua McGirt's house.

17 Q: Okay. So, when he drove by the first time, when you saw
18 him drive by in the car, which -- can you point to where you
19 were?

20 A: I was right here.

21 Q: In that chair in the corner?

22 A: Yes, ma'am.

23 Q: And you were sitting there?

24 A: I was standing there at the moment.

25 Q: Okay. And the girls went inside and then you sat down?

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1 A: Yes, ma'am.

2 Q: Okay. And when the shots were fired from the field, who
3 was sitting in that chair in the corner, can you point to it?

4 A: Nasha Anderson.

5 Q: Okay. Was there? All right. And where were you?

6 A: Right here.

7 Q: Okay. All right. And then I'm gonna show you the next
8 photo on the slide, which is Photo 358 on State's Exhibit 4,
9 and do you recognize what that's a photo of?

10 A: Yes, that's the apartment complex across the street from
11 Shaniqua McGirt's house.

12 Q: All right. And when you saw the person in the field --
13 can you use the mouse to show the jury where you saw them?

14 (REPORTER'S NOTE: Witness complies.)

15 Q: Okay. And when you first saw them, what were they doing?

16 A: He kinda like hanging he head down like they was walking.
17 But I know it was something because I saw the way they was
18 looking and I turned around and they kinda had their head down
19 like they was walking, but I knew it was something because it
20 was late. So, I kinda like paid attention and he had his head
21 down and then they turn they body towards -- towards where
22 everybody was sitting and that's when I saw the gunfire.

23 Q: Okay. And have you see video of any of that?

24 A: No.

25 Q: All right. I have no further questions. Answer any

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1 questions.

2 THE COURT: Anything on those questions?

3 MR. EDGEWORTH: None, Your Honor.

4 THE COURT: All right, ma'am, you may step down.

5 Next witness?

6 MS. RICHARDSON: Your Honor, could we take a short break
7 at this point?

8 THE COURT: Sure. Take a five-minute break.

9 Ladies and gentlemen, y'all go in your jury room and
10 we'll come back out shortly.

11 (REPORTER'S NOTE: Jury exits courtroom.)

12 THE COURT: Y'all remain seated until the jury retires,
13 please.

14 All right. We'll take a short break for about five or
15 ten minutes.

16 Thank you.

17 **(RECESS.)**

18 *****OFF THE RECORD*****

19 **(On the Record.)**

20 THE COURT: The state ready for the jury to come in?

21 MS. RICHARDSON: Yes, Your Honor.

22 THE COURT: All right. Defense?

23 MR. EDGEWORTH: Yes, Your Honor.

24 THE COURT: Ask the jury to come in, please.

25 (REPORTER'S NOTE: Jury enters courtroom.)

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1 THE COURT: All right, Solicitor, your next witness
2 please, ma'am.

3 MS. RICHARDSON: The state calls Kiara Logan to the
4 stand.

5 KIARA LOGAN, HAVING BEEN DULY SWORN

6 TESTIFIES AS FOLLOWS:

7 CLERK: Okay. Would you please state your full name
8 again and spell your first name?

9 MS. LOGAN: It's Kiara Logan, K-I-A-R-A Logan, L-O-G-A-N.

10 CLERK: Thank you very much. If you'll have a seat and
11 just get the mic up to you, okay, as close as you can.

12 THE COURT: All right, Solicitor.

13 DIRECT EXAMINATION OF KIARA LOGAN BY MS. RICHARDSON:

14 Q: Ms. Logan, where do you live?

15 A: Georgetown.

16 Q: Okay. And you live in the city?

17 A: Yes, ma'am.

18 Q: What street is that?

19 A: [REDACTED].

20 Q: And where do you work?

21 A: Georgetown ---

22 Q: And are you related to Ty'Shun Bessellieu?

23 A: Yes, I am.

24 Q: Okay. Can you tell me how -- what that relation is?

25 A: His momma is my momma's sister.

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KIARA LOGAN - DIRECT BY RICHARDSON

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1 Q: And on the night of -- let me ask you this, are you also
2 friends with Shaniqua Kennedy?

3 A: Yes.

4 Q: And what's your relationship with her?

5 A: We went to school together.

6 Q: And on the night or the early morning of August 31st,
7 2016, did you get a call from Ms. Kennedy?

8 A: Yes.

9 Q: Okay. And what was that about?

10 A: She said, we think Ty just shot up in the projects or
11 something like that. I said, huh? And she was like, yeah.
12 But I think she said I'll have to call you back or something
13 like that.

14 Q: Okay. And about what time was that?

15 A: I do not remember. It had to be around 5ish, 4ish, 5ish.

16 Q: All right. In the early morning?

17 A: Early morning, yes.

18 Q: Okay. And after that, what did you do?

19 A: I think I tried to call Ty. I didn't get any answer, so
20 I went back to sleep.

21 Q: Okay.

22 A: I think I laid back down to go back to sleep.

23 Q: Okay. And did you end up seeing -- and when you say Ty,
24 you mean Ty'Shun Bessellieu?

25 A: Yes, Ty'Shun.

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1 Q: Okay. And did you end up having any other contact with
2 Ty'Shun that night?

3 A: Yes, that night -- in the morning.

4 Q: That morning, yeah?

5 A: He came and brought me some keys.

6 Q: Okay. About what time did he come to your house?

7 A: It had to've been around, about maybe 6ish.

8 Q: A.M.?

9 A: Yeah, in the morning.

10 Q: Okay. And who was with him when he came?

11 A: No one.

12 Q: And did you see if he was driving a vehicle?

13 A: No, I didn't see anything.

14 Q: And you said he brought you some keys?

15 A: Uh-huh, (affirmative response).

16 Q: What kind of keys?

17 A: I don't know, I didn't look at the keys. They were just
18 some keys.

19 Q: All right. And what -- and he told you to do what with
20 them?

21 A: Take it to his mom.

22 Q: Okay. And did you do that?

23 A: Yes.

24 Q: And when did you do that?

25 A: Well, I had to get my son up, and then I went around

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1 there and took it to her. It had to have been between 6:00,
2 6:30ish because I know I had to get back home to get dressed
3 for work and get my son ready for school.

4 Q: All right. And where, where did you take them?

5 A: [REDACTED].

6 Q: And that's where he lived?

7 A: His mom.

8 Q: And what's her name?

9 A: Octavia.

10 Q: And her last name?

11 A: Trappier.

12 Q: And who did she live with?

13 A: Timmy, Timmy Sparkman.

14 Q: And that's her fiancé or boyfriend?

15 A: Yes.

16 Q: Okay. And is that where Ty'Shun also lived?

17 A: Yes.

18 Q: And who was there when you got there?

19 A: A sheriff and, I believe, I don't know, Aunt T, Octavia.

20 Q: Her nickname is T?

21 A: Uh-huh, (affirmative response).

22 Q: Okay. And you just left the keys there?

23 A: Yeah, and went back home.

24 Q: All right. I have no further questions. Answer any
25 questions that Mr. Edgeworth may have for you.

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1 THE COURT: Cross examination?

2 MR. EDGEWORTH: No questions for this witness, Your
3 Honor.

4 THE COURT: All right. You may step down, ma'am.

5 MS. RICHARDSON: Your Honor, we'd ask that she be excused
6 from her subpoena.

7 THE COURT: Is there any objection to that?

8 MR. EDGEWORTH: No objection, Your Honor.

9 THE COURT: All right, ma'am, you're released from your
10 subpoena and may go back to work or your regular activities.

11 MS. LOGAN: Work.

12 THE COURT: All right. Next witness, ma'am?

13 MS. RICHARDSON: The state calls Jason Ward.

14 JASON WARD, HAVING BEEN DULY SWORN

15 TESTIFIES AS FOLLOWS:

16 CLERK: Okay. Thank you very much.

17 THE COURT: Go ahead, Solicitor.

18 DIRECT EXAMINATION OF JASON WARD BY MS. RICHARDSON:

19 Q: Officer Ward, where are you employed?

20 A: I'm employed with Georgetown Police Department.

21 Q: And what is your position there?

22 A: Now, I'm sergeant of a patrol team.

23 Q: And how long have you been with the Georgetown Police
24 Department?

25 A: I've been there almost 21 years.

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1 Q: And is that your entire career in law enforcement?

2 A: Yes, ma'am; it is.

3 Q: And what's your education level?

4 A: I have a Bachelor's degree in criminal justice.

5 Q: And back on August 31st, 2016, what was your position
6 with the police department?

7 A: At that time I was a sergeant over the Criminal
8 Investigations Unit.

9 Q: And did you get a call in reference to a shooting on [REDACTED]
10 [REDACTED] on August 31st, 2016?

11 A: Yes, ma'am; I did. Investigator Morris called me. He
12 was the on-call investigator and I was the supervisor and when
13 they get called out at any time for anything, they notify me
14 of what they're being called out for.

15 Q: Okay. And where did you respond?

16 A: Initially, when he called me, he was already on the way
17 and I got up and got dressed and I met him at -- on [REDACTED]
18 [REDACTED] or at the police department, excuse me. He was back in
19 the police department typing up a search warrant.

20 Q: Okay. And that search warrant was for?

21 A: The search warrant was for Mr. Bessellieu's residence on
22 [REDACTED].

23 Q: All right. And did you go to that residence?

24 A: Yes, ma'am; I did.

25 Q: And did you assist in the search of that residence?

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1 A: Yes, ma'am; I did.

2 Q: Okay. Were photos taken during that process?

3 A: Yes, ma'am.

4 Q: Let me show you what has been marked for identification
5 purposes as State's Exhibit Number 6, do you recognize that?

6 A: Yes, ma'am.

7 Q: Okay. And what is it?

8 A: It's a CD of the photographs that were taken from the
9 execution of the search warrant.

10 Q: Okay. And you've reviewed that CD?

11 A: Yes, ma'am.

12 Q: And how do you know it's the same one?

13 A: Because it's -- I initialed it when I watched it.

14 Q: Okay. And is that an accurate depiction of how the
15 residence looked and the photos that were taken that night?

16 A: Yes, ma'am.

17 MS. RICHARDSON: Your Honor, at this time, I'd offer
18 State's Exhibit Number 6 into evidence?

19 THE COURT: Any objection?

20 MR. EDGEWORTH: No objection, Your Honor.

21 THE COURT: All right. State's 6 is in evidence without
22 objection.

23 STATE'S EXHIBIT NUMBER 6

24 ADMITTED INTO EVIDENCE

25 BY MS. RICHARDSON:

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1 Q: And after the search warrant was executed, what did you
2 do at that point?

3 A: Once we executed the search warrant and collected the
4 evidence, we then left and went to the crime scene where the
5 incident occurred at [REDACTED]. Once there, we began to
6 canvas -- canvas the field behind the -- or in front of the
7 residence looking for shell casings and any kind of evidence
8 pertaining to the crime. Because it was such a large area, we
9 actually had to go and call the guys out the office and guys
10 off the street and what we did is we started working a grid.
11 We lined up probably 18 inches apart and we were probably
12 about 10 people deep and began canvassing and walking in grids
13 in the field in front of [REDACTED]. And once we did that
14 -- we also had a metal detector and once we did that, we were
15 able to locate four shell casings, .40 caliber shell casings
16 in that field. And we were in the direction of where the
17 witnesses and victims said the shots came from. Matter of
18 fact, when we started the grid, we were closer than what we
19 needed to be, and after reviewing or talking to the witnesses
20 again, they were like he was further back, further back, so we
21 kept pushing our grid back and then starting over and then
22 finally we were able to locate the shell casings.

23 Q: Now, was it still dark when you were doing this?

24 A: No, ma'am. At this point, the sun had came up. You
25 know, it was dark when we got over to the residence. I'm not

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1 sure what time it was, but once we left the residence on
2 [REDACTED], the sun was up. So, that's when we knew we
3 needed to go back to the crime scene because we knew we
4 couldn't -- we weren't going to be able to find a needle in a
5 haystack during the day, you know, or during the night. So,
6 once the sun came up, we went back out and that's when we
7 worked the grid looking for the shell casings.

8 Q: Okay. And during that process, were photos taken?

9 A: Yes, ma'am. Photos were taken prior to us collecting
10 that evidence.

11 Q: Let me show you what's been marked as State's Exhibit
12 Number 5 for identification and tell me what that is.

13 A: These are the crime scene photos from [REDACTED].

14 Q: Okay. And have you reviewed those?

15 A: Yes, ma'am; I have.

16 Q: Okay. And how do you know that's the same one?

17 A: I initialed it.

18 Q: Okay. And is that an accurate depiction of the photos
19 that were taken while you were there ---

20 A: Yes, ma'am.

21 Q: --- of the crime scene processing?

22 Your Honor, at this time, I'd offer State's Exhibit
23 Number 5 into evidence.

24 THE COURT: Any objection?

25 MR. EDGEWORTH: No objection, Your Honor.

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1 THE COURT: All right. It's into evidence without
2 objection.

3 STATE'S EXHIBIT NUMBER 5

4 ADMITTED INTO EVIDENCE

5 MS. RICHARDSON: Your Honor, I'd ask to publish to the
6 jury?

7 THE COURT: You may do so.

8 BY MS. RICHARDSON:

9 Q: I am just going to go through these photos and let you
10 explain. I'll hand you a mouse in case you need to point to
11 anything.

12 A: All right.

13 Q: Okay. This is Photo 345 on State's Exhibit Number 5.
14 Can you just tell us what that is?

15 A: Yes, ma'am, that's a -- that's a picture of the apartment
16 number [REDACTED] and that is the door, inside door or the outside
17 door that goes into the apartment.

18 Q: Okay. And that's [REDACTED]?

19 A: Yes, ma'am.

20 Q: And just for jurisdiction purposes, that is in the city
21 limits of Georgetown?

22 A: Yes, ma'am; it is.

23 Q: Okay.

24 A: That's another picture of the same thing. And this is
25 the front porch where our victims were standing at the time of

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1 the incident.

2 Q: Okay. And that's 347?

3 A: This photograph is those droppings, blood droppings that
4 came from our victim.

5 Q: 349?

6 A: Same picture, just zoomed in.

7 Q: Okay. And Photo 350?

8 A: This is a hole in the -- in the brick area where the
9 bullet struck the wall. Same picture different angle. Again,
10 the same picture with a different angle.

11 And here's also another bullet hole we located in the --
12 in the residence. This is actually gonna be on Number 10,
13 facing of Number 10, which is the neighboring apartment.

14 COURT REPORTER: Can you speak up just a little bit
15 please?

16 A: I'm sorry. That is a zoomed-in picture of the bullet
17 hole on Number 10. And this is a back shot. The bullet hole
18 we showed you in the brick is gonna be in this area right
19 here, where the mouse is at. That's ■ and that's where the
20 other bullet hole was located at that was inside of the vinyl.

21 Q: And the next one, this is Photo 357?

22 A: Yes, ma'am. This is a -- this is a shot, like if you're
23 standing in Number ■ and looking out into the field, that's
24 the shot of the field. According to our witnesses, the
25 suspect was back here in the grassy area, in this particular

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1 area here near the bridge.

2 Q: Okay. And tell me about the bridge back there, what is
3 that?

4 A: It's just a sidewalk that goes from Avant and it comes
5 through and it just goes over the drain, so, it's just a
6 little catwalk type bridge that goes over the drain, a
7 sidewalk that goes out to Lincoln Street.

8 And there's another picture of the same thing. And
9 here's a picture now facing [REDACTED] and 10. Initially, this is
10 where we thought the trajectory of the shot came from. So,
11 that's why this photograph was taken.

12 Another picture of 10 and [REDACTED] and, again, this is the
13 front porch where our victim and witnesses were located.

14 Q: And these are just more shots in front of the building?

15 A: Yes, ma'am. Another shot of the front porch area.

16 Q: Okay.

17 A: If you look here and you'll get a close-up in a minute,
18 but that's a projectile that went into the brick wall and
19 bounced out. There's another picture of it. And that's
20 zoomed in some more; there's another picture of the
21 projectile.

22 Q: Okay. And what -- tell me about this?

23 A: All right. Now, we're -- now, we're in the field looking
24 for the shell casings and what this picture shows is we
25 located a shell casing here, which was marked with 1 and

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1 another shell casing here that was marked with 5. Another
2 picture just a close-up.

3 All right. Now, this picture was taken, now, we're
4 standing at the -- at the Markers 1 and 5. We took a picture
5 back towards, excuse me, in front of [REDACTED] and that's gonna
6 be the porch at [REDACTED].

7 Q: Okay.

8 A: Again, another front picture from the trajectory of where
9 the shell casings were located. All right. This cleans up
10 the shell casings, it's kinda hard to tell because of the
11 grass, but the shell casings were placed underneath the
12 placards. If you'll look real close, you'll see a piece of
13 brass right here or a shell casing right here and right there.

14 Q: We'll go to the next one.

15 A: There's a close-up shot of the shell casing that was
16 located in the grass. That's another photograph of the shell
17 casing right there. Another photograph of the shell casing.

18 All right. Now, we've got a third shell casing and it
19 was marked with marker Number 6 and it was starting to rain.
20 And there's a third shell casing and there's a shell casing.

21 We found a fourth shell casing that was marked with
22 marker number 7.

23 Q: And this shows the location of where they were?

24 A: Yes, ma'am, this shows -- each marker, the shell casings
25 weren't moved, so, we placed the markers over the shell

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1 casings, so they were lined up, 7, 1, 5, and 6.

2 Q: Can you explain, just for the jury's benefit, what a
3 shell casing is or how it's expelled?

4 A: Yes, ma'am. Once you fire -- once you fire an automatic
5 weapon, the projectile comes out the barrel and ejects the
6 shell casing that holds the projectile in the gun and it
7 ejects it out the side of the barrel.

8 Here again, you know, we're still looking.

9 Q: Sir?

10 A: I was just gonna say at this point, you know, we've got
11 four and, you know, if there's more than four, then, you know,
12 they're gonna be somewhere in this radius. That's kinda what
13 we're all doing there, we're standing around kind of fingering
14 through the grass to see if we can locate it.

15 That's Marker 7, the shell casing I believe is right
16 there. That would be all of the shell casings.

17 Q: And some of these were pretty deep in the grass?

18 A: Uh-huh, (affirmative response). The casing here.

19 Q: I'm gonna go back and show you again, Image 357. So, can
20 you point to the jury about where those markers were and what
21 you found?

22 A: Yes, ma'am, they're gonna be in this region here, kind of
23 at the top of that slope because they were about four feet in
24 front of the sidewalk. So, if you come off the little catwalk
25 or this little bridge, it runs straight up right here and the

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1 location of those shell casings were about four feet in front
2 of the sidewalk.

3 Q: Okay. And what, with your mouse on the left side of the
4 screen, what's on the other side there?

5 A: Over here is gonna be Department of Aging; it's gonna be
6 another building to this side over here.

7 Q: So, I'm gonna show you what's been marked as State's
8 Exhibit Number 1. Can y'all see this? Okay. So, from here
9 -- I always get it upside down, I'm sorry. If this is [REDACTED]
10 [REDACTED], can you sorta show what you're talking about?

11 A: Yes, ma'am. The shots were fired and you'll see the
12 sidewalk there, the little bridge we spoke of, the shots were
13 fired from about right here in front of this sidewalk.

14 Q: Okay.

15 A: And the trajectory was towards 11.

16 Q: Okay. All right. I'm now gonna show you what has been
17 marked as State's Exhibits Number 7, 8, 9, 10, and 11. Do you
18 recognize those?

19 A: Yes, ma'am; I do.

20 Q: All right. Tell me, tell me what those are?

21 A: What these are, four of these are the shell casings that
22 were collected from the field and this -- and this one is the
23 projectile that was located off of the front porch of Number

24 [REDACTED]

25 Q: Okay.

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1 A: And I explain the -- and we collect these items, we put
2 them in a pill bottle, just your basic pill bottle, and we
3 wrap it with tissue paper and what that does is it protects --
4 it protects the, the projectile from getting damaged for
5 ballistic reasons and it also protects the shell casing from
6 getting damaged for ballistic purposes.

7 Q: So, you put them in the pill bottle wrapped in tissue?

8 A: Yes, ma'am.

9 Q: Okay. And then what do you do with the bottle?

10 A: And then we package the bottle, tape it with evidence
11 tape as you can see and then it's placed into evidence and
12 then from evidence, it goes to SLED for processing.

13 Q: Okay. And when you say placed in evidence, what, what
14 procedure is that?

15 A: Well, we get back and we document it on an evidence
16 voucher and then we log it in a locker, lock it, and then drop
17 the key in behind the locker so you can't -- no one has access
18 to it except for the evidence custodian.

19 Q: And that's at the police department?

20 A: That's at the police department; yes, ma'am.

21 Q: Okay. So, you have a locker that goes into a room ---

22 A: Right, the lockers are kind of flush with the wall. So,
23 when you open it up, the lockers are flush on the wall and you
24 stick it in the locker. When you lock it and there's a small
25 little keyhole, you drop the key into the keyhole and

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1 everything is locked into the locker.

2 Q: And that was the procedure or was followed with these
3 items?

4 A: Yes, ma'am; it was.

5 Q: Okay. And you observed the collection of these items?

6 A: I did; yes, ma'am.

7 Q: And assisted with that?

8 A: I did.

9 Q: Okay. And then did you or anyone alter or tamper with
10 them in any way prior to them being sealed?

11 A: No, ma'am, they were not.

12 Q: Okay. At this time, I would offer State's 7, 8, 9, 10,
13 and 11 into evidence?

14 THE COURT: Any objection?

15 MR. EDGEWORTH: No objection, Your Honor.

16 THE COURT: All right. State's 7 through 11 are into
17 evidence without objection.

18 STATE'S EXHIBITS NUMBERS 7 THROUGH 11

19 ADMITTED INTO EVIDENCE

20 MS. RICHARDSON: Now, I'm gonna publish State's Exhibit
21 Number 6, Your Honor.

22 THE COURT: Yes, ma'am.

23 BY MS. RICHARDSON:

24 Q: And there are quite a number of these that may be
25 duplicates, so, if you want me to move along, I was just

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1 letting you know. All right. So, beginning with 10?

2 A: Yes, ma'am, this is the photograph where Mr. Bessellieu
3 was staying at his residence. And a photograph of the vehicle
4 that the witnesses stated he was driving.

5 Q: And this, the number on the house is [REDACTED]?

6 A: [REDACTED].

7 Q: And that's also in the city limits of Georgetown?

8 A: Yes, ma'am, it is. Again, another shot of the vehicle
9 and the residence.

10 Q: And that's just a little further out?

11 A: Yes, ma'am, same photograph.

12 Q: Okay. Nothing different with 13?

13 A: No, ma'am.

14 Q: All right. 14?

15 A: 14 is the vehicle, another photograph of the vehicle.
16 That's the driver's license of Mr. Sparkman.

17 Q: Who lived at the residence?

18 A: Who lived at the residence, yes, ma'am, and was the owner
19 of the vehicle.

20 Q: Another shot of the vehicle?

21 A: Yes, ma'am, another picture of the Lexus.

22 Q: And it was a Lexus?

23 A: Yes, ma'am. Another shot of the vehicle. The South
24 Carolina registration of the vehicle. Another photograph of
25 the vehicle and this is a different angle of [REDACTED].

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1 The back of the residence and that's the back or the backside
2 of the back porch.

3 Q: And again, the same shot?

4 A: And that's the front of the residence, the front porch.

5 Q: And is that Mr. Sparkman?

6 A: Yes, ma'am. Now, we're on the porch and that's a shot
7 going in the front door of [REDACTED] [REDACTED]. Another photograph
8 from the porch into the residence. Another photograph and
9 these are photographs from inside the residence at this time.
10 Another photograph from inside the residence. This was --
11 this bedroom here was where we were told Mr. Bessellieu was
12 staying. It's his bedroom. This is a photograph of that
13 bedroom.

14 Q: And a photograph of what's on the bed?

15 A: And on the bed is a magazine that goes to a handgun.
16 Another picture of the residence, there's a safe and some
17 computers and a desk drawer. Another shot of the safe and the
18 computers. Another shot with the notebooks on the desk. And
19 that's another photograph of the bed with the magazine on the
20 bed. Another photograph of the magazine. A close-up shot of
21 the magazine. A close-up shot of the nightstand with the
22 computer equipment in it. A photograph of the safe. Another
23 photograph of the bed with the magazine on it. Another
24 photograph of the safe and the notebooks. Again, just a
25 close-up shot, a closer shot.

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1 Q: And when you do these searches, do you typically just
2 take multiple photos?

3 A: Yes, ma'am.

4 Q: So, some of these may appear to be of the same thing?

5 A: Right. And some, you just don't know what's gonna turn
6 out. Sometimes, you know it's hard to tell what might be
7 blurred so we just take multiple pictures.

8 And inside the safe, we located a clear bag with a few
9 ammunition in that bag. Another photograph of that and the
10 ammunition. Another close-up shot of the magazine. And the
11 notebooks that were on the table had Mr. Bessellieu's name on
12 it. Another picture of the notebook with his name and the
13 safe. And some more photographs of the computers that we
14 located.

15 Q: And the next series of photos, you just documented what
16 items were there so ---

17 A: Yes, ma'am, we just document any, any type of items that
18 were there just to -- just to check.

19 Q: I'm just gone scroll through these next ones.

20 A: All right.

21 Q: I'm gonna -- it looks like a lot of these are duplicates.
22 I'm gonna scroll down to 74.

23 A: Okay.

24 Q: And tell me what that is?

25 A: Those are small ziplock baggies and a digital scale

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1 inside of a Air Jordan shoebox.

2 Q: And in your experience in law enforcement, is there a use
3 for these that you often see?

4 A: Yes, ma'am. The little baggies and the scales are
5 normally used for someone who's distributing marijuana or
6 packaging any type of illegal narcotics.

7 And that's a shot further away from the shoe box.

8 Q: And these, 77, 78, 79, 80 were all the ---

9 A: Yes, ma'am; all that's the same shoe box.

10 Q: Okay. And this 81?

11 A: That's a photograph of the bathroom, the bathroom sink.

12 Q: 82, 83?

13 A: Another photograph.

14 Q: All those just more of the same, photos of the sink?

15 A: Yes, ma'am. And this is underneath the kitchen --
16 underneath the sink counter, the cabinet underneath the sink.

17 Q: In the bathroom?

18 A: Yes, ma'am, in the bathroom, and those are gonna be more
19 small ziplock baggies. We got a better picture of it, but
20 those are more ziplock baggies that were located underneath
21 the bathroom sink in the bedroom.

22 Q: And ziplock is not the brand, you're just using that to
23 describe them?

24 A: Yes, ma'am

25 Q: Okay.

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1 A: There's a photograph of the same bathroom. Here's a
2 better picture of the bags, once we photographed them, we
3 pulled them out. Another photograph of the small baggies.

4 Q: And again, 91 and '2, same shot?

5 A: Yes, ma'am.

6 Q: 93?

7 A: And that's the cabinet. We ended up pulling everything
8 out of the cabinet and that was a shot of the cabinet. We
9 pulled out the towels and ---

10 Q: 94, 95, same thing?

11 A: Yes, ma'am.

12 Q: And 96?

13 A: Photograph of shoes and clothing.

14 Q: I'll scroll through these. And these are still in that
15 same bedroom?

16 A: Yes, ma'am. And there's access to that restroom where we
17 found the baggies, it's in that -- from that room, from Mr.
18 Bessellieu's room. Another photograph of the same picture.

19 Q: And that's just the ---

20 A: Yes, ma'am, another photograph of the nightstand, the
21 safe, and had the notebooks in the pictures.

22 Q: I'll scroll through these.

23 A: And that was ---

24 Q: I'm sorry.

25 A: --- just back up two pictures.

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1 Q: 111?

2 A: Yes, ma'am, one more.

3 Q: Okay. 110?

4 A: Those -- that's the box that the baggies, the shoe box
5 that the baggies were located in.

6 Q: Okay. All right. Now, on 115?

7 A: Again, at this time the sun has come back -- the sun is
8 starting to come up and you can tell, so, we went back and re-
9 photographed the vehicle.

10 Q: Were you able to get into the vehicle?

11 A: Yes, ma'am.

12 Q: And these are more?

13 A: Yes, ma'am, we took some more photographs once we
14 finished our search inside the residence. We came out, like I
15 said, the sun was coming up or it was getting daylight rather,
16 so, we took -- we took more photographs?

17 Q: Okay. And that's what all these 121, 122, '23, '24 ---

18 A: Yes, ma'am.

19 Q: And then back to the beginning.

20 I have no further questions. Answer any questions that
21 Mr. Edgeworth may have for you.

22 THE COURT: Cross examination?

23 MR. EDGEWORTH: Thank you, Your Honor.

24 CROSS EXAMINATION OF JASON WARD BY MR. EDGEWORTH:

25 Q: Mr. Ward, you, you indicated that as part of your

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1 investigation, you guys found the shell casings, correct?

2 A: Yes, sir.

3 Q: Okay. And you marked them with the markers, albeit
4 they're kind of out of order?

5 A: Yeah, they were out of order, yes, sir.

6 Q: Okay. And did you guys happen to take a measurement from
7 where those casings were to Ms. McGirt's home?

8 A: No, sir, we didn't -- we didn't -- we didn't step it off;
9 no, sir.

10 Q: Okay. Is there any types of measurement that you guys
11 use? Did you eyeball it? Could you estimate it?

12 A: Well, we, we, we stood at the markers and looked at it
13 and took a photograph of the shot.

14 Q: Sure. And so, would it be your testimony that the, the
15 photograph and I'm not sure which number it was, but is an
16 accurate representation of how far away it was from, from the
17 house?

18 A: Yes, sir.

19 Q: Okay. And in fact, I think you testified that you guys
20 were actually looking closer in the beginning just based on
21 what the statements were of the victims and you realized it
22 was further back?

23 A: Right, and, you know, the more we looked and the more we
24 talked to the victims and the witnesses, they kept pushing us
25 back and pushing us back.

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- 1 Q: Okay. And to this day, do you know how far it was?
- 2 A: No, sir; I do not.
- 3 Q: Okay. Now, were -- you were involved with going to Mr.
- 4 Bessellieu's residence to execute the search warrant?
- 5 A: Yes, sir.
- 6 Q: Okay. When did y'all obtain that search warrant?
- 7 A: Prior to us getting to the residence. We had to go to
- 8 the Judge's house in Litchfield and get it signed and then we
- 9 came back and we executed it. I'm not sure of the exact time.
- 10 Q: It appeared in the photos that it was at least dark at
- 11 that point, correct?
- 12 A: It was still -- it was still early morning hours before
- 13 the sun came up, yes, sir.
- 14 Q: Okay. And then you went back and you took some photos
- 15 later once the light came up?
- 16 A: Right, but we were still there when the lights -- when
- 17 daylight came, we were still at the residence and we took some
- 18 more pictures before we left.
- 19 Q: Okay. So, you didn't leave the scene at that point, the
- 20 sun was just coming up?
- 21 A: Right.
- 22 Q: What color was the Lexus?
- 23 A: Whatever color it was in the photograph. I would call it
- 24 like a pewter color or light tan color, beige maybe.
- 25 Q: Okay. And, and as far as the, the time you got to, to

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1 the residence, was Mr. Bessellieu there; did you see him ---

2 A: No, Mr. Bessellieu was not there at the time.

3 Q: Okay. And was he there at all anytime while you were
4 there?

5 A: No, sir; he was not.

6 Q: And do you recall how long it was before or after you
7 went to the original -- to the scene to obtain -- and then you
8 went and got a search warrant before you came back to Mr.
9 Bessellieu's home?

10 A: I would probably say probably a couple of hours because
11 we went to the scene initially. The victim had gone to the
12 hospital. So, that was part of it and then when we left
13 there, we went to the residence and knew we had to go secure a
14 search warrant. So, then you come back and type the search
15 warrant and then we have to go Litchfield where the Judge
16 lived to get the search warrant signed and then come back.

17 Q: Okay. So, in your estimation from the time of the call
18 until the time you obtained the search warrant would've been a
19 couple of hours?

20 A: I would -- I would say a couple of hours, yes, sir.

21 Q: And then obviously go from Litchfield back down to
22 Georgetown to execute it, correct?

23 A: Right, yes, sir.

24 MR. EDGEWORTH: No further questions, Your Honor. (

25 THE COURT: Any redirect?

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1 MS. RICHARDSON: No, Your Honor.

2 THE COURT: You may step down. Do you wish the witness
3 to be excused?

4 MS. RICHARDSON: Yes, Your Honor.

5 THE COURT: All right. You're released from your
6 subpoena and may go back to your duties.

7 MR. WARD: Thank you, Judge.

8 THE COURT: Yes, sir.

9 All right. Yes, ma'am?

10 MS. RICHARDSON: Your Honor, may we approach?

11 THE COURT: Certainly.

12 (REPORTER'S NOTE: Bench conference is held off the record in
13 the presence of but outside the hearing of the jury.)

14 THE COURT: Who's your next witness then?

15 MS. RICHARDSON: The state calls John Gregory.

16 THE COURT: All right. Please come around and be sworn.

17 BAILIFF: Place your left hand on the Bible and raise
18 your right.

19 JOHN GREGORY, HAVING BEEN DULY SWORN

20 TESTIFIES AS FOLLOWS:

21 CLERK: Thank you very much. Please have a seat.

22 DIRECT EXAMINATION OF JOHN GREGORY BY MS. RICHARDSON:

23 Q: Officer Gregory, where are you employed?

24 A: Georgetown City Police Department.

25 Q: And how long have you been in law enforcement?

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1 A: Approximately 13 years.

2 Q: Okay. And can you sort of just give us your history?

3 A: Yes, I started off at the Sheriff's Department here in
4 Georgetown, was there for probably about two years in patrol.
5 I came to the City Police Department, worked there, worked in
6 patrol probably about a year and then I went into narcotics.
7 Narcotics, my math is kinda off so, I worked in narcotics for
8 a while. We were short detectives, so, then I went into the
9 detective bureau, and then I left and went to Horry County for
10 two years. And then probably a month and a half before this
11 incident occurred, I returned back to the City Police
12 Department as a patrolman.

13 Q: And so, on the night of August 31st, 2016, what was your
14 position?

15 A: I was a patrolman.

16 Q: Okay. And what's your position now?

17 A: I am the CID supervisor for the City of Georgetown Police
18 Department.

19 Q: And CID means?

20 A: It's the detective -- I'm in charge of the detective
21 bureau and the narcotics bureau.

22 Q: All right. So, you were working on August 31st, 2016?

23 A: I was, ma'am.

24 Q: Okay. And you got a -- did you respond to a call in
25 reference to a shooting [REDACTED]?

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1 A: I did.

2 Q: And again, that's in the city limits of Georgetown and
3 under the jurisdiction of Georgetown City Police Department?

4 A: Yes, ma'am, in the housing authority area.

5 Q: And at that time, did you have any sort of body cams or
6 anything like that?

7 A: No, we didn't have body cams yet.

8 Q: But you've gotten them since then?

9 A: Yeah, we have them now.

10 Q: Okay. And so, you got the call and responded?

11 A: Yes, myself, Sergeant Bone, and we didn't have a corporal
12 at the time, and Officer Shane Powers, who is no longer
13 employed at the city police department.

14 Q: And y'all were the first responders?

15 A: Yes, ma'am.

16 Q: And did you get there before EMS?

17 A: Yes, I did.

18 Q: Okay. And what did you do when you arrived?

19 A: When I arrived, I walked up to the victim, Ms. Anderson.
20 I saw Ms. Anderson sitting in a chair and she was holding a
21 towel to her face, and the other people were around her, said
22 that she had gotten shot in the face. So, I asked her to move
23 the towel down to look at her face so I could see the extent
24 of her injuries because I spent -- I had spent 10 years in the
25 army as a medic and I'm not gonna wait 10 minutes for an

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1 ambulance to come when it was two minutes away. And once she
2 -- once she removed it, I saw a -- what appeared to be an exit
3 wound in the center of her chin and I couldn't tell if was an
4 entry wound or it was just some sort star type injury on the
5 side -- on the other side of her jawbone kinda.

6 Q: Okay. And she was photographed in reference to that?

7 A: Yes, I believe it was Shane Powers that photographed her
8 because we noticed inside the larger, the more open wound,
9 that there was a brownish looking thing inside of it. I
10 couldn't tell what it was. I thought it might've been a
11 brick. I didn't touch it, I just kinda looked at it, and when
12 EMS got there, I informed them that she had something in her
13 chin.

14 Q: Okay. And so who was there as far as witnesses when you
15 arrived?

16 A: I can't remember their names off the top of my head.

17 Q: There were several other young ladies there?

18 A: There were several witnesses and they kinda -- they kinda
19 pointed in the direction of where they thought that the
20 gunshots, the gunshots came from. So, as EMS was dealing with
21 -- with Ms. Anderson and Officer Powers was getting the
22 witness statements, the housing authority has security cameras
23 that are on poles in boxes. So, I kinda -- they kinda pointed
24 in the general direction and I walked over to that general
25 direction with my flashlight and I kinda was looking to see

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1 how far I could get -- how far that camera potentially could
2 have gone back to see if somebody was standing in that field.

3 Q: And ---

4 A: And I was searching the area, once they pointed in -- in
5 that general area to see if there was any shell casings I
6 could see with my flashlight at the time.

7 Q: And obviously at that time, the shooter was at large?

8 A: Yes, ma'am.

9 Q: Okay. So, what did you do in reference to trying to
10 identify a suspect?

11 A: During the course of the investigation, the witnesses
12 identified a potential subject -- suspect of Mr. Bessellieu as
13 being the potential suspect and that Mr. Bessellieu was in, I
14 believe, gold-in-color Lexus. So, Sergeant Bone knew where
15 Mr. Bessellieu lived at, so he and I went to [REDACTED] to
16 try and locate Mr., Mr. Bessellieu.

17 Q: Okay.

18 A: After Investigator Morris arrived on the scene.

19 Q: Okay. And was Mr. Bessellieu there?

20 A: No, Mr. Bessellieu was not there. I encountered Mr.
21 Bessellieu's mother and Mr. Sparkman. The vehicle that they
22 described was sitting in the front yard and then the captain
23 said to just sweep the house for Mr. Bessellieu's person and,
24 upon sweeping the house, Mr. Bessellieu was not in the
25 residence.

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1 Q: Okay. And what does the term sweep mean in law
2 enforcement?

3 A: I was looking for a person.

4 Q: Okay.

5 A: I wasn't looking for any -- I was looking for Mr.
6 Bessellieu himself.

7 Q: Okay. And when you did that?

8 A: And when I did that, Mr. Bessellieu was not there, but in
9 plain view in the bedroom that they had pointed out that he
10 lived at -- that he was in, there was a magazine, a gun
11 magazine on the -- on the bed. And at that point, I informed
12 Sergeant Bone, who called Investigator Morris, who arrived on
13 scene.

14 Q: Okay. All right. And then at that point, what did y'all
15 do?

16 A: We went back to the office to do our paperwork. At some
17 point, I believe Sergeant Bone, due to the exigent
18 circumstances of we didn't know where he was at, where Mr.
19 Bessellieu was at, had gotten an exigent circumstances ping
20 from the cell phone company because they had gotten his
21 telephone number and they tried to track -- they tracked his
22 phone for a second and we kinda got caught up in trying to
23 finish our paperwork. And at about -- we left -- we were
24 getting ready to go home when the oncoming shift came on and
25 oncoming sergeant, who is -- at the time was Sergeant Church

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1 requested to find out where another ping of the phone, and
2 they said that the ping of the phone came from Loblolly and 17
3 South, which is, if you're familiar with Georgetown, if you're
4 going towards Charleston, the road splits to South Island and
5 there's a gas station here and there's a gas station here,
6 there's a car wash and the Dollar General. They said it was
7 in that area. So, both shifts went over there because we were
8 -- I was at Five Points, so I turned and I started going south
9 on Fraser and 17 South to try and locate -- to try and locate
10 the subject. In front of me was Officer Powers, and Officer
11 Powers goes -- and when I see Officer Powers' car, he's on top
12 of the Sampit River Bridge. He goes down the bridge, I lose
13 sight of him. The next time I see him, we're in the curve.
14 As I come down the bridge at that light, that's Harrelson, I
15 look over and I see a young -- I see a young black male
16 walking, walking in the street. I kinda, I kinda look at him
17 and from my knowledge of Mr. Bessellieu from the past, I
18 realize that it's him. So, I turn around and there's a
19 building there, and I don't quite know what it was; now, it's
20 some kind of defensive tactic building, but I pull into that
21 parking lot and get out and attempt to interview Mr.
22 Bessellieu. I asked him what his name was. He gave me a
23 different name, which I don't remember, and I said, well, do
24 you have some ID. And the moment I started asking him for
25 ID, I'm in the parking lot, Mr. Bessellieu is on the front of

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1 -- on the side of my car, he starts to back away from me. And
2 as, he's backing away from me -- can I stand up?

3 Q: Yes, sir.

4 A: As he's backing away from me, he starts -- I'm asking --
5 I'm telling him to stand still, and he starts to move his hand
6 like that. At that point, when he got about right here, I
7 drew my service weapon and told him to stop and get on the
8 ground. He continued to back up. At that point, Sergeant
9 Bone comes -- is coming. We're in the middle of the street
10 now in the right-hand lane, he and I, and I'm trying, trying
11 to get him to stop. Sergeant Bone comes -- now is going
12 northbound on 17, pulls up and behind him. As he pulls up and
13 behind him, Mr., Mr. Bessellieu is still backing away from me
14 and I'm telling Mr. Bessellieu to stop and get on the ground.
15 Stop and get on the ground. And then, Sergeant Bone exited
16 his vehicle, comes around the trunk of his vehicle and now
17 he's in my line of sight, I lowered my weapon, Sergeant Bone
18 tackles Mr. Bessellieu. Officer Powers arrives, we handcuff
19 him, and, and detain him. We pick him up, take -- we get out
20 of the street into the front of my car and we do a search of
21 his person and we find a gun on him in the back right pocket
22 and we find some pills and some marijuana located in his
23 pockets on his person.

24 Q: Okay. And when you took him or when he was taken to the
25 ground, was he compliant at that point?

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1 A: No, he was still -- we had to physically get his arms
2 back to handcuff him.

3 Q: All right. I'm gonna show you what's been marked as
4 State's Exhibit Number 4. For the Court's information, this
5 weapon has been unloaded and is -- the magazine has been
6 removed and there's a safety on it or a lock?

7 COURT REPORTER: It's 14?

8 MS. RICHARDSON: Yes, ma'am.

9 COURT REPORTER: It's 14.

10 BY MS. RICHARDSON:

11 Q: State's 14, can you tell me what that is?

12 A: This is the weapon that we recovered off of Mr., Mr.
13 Bessellieu.

14 Q: Okay. And do you know what?

15 A: It's a Smith and -- just looking at it at the top of it,
16 you can read it and tells you it's a Smith and Wesson. The
17 model number is SD40DE and it indicates that SD, if it was
18 SD9, it'd probably be SD9, SD45 would be .45 caliber or 9
19 millimeter, so looking at it, it's a .40 caliber pistol.

20 Q: Okay. Can you read the serial number on that weapon for
21 the court reporter?

22 A: Yes, ma'am. I'm sorry. It's -- okay, it's FWU5991.

23 MS. RICHARDSON: Your Honor, at this time, I'd offer
24 State's Exhibit Number 14 into evidence?

25 THE COURT: Any objection?

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1 MR. EDGEWORTH: No objection, Your Honor.

2 THE COURT: All right. State's 14 is in evidence without
3 objection.

4 STATE'S EXHIBIT NUMBER 14

5 ADMITTED INTO EVIDENCE

6 BY MS. RICHARDSON:

7 Q: Okay. And now I'm gonna show you what's been marked as
8 State's Exhibits -- and I'm gonna remove this from this box --
9 15 and 16; can you tell me what those are?

10 A: This is the magazine that was taken out of the weapon and
11 these are the rounds that were inside of the magazine.

12 Q: In the weapon that was taken off of Mr. Bessellieu?

13 A: The weapon taken off of Mr. Bessellieu; yes, ma'am.

14 Q: And you collected those?

15 A: And I collected these. Officer Powers took it off of him
16 and then he handed it to me and then I put -- I vouchered them
17 into evidence.

18 MS. RICHARDSON: Your Honor, at this time, I'd offer
19 State's 15 and 16 into evidence.

20 THE COURT: Any objection?

21 MR. EDGEWORTH: No objection, Your Honor.

22 THE COURT: All right. So, they are also into evidence
23 without objection.

24 STATE'S EXHIBIT NUMBER 15 AND 16

25 ADMITTED INTO EVIDENCE

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1 MS. RICHARDSON: Oh, I took it with me. Sorry.

2 BY MS. RICHARDSON:

3 Q: Now, I'm gonna show you what has been marked as State's
4 Exhibit Number 12. Can you tell me what that is?

5 A: These were the pills that were taken off of Mr.
6 Bessellieu at the time of his arrest.

7 Q: Okay. And they're in a lot of packaging. Could you
8 explain that process to the jury, please?

9 A: Well, this is -- in the State of South Carolina, there is
10 when it comes down to testing drugs, if you're not from like a
11 big county like Greenville, I think they're only three labs,
12 Greenville, Horry, Charleston, Richland, and York, which I
13 just gave all the major populations and hubs in South
14 Carolina. Every other county in the state has to send non-
15 marijuana drugs, illicit drugs, to SLED. And SLED has a
16 process that's called a BEST kit. And what you do is you --
17 you have to fill out -- it comes in a brown envelope. This
18 bag itself, if you can see it across the top there, you have
19 some paperwork to fill it, it says where you picked it up, the
20 crime, the person you got it from, and so forth, and then you
21 place it into this bag and that seal right there is a
22 tamperproof seal. So, once you put it into that bag, if you
23 kinda pull on that thing, it shows that it's been tampered
24 with and so forth. You then -- in our department, we, we fill
25 it out, we seal the bag, and then you place it into evidence

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1 with an evidence voucher from the city, and the evidence
2 custodian then takes this bag to SLED at which point SLED
3 takes it and tests it.

4 Q: Okay. And we just heard Officer Ward talk about the
5 evidence locker and the evidence room in Georgetown Police
6 Department.

7 A: Yes, yes, and what happens is the same process that I
8 believe he explained to you is that I took this and everything
9 else that I took on him and I placed it into -- I placed it
10 into an evidence locker, I locked it, and there's a keyhole
11 again and you drop the key into the keyhole. That way, once
12 it's in there, the only other person that can get that key is
13 the evidence custodian.

14 Q: And did you tamper with those pills in any way?

15 A: No, the plastic, the plastic bag that you -- that you see
16 them in is -- is that the bag -- is the bag that SLED put it
17 in. There's a brown envelope, it was still in that packaging.
18 I put them into that brown envelope and placed them inside of
19 that bag.

20 MS. RICHARDSON: And, Your Honor, that is marked as
21 State's Exhibit 12 for identification.

22 THE COURT: All right.

23 STATE'S EXHIBIT NUMBER 12

24 MARKED FOR IDENTIFICATION

25 BY MS. RICHARDSON:

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1 Q: Let me show you what's been marked as State's Exhibit
2 Number 13.

3 A: This is the marijuana that was taken out of Mr.
4 Bessellieu's pockets.

5 Q: Okay. And inside that's a -- inside that bag, are they
6 also some smaller bags?

7 A: Yes, the, the marijuana at the time was not like this; it
8 was inside these individual little baggies that you see inside
9 of the bag.

10 Q: And do you recall how many of those there were?

11 A: I believe it was 29.

12 Q: Okay. And what -- when you got those 29 little baggies,
13 what did you do with them?

14 A: I placed them into a brown paper bag because we have our
15 evidence custodian is certified through SLED to test
16 marijuana. So, he tested the marijuana.

17 Q: Okay.

18 A: And it was the same process with the -- with the BEST
19 bag. I JUST think put in -- I believe I put all of this into
20 the same, same evidence locker.

21 Q: Okay. And did you tamper with ---

22 A: No, I did not.

23 Q: --- or do anything with that?

24 A: They were inside those little brown -- the little plastic
25 baggies and I placed it into a brown paper bag, which is the

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1 protocol at the city when it comes to marijuana.

2 Q: Okay. And that was in the evidence room when you filled
3 out a voucher?

4 A: Yes, ma'am.

5 MS. RICHARDSON: And that's State's Exhibit 13 for
6 identification.

7 STATE'S EXHIBIT NUMBER 13

8 MARKED FOR IDENTIFICATION

9 BY MS. RICHARDSON:

10 Q: Okay. And once you removed these items from Mr.
11 Bessellieu, and that would be the weapon, the magazine and
12 ammunition, the marijuana and the pills, what did you do with
13 them at that point?

14 A: We transport -- I transported them to the police
15 department and took them to the CID room to have him
16 interviewed by the detectives.

17 Q: All right. And was he being charged at that point with
18 having ---

19 A: Yes.

20 Q: --- these items?

21 A: Yes, ma'am.

22 Q: Okay. And were you aware of his age or date of birth at
23 that time?

24 A: I knew he was -- I believe at some point, someone ran him
25 -- ran his name and his date of birth came back to, I believe,

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1 [REDACTED].

2 Q: Okay.

3 A: Which indicated he was -- could not possess a pistol.

4 Q: Because he was 17 at the time?

5 A: Yes, ma'am.

6 Q: And as far as the ammunition -- and I'm gonna hand that
7 to you again, that's State's Exhibit Number 16. Is there
8 anything that you noticed about that?

9 A: Yes, when I was unloading the magazine, I noticed that
10 the top of the, the actual projectile itself is not lead; it's
11 polymer carbon -- it's carbon. Almost like, like any -- it's
12 like a hard plastic. That's the first thing I noticed when I
13 pulled it out and I -- because at first, I looked at it and
14 you can -- if you're looking at it, it kinda looks a little
15 bit like, like brass, and then I touched it and I realized
16 that it was a carbon, a carbon material.

17 Q: Okay. And had you seen that before?

18 A: No, I had never seen this before, which made me research
19 kinda what it was. It's almost like a, just based off of
20 looking at it on the internet, it's almost like a frangible
21 round that's kinda designed to hit something and kinda not be
22 whole when it hits, kind of splinter out.

23 Q: Okay. But you looked it up because you hadn't seen it
24 before?

25 A: Yeah, because I had never seen this before.

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1 Q: Okay. All right. And describe to me the tip on that
2 again?

3 A: It is a -- it's got a swirl star kinda, almost like a tip
4 of a drill type staring type thing.

5 Q: Okay. And was that remarkable to you for any reason?

6 A: Yes, because the moment I looked at that, I -- I
7 mentioned to the detectives that that might've been what I saw
8 on the side of her face.

9 Q: Okay. And I'm gonna put back in the computer, State's
10 Exhibit Number 3 and that's a CD labeled photos of injuries at
11 the hospital. Okay. And I'm gonna show you Image, Image
12 Number 5 on that CD. Is this what you were talking about?

13 A: Yes, ma'am. The wound along her like jawbone.

14 Q: And earlier we talked about seeing a foreign body in the
15 ---

16 A: Yes, in the fragment. After I saw that -- couldn't
17 discern whether it was potentially brick particles because of
18 the brownness or that.

19 Q: Okay. And when you encountered Mr. Bessellieu, you said
20 that was on Highway 17 just over the bridge?

21 A: Yes, ma'am, at the intersection of Highway 17 South. I
22 was going southbound, but it was Highway 17 and Harrelson
23 Boulevard.

24 Q: Okay. Is that what we call Merryville?

25 A: Yes, ma'am.

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JOHN GREGORY - DIRECT BY RICHARDSON

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1 Q: And that's also in the jurisdiction of the city?

2 A: Yes, it is. Yes, ma'am.

3 Q: Okay. And were you in a -- what sort of vehicle were you
4 in at that time?

5 A: I was in a marked patrol vehicle.

6 Q: Okay. And what about your uniform?

7 A: I was in a short-sleeve version of this without a tie.

8 Q: Okay. I have no further questions. Answer any questions
9 that Mr. Edgeworth may have for you.

10 THE COURT: Any cross examination?

11 MR. EDGEWORTH: Briefly, Your Honor.

12 THE COURT: Yes, sir.

13 CROSS EXAMINATION OF JOHN GREGORY BY MR. EDGEWORTH:

14 Q: Good afternoon, Mr. Gregory?

15 A: Mr. Edgeworth, how are you, sir.

16 Q: I'm doing well, thank you.

17 When you appeared on scene, do you recall about what time
18 it was?

19 A: I think it was around, it was after 3:00.

20 Q: And, and how long do you recall being on the scene?

21 A: I was there probably for about, about 40 minutes or so.

22 I went -- I kinda walked -- I kinda walked around out in that
23 field, walked back towards the backside of that building just
24 looking for ammunition.

25 Q: Okay. And when you're looking out in the field, it was

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JOHN GREGORY - CROSS BY EDGEWORTH

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1 dark?

2 A: Yes, sir.

3 Q: Okay.

4 A: Yes, sir.

5 Q: And did you find anything on your walk?

6 A: No, I^f didn't.

7 Q: Okay. Now, did you have occasion to speak with the
8 victims?

9 A: Yes, for a brief -- for a brief second.

10 Q: Okay. And, and so did you speak with each one of them
11 briefly or did you just speak ---

12 A: I kinda stood there. Sergeant Bone and Officer Powers
13 were conducting the investigation. I was just kinda
14 listening. The person I had the most conversation with was
15 the victim.

16 Q: Okay. And that's because you were helping take care of
17 the wound?

18 A: Yes, because I was looking at -- looking at her wound.

19 Q: Well, what lead you to -- what lead you or the others on
20 the scene to believe that Mr. Bessellieu was involved in the
21 matter?

22 A: I believe that during the course of the investigation,
23 that there was conversation with Officer Powers with one of
24 the victims and it stemmed -- he asked why did this happen and
25 somehow they had a confrontation with Mr. Bessellieu at Ming'z

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JOHN GREGORY - CROSS BY EDGEWORTH

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1 Bar in reference to that and that's how his name came up. And
2 then the fact that he drove by in the car kinda, kinda led to
3 it.

4 Q: Okay. Were you part of that conversation or did someone
5 tell you that he drove by?

6 A: No, I was not part of that conversation.

7 Q: Okay. And, and who, who was the person that they spoke
8 to about that?

9 A: It would've been Officer Powers.

10 Q: Okay. And did you speak to anyone that night that
11 indicated to you that Mr. Bessellieu would have -- would've
12 been involved in the shooting on that night?

13 A: Again, I was standing in periphery, I didn't engage. The
14 only person that I really engaged with was the victim.

15 MR. EDGEWORTH: No further questions, Your Honor.

16 THE COURT: Any redirect?

17 MS. RICHARDSON: Yes.

18 REDIRECT EXAMINATION OF JOHN GREGORY BY MS. RICHARDSON:

19 Q: Do you recall what time it was when you encountered Mr.
20 Bessellieu and took him into custody?

21 A: It was I want to say about 7:00 -- 7:00ish. The sun, the
22 sun, the sun was coming up. I was going home and it was
23 probably about an hour after I get off, which is about 6
24 o'clock.

25 Q: Okay. No further questions.

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JOHN GREGORY - REDIRECT BY RICHARDSON

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1 THE COURT: All right. Anything on that question, Mr.
2 Edgeworth?

3 MR. EDGEWORTH: No, Your Honor.

4 THE COURT: All right, sir. You may step down. Do you
5 wish the witness to be excused?

6 MS. RICHARDSON: Yes, Your Honor.

7 THE COURT: All right, sir, you are released from your
8 subpoena and may go back to your duties.

9 MR. GREGORY: Thank you, Your Honor.

10 THE COURT: All right. Counsel, you want to come talk to
11 me for a second, please?

12 (REPORTER'S NOTE: Bench conference is held off the record in
13 the presence of but outside the hearing of the jury.)

14 BY THE COURT:

15 THE COURT: All right. All right, ladies and gentlemen,
16 we're gonna break for lunch at this point in time. I'm gonna
17 ask that you be back so that we can start at 2 o'clock. So,
18 the bailiffs will tell you to be back just a little bit
19 earlier.

20 Remember, don't talk about the case, don't allow anybody
21 to talk to you about it and we'll see you back, and we'll
22 start at 2 o'clock.

23 Thank you very much.

24 (REPORTER'S NOTE: Jury exits courtroom.)

25 THE COURT: All right, counsel, we'll break for lunch.

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BY THE COURT

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1 So, if y'all can just make sure that y'all are back in the
2 courtroom in sufficient time to start at 2 o'clock.

3 MS. RICHARDSON: Thank you, Your Honor.

4 THE COURT: All right. Thank you very much.

5 (RECESS.)

6 *****OFF THE RECORD*****

7 (On the Record.)

8 THE COURT: All right. Solicitor, is the state ready for
9 the jury to come in now?

10 MS. RICHARDSON: Yes, Your Honor.

11 THE COURT: All right. Defense?

12 MR. EDGEWORTH: Yes, Your Honor.

13 THE COURT: All right. Ask the jury to come in, please.

14 (REPORTER'S NOTE: Jury enters courtroom.)

15 THE COURT: Your next witness please, ma'am?

16 MS. RICHARDSON: The state calls Amy Glover.

17 THE COURT: Oh, I'm sorry. Raise your right hand,
18 please.

19 AMY GLOVER, HAVING BEEN DULY SWORN

20 TESTIFIES AS FOLLOWS:

21 THE COURT: Very good. You just have a seat, scoot up to
22 the microphone and then state your full name for the record,
23 please.

24 MS. GLOBER: Amy Glover.

25 THE COURT: Go ahead.

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BY THE COURT

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1 DIRECT EXAMINATION OF AMY GLOVER BY MS. RICHARDSON:

2 Q: Officer Glover, where are you employed?

3 A: Georgetown County Detention Center.

4 Q: And how long have you been at the detention center?

5 A: Almost two years.

6 Q: Okay. And how long have you been with the sheriff's
7 office?

8 A: Twenty-one.

9 Q: Getting close to retirement?

10 A: Yes, ma'am.

11 Q: And what is your position at the detention center?

12 A: Lieutenant.

13 Q: And do you have a procedure that you use for collecting
14 property when inmates are taken to the detention center?

15 A: Yes, ma'am, when they come in we pat them down first and
16 foremost before the handcuffs come off. Once we make sure
17 everything's safe, we take the clothing after it's documented
18 with our property receipt form. And just like if I was taking
19 your stuff, I'd list a black jacket, black dress, black shoes.

20 Q: Okay. And when that clothing is taken, do you use any
21 special precautions?

22 A: All the property we take is -- it's in a green mesh bag.
23 It's denoted by inmate by property bag number. It's put on
24 their jacket and then once they're showered out and we have
25 all their clothes, it's secured in a property room.

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AMY GLOVER - DIRECT BY RICHARDSON

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1 Q: Okay. And when the clothes are collected, do you wear
2 gloves?

3 A: Oh, yes, ma'am.

4 Q: And this property room, is it -- does just anybody have
5 access to it or how is that kept?

6 A: No, ma'am. We have access cards and usually the booking
7 sergeant and admin has access to it.

8 Q: Okay. And are you familiar with when Ty'Shun Bessellieu
9 was booked?

10 A: Not specifically that date, no, ma'am, but I know he was
11 brought to our facility.

12 Q: Okay. And were you asked in February of this year to
13 retrieve the clothing that he was brought in in?

14 A: Yes, ma'am.

15 Q: Let me show what's been marked as State's Exhibit Number
16 25 for identification. Do you recognize that?

17 A: Yes, ma'am, that looks like our bag that I sealed and
18 gave for the search warrant.

19 Q: Okay. All right. And you collected this stuff from your
20 property room?

21 A: From Bag 50, which is his.

22 Q: All right. And then you placed it in a bag and turned it
23 over to who?

24 A: Officer Steve Brown.

25 Q: Okay. And did you alter, tamper or do anything to these

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AMY GLOVER - DIRECT BY RICHARDSON

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1 clothing?

2 A: No.

3 MS. RICHARDSON: Okay. Your Honor, at this time, I'd
4 offer State's Exhibit Number 25 into evidence.

5 THE COURT: Any objection?

6 MR. EDGEWORTH: No, objection, Your Honor.

7 THE COURT: Into evidence without objection.

8 STATE'S EXHIBIT NUMBER 25

9 ADMITTED INTO EVIDENCE

10 BY MS. RICHARDSON:

11 Q: Do you have anything that would refresh your recollection
12 regarding when Mr. Bessellieu was brought in?

13 A: Just his booking sheet. I think it was 8/31.

14 Q: Okay. 2016?

15 A: Yes, ma'am.

16 Q: Okay. All right. I have no further questions. Answer
17 any questions Mr. Edgeworth may have for you.

18 THE COURT: Cross examination?

19 MR. EDGEWORTH: No questions for this witness, Your
20 Honor.

21 THE COURT: All right. Do you wish the witness to be
22 excused, ma'am?

23 MS. RICHARDSON: I do, Your Honor.

24 THE COURT: All right, ma'am, you are excused and
25 released from subpoena, you may go to your duties.

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AMY GLOVER - DIRECT BY RICHARDSON

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1 MS. GLOVER: Thank you, sir.

2 THE COURT: Yes, ma'am. All right. Next witness,
3 please.

4 MS. RICHARDSON: State calls Carey Shealy.

5 CAREY SHEALY, HAVING BEEN DULY SWORN

6 TESTIFIES AS FOLLOWS:

7 CLERK: Would you please spell your last name for the
8 Court?

9 MR. SHEALY: S-H-E-A-L-Y.

10 CLERK: Thank you. Please have a seat and just pull the
11 mic up to you as close as you can so they can hear you.

12 Thank you.

13 MR. SHEALY: Thank you.

14 THE COURT: All right, Solicitor.

15 DIRECT EXAMINATION OF CAREY SHEALY BY MS. RICHARDSON:

16 Q: Mr. Shealy, where are you employed?

17 A: Statewide Security Systems.

18 Q: Okay. And what's your position there?

19 A: President.

20 Q: And you own the company?

21 A: Yes.

22 Q: All right. And tell me what Statewide Security Systems
23 does?

24 A: We install surveillance cameras, you know, systems, alarm
25 systems, but mostly surveillance camera systems and go out and

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CAREY SHEALY - DIRECT BY RICHARDSON

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1 search video for people that request it.

2 Q: Okay. And do you have some systems that are installed in
3 here in the City of Georgetown at the housing authority?

4 A: Yes.

5 Q: And how long have you had those cameras in place?

6 A: Top of my head, maybe four years.

7 Q: And who -- who do you do that for; who actually purchased
8 or ---

9 A: Georgetown Housing Authority.

10 Q: Okay. And explain to me how those cameras work and how
11 the data is retrieved?

12 A: Well, the cameras are in multi-directions and they're
13 mounted on a box and inside is the recorder, which records all
14 the video and when we get a call to go search the videos for
15 some incident, we got to the box and put a monitor on it and
16 search the video for whatever we're looking for.

17 Q: Is the data stored on site or is it off-site remotely?

18 A: It's just right there on site.

19 Q: Okay. So, sort of like a deer camera or game camera,
20 it's captured right there in the box?

21 A: Right.

22 Q: Okay. And what sort of -- is it a SIM card or a SD card?

23 A: It's a hard drive.

24 Q: Okay. All right. And when you need to recovery it, you
25 take the monitor out to the camera itself and then what do you

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CAREY SHEALY - DIRECT BY RICHARDSON

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1 do?

2 A: You know, search the video for whatever the incident is
3 and then make a copy of whatever if we have anything related
4 to it and then give it to the police.

5 Q: Okay. And what do you copy it on?

6 A: A USB flash drive.

7 Q: And how, how long does your video save?

8 A: Typically 30 days, sometimes a little less, but typically
9 30 days.

10 Q: And let me show you what's been marked or what I entered
11 into evidence previously as State's Exhibit Number 1. Do you
12 recognize this area?

13 A: Yeah, that's the [REDACTED] area camera box.

14 Q: Can you point to where -- can you see where your camera
15 box is?

16 THE COURT: You need to speak up, I'm sorry, because you
17 weren't behind the microphone.

18 A: Oh, I'm sorry. I'll pull it closer to me. It's on [REDACTED]
19 [REDACTED]. It's got a four-camera view, I think it's right there.

20 Q: Okay.

21 COURT REPORTER: Just speak out if will, not quite so
22 close to the microphone.

23 A: I'll pull it closer to me, how about that?

24 COURT REPORTER: No, you don't need to get closer, just
25 speak out. It distorts it somehow for me.

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CAREY SHEALY - DIRECT BY RICHARDSON

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1 A: I'm sorry.

2 THE COURT: Thank you, sir.

3 BY MS. RICHARDSON:

4 Q: And were you asked August 31st of 2016 to gather some
5 data from that camera?

6 A: Yes, yes.

7 Q: And that was by the Georgetown Police Department?

8 A: Yes.

9 Q: Let me show you what has been marked for identification
10 as State's Exhibits 18, 19, 20, and 21.

11 A: Yes, ma'am.

12 Q: Okay. And do you recognize those?

13 A: Yes, ma'am.

14 Q: Okay. And have you in fact reviewed those CDs prior to
15 coming into the courtroom?

16 A: Yes, yes.

17 Q: And how do you know that you did?

18 A: I initialed it.

19 Q: Okay. And what are those CDs of?

20 A: The camera views in this area.

21 Q: Okay. Now, is that all of the footage that you
22 downloaded for the police department?

23 A: This is it.

24 Q: Okay. Or is that a clip or portions of that?

25 A: Well, this is clips, I guess that were made from the --

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CAREY SHEALY - DIRECT BY RICHARDSON

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1 we had more video, but this has been condensed.

2 Q: Okay. So, when you initially downloaded it, you
3 downloaded larger portions?

4 A: Yes, yes.

5 Q: Okay. And that's what you provided to the police?

6 A: Yes.

7 Q: Okay. But you've reviewed those?

8 A: Yes.

9 Q: Okay. And that's a portion of what you downloaded?

10 A: Yes.

11 Q: Okay. And is that an accurate reflection of the data
12 that you pulled from your cameras?

13 A: Yes, yes.

14 Q: Okay. And that was around August 31st, 2016 at [REDACTED]

15 [REDACTED]?

16 A: Yes.

17 Q: Okay. All right. And this goes specifically to -- Your
18 Honor, I'd offer these into evidence at this time?

19 THE COURT: All right. The numbers again?

20 MS. RICHARDSON: 18, 19, 20, and 21.

21 THE COURT: So, 18 through 21, any objection to that?

22 MR. EDGEWORTH: No, objection, Your Honor.

23 THE COURT: All right, sir. So, they're into evidence
24 without objection.

25 STATE'S EXHIBITS NUMBERS 18, 19, 20, and 21

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CAREY SHEALY - DIRECT BY RICHARDSON

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1 ADMITTED INTO EVIDENCE

2 MS. RICHARDSON: And for the record, copies of these have
3 been provided to Mr. Edgeworth.

4 THE COURT: Very good.

5 BY MS. RICHARDSON:

6 Q: Okay. All right. So, again, on this pole, you have a
7 camera system ---

8 A: Yeah.

9 Q: --- and how many recordings are there?

10 A: Four.

11 Q: Okay. And can you explain what the views are or how that
12 works?

13 A: Well, they usually look, you know, left, right, straight,
14 and backwards; north, south, east, west.

15 Q: Okay. So, you're trying to get a 360 view if you can?

16 A: Yes.

17 Q: Okay. All right. I'm -- Your Honor, permission to
18 publish to the jury?

19 THE COURT: Yes, ma'am.

20 Q: All right. I'm gonna play for you State's Exhibit Number
21 18 that is marked Camera 1, Channel 3it , and indicates it's a
22 street view from 1:44 A.M. to 1:46 A.M.

23 (REPORTER'S NOTE: State's Exhibit 18 is published for the
24 jury.)

25 Q: Now, this says street view; can you explain what we're

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CAREY SHEALY - DIRECT BY RICHARDSON

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1 looking at? And you should be able to -- can we turn the
2 monitors on? If you'll look to your left is the monitor,
3 right by your arm?

4 A: Oh, okay.

5 Q: Yes, sir.

6 A: This is a shot of some cars and the street view over
7 there.

8 Q: Okay. And that's of [REDACTED]?

9 A: Yes, ma'am.

10 Q: Okay. On this clip we see a time and date stamp; is
11 that placed there by your system?

12 A: Yes, that's part of the system; it has a time/date stamp
13 on it.

14 Q: All right. And do you have any issues or has there been
15 any issues regarding the time stamp?

16 A: Sometimes the times are off; maybe could be an hour off,
17 could be two hours off, could be several minutes off. It's
18 not normal, but it does happen.

19 Q: Okay. And what would cause it to be like an hour off?

20 A: Well, we have daylight savings time, sometimes that can
21 affect it; it could be just the system, you know, if it's been
22 there a year or so, for example and the time may just be off a
23 couple or three minutes, sometimes more.

24 Q: Okay. And have you been made aware of any issues with
25 the time on this camera?

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CAREY SHEALY - DIRECT BY RICHARDSON

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1 A: I think it was off about an hour, if I recall.

2 Q: Okay. All right. Now, I'm gonna publish State's Exhibit
3 Number 19 and this is labeled as [REDACTED], 1:44 to 1:46
4 A.M.

5 (REPORTER'S NOTE: State's Exhibit 19 published.)

6 BY MS. RICHARDSON:

7 Q: And can you explain to us what this view is?

8 A: This is looking out, you know, in the different
9 directions. You can see the cars going by the street view.

10 Q: And again, this is [REDACTED]?

11 A: Uh-huh, (affirmative response).

12 THE COURT: Is that a yes?

13 A: Yes, yes.

14 THE COURT: Okay.

15 Q: And this is what has been labeled as State's Exhibit 20.

16 (REPORTER'S NOTE: State's Exhibit 20 published.)

17 Q: And this was labeled as field view?

18 A: Yes.

19 Q: Okay. And the last one, State's Exhibit Number 21 is
20 labeled Camera 1, Channel 1, [REDACTED], 2:03 A.M. to 2:11
21 A.M.

22 (REPORTER'S NOTE: State's Exhibit 21 published.)

23 Q: And again, what view is this?

24 A: [REDACTED] the street.

25 Q: I will pause it right here. So, on this camera angle,

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CAREY SHEALY - DIRECT BY RICHARDSON

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1 the time stamp is 8/31/2016 at 2:09 A.M. and that is showing
2 the police arriving at [REDACTED]?

3 A: Yes.

4 Q: Okay. We can turn off this. I have no further
5 questions. Answer any questions that Mr. Edgeworth may have
6 for you..

7 THE COURT: Cross examination?

8 MR EDGEWORTH: Briefly, Your Honor, thank you.

9 THE COURT: Yes, sir..

10 CROSS EXAMINATION OF CAREY SHEALY BY MR. EDGEWORTH:

11 Q: Good afternoon, Mr. Shealy; is that correct?

12 A: Yes, sir.

13 Q: Okay. Now, when you're called out by law enforcement to
14 retrieve this video, do you do that personally?

15 A: A lot of the times -- I have other technicians, but I --
16 I did this one.

17 Q: Okay. And the boxes are up at the top of the light post
18 or whatever?

19 A: Yes, sir.

20 Q: And how do you get them down?

21 A: We don't take them down, typically.

22 Q: Okay. Well how do you get up there to get ---

23 A: They're only seven feet off the ground, so, we get on a
24 ladder, a little small ladder and hold the monitor.

25 Q: And then you just hook up your equipment?

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CAREY SHEALY - CROSS BY EDGEWORTH

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1 A: Yes, sir.

2 Q: And I'm assuming, but you tell me, you've done this a lot
3 of times?

4 A: Oh, yes, absolutely.

5 Q: Okay. Now, your testimony was that from time to time,
6 but it's not usual, that these clocks get off, correct?

7 A: Yes.

8 Q: Okay. How did you come by this piece of information that
9 the clock was off this time around?

10 A: Usually, when we go to look at it, we can tell by looking
11 at the live view, you know, what time it shows for example and
12 then you can compare it to what it says and you can do the
13 math that way.

14 Q: Okay. So, what, what you're saying is that you're just
15 comparing the footage to what you believe to be when something
16 happened and that's how you identified that the clock is
17 wrong?

18 A: No, once you look at the live view -- like if I wanted to
19 go look at one right now and it said it was 4 o'clock and it's
20 really 2 o'clock, it would be two hours fast.

21 Q: All right. But how would that come up?

22 A: You would just -- you're looking at it live. When you
23 first go there, you can see the time on it when it's right
24 there on the screen.

25 Q: Okay. So, in other words, you're saying that when you --

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CAREY SHEALY - CROSS BY EDGEWORTH

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1 when you open up the box and you see that it says X time and
2 you look at your watch and it's wrong?

3 A: Or your phone.

4 Q: Okay. And, and, and when did that occur in this case?
5 When did you find out that the clock -- the time was wrong?

6 A: Well, I don't exactly remember looking at it at that
7 particular moment back then actually.

8 Q: Okay. So ---

9 A: But the time stamp is, you know, you can -- like I said,
10 when you look and you see the police come up at 2:09 and if a
11 call came in, that's usually what I ask them, what time did
12 the call come in?

13 Q: That's what I'm -- and that's what I'm asking. You're
14 just comparing it to information you had after the fact?

15 A: Yeah.

16 Q: You wouldn't have known the time was wrong when ---

17 A: No.

18 Q: --- pulled it up?

19 A: No, no, no. I'm sorry; I misunderstood you.

20 Q: That's okay. That's what we're here for to give clarity.
21 So, if someone alerted you in one form or fashion whether it
22 be a police report or someone told you that the time must be
23 wrong; is that correct?

24 A: Yes, sir.

25 Q: Okay. No further questions.

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CAREY SHEALY - CROSS BY EDGEWORTH

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1 THE COURT: Anything else, Solicitor?

2 MS. RICHARDSON: No, Your Honor. I'd ask that he be
3 excused from his subpoena.

4 THE COURT: Any objection?

5 MR. EDGEWORTH: No objection, Your Honor.

6 THE COURT: All right, sir, you're released from your
7 subpoena, you may go back to your regular work.

8 MR. SHEALY: Thank you very much.

9 THE COURT: Next witness please, ma'am.

10 MS. RICHARDSON: The State calls Blair Cribb.

11 BLAIR CRIBB, HAVING BEEN DULY SWORN

12 TESTIFIES AS FOLLOWS:

13 CLERK: Thank you. Please have a seat.

14 THE COURT: Go ahead, ma'am.

15 DIRECT EXAMINATION OF BLAIR CRIBB BY MS. RICHARDSON:

16 Q: Officer Cribb, where are you employed?

17 A: Georgetown City Police Department.

18 Q: And how long have you been there?

19 A: Since 1999, about 18 years.

20 Q: And what is your position there?

21 A: My current position right now is patrol supervisor of the
22 patrol division. We answer crimes for service, traffic
23 violations, traffic accidents.

24 Q: And in 2016, what was your position?

25 A: I was the Georgetown Police Department Evidence

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BLAIR CRIBB - DIRECT BY RICHARDSON

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1 Custodian. I basically took care of all the evidence that
2 came into the police department.

3 Q: And can you explain what procedures are used in the
4 evidence room or department?

5 A: Yes, ma'am. So, each -- our police department has a
6 secure evidence room. Basically what it is is they -- it's a
7 room within the police department that only myself and my
8 supervisor, who was the assistant evidence custodian had keys
9 to. So, I would have to go up to the door, swipe my card, and
10 then use my finger for this metal door to open for me to even
11 have entry to the room. And once inside the room, that's
12 where all the evidence was and the, the way you put evidence
13 into a room was the outside wall would have lockers on it.
14 So, basically it's kinda like a wall just like that with four
15 lockers here, four lockers below, and four lockers below that.
16 And you would walk up to the locker, put your evidence inside
17 the locker, lock the locker, and then put the key inside the
18 hole. The only way to get that evidence out would be to go
19 through my secure door, that metal door with my thumb print,
20 and then from the backside, I can open that metal -- I can
21 open up the locker and I can take the evidence out. Once I
22 take the evidence out, I close the metal locker back, take the
23 key, go back to the front, and stick the key back in a hole to
24 be used again. So, only two people that have access to the
25 evidence room, and at that time it was myself and my

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1 supervisor.

2 Q: Okay. And who was that?

3 A: That was Captain Keith Small.

4 Q: And he's retired from your department, I believe?

5 A: He has.

6 Q: And did you also have any responsibilities regarding
7 analysis of marijuana?

8 A: I did. I also tested marijuana that came into the police
9 department. If it came in, I tested it and whether or not it
10 was marijuana or not.

11 Q: Okay. And what sort of training did you have to do that?

12 A: It's a two-day class that's put on through SLED, South
13 Carolina Law Enforcement Division. You go up there and you
14 have to -- you have to take approximately 50 samples and
15 whether -- whether or not it's positive or negative and also
16 you have to take a written test and you have to be a hundred
17 percent on the actual samples you take and you have to score a
18 80 on the written test to become certified.

19 Q: All right. And you did that?

20 A: I did.

21 Q: And did you become certified?

22 A: I was.

23 Q: You're not right now?

24 A: My certification expired February of this year.

25 Q: Okay. But in August of 2016, you were certified?

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1 A: Yes, ma'am; I was.

2 Q: Okay. And how many samples do you think you tested of
3 marijuana?

4 A: Approximately, at that time, approximately a hundred,
5 give or take, approximately a hundred though.

6 Q: And have you previously testified in court regarding your
7 analysis of marijuana?

8 A: One time before.

9 Q: Okay. And where was that?

10 A: That was here.

11 Q: In General Sessions Court?

12 A: Yes, ma'am.

13 Q: And you were qualified as an expert in that regard?

14 A: I'm not a hundred percent sure if I was qualified as an
15 expert. I know I did testify in General Sessions Court,
16 though.

17 Q: And you were able to give an opinion as to your test
18 results?

19 A: I was.

20 MS. RICHARDSON: Your Honor, at this time, we'd offer him
21 as an expert in the field of analysis of marijuana.

22 THE COURT: All right. Mr. Edgeworth, do you wish to
23 voir dire the witness or challenge his qualifications?

24 MR. EDGEWORTH: No, Your Honor.

25 THE COURT: All right, sir. So, he is qualified to give

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1 his opinion in the field of marijuana analysis. You may
2 proceed.

3 BY MS. RICHARDSON:

4 Q: Let me show you what has previously been marked for
5 identification as State's Exhibit Number 13. Do you recognize
6 that?

7 A: Yes, ma'am.

8 Q: Okay. And what is that?

9 A: Marijuana.

10 Q: Okay. And is that -- is that the marijuana that you
11 tested in this case, in State v. Ty'Shun Bessellieu?

12 A: Yes, ma'am.

13 Q: And you had previously viewed that evidence?

14 A: I did.

15 Q: Okay. And where did you receive that evidence from?

16 A: Well, like I was telling you earlier, when I come in the
17 next morning, because normally I always worked 8:30 to 5:00 as
18 the evidence custodian, and when I came into work the next
19 morning and opened my lockers, this was in an evidence locker
20 and it's not just a bag of marijuana sitting in an evidence
21 locker; it's actually an evidence voucher, also. So, you
22 know, it's got a date, a time, where it was taken from, you
23 know, who it was taken from and just all, all the important
24 information that goes along with it. That way you can track
25 each evidence, not necessarily this, but all evidence, you can

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1 track it with. It's got our case number on it. So, this was
2 attached with an evidence voucher along with case numbers and
3 names on it.

4 Q: Okay. And I'd like to mark this for identification as
5 next -- okay.

6 STATE'S EXHIBIT NUMBER 29

7 MARKED FOR IDENTIFICATION

8 Q: Let me show you what's been marked for identification as
9 State's Exhibit Number 29, and can you tell me what that is?

10 A: I can. This is the -- this is the evidence voucher that
11 came in that would've come in with the marijuana. And again
12 it has the incident type on it, the case number on the top for
13 tracking purposes, the location where it was recovered, the
14 subject that it was recovered from, and the date and the time,
15 and then it's got all the articles that was submitted at the
16 time that it was submitted in my locker. So, not only did I
17 recover -- not only was the marijuana -- when I opened my
18 locker, not only did I get marijuana, but I also got all of,
19 you know, I got seven items total.

20 Q: Okay.

21 A: But Item Number 2 was this marijuana.

22 Q: Okay. And what else did you receive?

23 A: Item Number 1 was 30 Xanax pills that was in a sealed
24 SLED BEST bag, BEST bag B-257757; Item Number 2 was, again,
25 the marijuana; Item Number 3 was a LG cell phone with the

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1 serial number printed on it; Item Number 4 was a Smith and
2 Wesson Model SD40, a .40 caliber pistol with a serial number;
3 Item Number 5 was 11 rounds of .40 caliber ammo; Item Number 6
4 was a green bandana; and Item Number 7 was a pack of rolling
5 papers.

6 Q: Okay. Let me also show you what's been marked for
7 identification as State's Exhibit Number 12. Do you recognize
8 that?

9 A: I do, it's SLED BEST bag B-257757, which is the same one
10 that matches up as Item Number 1 on my evidence voucher.

11 Q: Okay. And let me show you what's been marked as State's
12 Exhibit Number 14?

13 A: Yes, and that would be the serial number here would be
14 the same serial number that is on Item Number 5, which is a
15 Smith and Wesson Model SD40. The serial numbers match up.

16 Q: Okay. All right. And State's Exhibit Number 16 and 17?

17 A: Yes, that's the 11 -- Item Number 5, that would be Item
18 Number 5.

19 Q: They were put together?

20 A: They were put together, yes, ma'am.

21 Q: Okay. All right. And who did you receive these items
22 from?

23 A: John Gregory had placed them into the evidence locker.
24 Again, he would have taken them and put them in the evidence
25 locker, locked the key, stuck the key in a little hole. And,

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1 then when I came into work, I would, again, go into my secure
2 door and I would open it from the rear, and I would take all
3 the evidence out of the locker, put it on my work desk, and
4 then secure that evidence locker back.

5 Q: And as far as the marijuana, explain to us what you did
6 to test it?

7 A: To test the marijuana, we do a two-phase test.
8 Basically, one's a microscopic test and the second's a
9 chemical test. I look under a microscope -- first, I'll take
10 it out of the bag and I weigh it to get an approximate weight
11 -- or get an official weight without a bag, just straight
12 weight. And then take a piece of plant material and do a
13 microscopic test, and I'm certain I'm checking for three
14 different types of hairs. And then I do a chemical test.
15 Basically, I'm looking for the color purple -- well, two
16 different colors -- a color of purple and then when I add a
17 different type of chemical then I'm looking for basically an
18 eye, like a pink eye, and I have to have a positive for both
19 tests for it to be marijuana. So, you know, I can't just have
20 a positive one under the microscope and then the chemical not
21 be positive. I have to have two positives for it to be, you
22 know, marijuana.

23 Q: And in that bag, there appear to be multiple other bags?

24 A: Yes.

25 Q: Okay. Tell me about that?

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1 A: Yeah, so what -- this marijuana was packaged in multiple
2 bags, and inside of this bag -- and basically, after it was
3 tested, the marijuana was all placed back into this bag and it
4 was cut open, like I told you before, to get -- to get an
5 official weight, I don't weigh bags, so, I take the bags out
6 of play and just weigh the product itself, the plant material.

7 Q: Okay. Let me show you what's been marked as State's
8 Exhibit Number 17; do you recognize that?

9 A: Yes, ma'am; I do. This is going to be my official test
10 results. Basically it says on August the 31st, 2016, I tested
11 this marijuana here with this case number, 16009976, and the
12 test results are as follows: Marijuana found, 24.26 grams or
13 .85 ounces was the total weight.

14 Q: And other than removing the packaging, weighing it and
15 performing your tests, did you do anything to alter or tamper
16 with that marijuana?

17 A: Absolutely not. Once I -- once I test it, I seal it
18 back, put it back in the bag, put it back on the shelf where
19 it was -- where it was taken from so it can be located for
20 court purposes or be destroyed if the case is over with.

21 Q: Okay. And did you notice if it had been tampered with,
22 would you have been able to tell when you took it out?

23 A: No, ma'am, this is -- this is the way it would've been
24 put into the bag. You know, at the time, nobody could even
25 have had -- now, nobody has access to that room, once I --

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1 basically what happened was I transferred out of evidence and
2 another officer took over my spot as evidence custodian. But,
3 during that time, we did a hundred percent inventory check of
4 the room. So, basically we went and checked that the whole
5 room had everything in it that the book said it had in it and
6 you know, he signed -- I signed off on it and he signed off on
7 it. So, you know, everything is, you know, was completely
8 legit as far as swapping over evidence custodians. It's not
9 just basically, today I'm no longer evidence custodian and he
10 is. I mean it's a whole lot of work to swap over an evidence
11 custodian. It took probably three to four months for us to
12 change positions.

13 MS. RICHARDSON: Your Honor, at this time, I'd offer
14 State's Exhibit Number 13 and 17 into evidence?

15 THE COURT: Any objection to 13 and 17 coming into
16 evidence?

17 MR. EDGEWORTH: No, Your Honor.

18 THE COURT: All right. They're into evidence without
19 objection.

20 STATE'S EXHIBITS NUMBERS 13 AND 17

21 ADMITTED INTO EVIDENCE

22 BY MS. RICHARDSON:

23 Q: Okay. Let me show you also what was previously marked as
24 State's Exhibits 7 through 11, and we haven't marked this one
25 yet. And now State's 30 for identification. First of all,

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1 tell me what State's 30 is?

2 A: It is a Item Number 1 is going to be a bullet. Item
3 Number 2 is going to be 4 .40 caliber shell casings.

4 Q: Okay. And that document is what?

5 A: Again, this is our evidence voucher, so, when I open up
6 my evidence locker again, I'm gonna receive this evidence
7 voucher along with this -- these four shell casings and this
8 bullet would' came in, here again, for tracking purposes, I
9 can't just receive this; I've got to have documentation to go
10 along with these bullets. So, I, you know, for evidence
11 purposes.

12 Q: Okay. And again, that's kept in the regular course of
13 business and that's your log of what happens to that evidence?

14 A: That exactly right. So, on again here on 8/31/2016, I
15 received, you know, Items Number 1 and 2.

16 Q: Okay. And 1 was what?

17 A: Item Number 1 was again the bullet and then Item Number 2
18 was the four shell casings.

19 Q: Okay. So, they were given -- they were put altogether?

20 A: They were put altogether and then placed into the
21 evidence room.

22 Q: Okay. And is that what is contained in State's 7 through
23 11?

24 A: Yes, ma'am.

25 Q: Okay. And at this time, Your Honor, I'd offer State's 30

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1 into evidence?

2 THE COURT: Any objection?

3 MR. EDGEWORTH: No objection, Your Honor.

4 THE COURT: All right. So, State's 30 is in evidence
5 without objection.

6 STATE'S EXHIBIT NUMBER 30

7 ADMITTED INTO EVIDENCE

8 BY MS. RICHARDSON:

9 Q: All right. If I can mark this one, it will be State's
10 31. And again, what is this document?

11 A: Again, it's an evidence voucher with the same case number
12 as the other two evidence vouchers.

13 Q: Okay. And what is that voucher for?

14 A: Gunshot residue kit, it says GSR Kit taken from vehicle.
15 Item Number 1 and Item Number 2 is GSR Kit taken from subject.
16 GSR is commonly referred to as gunshot residue kit.

17 Q: Okay. And again, that was kept in the normal course of
18 business, your document, your log there?

19 A: Absolutely, this -- this evidence voucher again came in
20 with the -- with the gunshot residue kit when it came into my
21 locker?

22 MS. RICHARDSON: Okay. Your Honor, I'd offer State's 31
23 into evidence?

24 THE COURT: Any objection?

25 MR. EDGEWORTH: No objection, Your Honor.

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1 THE COURT: All right. Into evidence without objection.

2 STATE'S EXHIBIT NUMBER 31

3 ADMITTED INTO EVIDENCE

4 BY MS. RICHARDSON:

5 Q: Okay. Let me show you what's been marked as State's 26
6 and 27. Can you tell me what those are?

7 A: Okay. And these are Gunshot Residue Kits.

8 Q: And are those the kits that are shown on State's 31?

9 A: Yes, ma'am, they are.

10 Q: Okay. All right. Now, going back to Evidence Voucher 29
11 and that contained the loggings for the Xanax pills, which is
12 State's Exhibit Number 12?

13 A: Yes, ma'am.

14 Q: And also for the weapon?

15 A: Yeah, the weapon, which would be Item Number 4 on here
16 and I'm not sure what the state exhibit is.

17 Q: 14, and the ammunition and magazine as well.

18 COURT REPORTER: Excuse me, I didn't get an answer.

19 A: Oh, yes, ma'am. This is -- yes, ma'am.

20 BY MS. RICHARDSON:

21 Q: Okay. And you received those from who?

22 A: John Gregory.

23 Q: Okay. And what did you in turn do with those items?

24 A: So, once they come into the evidence room, I have to
25 secure them on a shelf. So, basically I'll put here -- here I

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1 put, you know, Item Number 1 and 2 and it was on D28; and
2 Items 3, 6, and 7 were on E37; and Item 4 and 5 were on G2C.
3 Those numbers meaning nothing to anybody but myself and the
4 assistant evidence custodians because those are shelves. So,
5 I have to put these items on a shelf so if I need to go back
6 to them, I know exactly where I can go back and get them. And
7 this evidence here, once I received it, I was told it needed
8 to go to SLED. Since we live two-and-a-half to three hours
9 away from SLED, it's just not I'm gonna go to SLED here today
10 and I'm gone come right back; I'll be back before lunch. That
11 doesn't happen. So, normally I would go to SLED once to twice
12 a month and I would have to pick my day basically to go to
13 SLED. It wasn't I'm gonna shoot up here tomorrow; I have to
14 plan my day to go to SLED. So, I would plan my day to go to
15 SLED, I would collect all my evidence, I'd have to get on the
16 SLED website and pre-log everything that I'm taking to SLED,
17 get it altogether and then the next morning, I would get up,
18 go to the police department and gather all my evidence and
19 take it to SLED and drop it off at SLED, get signatures or get
20 it -- once I drop it off at SLED, you know, then it's in their
21 custody and I'm coming back home.

22 Q: Okay. And did you do that with these items?

23 A: I did. I did it to these items. So, when it comes into
24 the evidence room, I'm not, you know, I'm not manipulating it,
25 I'm not touching it, most of it -- almost every bit of it's

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1 sealed just like these bullets when they would have come into
2 the evidence room, they're gonna -- they're gonna be in these
3 basically look like pill bottles. They're gonna have a lid on
4 them and you see this evidence tape that's across them,
5 they're gonna be sealed with the evidence tape.

6 The BEST bag, it's been -- it doesn't look like this when
7 it comes to me, because it's not in this bag. However, it's
8 in this -- this other sealed bag. And once you put your drugs
9 in it and your paper in it stating what it is, it's going to
10 SLED to be tested at SLED, you seal this top, you take this
11 red and you fold it over and you seal it and there's no way
12 you're cutting -- you're getting that -- you're not gonna bust
13 that seal. You can't pull that seal open just to take
14 something out. So, the officer, when he put into evidence,
15 it's gonna already be sealed, so there's no way I can even
16 touch it. These, these -- again, the gunshot residue kits,
17 once they're used, once they're put in the room, they're
18 sealed, I can't get into those. So, basically they come to
19 me, they're sealed up as evidence, evidence tape is put on
20 them, I'm holding them till I take them to SLED. Once they go
21 to SLED, they're gonna be sealed until somebody goes to, you
22 know, to check them out and evaluate them or either test them.
23 Q: Okay. And did you take these items to SLED?
24 A: I did.
25 Q: What date was that?

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- 1 A: I took them to SLED on September the 12th, 2016, Items --
2 Item Number 1, which was the Xanax pills.
- 3 Q: Okay. So, that would be State's Number 12?
- 4 A: September the 12th on Item Number 2, which was the
5 gunshot residue kit from the subject is what the evidence
6 voucher says, as I took it that day.
- 7 Q: And that would be Item Number 26 or State's Exhibit
8 Number 26; is that right?
- 9 A: Yes, ma'am.
- 10 Q: Okay.
- 11 A: And Items Number 1 and 2, which would be the bullet and
12 the shell casings, which would've been these items on
13 September the 12th, 2016, also.
- 14 Q: And that's State's 7 through 11?
- 15 A: Yes, ma'am.
- 16 Q: Okay. And what about State's Number 27, the GSR from the
17 vehicle?
- 18 A: This evidence voucher shows that Officer Sparkman would
19 have taken it on 2/28/2008.
- 20 Q: So, you didn't take 27?
- 21 A: No, ma'am; I did not take it.
- 22 Q: Okay. And of the items that you took, the state's
23 exhibits that you took, did you alter, tamper with them or do
24 anything with them before you took them?
- 25 A: I did not. Again, like I said, they're sealed when they

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1 come into the evidence room and I'm storing them to transport
2 them to SLED to be tested.

3 Q: Okay. And what about State's 14, 15, and 16, the
4 firearm, the magazine, and the ammunition?

5 A: No, ma'am, again, that's -- when it comes into my room,
6 it's gonna be secured in that box and that box is gonna be
7 sealed.

8 Q: Okay. And did you take those to SLED as well?

9 A: I did.

10 Q: What date?

11 A: This form says -- this form says I did not take it to
12 SLED.

13 Q: All right. Tell me when you go to SLED, what do you do?

14 A: Again, before I go to SLED, I fill out a printout. I
15 have to go on the computer and -- basically SLED has its own
16 evidence vouchers, which the whole state uses. It doesn't use
17 the Georgetown Police Department evidence vouchers. So, I
18 have to go on the SLED website and fill out their evidence
19 voucher, put my items -- items that I'm taking on their
20 evidence voucher, so, when I get to SLED, it just basically
21 what it does is speeds up the process, so that when I go to
22 their evidence custodian, they don't have to manually type in
23 everything that I'm bringing to them in the computer, they
24 already have it; it's on their screen. They basically take
25 the item that I've got documented, they scan it, they put --

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1 they put their -- they put their tag on it, which that's
2 basically telling them their item number and where it's
3 located in -- in their room, I'm guessing is what it is for --
4 I'm not a hundred percent sure -- but they put their tag on it
5 and then they take it. Once they put their tag on it, I sign
6 basically saying I release it to them, they sign saying that
7 they got it and -- and that's it. I have no idea where it
8 goes after that.

9 Q: Okay. And who did you release these items to on
10 September 12th?

11 A: The -- the evidence custodian, I don't know her name; I
12 know her by a nickname and ---

13 Q: And what was her nickname?

14 A: --- I called her smiley. She's smiling everything I get
15 there at 8:30 bright and early in the morning time. So,
16 basically the way we track it though at the Georgetown Police
17 Department, is we track it by their number. That's what I
18 referred to just a second ago, which would be L16-12824. So,
19 instead of me basically saying that -- getting them to sign
20 every form that we got, basically I'm saying that I release it
21 to SLED on this date and the Item Number is L16-12824, which
22 is the matching number. So, I can keep track of it. If I
23 needed to call up there, I would go to my evidence form and
24 look for this number. I'd type it in on their computer.

25 Q: Okay. And when you get to SLED, do they have you sign

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1 saying that you submitted it?

2 A: I do, I have to sign a little thing like that got at
3 Walmart, a little digital thing. Everything is digital now.
4 So ---

5 Q: Okay. I'm gonna show you what's been marked as State's
6 Exhibit Number 22. Do you recognize what that is?

7 A: Yes, this is a -- this is the chain of custody forms
8 where the items ---

9 Q: And that's prepared by SLED?

10 A: Exactly, yes.

11 Q: Okay. And that is the one that identified by the lab
12 number?

13 A: That's exactly right and these are little -- our digital
14 signatures that we have to sign in the box.

15 Q: Okay. And that's what I'm asking you. If you will flip
16 through that document and see where it says your name and
17 there's a signature box. Are those in fact your signatures?
18 I know that some have others, but the ones that say Blair
19 Cribb, is that your signature?

20 A: Yes, it is. Yes, ma'am.

21 MS. RICHARDSON: I have no further questions, Your Honor.

22 THE COURT: Cross examination?

23 MR. EDGEWORTH: No questions for this witness, Your
24 Honor.

25 THE COURT: All right. Do you wish the witness to be

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1 excused?

2 MS. RICHARDSON: Yes, Your Honor.

3 THE COURT: Any objection?

4 MR. EDGEWORTH: No objection, Your Honor.

5 THE COURT: All right, sir, you are released from your
6 subpoena and you may go back to your regular duties.

7 All right. Solicitor, can you -- Mr. Edgeworth, can
8 y'all come up and talk to me for a second, please?

9 (REPORTER'S NOTE: Bench conference is held off the record in
10 the presence of but outside the hearing of the jury.)

11 BY THE COURT:

12 THE COURT: All right. Very good. All right, ladies and
13 gentlemen, we'll take a short break for about five minutes.

14 Is there anything else, Officer?

15 MR. CRIBB: No, you want me to just leave these here?

16 THE COURT: Yes, sir, just leave those.

17 MR. CRIBB: Okay. All right.

18 THE COURT: All right. So, about five minutes or so and
19 then we'll come back and resume the case. So can go to the
20 jury room, please.

21 (REPORTER'S NOTE: Jury exits courtroom.)

22 THE COURT: All right. We'll take a short break for
23 about five or 10 minutes. Thank you.

24 **(RECESS.)**

25

*****OFF THE RECORD*****

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BY THE COURT

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1 (On the Record.)

2 THE COURT: All right, Solicitor. State ready to
3 proceed?

4 MS. RICHARDSON: Yes, Your Honor.

5 THE COURT: Defense?

6 MR. EDGEWORTH: Yes, Your Honor.

7 THE COURT: Ask the jury to come in.

8 (REPORTER'S NOTE: Jury enters courtroom.)

9 THE COURT: All right. Solicitor, your next witness,
10 please, ma'am?

11 MS. RICHARDSON: The state calls Noel Smith.

12 NOEL SMITH, HAVING BEEN DULY SWORN

13 TESTIFIES AS FOLLOWS:

14 CLERK: Thank you. Please have a seat.

15 THE COURT: Go ahead, Solicitor.

16 DIRECT EXAMINATION OF NOEL SMITH BY MS. RICHARDSON:

17 Q: Officer Smith, where are you employed?

18 A: Georgetown City Police Department.

19 Q: And what's your position there?

20 A: I am an investigator in the narcotics unit.

21 Q: Okay. And how long have you been an investigator at the
22 police department?

23 A: Five years.

24 Q: And what's the extent of your law enforcement career?

25 A: Twenty-two years of law enforcement, narcotics, white

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NOEL SMITH - DIRECT BY RICHARDSON

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1 collar crimes, violent crimes, community service.

2 Q: Okay. Is that all been here at Georgetown Police
3 Department?

4 A: Florence County is where I got my start. Sheriff's
5 office, Georgetown Sheriff's office back in 2000 to like 2008.
6 I left to go out of country to train police, then back here at
7 the City Police Department.

8 Q: On August 31st, 2016, you were employed as an
9 investigator?

10 A: Yes, ma'am.

11 Q: And did you get a call to respond in reference to a
12 shooting at [REDACTED]?

13 A: Yes, ma'am.

14 Q: Okay. And are you familiar with what time law
15 enforcement was first dispatched to that location?

16 A: I want to say it was a little after 3 o'clock. I was
17 notified maybe around 3:30, 4:00 A.M. in the morning to
18 respond and I did so.

19 Q: And that's 3:00 A.M., a little after 3:00 A.M.?

20 A: Yes, ma'am.

21 Q: Okay. And what -- where did you first respond to?

22 A: The first place I responded to was [REDACTED].

23 Q: Now, at about what time did you get there?

24 A: I got there because of my drive from home, probably right
25 around 4:30, 5:00 A.M.

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1 Q: Okay. And what did you do when you arrived there?

2 A: Sergeant Ward advised me that it was a shooting that had
3 taken place. The details at that particular time was still
4 sketchy, but there was a vehicle that needed to be processed
5 at [REDACTED]. When I got to the residence, that's
6 what I proceeded to do was do a GCR, a GSR, I'm sorry, on the
7 vehicle, gunshot residue on the vehicle.

8 Q: Okay. And that was pursuant to a search warrant?

9 A: Yes, ma'am.

10 Q: Okay. And which vehicle was that?

11 A: It was a -- I remember it being a gray, gray-in-color
12 Lexus.

13 Q: And photos were taken while y'all were out there?

14 A: Yes, ma'am.

15 Q: Let me -- all right. I'm gonna show you what's been
16 marked as State's Exhibit Number 6.

17 Madam Clerk, if we could have the monitor?

18 State's Exhibit Number 6 contains multiple photos. I'm
19 just showing you the first photo, Number 10. Can you tell me,
20 is that the vehicle and residence you responded to?

21 A: Yes, ma'am.

22 Q: I'm just gonna scroll down to the bottom and this is
23 Photo 115.

24 A: Yes, ma'am.

25 Q: Same vehicle?

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1 A: Yes, ma'am.

2 Q: And that's the vehicle that you processed?

3 A: Yes, ma'am.

4 Q: Okay. And explain to me what you do when you do a
5 gunshot residue or GSR test?

6 A: Because it was done on a vehicle, what you would do
7 normally is when you go to the scene, you want to check out
8 your environment. This particular morning, it was raining and
9 I knew I had to do the outside of the vehicle as well. And so
10 normally what you would do, you would have four packs or four
11 bindles of the gunshot residue kit. Whether you're gonna use
12 them on the hands, you have two for one hand and two for
13 another. This particular location, the steering wheel, I
14 didn't swipe it, but you would just pat as you go along on the
15 steering wheel as to not disturb any of the evidence. The
16 outside -- I'm sorry -- the inside of the driver's door, I did
17 that also. The back passenger rear door, I did that on the
18 inside and, of course, on the outside as well, just the one
19 door, the driver's door, and of course the back of the rear
20 panel of the vehicle.

21 Q: Okay. And that comes in a kit?

22 A: Yes, ma'am.

23 Q: And then what do you do?

24 A: Well, before you do that, you want to make sure you have
25 your gloves on before you do that, so you don't contaminate

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1 any of the evidence that's there. Once you get everything
2 you're going to get, you seal it in the gunshot residue kit,
3 you seal it with evidence tape and, of course, you're going to
4 initial it, put the date and your ID number that the police
5 department issues you.

6 Q: And so you did that as far as the vehicles concerned?

7 A: Yes, ma'am.

8 Q: All right. I'm gonna show you what's been marked as
9 State's Exhibit Number 27. And do you recognize that?

10 A: Yes, ma'am.

11 Q: Okay. And what is it?

12 A: This is the gunshot residue kit. After you get finished
13 taking the samples, this is the -- the white bag, not
14 necessarily the plastic bag, but the white bag is what we
15 would put this in to drop it into evidence.

16 Q: Okay. And in the white bag ---

17 A: Here again, you'll have those little bindle's that I was
18 telling you about, when you do the steering wheel or both
19 hands, it'll be these little bindles located in this bag here.

20 Q: Okay. All right. And is that the -- that's the kit that
21 you did on the car?

22 A: Yes, ma'am.

23 Q: Okay. And you sealed it up?

24 A: Yes, ma'am.

25 Q: And did you tamper with it in any way?

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1 A: No, ma'am.

2 Q: Okay. And then you deposited that where?

3 A: Into the evidence box. You guys have heard about the
4 evidence tray that we use.. You take the key, open the box,
5 put this inside, lock it, and take the key and put it through
6 the little hole. That was all we did.

7 Q: Okay. And is there a time on there?

8 A: I have 06:50. 6:50 A.M. in the morning.

9 Q: Okay.. And after you completed the testing of the
10 vehicle, what did you do?

11 A: I was advised that there was an individual at the police
12 department that needed to be interviewed. They had to wait on
13 me to leave [REDACTED], I'm sorry, [REDACTED] to go to
14 the police department to interview Mr. Bessellieu.

15 Q: Okay. And you responded to the police department?

16 A: I did.

17 Q: Okay. And did you perform any search or test -- was Mr.
18 Bessellieu under arrest at that time?

19 A: He was at that time.

20 Q: Okay. And what did you do in regard to his person at
21 that time?

22 A: The information that I received was a firearm might have
23 been used. And it was at time, I felt that a GSR needed to be
24 conducted on Mr. Bessellieu, and I proceeded to do that.

25 Q: Okay. And tell us how you do it on a person?

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1 A: Here again, you still have the four bindles. You use
2 two, one for the back of the hand, flip the hand over and one
3 for the other hand. You contain this, seal it, not seal it,
4 but you place it aside before you put it in the bag and do the
5 same for the other hand as well. Once you're finished with
6 that, it goes to the white bag like this one. Of course, you
7 would seal it, initial it, put the day's date and your ID
8 number.

9 Q: Okay. And again, do you use the same procedure as far as
10 gloves and that sort of thing?

11 A: Yes, ma'am. You have to be gloved as not to contaminate
12 the evidence.

13 Q: Let me show you what's been marked as State's Exhibit
14 Number 26, and can you tell me what that is?

15 A: This would be the GSR that was conducted on Mr.
16 Bessellieu, and the time that I have that this was conducted
17 was at 07:13, 7:13 A.M.

18 Q: And did you use the same procedure when you -- after you
19 got the samples, what did you do?

20 A: Yes, ma'am. Made sure that the bag was sealed. We
21 secure it, place it in the evidence box.

22 Q: Okay. And did you alter, tamper, or do anything to that
23 kit.

24 A: No, ma'am.

25 Q: And did you use safeguards to protect it against

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1 contamination, such as gloves?

2 A: Yes, ma'am. Yes, ma'am.

3 Q: And at that time, who was your supervisor?

4 A: Sergeant Jason Ward.

5 Q: And were there -- I guess there were several of you that
6 were working on this case; is that right

7 A: Yes, ma'am.

8 Q: And can you tell me Ian Anderson is?

9 A: Ian Anderson is an investigator -- was an investigator
10 with us. He's on military leave right now and we miss him
11 dearly.

12 Q: And he helped some with this case?

13 A: He did; yes, ma'am.

14 Q: Okay. And both of you were under the supervision of
15 Sergeant Ward; is that right?

16 A: Yes, ma'am.

17 Q: Okay. And did you also participate in any collection of
18 evidence back at [REDACTED] with the metal detectors and
19 that sort of thing?

20 A: We did. The open field that's right across from [REDACTED]
21 [REDACTED]. We went back out to do a canvas of the area, they'd
22 already collected some evidence before I was able to get out
23 there, but nonetheless, whatever help they needed, I went out
24 to assist.

25 Q: And it was sort of all hands on deck at that point?

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1 A: Yes, ma'am. Yes, ma'am.

2 Q: When -- around the time that you were doing the GSR kit
3 on Mr. Bessellieu, he was at the police department?

4 A: Yes, ma'am.

5 Q: Okay. And did he have any complaints regarding his
6 clothing?

7 A: He talked about it being a little wet and a little damp.

8 Q: Okay.

9 A: It was raining.

10 Q: Okay. And that's why you had to hurry up with the GSR?

11 A: Yes, ma'am.

12 Q: And how was his -- how was he behaving in the evidence
13 room as far as his body language and that sort of thing?

14 A: Aggravated, agitated, couldn't sit still.

15 Q: Okay. So, he was moving around a lot?

16 A: Yes, ma'am.

17 Q: Okay. All right. I have no further questions.

18 Answer any questions that Mr. Edgeworth may have for you.

19 THE COURT: Cross examination?

20 MR. EDGEWORTH: Briefly, Your Honor.

21 CROSS EXAMINATION OF NOEL SMITH BY MR. EDGEWORTH:

22 Q: Officer Smith, as part of your duties in the
23 investigation, your primary function is to just collect what
24 you perceive to be evidence; is that correct?

25 A: Yes, sir.

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1 Q: And you don't attempt to interpret or draw conclusions or
2 anything about what you find; is that correct?

3 A: We can't do that, no, sir.

4 Q: Right. And have you been in -- you've been an
5 investigator, have you interviewed individuals who are under
6 arrest?

7 A: Yes, sir.

8 Q: Okay. Is it normal that they might be aggravated and
9 frustrated with that situation?

10 A: Sometimes.

11 Q: No further questions, Your Honor.

12 THE COURT: Any redirect?

13 MS. RICHARDSON: No, Your Honor.

14 THE COURT: All right, sir. You may step down. Do you
15 wish the witness to be excused?

16 MS. RICHARDSON: Yes, Your Honor.

17 THE COURT: Any objection?

18 MR. EDGEWORTH: No objection, Your Honor.

19 THE COURT: All right, sir. You are released from your
20 subpoena, you may go back to your regular duties.

21 Next witness, please, ma'am?

22 MS. RICHARDSON: The state calls Johnell Sparkman.

23 JOHNELL SPARKMAN, HAVING BEEN DULY

24 SWORN TESTIFIES AS FOLLOWS:

25 CLERK: Thank you. Please have a seat.

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1 DIRECT EXAMINATION OF JOHNNELL SPARKMAN BY MS. RICHARDSON:

2 Q: Again, Officer Sparkman, where are you employed?

3 A: Georgetown City Police Department.

4 Q: Okay. And how long have you been there?

5 A: Approximately 19 years.

6 Q: And is that the extent of your law enforcement career;
7 you've always worked here?

8 A: Yes, I spent one year at the detention center.

9 Q: And what is your position with the police department now?

10 A: I'm currently doing the position as the evidence
11 custodian and training officer.

12 Q: Okay. So, you took over for Mr. Cribb?

13 A: Yes.

14 Q: Okay. And when did you make that transition?

15 A: The transition was finalized around December 2019,
16 correction, 2016.

17 Q: Okay. And before that, what did you do?

18 A: At that -- right before then, I was a field training
19 officer on a patrol shift.

20 Q: Okay. Will you mark this one? All right. I'm gonna
21 show you what's been marked as State's Exhibit Number 32, can
22 you tell me what that is?

23 A: Yes, it's our evidence voucher.

24 Q: And for what case is that voucher for?

25 A: Pertaining to Case Number 16-011839, attempted murder.

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1 Q: Okay. And that's for which defendant?

2 A: Ty'Shun Bessellieu.

3 Q: And is that log and report kept in the normal course of
4 business at the police department?

5 A: Yes.

6 Q: And that's with your position as evidence ---

7 A: Yes.

8 Q: --- your current position as evidence custodian?

9 A: Yes.

10 MS. RICHARDSON: Your Honor, at this time, I'd offer
11 Exhibit Number 32 into evidence.

12 THE COURT: Any objection?

13 MR. EDGEWORTH: No objection, Your Honor.

14 THE COURT: All right, sir. It's into evidence without
15 objection.

16 STATE'S EXHIBIT NUMBER 32

17 ADMITTED INTO EVIDENCE

18 BY MS. RICHARDSON:

19 Q: Okay. And I'm also gonna hand you back Exhibits Number
20 29, 30, and 31, and those are the previously submitted
21 evidence vouchers in this case. All right. I'm gonna show
22 you also what's been marked as State's Exhibit Number 25, can
23 you tell me what that is?

24 A: This is a list of clothing items that we received from
25 the detention center belonging to Mr. Bessellieu.

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1 Q: Okay. And where were those -- who were those items
2 received from?

3 A: It looks like it was received from Investigator Steve
4 Brown with the solicitor's office. He turned over the custody
5 to one of our new currently appointed investigators,
6 Investigator Bryan Burke.

7 Q: Okay. And thereafter, where did it go?

8 A: Bryan Burke, and the items were transferred to me.

9 Q: Okay. And that was in the secured evidence room; is that
10 right?

11 A: Yes.

12 Q: Okay. Any evidence -- any indication they had been
13 tampered with in any way?

14 A: No.

15 Q: Okay. And did you tamper with them in any way?

16 A: No.

17 Q: Okay. And then thereafter, what did you do with them?

18 A: As stated in the previous testimony, once evidence is
19 submitted to the evidence room, we log that evidence in. We
20 keep a ledger in the evidence room where I handwrite
21 everything that's on the evidence voucher. Based on the
22 evidence voucher, we have a document number. It gives you a
23 list of the evidence that's coming in in that calendar year,
24 along -- you have a location number and that's where that
25 number -- that's where that item is placed on the shelf.

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1 Once we do that, we place it there until it's either gonna
2 submitted for further analysis or until the case is disposed
3 of.

4 Q: Okay. And was that item, Number 25, submitted for
5 further analysis?

6 A: Correct.

7 Q: Okay. And where was it submitted?

8 A: It was submitted to the South Carolina Law Enforcement
9 Division. What we do is we pre-log all evidence through their
10 website. So, once we take the actual evidence, they will have
11 a printout of everything that we are submitting. The process
12 now is once we get there, we actually manually put the
13 evidence into a secure locker. It's time stamped on once we
14 get there. Actually, let me back up. Once we get there, we
15 sign in, log in showing the time of arrival, we wait, and we
16 are given access to a secured area where they keep the
17 lockers.

18 Q: Okay. And who took that to SLED, Item 25?

19 A: I did.

20 Q: Okay. You took it there?

21 A: Yes.

22 Q: All right. And did you alter it or do anything to it?

23 A: No.

24 Q: Tamper with it?

25 A: No.

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1 Q: And you placed it in that locker you're talking about at
2 SLED?

3 A: Actually, this -- I believe this particular item, because
4 it was a rush on the item, an actual tech came and got that
5 item from me.

6 Q: Okay. And do you know who that was?

7 A: I don't remember her name.

8 Q: Okay. But you actually turned it over to a person at
9 SLED?

10 A: Yes.

11 Q: Okay. All right. Okay. Now I'll refer you to State's
12 Exhibit Number 29 and that's an evidence voucher for pills,
13 plant material, cell phone, gun, and ammunition. Did you do
14 anything in regard to those items?

15 A: Yes.

16 Q: And what did you do in that regard?

17 A: Okay. On February 23rd, which is the year 2018, I turned
18 over a cell phone, which is Item -- Item Number 3.

19 Q: Okay.

20 A: That item was signed over to Investigator Brown with the
21 solicitor's office. On March 13th, 2018, Items Number 1 and 2
22 were signed over to Investigator Smith. I remember that
23 particular day that he was meeting with the solicitor and
24 investigator to go over evidence. Investigator Smith returned
25 the item the same day.

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1 Q: And again, did you alter or tamper with any of these
2 items while they were in your possession ---

3 A: No, I did not.

4 Q: --- or in the evidence room? All right. And I will now
5 show you what's been marked as State's Exhibit Number 27 and
6 have you refer to voucher 30, State's Exhibit Number 30. And
7 can you tell me what you did with that evidence?

8 A: During September the 12th, 2016, this was during the time
9 I was in the beginning of the transition of me taking over the
10 evidence room, so I accompanied the evidence custodian at the
11 time, Sergeant Blair Cribb. We took the evidence to SLED to
12 be submitted for testing.

13 Q: On which date?

14 A: September the 12th.

15 Q: 2016?

16 A: Correct.

17 Q: Okay. So, you helped him take those other items that
18 went up there?

19 A: Yes.

20 Q: Okay. Did you alter or do anything with regards to
21 those?

22 A: No.

23 Q: And now I'm gonna show you what's been marked as State's
24 Exhibit Number 22 for identification and I want to ask you
25 that on this document, are those your signatures that are next

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1 to your name?

2 A: Yes.

3 Q: Okay. And did you also take Item Number 27 back to SLED
4 in February of this year, if you want to refer to that?

5 A: Yes.

6 Q: Okay. And again, did you use the same procedure where
7 you put it in the evidence locker and all that?

8 A: Yes.

9 Q: Okay. And did you alter it, change it, tamper with it in
10 any way?

11 A: No.

12 Q: I have no further questions. Answer any questions Mr.
13 Edgeworth may have for you?

14 THE COURT: Cross examination?

15 MR. EDGEWORTH: No questions for this witness, Your
16 Honor.

17 THE COURT: All right. Do you wish the witness to be
18 excused?

19 MS. RICHARDSON: I do, Your Honor.

20 THE COURT: Any objection?

21 MR. EDGEWORTH: No objection, Your Honor.

22 THE COURT: All right, sir, you're released from your
23 subpoena, you may go back to your regular duties.

24 Next witness please, ma'am?

25 MS. RICHARDSON: Your Honor, the state calls Jackie

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1 Davis.

2 JACKIE DAVIS, HAVING BEEN DULY SWORN

3 TESTIFIES AS FOLLOWS:

4 CLERK: Thank you. Please have a seat and just pull up
5 the mic towards you.

6 DIRECT EXAMINATION OF JACKIE DAVIS BY MS. RICHARDSON:

7 Q: Ms. Davis, where are you employed?

8 A: South Carolina Law Enforcement Division.

9 Q: Okay. And that's what people commonly refer to as SLED?

10 A: That's correct.

11 Q: Okay. And where is your office with SLED?

12 A: I'm in the forensic building in the bottom.

13 Q: Okay. And that's in Columbia?

14 A: Yes, I'm sorry, yes.

15 Q: Okay. And what is your position there?

16 A: I'm a forensic technician and I log in evidence that the
17 agencies bring to us to be analyzed.

18 Q: And how long have you been doing that?

19 A: Three years.

20 Q: And you were asked to pull or given a copy of the chain
21 of custody for this case, State v. Ty'Shun Bessellieu?

22 A: Yes.

23 Q: Let me show you State's Exhibit Number 22, which is
24 marked for identification. Do you recognize that?

25 A: I do.

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1 Q: And what is that?

2 A: That is our chain of custody that is prepared once all
3 the evidence has been received and returned back to the
4 agencies.

5 Q: Okay. And what procedure do you -- I mean, obviously, we
6 have a bunch of stuff here. What procedure do you use to keep
7 up with that?

8 A: We scan everything in. Everything is electronically
9 monitored. Once we scan it in, it creates a unique bar code
10 for each piece of evidence and once it's scanned, we scan it
11 to a shelf. When the analyst requests it, we scan it to them.
12 So, at all times, every piece of evidence within the building
13 will show where it is.

14 Q: Okay. And do you assign a number for each case?

15 A: Yes.

16 Q: Okay. And that's called the lab number?

17 A: Correct.

18 Q: All right. In this case, what is the lab number?

19 A: It's L16-12824.

20 Q: Okay. And this document, State's Exhibit Number 22, is
21 that kept in the normal course of business at SLED?

22 A: Yes.

23 MS. RICHARDSON: Your Honor, at this time, I'd offer
24 State's 22 into evidence.

25 THE COURT: Any objection?

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1 MR. EDGEWORTH: No objection, Your Honor.

2 THE COURT: All right. It's into evidence without
3 objection.

4 STATE'S EXHIBIT NUMBER 22

5 ADMITTED INTO EVIDENCE

6 BY MS. RICHARDSON:

7 Q: So, in this case, SLED received quite a number of items?

8 A: Yes.

9 Q: Okay. And these were some at different times?

10 A: Yes.

11 Q: Okay. So, explain to me the procedure that you use at
12 SLED to insure the safekeeping and that these items are not
13 tampered with?

14 A: Okay. We had it to where when Blair would come in, we
15 would do it face-to-face. Where now, when Johnell comes in,
16 they put it in a locker. But all evidence is sealed the same
17 way. So, when I'm talking about it, it doesn't matter if
18 they're sitting in front of us or we retrieve it from the
19 locker. But when we retrieve it or it's handed to us with the
20 BEST kit, which is drugs, we undo the envelope and make sure
21 the BEST kit is sealed and it's like he explained prior, it is
22 sealed, nobody can tear that apart but the analyst. Then we
23 put it back in the envelope and it's not sealed; we have to
24 send that upstairs in the envelope. The guns, everything else
25 is sealed and initialed with whoever brings it up. We don't

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1 physically see the evidence. We see the containers it's in.

2 Q: Okay. So, let's start with State's Exhibit Number 12 and
3 can you tell me what that is?

4 A: Yes, this is the BEST kit.

5 Q: Okay. And a BEST kit is for?

6 A: It's where the drugs -- when the officer brings it in,
7 it's already sealed and it comes in an envelope, but we open
8 it to make sure we cannot -- this is sealed as well, but this
9 holds the drugs that they are bringing in to be analyzed.

10 Q: Okay. And is there a bar code on that?

11 A: There is a bar code. We look to make sure this bar code
12 matches their paperwork to make sure the numbers are correct.
13 And then once we log it in, we give it a unique lab number.

14 Q: Okay. And so, for the BEST kit, which is State's Exhibit
15 Number 12, who brought that to SLED?

16 A: Blair, on 9/12/16.

17 Q: Blair Cribb of the Georgetown Police Department?

18 A: Correct.

19 Q: Okay. And who received that item for SLED?

20 A: It was actually Doris Yarbrough, who does the same thing
21 I do.

22 Q: Okay. Is that Smiley?

23 A: No, I'm Smiley.

24 Q: You're Smiley?

25 A: I'm Smiley.

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1 Q: Okay. All right. So, and Doris does the same thing that
2 you do and she's still employed there?

3 A: Yes.

4 Q: Okay. And is it difficult for both of you to be away at
5 the same time?

6 A: Yes.

7 Q: Okay. And y'all cover the entire state; is that right?

8 A: We do.

9 Q: Okay. All right. And once Ms. Yarbrough had it, then
10 what happened to it?

11 A: Once she logged it in and gave it a number, then it goes
12 back to the secure evidence room, where we keep the drugs, and
13 we leave it there until someone requests, an analyst requests
14 to work on it.

15 Q: Okay. And then what happened to it?

16 A: It looks like I was the one -- it stayed there 9/12 until
17 12/16. I had an analyst request it, so I went and pulled it
18 from the secure evidence room. And, we have a window -- no
19 one can walk into the evidence room. It's only the four
20 technicians and actually three of our supervisors; no one else
21 is allowed back there. And when we transfer the evidence,
22 it's a window that you can't crawl through or anything; it's
23 just at the right height to pass stuff through. So, that's
24 when I transferred the drug to the analyst who requested it.

25 Q: Okay. And do you check at that time to make sure it's

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1 intact?

2 A: No. Once we receive it and we make sure it's intact and
3 we put it in the back, we do not mess with it again. The only
4 person who messed with the -- works with it from that point on
5 is the analyst.

6 Q: Okay. But you moved it from that room to the analyst?

7 A: Yes.

8 Q: Okay. And at that time, did you notice if it had been
9 damaged, had it been damaged or tampered with in any way?

10 A: No.

11 Q: And did you damage or tamper with it or mess with it in
12 any way?

13 A: No.

14 Q: Okay. And then you delivered it to the analyst?

15 A: Correct.

16 Q: Okay. All right. And let's move on. All right. I'm
17 gonna show you what has been marked as State's Exhibit Number
18 7. Okay. And I'm gonna go ahead and lay up here 8, 9 -- now
19 I've lost one; it's hiding -- 10 and 11. Okay. All right.
20 And were those items received or can you tell us what those
21 items are?

22 A: They look like they are shell casings.

23 Q: Okay.

24 A: When I received them, they were in an envelope. I never
25 saw them like this.

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1 Q: Okay. And who did you -- who did you receive them from?

2 A: Blair Cribb from Georgetown PD on 9/12/16 at 10:37 in the
3 morning.

4 Q: Okay. And then what did you do with them?

5 A: I then took them, logged them in, gave them the unique
6 lab number, and I transferred them to the firearms evidence
7 intake.

8 Q: And that was for them to be analyzed?

9 A: Yes, that's where we store them until the analyst
10 requests them.

11 Q: Okay. And did you alter, tamper, do anything with them?

12 A: I did not.

13 Q: Okay. Now, let's look at State's Exhibit Number 26. Can
14 you tell me what that is?

15 A: Yes, this is a GSR kit.

16 Q: Okay. And when was that received by SLED?

17 A: This was received on 9/12/16 at 10:37 by Blair Cribb.

18 Q: Okay. And he gave that to who?

19 A: Me.

20 Q: Okay. And then again, what did you do with it?

21 A: I logged it in and we did take these like this because
22 they are already sealed. We also put our SLED tape on it and
23 we have them initial and date it, we log it in, give it a
24 unique lab number, and then it is transferred to the GSR
25 holding. Every department has its own holding -- like drugs

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1 and guns, they are triple locked, so they go in their own
2 department. GSR goes in its own department, et cetera.

3 Q: Okay. And did you alter or tamper with it in any way?

4 A: I did not.

5 Q: Okay. And inside that envelope are additional
6 containers?

7 A: Honestly, I have no idea. I've never looked inside of
8 one.

9 Q: All right. But you -- you didn't even open it?

10 A: Nope.

11 Q: Okay. All right. All right. I'll refer to Page 8 of
12 your -- of State's Exhibit Number 22?

13 A: Okay.

14 Q: And let me show you State's Exhibit Number 14 and tell me
15 about that?

16 A: When I received this ---

17 Q: And that's the firearm?

18 A: I don't know what was in it.

19 Q: Okay.

20 A: When we received it, it's closed and sealed. So, I have
21 no idea. When they bring it to me, I ask if it is unloaded.
22 I don't know what's in there. We take it on a said-to-contain
23 basis and what they -- nine times out of -- they always know
24 what's in here. They know if it's unloaded because they've
25 had to seal it up, but they will mark on the outside what it

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1 is and I double-check this against their paperwork that
2 they're submitting and make sure it's sealed and signed and we
3 go ahead and log them in.

4 Q: Okay.

5 A: But, no, I have never seen the gun. I don't -- I don't
6 know what's in there.

7 Q: Okay. And where -- and who did you receive this from and
8 when?

9 A: I received this on 9/12/16 at 10:37 from Blair Cribb of
10 Georgetown PD.

11 Q: Okay. And could you tell if that also contained
12 ammunition as well?

13 A: Only if I shook it. You can hear it rattling sometimes.
14 I do not know -- this says 11 rounds, but like I said, we take
15 it on a said-to-contain. I'm not the analyst and I don't want
16 to touch it and contaminate it, so when it gets upstairs and
17 the analyst opens it, they're the ones who have to confirm
18 what is said is in there as to what is actually in there.

19 Q: Okay. And again, it's sealed with evidence tape and
20 initialed?

21 A: Yes.

22 Q: And did you alter or tamper, didn't even open that box;
23 is that right?

24 A: No, I did not.

25 Q: All right. And now let's refer to Page 9 of your report

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1 or of the State's Exhibit Number 22, and let me show you
2 State's Exhibit 27. All right. Tell me about that?

3 A: This is -- let me make sure I'm looking at the right one
4 -- GSR kit and I received this on 2/28/18 at 10:28 in the
5 morning from Johnell Sparkman of Georgetown PD. He actually
6 put it in the evidence locker. So, I retrieved this from the
7 locker.

8 Q: Okay. And it was sealed when you retrieved it?

9 A: Yes.

10 Q: Okay. And again, did you alter it or tamper with it in
11 any way?

12 A: I did not.

13 Q: Okay. And then what did you do with the item?

14 A: I logged it in, made sure everything was sealed the way
15 it should've been and signed, and then logged it in, gave it
16 its unique lab number, and put it back in the evidence room.

17 Q: Okay. Let me show you State's Exhibit Number 25 and
18 refer you to Page 11 -- Page 11. All right. Tell us about
19 this.

20 A: Okay. This came to me in a box already sealed and as you
21 can see, we have them write on it; if not, we call them and
22 they have to come back. We're not mind readers. We have to
23 know what's in here before we can log it in. I said we take
24 it on a said-to-contain and we do, but if you give me a box
25 with nothing written on it and there's 15 boxes, I can't send

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1 it to 15 different departments to be opened. So, in that
2 case, they will have to come back and open it and tell me
3 what's in it. But he wrote on here items, the number that
4 corresponds to the paperwork he gave me, and the lab number,
5 so I could confirm this is what matched his paperwork.

6 Q: Okay. And this item was said to contain what?

7 A: Clothing described as denim shorts belonging to
8 Bessellieu.

9 Q: Okay. All right. And were there any other items listed
10 on Page 13?

11 A: Yes. It said it also contained a white T-shirt.

12 Q: Okay. And again, that box was sealed?

13 A: Correct.

14 Q: And did you alter or tamper with any of this evidence?

15 A: I did not.

16 Q: And then what did you do with it?

17 A: I logged it in, gave it its number, and put it on the
18 shelf for the analyst to come get it.

19 Q: Okay. I have no further questions. Please answer any
20 questions Mr. Edgeworth may have for you?

21 THE COURT: Cross examination?

22 MR. EDGEWORTH: No questions for this witness, Your
23 Honor.

24 THE COURT: All right. Do you wish the witness to be
25 excused?

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1 MS. RICHARDSON: I do, Your Honor.

2 THE COURT: Any objection?

3 MR. EDGEWORTH: No objection, Your Honor.

4 THE COURT: All right. So, you're released from your
5 subpoena, ma'am, to go back to SLED.

6 MS. DAVIS: Thank you.

7 THE COURT: Thank you, ma'am.

8 Next witness, ma'am?

9 MS. RICHARDSON: The state calls Jennifer Nates.

10 THE COURT: Okay.

11 JENNIFER NATES, HAVING BEEN DULY

12 SWORN TESTIFIES AS FOLLOWS:

13 CLERK: Thank you. Please have a seat.

14 COURT REPORTER: State your name please and spell your
15 last..

16 MS. NATES: Jennifer Nates, N-A-T-E-S.

17 THE COURT: Go ahead, Solicitor.

18 DIRECT EXAMINATION OF JENNIFER NATES BY MS. RICHARDSON:

19 Q: And can you tell us where you're employed?

20 A: I'm employed by the South Carolina Law Enforcement
21 Division in the Trace Evidence Section.

22 Q: Okay. And how long have you been with SLED?

23 A: Twenty-one years.

24 Q: And could you tell us basically what your education and
25 training in this field are?

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1 A: I have a Bachelor of Science degree in chemistry that I
2 obtained in 1997 from a small state school in Pennsylvania,
3 called California University of Pennsylvania. Once I
4 graduated, I performed an internship at SLED, and then I was
5 hired in the drug analysis department, where I began the
6 training. I completed the drug training program in addition
7 to the police academy and worked in the drug section for
8 approximately one year.

9 After the completion of that year, I transferred to trace
10 evidence and began training under the supervisor and the other
11 senior analyst in that department. It's much like an
12 apprenticeship program, for what you learn with trace
13 evidence. It includes explosives, fire debris, paint,
14 physical fit, I'm trying to think, tape, gunshot residue,
15 poisons, and trace other cases. We do a wide variety of
16 cases. So, I did in-house training with the senior analyst
17 and the lieutenant. It also included classes outside of SLED
18 that dealt with the instrumentation and the types of analysis
19 that I performed. In each section that I would perform
20 analysis, I had to perform a competency test before I could
21 perform those analyses. Once I completed that, I would accept
22 cases in that area and continue the training.

23 Q: Okay. And have you any ongoing training?

24 A: I have.

25 Q: Okay. And in the field of GSR or ---

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1 A: In the field of GSR and the instrumentation used. A lot
2 of them were conferences and different meetings that dealt
3 with trace evidence.

4 Q: Okay. And how many -- how many samples do you think
5 you've analyzed for gunshot residue?

6 A: For -- gunshot residue is the first type of exam that you
7 train for in trace, so I have been analyzing GSR since 1998.
8 So, in excess of a thousand samples at least.

9 Q: Okay. And have you testified in court previously in this
10 state?

11 A: I have.

12 Q: Okay. About how many times have you testified?

13 A: A hundred and twenty-one.

14 Q: And you were qualified as an expert in those areas?

15 A: It was in different areas of trace; approximately 93 of
16 them were in gunshot residue analysis.

17 Q: Okay. And that would be in General Sessions Court?

18 A: General Sessions, federal, magistrate level, and yes.

19 MS. RICHARDSON: Your Honor, at this time, I'd offer Ms.
20 Nates as an expert in the field of trace evidence and gunshot
21 residue.

22 THE COURT: All right. Do you wish to voir dire the
23 witness or challenge her qualifications?

24 MR. EDGEWORTH: No, Your Honor.

25 THE COURT: All right. She's qualified to give her

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1 opinion in the field of trace evidence analysis.

2 BY MS. RICHARDSON:

3 Q: All right. You analyzed a number of items in this case;
4 is that right?

5 A: I did.

6 Q: Okay. I'm gonna show you what's been marked as State's
7 Exhibit -- I'll start with this one -- 25. Can you tell me
8 what that is?

9 A: This is a box that is labeled as Container B for this
10 case. Every case that is submitted to SLED is given a unique,
11 what we call a laboratory number, an L number. In this case
12 it was L16-12824. This was Container B. If evidence is in a
13 container, that means it contains more than one item of
14 evidence. If it's a single item, it's just given an item
15 number as its container. In this case, this is Container B
16 that contained the clothing from which the GSR samples were
17 collected.

18 Q: Okay. And how did you receive those items?

19 A: How did I receive them?

20 Q: Yes?

21 A: These items were brought through our processing
22 department, which is in-house in the trace section. We have a
23 processing section and we have people in trace that do
24 processing. It came into trace from the log-in section. The
25 samples were -- the GSR samples were collected from this

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1 clothing and the clothing was returned.

2 Q: Okay. And who collected those samples?

3 A: These samples were collected by Isla Simmons, who is one
4 of the analysts in the section.

5 Q: Okay. And let me show you what's been marked as State's
6 Exhibit Number 28 for identification. Can you tell me what
7 that is?

8 A: This is Container D from the case L16-12824. Usually
9 when I take evidence into my custody, I put the date and my
10 initials on when I received it, and then in this case, it also
11 has the date and initials on when I sealed it. But this --
12 these are the particle lifts that were collected from Item 12,
13 a clothing blank, and the particle list collected from Item
14 10.

15 Q: Okay. And what was Item 10?

16 A: Item 10 was a white T-shirt, and Item 12 -- I'm sorry,
17 Item 12 was a white T-shirt. Item 10 was a pair of denim
18 shorts.

19 Q: Okay. And when you received those samples, had they been
20 altered or tampered with in any way?

21 A: No, they were sealed by Isla after she collected them,
22 and she placed them in a heat-sealed pouch and sealed them for
23 me to analyze.

24 Q: Okay. All right. I'm also gonna show you what's been
25 marked as State's 26 and 27.

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1 A: State's 26 is our Item Number 3, which is a GSR kit from
2 Ty'Shun -- I do not know how to pronounce the last name, I'm
3 sorry -- Bessellieu. And State's Exhibit 27 is our Item
4 Number 9, which was a GSR kit that was collected from a
5 vehicle.

6 Q: Okay. And let's talk about Number 9 first, when did you
7 receive Item Number 9, which is State's 27; tell me about
8 receiving that.

9 A: I received that on March 5th, 2018.

10 Q: And who did you receive that from?

11 A: I received that from Isla Simmons in the laboratory.

12 Q: Okay. And again, it had the same protections?

13 A: Yes, it has her seal on it on when she processed the kit.
14 What they have to do is open the kit, make certain that the
15 information sheet inside the kit matches what was submitted as
16 the item of evidence, determine whether it was taken from an
17 inanimate object or a person, check the timeframe when it was
18 taken, and make sure the particle lifts are suitable for
19 analysis.

20 Q: Okay. And State's Exhibit Number 26?

21 A: Which is the GSR kit, Item Number 3.

22 Q: Okay. And that is the ones collected from his hands; is
23 that right?

24 A: It is.

25 Q: Okay. And when did you receive those?

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- 1 A: I received this one on March 10th, 2017.
- 2 Q: And who did you receive it from?
- 3 A: I believe that one I received from the log-in section.
- 4 Q: And that would be from either Ms. Nates or Ms. Yarbrough?
- 5 A: I'm Ms. Nates; so, Ms. Yarbrough.
- 6 Q: I mean, I'm sorry, Ms. Davis or Ms. Yarbrough?
- 7 A: Yes.
- 8 Q: Okay. And does that have the same protections as the
- 9 other items?
- 10 A: It does. In this case, when I receive it, it has a, they
- 11 use the evidence tape that's included in the GSR kit, they
- 12 will seal the kit. I make certain it's sealed and initialed
- 13 and received for the analysis.
- 14 Q: Okay. And had any of these items that you received for
- 15 analysis been tampered with?
- 16 A: No, they had not.
- 17 Q: Okay. All right. Now, if you wouldn't mind, please
- 18 explain to the jury how you test for gunshot residue.
- 19 A: The current test that we utilize for gunshot residue
- 20 involves an instrument called a scanning electron microscope.
- 21 We call it an SEM as an acronym. This is a high-powered
- 22 microscope that does an automated scan of a sample. A gunshot
- 23 residue kit consists of what we call a carbon planchet that
- 24 has a very light adhesive on it; something like a Band-Aid
- 25 adhesive. The officer or the coroner or whoever is collecting

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1 the kit, will dab it over a person's hands to collect any dirt
2 or debris or gunshot residue that is present on their hands.
3 We look at the particle lift. What we do, we call a setup for
4 the instrument, we assign it to a certain location in the
5 sample compartment and then set the parameters on the
6 instrument and it will do a scan, which it scans the particle
7 lift. Any particles of interest, it takes an x-ray of it, so
8 that then we can tell you what that particle was made of. So,
9 the x-ray portion will tell you what elements are present in
10 the particle. Once the instrument is set up and runs its
11 automation, the analyst has to go back and verify what the
12 instrument called or categorized as gunshot residue.

13 Q: Okay. And how is gunshot residue deposited on our hands?

14 A: When a firearm is discharged, any of the dirt or debris
15 that comes out of the weapon as an account of that firing,
16 will deposit on anything in the vicinity to that weapon. It
17 can deposit on your hands, on your clothing, on a table,
18 anything that's in the vicinity of that discharge, the gunshot
19 residue can deposit on.

20 Q: And how long does it stay on an item?

21 A: Gunshot residue usually only stays on a living person's
22 hands for up to six hours after the discharge of the firearm.
23 The reason for this is it's very fragile. Anything you do
24 after it's deposited can remove it. You can wash your hands
25 and remove it, you can sweat, rub your hands on anything, put

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1 your hands in and out of your pockets, anything you touch can
2 remove it. So, usually after four to six hours, we don't see
3 any gunshot residue on a person's hands once they've fired a
4 weapon.

5 On a deceased individual, it will stay until it's
6 physically removed by outside force. That is the same for an
7 inanimate object. If a gunshot residue kit is collected from
8 a vehicle or clothing, that gunshot residue, once it's
9 deposited, will stay on that item until it's physically
10 removed.

11 Q: And ways that it could be physically removed, what are
12 they?

13 A: From a vehicle, a lot of cases we'll get gear shifts,
14 steering wheels, door handles. The more you touch it, the
15 more it will be removed. In the sense of clothing, the more
16 you wear it, it can wear off or if you wash the clothing, you
17 can remove it.

18 Q: Okay. And when you -- when you find it on something like
19 a steering wheel, is that usually deposited from the weapon
20 itself?

21 A: It depends on what the officer in the case is looking
22 for. Usually, if a gun is discharged from within a vehicle
23 and samples are collected -- if you discharge a weapon from
24 within a vehicle, you expect to find gunshot residue
25 everywhere in that vehicle. If a gun has not been discharged

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1 within the vehicle, usually the officers are looking for what
2 we call secondary transfer. Someone has fired a weapon, then
3 gotten into a vehicle and driven away. So, whatever their
4 hands touch, potentially can have GSR transfer on it. So, if
5 we have a case where they collect from the door handles,
6 steering wheel, gear shift, they're looking for secondary
7 transfer as opposed to proving a weapon was discharged within
8 that vehicle.

9 Q: And what other factors -- are there other factors that
10 can affect whether or not it's deposited on inanimate objects
11 like weather or that sort of thing?

12 A: Rain, wind, anything outside can affect it. Intervening
13 objects can affect the deposition of gunshot residue. The
14 bullet passes through something else prior to hitting a
15 target, all the gunshot residue will be on the first object it
16 encounters.

17 Q: Okay. And what about clothing that's wet or rained on?

18 A: That can also remove the gunshot residue.

19 Q: Okay. And what about just simply rubbing and that sort
20 of thing?

21 A: Anything you do to remove it is very fragile. You can
22 touch it, brush it off, shake your clothes after you take them
23 off, that can remove it. So, any contact with that clothing
24 or any action that's performed on that clothing or object can
25 remove it.

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1 Q: Okay. All right. Let me show you what has been marked
2 as State's Exhibits for identification 23 and 24, and do you
3 recognize those?

4 A: State's Exhibit 23 is the original report I issued on
5 this case on March 20th, 2017.

6 Q: Okay.

7 A: And State's Exhibit 24 is the supplemental report that I
8 issued on this case on March 9th of 2018.

9 Q: Okay. And this is an accurate reflection of your report
10 and findings?

11 A: Yes, this is a copy of it.

12 Q: Okay. And you keep those obviously in the normal course
13 of business at SLED as well?

14 A: Yes.

15 Q: Okay. So, tell me, the first report that you issued
16 dated March 20th, 2017, State's Exhibit 23, what had -- what
17 did you examine in that case?

18 A: State's Exhibit 23?

19 Q: The report ---

20 A: I'm sorry.

21 Q: --- is marked State's Exhibit Number 23.

22 A: On State's Exhibit 23, that was the analysis that I
23 performed on the GSR kit from Ty'Shun Bessellieu.

24 Q: Okay. And that was the one from his person or from his
25 hands?

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- 1 A: That was from his hands.
- 2 Q: Okay. And that's State's Exhibit 26; is that right?
- 3 A: Yes.
- 4 Q: Okay. All right. And what were your findings in that
5 regard?
- 6 A: On the GSR kit collected from Ty'Shun Bessellieu, I found
7 one particle of gunshot residue on the right hand.
- 8 Q: Okay. And then State's Exhibit Number 24, dated March
9 9th, 2018.
- 10 A: Yes.
- 11 Q: Okay. And what was that an examination of?
- 12 A: This included several items of evidence. It included
13 Item 9, which was the GSR kit submitted as the GSR transfer by
14 subject Bessellieu into car driven by subject. It included
15 the particle lifts that were collected from the vehicle, the
16 particle lifts collected from the denim shorts, and the
17 particle lifts collected from the white T-shirt.
- 18 Q: Okay.
- 19 A: It also had several other items of evidence from which I
20 did not perform an analysis.
- 21 Q: Okay. And the GSR kits from the car, are those State's
22 Exhibit Number 27?
- 23 A: They are.
- 24 Q: Okay. And what was the finding in reference to the car?
- 25 A: The GSR kit from the car had several particle lifts

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1 submitted they took different samples from the vehicle. One
2 was taken from the outside driver's door. On this sample, I
3 did not find any particles of gunshot powder residue. On the
4 sample labeled rear door, I did not find any particles of
5 gunshot residue. And, on the particle lift labeled steering
6 wheel, I found one particle characteristic of gunshot primer
7 residue. On the particle lift labeled inside door, I did not
8 find any particles of gunshot residue.

9 Q: And then Items 10 and 11 and 12, the clothing?

10 A: Yes.

11 Q: Is that State's Exhibits 25 and 28?

12 A: 28 are the particle lifts from those items, and 25 is the
13 actual clothing they were collected from.

14 Q: Okay. And that's the results from those?

15 A: Yes.

16 Q: Okay. And what were your findings in that regard?

17 A: For the pair of denim shorts, there were two particle
18 lifts collected from the denim shorts. Particle lifts from
19 pants or shorts are usually collected in the thigh/groin area
20 because that is the most common area you would expect gunshot
21 residue to be deposited if a person is in the vicinity to the
22 discharge of a firearm or hand fires the firearm.

23 In this case, the particle lifts from the denim shorts, I
24 found multiple particles characteristic of gunshot primer
25 residue.

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1 Q: Okay. And would that be on both legs?

2 A: It was found on both legs.

3 Q: Okay. And then did you find any gunshot residue on the
4 belt or the T-shirt?

5 A: I did not analyze the belt.

6 Q: Okay.

7 A: There was no analysis performed on the belt. On the T-
8 shirt, I did not find any gunshot primer residue.

9 MS. RICHARDSON: Your Honor, at this time, the state
10 would offer Exhibit 26, the GSR Kit from the person of Mr.
11 Bessellieu into evidence; Number 27, the GSR kit from the
12 vehicle; Number 28, the GSR particle lifts from the clothing;
13 Number 25, the clothing, I believe those are already in
14 evidence; and then the reports, which are 23 and 24?

15 THE COURT: All right. Regarding whether or not it's --
16 just go State's 25, 26, 27, 28, those items, is there any
17 objection to those coming in?

18 MR. EDGEWORTH: No objection, Your Honor.

19 THE COURT: All right. Those are into evidence without
20 objection.

21 STATE'S EXHIBITS NUMBER 25, 26, 27 AND 28

22 ADMITTED INTO EVIDENCE

23 THE COURT: As to the reports, 23 and 24, any objection
24 to that?

25 MR. EDGEWORTH: No objection, Your Honor.

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1 THE COURT: All right. They're in evidence without
2 objection.

3 STATE'S EXHIBITS NUMBERS 23 AND 24

4 ADMITTED INTO EVIDENCE

5 BY MS. RICHARDSON:

6 Q: I have no further questions. Please answer any questions
7 that Mr. Edgeworth may have for you?

8 THE COURT: Cross examination?

9 MR. EDGEWORTH: No questions for this witness, Your
10 Honor.

11 THE COURT: All right. Do you wish the witness to be
12 excused?

13 MS. RICHARDSON: Yes, Your Honor.

14 THE COURT: Any objection?

15 MR. EDGEWORTH: No objection, Your Honor.

16 THE COURT: All right, ma'am, you are released from your
17 subpoena, you may go back to your duties at SLED.

18 MS. NATES: Thank you.

19 THE COURT: All right, Solicitor, come and talk to me
20 please.

21 (REPORTER'S NOTE: Bench conference is held off the record in
22 the presence of but outside the hearing of the jury.)

23 BY THE COURT:

24 THE COURT: All right. Ladies and gentlemen, we are
25 going to stop for the evening. We'll reconvene tomorrow

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1 morning. We'll come back such that we'll start again tomorrow
2 at 9:30, resume the testimony at that point in time. Again, I
3 remind you, if you go home see husband, wife, boyfriend,
4 girlfriend, person down the street, you can't talk to them
5 about the case. You shouldn't be talking about it yourselves
6 until I give it to you at the very end. Again, remember
7 you're not researchers, you're not investigators, you can't
8 look up anything. As I told you at the very beginning, you're
9 deciding this case from the evidence presented in the
10 courtroom. That's what you decide the case on, the evidence
11 presented in the courtroom. You can't use anything else. So,
12 with that, I'll see you back tomorrow morning.

13 Thank you very much.

14 (REPORTER'S NOTE: Jury exits courtroom.)

15 THE COURT: All right, Solicitor, is there anything from
16 the state before we break for the evening?

17 MS. RICHARDSON: No, Your Honor, unless you want to talk
18 about scheduling for tomorrow.

19 THE COURT: Okay. Anything out of the ordinary you need
20 to tell me?

21 MS. RICHARDSON: No, Your Honor. we anticipate finishing
22 up in the morning.

23 THE COURT: Okay. All right.

24 MS. RICHARDSON: Of course, it will depend on Mr.
25 Edgeworth's, you know, what he decides to do, but we would

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1 like hopefully to be able to close and charge tomorrow
2 afternoon.

3 THE COURT: Okay. All right. So, I guess you're on
4 notice, Mr. Edgeworth, as to how the state expects to finish
5 in the morning so that you're prepared for that.

6 MR. EDGEWORTH: Yes, Your Honor.

7 THE COURT: Anything else that we need to discuss at this
8 time?

9 MR. EDGEWORTH: No, Your Honor.

10 THE COURT: All right. Very good. I'll see y'all
11 tomorrow morning so that we can start the trial again tomorrow
12 at 9:30, please. So, please be here before that.

13 Thank you very much.

14 MS. RICHARDSON: Thank you, Your Honor.

15 **END OF DAY TWO.**

16 **(RECESS.)**

17 *******OFF THE RECORD*******

18 **(On the Record.)**

19 **MARCH 21, 2018 - DAY THREE**

20 THE COURT: All right. Yes, Solicitor?

21 MS. RICHARDSON: Your Honor, just a couple of things that
22 we need to address before the jury comes in. The court
23 reporter informed me that one of the exhibits, State's Exhibit
24 Number 2, which was labeled first response photos, it was a
25 CD, may not have been entered into evidence. The foundation

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1 about that was established with Danasha Anderson and with John
2 Gregory. At this time, the state would move to have State's
3 Exhibit Number 2 admitted into evidence.

4 THE COURT: All right. Any objection to that?

5 MR. EDGEWORTH: No, Your Honor. In fact, in my notes, I
6 thought it had it had been entered as well through Mr.
7 Gregory.

8 THE COURT: All right. That's what my notes reflect 2
9 through -- I actually had it through, State's 2, I had it in
10 evidence without objection through -- what is State's 2; tell
11 me what State's 2 is.

12 MS. RICHARDSON: A CD of photos, I believe it's labeled
13 first response.

14 THE COURT: I had it through Danasha or Danasha Anderson,
15 State's 1, 2, 3, and 4 were introduced into evidence without
16 objection through her. So, anyway, whatever. It's in
17 evidence. State's 2 is in evidence without objection.

18 MS. RICHARDSON: Thank you, Your Honor.

19 Also, we have pre-marked some additional exhibits
20 including State's Exhibit Number 34, which is a firearms
21 department report from SLED. This proposed exhibit has been
22 redacted. The original document did have mention of
23 comparison to a second case.

24 THE COURT: Okay.

25 MS. RICHARDSON: And a match with a second case. Mr.

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1 Edgeworth and I have agreed to those redactions. He has
2 reviewed the proposed exhibit and obviously has a copy of both
3 of those and it's my understanding that he is in agreement
4 with the redactions.

5 THE COURT: All right. So, State's 34 again is the ---

6 MS. RICHARDSON: It's the -- basically the ballistics
7 report, but it was -- the gun is compared to another case as
8 well.

9 THE COURT: Okay.

10 MS. RICHARDSON: So, we -- another shooting, so we've
11 removed any reference to that.

12 THE COURT: All right. Very good. You -- is that the
13 agreement with the defense?

14 MR. EDGEWORTH: Yes, Your Honor, the portion that I
15 requested is completely removed.

16 THE COURT: All right. Very good. And so, with that, is
17 there any problem with or are you waiting for the person to
18 testify before you introduce 34?

19 MS. RICHARDSON: Yes, Your Honor, I was waiting for ---

20 THE COURT: All right. Very good.

21 MS. RICHARDSON: --- the person to testify and if the
22 Court would like for me to mark the unredacted copy, I can do
23 that as well?

24 THE COURT: I see no necessity for that unless -- unless
25 you want us to do that, Mr. Edgeworth?

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1 MR. EDGEWORTH: No, Your Honor, I do not.

2 THE COURT: All right. Very good. All right. Any other
3 matters?

4 MS. RICHARDSON: No, Your Honor.

5 THE COURT: All right. You ready for the jury to come
6 in?

7 MR. EDGEWORTH: Yes, Your Honor.

8 THE COURT: All right. Ask the jury to come in, please.

9 (REPORTER'S NOTE: Jury enters courtroom.)

10 THE COURT: All right, Solicitor, you ready with your
11 next witness, please?

12 MS. RICHARDSON: Yes, Your Honor.

13 THE COURT: All right.

14 MS. RICHARDSON: The state calls Dr. Stover.

15 THE COURT: All right. Please come around to be sworn,
16 sir. Come around right over here.

17 JOHN MATTHEWS STOVER, JR. HAVING BEEN
18 DULY SWORN TESTIFIES AS FOLLOWS:

19 CLERK: Okay. Would you please state and spell your full
20 name for the court reporter?

21 DR. STOVER: John Matthews Stover, Jr.

22 CLERK: Just spell the last name for us?

23 DR. STOVER: S-T-O-V-E-R.

24 CLERK: Thank you. Please have a seat and pull the mic
25 up to you. Thank you.

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1 THE COURT: Go ahead, Solicitor.

2 DIRECT EXAMINATION OF JOHN MATTHEWS STOVER, JR. BY MS.

3 RICHARDSON:

4 Q: Dr. Stover, where are you employed?

5 A: At Tidelands Georgetown Memorial and Waccamaw Hospitals.

6 Q: And in fact, you worked last night?

7 A: I did.

8 Q: And came straight here?

9 A: I did.

10 Q: And how long have you worked there?

11 A: I've been there for 17 years; this is my 17th year.

12 Q: Okay. And could you just tell us briefly your education?

13 A: Undergraduate education was Washington Lee University in

14 Virginia. I went to medical school at the Medical University

15 of South Carolina in Charleston and my residency training was

16 at the University of Florida in Jacksonville.

17 Q: And besides your time at Tideland, what other hospitals
18 have you worked at?

19 A: Since I've gotten out of residency, only those two. I
20 did do some moonlighting in Georgia when I was in residency,
21 but as of 2001 until now, I've been working at only Tidelands.

22 Q: And this is the first time that you've testified?

23 A: It is, correct.

24 MS. RICHARDSON: Your Honor, at this time, we'd ask that
25 he be qualified as an expert witness based on his education

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JOHN MATTHEWS STOVER - DIRECT BY RICHARDSON

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1 and experience in the field of emergency medicine?

2 THE COURT: Do you wish to voir dire the witness or
3 challenge his qualifications?

4 MR. EDGEWORTH: Your Honor, I'd like to ask some
5 questions to make sure we're ---

6 THE COURT: Certainly, you may do so.

7 VOIR DIRE EXAMINATION OF JOHN MATTHEWS STOVER, JR. BY MR.

8 EDGEWORTH:

9 Q: Dr. Stover, in regards to emergency medicine, what
10 specifically do you do for that purpose?

11 A: Well, my residency training is in emergency medicine.
12 I'm board certified as an emergency physician. As an
13 emergency physician, we staff the emergency departments of
14 both Georgetown and Waccamaw Hospitals.

15 Q: Okay.

16 A: Yeah, so we're involved in a variety of -- take care of a
17 variety of things from trauma to cardiac patients to general
18 medical patients.

19 Q: And with those duties, is it your function just to treat
20 the injury that's presented before you?

21 A: Correct.

22 Q: Okay. And, and you identify what?

23 A: I'm sorry?

24 Q: You identify the injury?

25 A: Correct. We identify the injury. Again, if it's

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1 something that we can care for in our emergency department,
2 then we take care of it. If it's something that needs to be
3 transferred specifically to a trauma center, we do that. But
4 you know, if it's a cardiac patient, we'll address that, but
5 again, if it's an injury that we can care for in our emergency
6 department, we'll take care of it.

7 Q: Okay. But it's not your duty -- and let me rephrase
8 that. Is it fair to say it's not your duty or your job
9 function to make any conclusions about what the cause of an
10 injury was or what could have happened as the result of an
11 injury?

12 A: That's fair to say.

13 Q: Okay. No further questions, Your Honor.

14 THE COURT: Anything else?

15 MS. RICHARDSON: No, Your Honor.

16 THE COURT: All right. Regarding the testimony of Dr.
17 Stover, I'll qualify him to give his opinion in the field of
18 emergency medicine.

19 You may proceed.

20 DIRECT EXAMINATION OF JOHN MATTHEWS STOVER, JR. BY MS.

21 RICHARDSON:

22 Q: Dr. Stover, have you had an opportunity to review medical
23 records regarding Danasha Anderson being treated at Georgetown
24 Hospital on August 31st of 2016?

25 A: I have.

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1 Q: Okay. And do you recall that case?

2 A: I do.

3 Q: Okay. And can you explain to us why that case stands out
4 to you?

5 A: It does. I remember it. We got a call from EMS that
6 there was a gunshot wound to the face area and I questioned it
7 initially because typically in those cases, they go directly
8 to a trauma center, neither Georgetown nor Waccamaw are
9 designated trauma centers. They said that she was stable,
10 that she was breathing fine, that her vital signs were stable,
11 and they felt that we could take care of her there, and so she
12 was -- she was brought to me. When she arrived, she was awake
13 and alert. She had wounds to, to her face that ultimately
14 were determined not to be life threatening, but very well
15 could've been. You know, had -- and just to go back,
16 essentially describing the wounds, she had two wounds to her
17 jaw. She had what appeared to be an entrance wound to the
18 left mandibular area, which is the jaw here, and an exit wound
19 to the chin. She was breathing fine, she was speaking fine.
20 We got a CAT scan of the area that essentially showed some
21 metallic fragments, what appeared to be bullet fragments
22 around the jaw, but there were no injuries to the airway, no
23 vascular injuries, and so the reason it stands out is she was
24 an incredibly lucky or blessed young lady. I mean, I think
25 had the injury been a few centimeters or an inch or so ---

1 MR. EDGEWORTH: Objection, Your Honor. Exceeding the
2 scope of the testimony or the qualification.

3 THE COURT: I'm gone allow it, sir. You may proceed.

4 A: Again, had the injury been a couple of centimeters or a
5 couple of inches away from where it occurred, she might not
6 have made it to the hospital, frankly.

7 BY MS. RICHARDSON:

8 Q: And I'm gonna show you some photos that have previously
9 been marked as State's Exhibit Number 3. Okay. All right.
10 So, the injury to her chin, can you explain to us what that is
11 and how you treated that that's visible in this photo? You
12 can look over to the left ---

13 A: Yeah, so you can only see one of them well here. But,
14 essentially, she had the injury that you see to the front of
15 the chin. It was slightly to the right of the anterior or the
16 front of the chin. The second injury was to the left chin,
17 sort of the lateral mandible area. You know, it appeared to
18 me that one was an entrance wound; one that's not as visible
19 on the -- the lateral jaw and one to the anterior chin was an
20 exit wound. That's a little bit better view there.

21 Q: Okay. So, the one on the side?

22 A: Correct, yeah, was -- yeah, it was a little smaller. The
23 one on the chin is what we call sort of stellate or star-
24 shaped; it was bigger. But she had some soft tissue swelling
25 there to her jaw. So, as far as evaluating it, we look at her

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1 airway, we make sure her trachea is okay. We listen to her,
2 we make sure she's speaking okay, then make sure she's
3 breathing okay and her vital signs are fine. Those were all
4 fine.

5 We got a CAT scan of her face and neck and the CAT scan,
6 again is to look and make sure there's no injuries to the
7 trachea or injuries to the major vessels of the neck or
8 anything of that sort. That was all okay and it showed some
9 metallic fragments, bullet fragments within the soft tissue
10 there, but again, no vascular injury. So, at that point, we
11 -- we numbed her up, we irrigated the wounds, and I closed
12 them with sutures. I basically stitched them closed. We gave
13 her a dose of IV antibiotics and then we -- we wrote for some
14 antibiotics to go home on. I spoke with the ear, nose, and
15 throat physician that was on call and made some arrangements
16 to have her follow up. We observed her in the ER. Again, she
17 remained well appearing. She continued to breathe without any
18 difficulty, the swelling was sort of focal to the chin and,
19 ultimately, we discharged her.

20 Q: Okay. And as far as the metal fragments that were in her
21 face, were those removed?

22 A: They were not.

23 Q: And do you recall what time she was seen?

24 A: It was a little before 4:00 A.M., 3:45, I think sometime
25 around.

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1 Q: And looking at this picture and just explaining to us, I
2 know you mentioned the trachea being closed. What other, in
3 the vicinity of these injuries, what else is there that could
4 have ---

5 A: Again, if you go a little below the wound and you're in
6 the midline, the trachea runs down the midline here. A bullet
7 wound to the trachea that transected the trachea could, again,
8 she wouldn't have been able to -- potentially could not have
9 been able to breathe. The spine sits right behind that. The
10 esophagus is in that area and if you go a little lateral out
11 to the sides, you have your carotid artery that runs here, you
12 have your jugular vein that runs here as well. If any of
13 those were injured, again, she may have bled out before she
14 even got to us.

15 Q: And obviously, if it had been higher?

16 A: Then obviously you're talking facial injuries, you're
*17 talking of potential injury to the brain.

18 Q: I have no further questions. Answer any questions that
19 Mr. Edgeworth may have for you.

20 A: All right.

21 THE COURT: Cross examination?

22 MR. EDGEWORTH: Thank you, Your Honor.

23 CROSS EXAMINATION OF JOHN MATTHEWS STOVER, JR. BY MR.

24 EDGEWORTH:

25 Q: Dr. Stover, just so I'm clear and the jury is clear, on

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1 the face, it was the wound up here that you believed to be the
2 entrance?

3 A: That's what it appeared to be, yes.

4 Q: Okay. And then so the exit came from the chin?

5 A: Correct.

6 Q: Okay. And could you tell from the size of the wound
7 whether the wound was caused by a whole bullet or a fragment
8 of a bullet, from your experience?

9 A: In my experience -- and again, most of my trauma
10 experience was, was through residency and we saw a lot of
11 penetrating trauma, gunshot wounds, I've taken care of a lot
12 of those -- it didn't appear to be a secondary fragment; it
13 appeared to be a bullet wound.

14 Q: Okay. And so, so in order for the entrance to be on the
15 sides, the face would've had to've been facing wherever the
16 bullet was coming from?

17 A: Correct. Correct.

18 Q: Okay. And, and so when you're saying that it came in
19 through here -- it came in through here and then out of here,
20 you believed it to be a full bullet?

21 A: I believed it to, yes. I mean, it appeared to me that
22 the entrance was here, it hit the mandible, the jaw, and then
23 the exit was here.

24 Q: Okay. Thank you. No further questions.

25 THE COURT: Anything else, Solicitor?

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1 MS. RICHARDSON: No, Your Honor, I'd ask that he be
2 released from his subpoena.

3 THE COURT: Any objection to that?

4 MR. EDGEWORTH: No objection, Your Honor.

5 THE COURT: All right, Doctor, you're released from your
6 subpoena, you may go back to your duties.

7 All right, Solicitor, your next witness please, ma'am.

8 MS. RICHARDSON: The state calls Lawrence Zivkovich.

9 THE COURT: Come around, sir, all the way up to the front
10 to where the bailiff is please.

11 LAWRENCE ZIVKOVICH, HAVING BEEN DULY
12 SWORN TESTIFIES AS FOLLOWS:

13 CLERK: Thank you. Please have a seat. Oh, I'm sorry, I
14 need you to spell your last name for the Court.

15 MR. ZIVKOVICH: Yes, ma'am.

16 CLERK: Okay.

17 MS. RICHARDSON: Do you need him to spell his name?

18 THE COURT: You need to spell your last name for the
19 court reporter please, sir.

20 MR. ZIVKOVICH: Last name is Zivkovich, Z-I-V-K-O-V-I-C-
21 H.

22 THE COURT: Go ahead, Solicitor.

23 DIRECT EXAMINATION OF LAWRENCE ZIVKOVICH BY MS. RICHARDSON:

24 Q: And could you tell us where you're employed?

25 A: I'm employed with the South Carolina Law Enforcement

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1 Division, commonly known as SLED.

2 Q: And how long have you been there?

3 A: A little over 11 years.

4 Q: And what is your position there?

5 A: I'm a forensic scientist.

6 Q: And could you tell us about your education?

7 A: I have a Bachelor's of Science degree in chemistry from
8 the University of South Carolina and when I got hired on at
9 SLED, I received training as a forensic scientist and was sent
10 to the University of West Virginia and also the DEA for
11 training.

12 Q: And have you had additional training courses?

13 A: Yes, ma'am.

14 Q: And how many -- in your position at SLED, how many
15 samples of controlled substances or drugs do you think you've
16 analyzed?

17 A: Approximately 10 to 15,000.

18 Q: And have you previously testified in court regarding
19 that?

20 A: I have.

21 Q: And about how many times have you testified?

22 A: Four to five.

23 Q: And you were qualified as an expert?

24 A: Yes, ma'am.

25 Q: And that included in General Sessions court?

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1 A: Yes, ma'am.

2 MS. RICHARDSON: Your Honor, at this time, I'd offer him
3 as an expert in the field of drug analysis?

4 THE COURT: All right. Mr. Edgeworth, do you wish to
5 voir dire the witness or challenge his qualifications?

6 MR. EDGEWORTH: No, Your Honor.

7 THE COURT: All right. I'm gonna qualify him to give his
8 opinion in the field of forensic drug analysis.

9 You may proceed.

10 BY MS. RICHARDSON:

11 Q: And could you briefly describe to the jury what you do as
12 far as analyzing samples?

13 A: We just take samples that are submitted from outside
14 agencies throughout the state, and when we receive them
15 they're considered unknowns and all we do is we analyze for
16 the presence or the absence of controlled substances.

17 Q: Let me show you what has previously been marked for
18 identification as State's Exhibit Number 12 and do you
19 recognize that?

20 A: Yes, ma'am. This is a BEST kit that I worked; BEST kit
21 being a drug evidence kit.

22 Q: Okay. And what about that kit makes it so that you can
23 recognize it?

24 A: The top of the kit has the SLED lab number on top of it
25 and then on the actual kit itself, I've written seal intact

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1 2/4/17, with my initials.

2 Q: Okay. And I'm also gonna show you what's been previously
3 marked as State's Exhibit Number 22 and can you tell me from
4 whom you received that kit?

5 A: Yes, ma'am. I received the kit on February 4th, 2017
6 from Mary Beth McCormick.

7 Q: And who is she?

8 A: Mary Beth McCormick is another forensic scientist that
9 works in the laboratory with me. And the reason I took over
10 this case is we had a backlog, so as we get additional
11 funding, we do backlog reduction programs. So, I took over
12 the case that she originally picked up.

13 Q: Okay. And is she -- she's been out on some medical leave
14 or maternity leave as well?

15 A: She's on -- currently on maternity leave.

16 Q: Okay. And when you received the package, I think you
17 said that it had not been tampered with in any way?

18 A: That is correct. That's -- I wrote on the top of the
19 package that when I received it, the seal was intact.

20 Q: Okay. And so, when you received it, what did you do?

21 A: Once I received it, then I opened the package, checked
22 the contents to make sure that they matched the description of
23 the submitting agency, and then performed whatever tests were
24 indicated by the substances inside the package.

25 Q: Okay. And did you, other than testing it, did you tamper

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1 with it, alter, add to it in any way?

2 A: No, ma'am. Once I'm done with my testing and everything
3 has been completed, then we place it inside these plastic
4 bags, heat seal them at the bottom and then I'll put my
5 initials and date through the heat seal, which currently says
6 2/4/17 with my initials.

7 Q: And did you, based on your analysis, did you determine
8 and make a finding regarding what the substance was?

9 A: I did.

10 Q: Okay. And what -- what was your findings?

11 A: I found that the tablet that I tested contained
12 Alprazolam, which is a C-4 drug.

13 Q: Okay. And C-4, what does that mean?

14 A: It's just a controlled substance that's given to drugs by
15 the Federal agencies and depending on how addictive the drug
16 is and it's pharmaceutical uses, they give it different
17 grades. So, it's C-1 through C-4. C-1 is that they have no
18 medical uses for it. And C-2 through C-5 is that there are
19 different degrees of addiction properties.

20 Q: Okay. And is that commonly what you would call a
21 schedule?

22 A: Yes, ma'am.

23 Q: Okay. So, you had found that it was a controlled
24 substance, Schedule IV?

25 A: Yes, ma'am.

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1 Q: And do you know the common name or street names for this
2 or brand names?

3 A: One of the brand names is commonly known as Xanax,

4 Q: Okay. And based on your analysis, did you issue a report
5 in this case?

6 A: I did.

7 Q: Let me show you what's been marked as State's Exhibit
8 Number 33. Can you tell me what that is?

9 A: Yes, ma'am. This is the report I submitted for case
10 number L16-12824.

11 MS. RICHARDSON: Your Honor, at this time, I'd offer
12 State's Exhibit Number 12 and State's Exhibit Number 33 into
13 evidence.

14 THE COURT: All right. Is there any objection to State's
15 Number 12 coming into evidence first?

16 MR. EDGEWORTH: No, Your Honor.

17 THE COURT: And State's 33?

18 MR. EDGEWORTH: No, Your Honor.

19 THE COURT: All right. So, both 12 and 33 are in
20 evidence without objection.

21 STATE'S EXHIBIT NUMBER 12 AND 33

22 ADMITTED INTO EVIDENCE

23 BY MS. RICHARDSON:

24 Q: And as -- I have no further questions, Your Honor.

25 Please answer any questions that Mr. Edgeworth may have for

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1 you?

2 THE COURT: Cross examination?

3 MR. EDGEWORTH: I have no questions for this witness,
4 Your Honor.

5 THE COURT: Do you wish the witness to be excused?

6 MS. RICHARDSON: I do, Your Honor.

7 THE COURT: All right. Is there any objection to that?

8 MR. EDGEWORTH: No objection, Your Honor.

9 THE COURT: All right, sir. You are released from your
10 subpoena, you may go back to your regular duties at SLED.

11 MR. ZIVKOVICH: Thank you, sir.

12 THE COURT: Thank you, sir.

13 All right. Your next witness, please, ma'am.

14 MS. RICHARDSON: The state calls Chad Smith.

15 CHAD SMITH, HAVING BEEN DULY SWORN

16 TESTIFIES AS FOLLOWS:

17 CLERK: Thank you. Please have a seat.

18 THE COURT: Go ahead, Solicitor.

19 DIRECT EXAMINATION OF CHAD SMITH BY MS. RICHARDSON:

20 Q: Mr. Smith, could you tell me where you are employed?

21 A: I'm employed with the South Carolina Law Enforcement
22 Division, also known as SLED. Specifically, I work at SLED's
23 forensic services laboratory in Columbia.

24 Q: And how long have you been with SLED?

25 A: It will be 10 years in November.

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CHAD SMITH - DIRECT BY RICHARDSON

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1 Q: And in the forensics laboratory, what specific areas do
2 you handle?

3 A: I am a firearm and tool mark examiner in the firearms
4 department of the laboratory. Specifically, what I do is
5 examine firearms, ammunition components, such as bullets,
6 cartridge cases, and tools such as crow bars, screwdrivers,
7 things like that.

8 Q: And could you tell us your education and experience?

9 A: I received a Bachelor's of Science degree in biological
10 sciences from Clemson University. After that, I worked for
11 Clemson for a few years and then I came on board with SLED and
12 began my training as a firearm tool mark examiner. That
13 training program last between three and five years. It
14 involves extensive reading and studying. It is supervised by
15 the court qualified examiners of the firearms department,
16 involves multiple examinations and tests. And, later in my
17 training, I was able to help other examiners prepare their own
18 casework. At the end of my training, I received a
19 comprehensive multi-part examination, which I successfully
20 passed and then I began to receive my own casework.

21 Q: And are you a member of any associations or professional
22 organizations?

23 A: Yes, I'm a member of AFTE, A-F-T-E, which is the
24 Association for Firearm and Tool Mark Examiners. It's an
25 international organization which basically evolved to further

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1 the field of firearms and tool mark examination.

2 Q: And can you estimate how many cases that you've worked on
3 for firearm identification?

4 A: Probably several hundred since I've been signed off to do
5 my own casework.

6 Q: And have you previously been qualified as an expert in
7 courts of this state?

8 A: Yes, ma'am.

9 Q: And how many times have you testified in court?

10 A: Forty-four times.

11 Q: And that includes General Sessions court?

12 A: Yes, ma'am.

13 MS. RICHARDSON: Your Honor, at this time, I'd offer Mr.
14 Smith as an expert in the field of firearms identification.

15 THE COURT: All right. Do you wish to voir dire the
16 witness or challenge his qualifications?

17 MR. EDGEWORTH: No, Your Honor.

18 THE COURT: All right. He's qualified to give his
19 opinion in the field of firearms and tool mark examination.

20 BY MS. RICHARDSON:

21 Q: Mr. Smith, did you basically tell us the -- explain the
22 process of what you do and how you test for firearms and tool
23 marking identification?

24 A: Well, specifically, what I do on a day-to-day basis is
25 try to determine if a fired ammunition component, such as a

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1 bullet or cartridge casing, was fired by a particular firearm.
2 So, how I'm able to do that is during the manufacturing
3 process of the firearm, there are many marks that are placed
4 on the various parts. It just the machine process, the marks
5 are unique and totally random in nature. And what happens is,
6 these marks get transferred to the ammunition components
7 during the firing process. And these marks are microscopic.
8 I mean you have to use a specific piece of equipment to see
9 them. We have what's known as the comparison microscope.
10 It's basically two microscopes that's connected by an optical
11 system. So, you can view two samples simultaneously and
12 manipulate them but for those markings. And, so what we do
13 is, we can test fire the firearm, and how we do that is we
14 have a water tank in our department, we shoot the firearm down
15 into the water tank and then the water slows down the bullet
16 enough not to -- and it doesn't add any markings or take away
17 any of the markings that we need for identification. And then
18 it collects down at the bottom of the tank. We have a cup
19 that's down there and it's connected to a chain which bring it
20 up whenever they get a test fire sample for a bullet. And,
21 then the cartridge case, we have a little box that the
22 cartridge case is expelled into during the firing process.
23 So, there we have our test fired cartridge cases.
24 We then look at those test bars and compare them with
25 each other and the -- using the comparison microscope, and

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1 then we can compare those test fires to the evidence
2 submitted, be it cartridge case or a bullet. What we're
3 looking for are those fine markings that are individual in
4 nature and unique placed onto the fired ammunition -- during
5 the firing process.

6 So, we're trying to look and we're trying to determine if
7 those specific samples were fired by the same firearm.

8 Q: Okay. And can you explain to us why the markings would
9 be unique to a firearm?

10 A: Again, it's just during the manufacturing process with
11 tools that are used to manufacture a firearm, the scraping
12 motion of a different tools. All that creates just unique
13 marks, microscopic marks on firearm components. Also, those
14 marks could be created through damage, improper cleaning, or
15 corrosion, or anything like that.

16 Q: And they're different for each firearm?

17 A: Yes, ma'am. Now, sometimes we're not able to determine
18 if it's a match or not. Sometimes, we get inconclusive
19 answers or unsuitable answers. We're not always able to match
20 specific components back to a firearm. But what we're looking
21 for are those marks that we believe are individual in nature.

22 Q: And if you could just clarify for us how a firearm works
23 and a projectile as far as what's expelled and from each end
24 of the gun that's one thing.

25 A: Well, if you turn to just a handgun in general, there are

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1 two types of handguns that we typically see. One is a
2 revolver, if you've ever seen any of the old west movies or
3 anything, it's got a cylinder that turns. So, the cartridges
4 are placed in the cylinder and then you can either cock the
5 hammer manually and then fire, then cock the hammer again and
6 it turns that cylinder to another chamber holding another
7 cartridge. So, it's ready to fire again. Or you can just
8 pull the trigger on some models, depending on what kind of
9 model it is. You can pull the trigger and that action also
10 turns the cylinder and it's able to fire, then you just pull
11 the trigger again until you've fired all your rounds. And
12 then we have a semi-automatic pistol, which uses typically a
13 box magazine. So, the magazine itself holds the cartridges.
14 You load the cartridges into the magazine. Typically, that
15 magazine is inserted into the magazine well, which is the grip
16 area of the pistol. And then you have to pull back a slide of
17 a semi-automatic pistol -- it's under spring tension. So,
18 once you pull it back and let it go, then it strips the top
19 cartridge off that magazine and loads it into the chamber of
20 the barrel and, then at that point, it's ready to fire. You
21 pull the trigger, it fires that cartridge, the projectile,
22 bullet, goes out of the barrel and then the motion of that,
23 pushes back onto that slide portion that reciprocates and then
24 the cartridge case pushes against the slide, it is expelled or
25 extracted and ejected out of the cartridge case and then,

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1 again, it's under spring tension so that slide comes forward
2 again and it takes another round out of the magazine and
3 chambers it and it's ready to fire. So, those are typically
4 the two types of handguns that we see.

5 Q: Okay. So, just for clarification on what we would
6 commonly call a bullet, separates?

7 A: Yes, ma'am. And that's just a nomenclature thing. Most
8 people just call it a round of ammunition, a bullet, they use
9 that a lot on television or whatever. But, technically that's
10 called a cartridge. And a cartridge is made up of several
11 components. So, you have the cartridge case, which is
12 basically the container for all the other components of the
13 cartridge. So, you have the cartridge case, then you have the
14 gun powder inside the cartridge case, then you have the bullet
15 or projectile on top of that cartridge case and at the bottom
16 of the cartridge case is a primer. So, the primer is what's
17 struck by the firing pin of the firearm that ignites the gun
18 powder and that pressure builds up and forces the projectile
19 bullet down the barrel.

20 Q: Let me show you what has previously been marked as
21 State's Exhibit 14 and entered into evidence. Do you
22 recognize this?

23 A: As I'm handling this, I'm just gonna make sure that it is
24 safe to handle and it appears so. There's a zip tie run
25 through the barrel so no cartridge or anything could be loaded

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1 in there and it is empty so it's safe to handle. Yes, this is
2 the pistol that I received for examination. How I can tell
3 that is that we mark each firearm and ammunition components
4 which -- or cartridge case with the SLED lab number and it's
5 engraved in here on the slide, it's engraved here on the
6 magazine well of the frame and also on the barrel itself. So,
7 I would add those markings with the lab number and my initials
8 and item number and all that is present. So, this is the
9 firearm that I received.

10 Q: Okay. And can you tell me what lab number or
11 identification number SLED gave that case?

12 A: It's L16-12824.

13 Q: Okay. And the subject in that case was Ty'Shun
14 Bessellieu; is that correct?

15 A: Yes, ma'am.

16 Q: Okay. And when you received the firearm, how did you
17 receive it; was it in that box?

18 A: Yes, ma'am. It was received also with a magazine and
19 there was a pouch containing some unfired cartridges also in
20 the box.

21 Q: Okay. Let me -- and for the record, we're handling these
22 separate. And let me show you what's been marked as State's
23 15 and State's 16. Okay. And what are these two items?

24 A: State's Exhibit 15 is the magazine that I received with
25 the pistol. Again, it has my initials, the lab number, and

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1 the item number that it came under. State's Exhibit 16 are
2 the 11 unfired cartridges that I received with the pistol and
3 magazine.

4 Q: Okay. And those were all contained in this box that Item
5 14 is in?

6 A: Yes, ma'am.

7 Q: And what precautions are taken to make sure that these
8 items haven't been tampered with?

9 A: Well, when the evidence is logged in to SLED, it goes
10 through the Evidence Control Department and then the evidence
11 is tape sealed, evidence tape sealed with initials on it. So,
12 if anybody tried to tamper with that box, the tape seal would
13 be broken. And also too, once it's in evidence control, it's
14 contained and stored safely there until examiner comes and
15 gets the evidence and then it's transferred to their custody
16 on our electronic system. So, it shows all the chain of
17 custody. So, once I'm ready to work the case, I can either go
18 directly down to evidence control, pick it up, and begin the
19 case immediately, or I can go down and pick up the evidence
20 and store it into my -- my own locker, which is in my office
21 until I'm ready to work the case. So, in any case, it would
22 be in my custody at that point.

23 Q: Okay. And so you received those items, 14, 15, and 16 in
24 this case?

25 A: Yes, ma'am.

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1 Q: Let me show you what's also been marked as State's
2 Exhibits, let's start with 7, 8, 9, 10, and 11. If you would
3 tell the jury about those items?

4 A: State's Exhibit 7 is a fired bullet that I received; I
5 see it here. It was actually received in this plastic pill
6 container, but when we repackage evidence, we like to use
7 what's known as courtroom packaging so that the jurors or
8 solicitors would actually see the evidence. So, it was
9 replaced into this ziplock bag when I packaged it for return
10 and I heat-sealed it and then put my initials and the date
11 that I sealed it and it has not been tampered with.

12 State's Exhibit 8 through 11 are four cartridge cases.
13 They are .40 caliber, .40 Smith and Wesson caliber cartridge
14 cases that I received for examination. And again, each one
15 was contained in their own plastic bottle there and when I
16 packaged it back, I just these in one bag and heat-sealed it
17 and initialed it as well.

18 Q: And once you received all of these items, what did you
19 do?

20 A: Well, after taking inventory of all the evidence that was
21 submitted and make sure that everything was submitted as
22 compared to the documentation that the agency submitted at the
23 time, make sure everything was submitted, then I would
24 actually go and take photographs of everything. Then at that
25 point, basically begin my examinations so I could compare the

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1 cartridge cases with each other and then examine the bullet
2 and then I would go on to examine the firearm that was
3 submitted and then able to test fire that firearm and compare
4 those test fires with the actual evidence that's submitted.

5 Q: Okay. And so as to your Item Number 2, which is State's
6 Exhibit Number 7?

7 A: Correct, that's the fired bullet that was submitted.

8 Q: Okay. Were you able to make any findings in reference to
9 that?

10 A: Yes, ma'am. I was able to determine it was most
11 consistent with being either a .40 Smith and Wesson caliber or
12 a .10 millimeter Auto caliber. It's hard to say based on the
13 diameter and everything that if it was one or the other just
14 because they share the actual same diameter bullet. And also
15 as far as the markings on the bullet, there were no markings
16 that I would've used to try to determine if it was fired by a
17 specific firearm. I think this type of bullet, it's made out
18 of a copper polymer hybrid and just does not take the markings
19 of those individual markings that I would need to try to
20 determine if it was fired by a specific firearm. So, I could
21 not determine if it was fired by a specific firearm or not
22 just based on it was unsuitable for identification based on
23 those markings missing. However, it did have characteristics
24 on it, rifling characteristics. Talking about rifling, what
25 that is, is manufacturers of firearms -- what's known as

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1 rifling in their barrels. And so rifling is made up of a
2 series of lanes and grooves. So, if you can imagine just a
3 tube, being the barrel, and lands and grooves are areas of
4 raised portions and lower portions, with the raised portions
5 being lands and the lower portions being the grooves. So,
6 those are placed in the barrel at a twisting pattern. And so
7 what happens is the bullet when it's fired engages that
8 rifling and spins down the barrel. That rifling causes the
9 barrel to turn or causes the bullet to turn. So, what that
10 does is basically make the bullet more accurate and gives it
11 more velocity as it goes toward its target. It's similar to a
12 football player, a quarterback, throwing a nice tight spiral
13 towards his target. He wants that nice tight spiral in order
14 to hit the target instead of just kinda lobbing it to him.
15 And so, those rifling impressions are on this bullet and I was
16 able to determine that it had five lands and grooves with a
17 right hand twist and it was conventionally rifled.
18 Specifically, there are two types of rifling; there is
19 conventional rifling and polygonal rifling. Conventional has
20 again those lands and grooves, but the shoulders are squared
21 off, whereas polygonal is sort of rounded. So, those are the
22 two main types of rifling and the number of lands and grooves
23 can differ per manufacturer. Again, I was able to determine
24 this had five lands and grooves with a right-hand twist -- you
25 can have right or left-hand twist depending on the

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1 manufacturer and how they decide these things -- and there was
2 conventional rifling. Those specifications also match the
3 firearm that was submitted. It had right-hand twist,
4 conventional rifling with five lands and grooves. So,
5 basically, I couldn't exclude the firearm that was submitted
6 to having been fired the, the bullet, but I couldn't actually
7 match it to that particular firearm.

8 Q: Okay. And so, the language you use is it's consistent?

9 A: Yes, ma'am. The general rifling characteristics would've
10 been consistent with it being fired by a particular firearm.

11 Q: Okay. And did you also examine and make any findings
12 regarding these unfired -- this unfired ammunition that you
13 got?

14 A: Yes, ma'am.

15 Q: Can you tell us about that type of ammunition?

16 A: Again, there are 11 unfired cartridges submitted with
17 that firearm. They are all .40 Smith and Wesson caliber, so
18 they were the correct caliber for use in that firearm, and all
19 of them except for one cartridge were the same type and so 10
20 of those cartridges have the same head stamp, which means
21 basically the bottom portion of the cartridge, manufacturers
22 put their information such as caliber and typically their
23 brand on there as well for identification. So, 10 of those
24 cartridges had Ruger head stamps and they were all the same
25 type, had the same type of bullet as well, and that particular

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1 bullet was also consistent with the fired bullet that was
2 submitted. Again, it was a copper/polymer hybrid. It's
3 relatively new technology used in bullet manufacturing and so,
4 it's kinda -- it's kind of rare at this point. Again, it's
5 the same type of bullet that was used that was fired. So, 10
6 of those cartridges have the same, looked like that and then
7 there was one cartridge that was different. It was just a
8 standard jacket hollow point. So, when a say hollow point, it
9 basically just has a cavity or it's open at the top of the
10 nose and it had a jacket, which is basically just a hard
11 covering around the core material, which would've been lead
12 and it was also -- it was Winchester brand, so it was a
13 different brand and a different type of bullet than the other
14 cartridges submitted.

15 Q: But the fired projectile and the other 10 are the same
16 type?

17 A: Yes, ma'am, it's consistent with being the same type as
18 loaded into the unfired ammunition.

19 Q: Okay. And that was the one that you described as being
20 relatively rare?

21 A: Relatively rare being that it's just newer technology.
22 We haven't seen a lot of it yet. We have had several cases
23 with it, but again, it's just not as popular as other types of
24 ammunition are right now.

25 Q: Okay. And did you also examine State's 8, 9, 10, and 11?

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1 A: Yes, ma'am. Those are the four -- there's an example
2 here, State's Exhibit 8, the four fired cartridge cases that
3 were submitted. Again, those were .40 Smith and Wesson
4 caliber, so the same type that've been used in that firearm.
5 And I was able to determine through my microscopic comparisons
6 that all four of these were indeed fired by the particular
7 firearm that was submitted.

8 Q: Okay. And can you tell us what you mean by that?

9 A: The markings that we look for, specifically on the head
10 stamp area, again that area with the information that's on the
11 cartridge. What we're looking for is either marks created by
12 the breachface of that firearm or firing pin of that firearm
13 to determine if it was fired by the specific firearm. So the
14 breachface would've been, again, I'm talking about that slide
15 part that reciprocates on top of the frame of a semi-automatic
16 pistol. The breachface is the part that supports the rear of
17 the cartridge during firing. When the cartridge is fired,
18 that cartridge case is slammed back up against the breachface
19 and during -- there could be motion involved. Those markings
20 are placed onto the cartridge case during that. Also, too,
21 when I talk about the primer, the primer is struck by the
22 firing pin. So, the firing pin leaves marks on the primer
23 during firing. So, we can use microscopic marks created by
24 the breachface or the firing pin to determine if it was fired
25 by a specific firearm. So, those are the marks that we're

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1 looking for because they will determine that there's marks
2 consistent throughout the four or five cartridge cases and
3 they match the test fired cartridge cases that I fired.

4 Q: Okay. So, what is your opinion as to -- and findings as
5 to whether 8, 9, 10, and 11, the expelled cartridge cases,
6 were fired by State's Exhibit 14?

7 A: My opinion is, that the four fired cartridge cases were
8 fired by State's Exhibit 14; yes, ma'am.

9 Q: And that is a one-to-one comparison or four-to-one?

10 A: Right. What I would do is I can compare these with each
11 other and look for the marks that are consistent and then
12 compare those with test fires from that gun.

13 Q: Okay. So, and then you compared them you said with each
14 other as well?

15 A: Yes, ma'am.

16 Q: Okay. So, it's your opinion that they were fired by this
17 particular gun?

18 A: Yes, ma'am.

19 Q: Okay. All right. And did you prepare a report of these
20 findings?

21 A: Yes, ma'am.

22 Q: Let me show you what's been marked as State's Exhibit
23 Number 34?

24 A: Yes, ma'am. This is a copy of my report submitted to the
25 agency after my examinations were concluded.

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1 Q: And is that an accurate reflection of your report as
2 prepared for this court case?

3 A: Yes, ma'am.

4 MS. RICHARDSON: Your Honor, at this time, I'd offer
5 State's Exhibit Number 34 into evidence.

6 THE COURT: Any objection?

7 MR. EDGEWORTH: No objection, Your Honor.

8 THE COURT: All right. It's into evidence without
9 objection.

10 STATE'S EXHIBIT NUMBER 34

11 ADMITTED INTO EVIDENCE

12 THE COURT: You may proceed.

13 BY MS. RICHARDSON:

14 Q: Okay. And you have used terms like consistent, but can
15 you tell us in more common terms like match, what your
16 findings were?

17 A: Again, going back to the, the fired bullet that I
18 submitted, State's Exhibit 7, which was my Item 2, the general
19 rifling characteristics, again, the number of lands and
20 grooves, the type of rifling, and the direction of the twist
21 were consistent with those found on the barrel of test fired
22 bullets from the firearm. Again, there could be many
23 different types of firearms with the -- with the same number
24 of lands and grooves, direction of twists, the same type of
25 rifling. Again, I can't determine if it was fired by that

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1 specific firearm or not or a totally different gun, but they
2 were consistent with the same characteristics. And as far as
3 the fired cartridge cases, my Items 4 through 7, State's
4 Exhibit 8 through 11, I was able to conclude that in my
5 opinion, they were all fired by the same firearm and that
6 firearm being the firearm that was submitted.

7 Q: I have no further questions. Answer any questions that
8 Mr. Edgeworth may have for you.

9 THE COURT: Cross examination?

10 MR. EDGEWORTH: I have no questions for this witness;
11 Your Honor.

12 THE COURT: All right. Do you wish the witness to be
13 excused, ma'am?

14 MS. RICHARDSON: I do, Your Honor.

15 THE COURT: All right. Sir, you are released from your
16 subpoena, you may go back to your regular duties at SLED.

17 MR. SMITH: Thank you, sir.

18 THE COURT: Thank you very much.

19 All right, Solicitor, you ready with your next witness?

20 MS. RICHARDSON: Your Honor, the state rests at this
21 time.

22 BY THE COURT:

23 THE COURT: All right. Very good. Any matters of law
24 that the defense has at this point in time?

25 MR. EDGEWORTH: Yes, Your Honor, if we may?

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1 THE COURT: All right. Very good.

2 All right, ladies and gentlemen, at this point in time,
3 there are matters of law that I have to take up with the
4 attorneys outside your presence. This happens at the end of
5 the state's case in every prosecution in a criminal case and
6 I'll endeavor to do that as expeditiously as possible but, you
7 know, I need for y'all to be in the jury room while I do that,
8 so...

9 (REPORTER'S NOTE: Jury exits courtroom. The following takes
10 place outside the presence of the jury.)

11 THE COURT: All right, Mr. Edgeworth, I'll be glad to
12 hear from you?

13 MOTIONS:

14 MR. EDGEWORTH: Yes, Your Honor, may it please the Court?
15 At this time, the defense is moving for a directed verdict in
16 regards to the charges of attempted murder on each of the --
17 each of the four counts. The basis for this argument is that
18 Defense believes the state has failed to prove specific intent
19 as required by *State v. King*. It appears that the state has
20 -- it is the basis for the intent is this, I guess, tenuous
21 argument that due to my client being called gay at a bar after
22 he's had advances to a woman, in fact, that he would somehow
23 several hours later intend to kill these women. Now, while
24 there was unfortunate side effect that, that Ms. Anderson was
25 in fact struck and, and I guess, thankfully, was not

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1 significantly injured, although injured, I believe that the,
2 the facts tend to support and thus -- support the law that is,
3 that given the fact that the shooter would have been a
4 significant amount of away, you know, and the fact that the
5 bullets themselves were -- but on the second floor, two of the
6 -- two of the four bullets were on the second floor of the
7 building. One was found to have been in the brick fascia
8 behind the area in which the women were and then potentially,
9 the fourth one and, maybe unknowingly, was -- struck Ms.
10 Anderson in what appeared to have been a manner that as she
11 was moving due to where it hit her on the face. And none of
12 that tends to support that the shooter would have had the
13 intent, the specific intent to kill any of these women. And
14 based on that, the, the defense is asking that the Court
15 direct a verdict or, excuse me, to dismiss the -- those counts
16 and direct a verdict of not guilty as to the attempted murder.

17 THE COURT: All right. Solicitor, I'll be glad to hear
18 from you.

19 MS. RICHARDSON: Your Honor, on a motion for a directed
20 verdict, we're looking at the existence or nonexistence of
21 evidence and taking it in the light most favorable to the
22 state.

23 As far as specific intent, that is a -- specific intent,
24 to commit the offense of murder. That could be expressed --
25 expressed or implied. There is evidence that there was some

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1 animosity between this defendant in an argument prior to this
2 incident, specifically to Ms. Moultrie, and that all the other
3 victims were with her as well at that time. There was an
4 indication that he wanted to meet her while he was angry to go
5 to a different location, the ave or the avenue in what
6 appeared to be a request to fight.

7 Additionally, Your Honor, he -- there is evidence that he
8 drove by this location sometime after it occurred, saw all of
9 the four victims out on the porch, drove by, turned back
10 around and knew where they were.

11 The circumstances and manner in which this was carried
12 out, first of all, the instrument used was a deadly weapon.
13 It was a firearm. The defendant had some cooling down period
14 and sometime between this, and it appears to be planned and
15 premeditated from the vantage point that it occurred at.

16 And, Your Honor, no matter of the distance, he fired a
17 weapon multiple times at human beings, hit one of them in the
18 face, and hit the area around the rest of them at this -- at
19 the -- while this was occurring. Your Honor, that shows a
20 specific intent to take the life and a disregard for human
21 life, and he was engaging in activity that normally would
22 cause -- would be expected to cause death.

23 THE COURT: All right. Thank you, ma'am.

24 All right. Regarding directed verdict. First, as
25 indicated, the Court is concerned with the existence or non-

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1 existence of evidence, not with its weight, not credibility,
2 believability; that's the jury's job. My job is to decide
3 whether or not the evidence exists. A defendant, in general,
4 would be entitled to a directed verdict when the state fails
5 to produce evidence of the offense charged and, if the
6 evidence merely raises a suspicion that, the defendant is
7 guilty of the crime charged. The Court must view the evidence
8 in the light most favorable to the non-moving party, that is
9 most favorable to the state. And if there's any direct
10 evidence or any substantial circumstantial evidence,
11 reasonably tending to prove the guilt of the accused, the case
12 should go forward and the directed verdict requested by the
13 defense be denied.

14 Now, in this particular matter as some facts indicated by
15 the state, there is a connection between the defendant and the
16 victims in this particular matter regarding the situation that
17 happened at Ming'z Bar. The defendants were familiar with the
18 defendant, knew who the defendant was. There was interaction,
19 some type of threatening words or actions. Thereafter, the
20 defendant was identified as driving by the residence where all
21 of the victims were located. The one victim that had the
22 dispute, words with the defendant at one point in time, during
23 the -- that driving by was seated in a chair where the victim
24 that actually was shot was seated later.

25 Thereafter, the witnesses identified an individual with

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1 similar characteristics, that is shape, build, color of skin,
2 that was in a field firing at them. The defendant was later
3 detained by police. On him was a .40 caliber Smith and Wesson
4 weapon. The police located -- which had a magazine and
5 cartridges. The police, in the area where the shooter was
6 firing at victims, located cartridges. The cartridges were
7 matched to the weapon that was on the person of the defendant
8 when he was arrested. The bullet that was recovered was
9 similar to a type that as far as the rifling characteristics
10 that could've been fired by the weapon seized from the
11 defendant in this particular matter. Based upon that, there
12 is more than sufficient direct and substantial circumstantial
13 evidence that exists in this case that if so believed by the
14 jury, and again, I'm not judging credibility or believability,
15 but if that evidence is so believed by the jury to convict the
16 defendant of the crimes of attempted murder. And attempted
17 murder is specific intent to kill is not an element but there
18 has to be a general intent to commit a serious bodily injury.
19 Intent means intending the result which actually occurs, not
20 accidentally or involuntarily. When you fire -- the
21 substantial circumstantial evidence indicates the defendant
22 fired this -- fired the weapon, and if you fire a weapon at a
23 person then there certainly is the general intent to commit
24 serious bodily injury by that action.

25 So, the directed verdict as to the charges of attempted

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1 murder is denied. ,

2 Further motions by the defense?

3 MR. EDGEWORTH: None, Your Honor.

4 THE COURT: All right.

5 MS. RICHARDSON: Your Honor, may we approach?

6 THE COURT: Yes, ma'am.

7 (REPORTER'S NOTE: Bench conference is held off the record.)

8 THE COURT: All right. Based upon the -- counsel has
9 reminded me of the recent cases regarding the intent and,
10 regarding that, still it is the Court's ruling that taking
11 those cases into consideration there is more than sufficient
12 direct and substantial circumstantial evidence indicating that
13 the firing of a weapon at the individuals and, again, have
14 facts I talked about where the person that was in the dispute
15 with the defendant was actually seated in the chair at a prior
16 time during the drive-by where the person that was actually
17 struck was seated when the person in the field fired at them.
18 You have a firing of a weapon, which is designed to by its
19 manufacture, to wound and/or kill individuals. That's what
20 it's designed to do. And by firing that weapon in the
21 direction of individuals, there certainly is an intent to, to
22 harm and/or kill those individuals. But taking all of those
23 facts, it's clearly there's more than sufficient evidence for
24 the jury to find the defendant guilty of the crimes of
25 attempted murder.

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1 All right. Anything else from the state?

2 MS. RICHARDSON: No, Your Honor.

3 THE COURT: From the defense?

4 MR. EDGEWORTH: No, Your Honor.

5 BY THE COURT:

6 THE COURT: All right. What is the defenses intention
7 regarding testimony in this particular matter?

8 MR. EDGEWORTH: Well, in light of the testimony this
9 morning, Your Honor, if I could just have a brief time to talk
10 with my client?

11 THE COURT: Certainly. Certainly.

12 THE COURT: We'll take a short break for about 10 minutes
13 and then we'll come back and see what the defense's intentions
14 are.

15 MR. EDGEWORTH: Thank you, Your Honor.

16 THE COURT: Thank you.

17 **(RECESS.)**

18 *******OFF THE RECORD*******

19 **(On the Record.)**

20 THE COURT: All right. Going back on the record and just
21 to make sure we're clear about that directed verdict motion.
22 The *State v. King* case and *State v. Williams* case, I reviewed
23 those again and it's clear that regarding the crime of
24 attempted murder, that attempted murder requires the specific
25 intent to kill and specific intent means the defendant

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BY THE COURT

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1 consciously intended the completion of acts comprising the
2 attempted offense, which was attempted murder.

3 Again, going back over those facts, the use of the weapon
4 that is designed to kill and/or grievously wound a person is
5 taken in conjunction with the facts of what occurred at the,
6 the bar between the defendant and one of the victims, that
7 there was identification of the defendant going by where all
8 the victims were located, the fact that the person that the
9 defendant had the problem with was seated in the same chair
10 that the person who eventually was shot at an earlier time
11 when the drive-by or driving by the location occurred. The
12 use of the weapon, tying of the weapon to the defendant, to
13 the cartridges found in the field whereby the person in the
14 field had obviously shot at the people seated and standing as
15 found by the bullet fragments and/or bullets, it's clear that
16 there was, by a combination of direct and circumstantial
17 evidence, again the general description of the person standing
18 in the field matching the general characteristics of the
19 defendant, that there is clearly that combination of direct
20 and substantial circumstantial evidence to prove the crime of
21 attempted murder with the specific intent to kill being part
22 of it.

23 All right. So, Mr. Edgeworth, as you indicated besides
24 the directed verdict for attempted murder, there were no other
25 motions by the defense; is that correct?

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BY THE COURT

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1 MR. EDGEWORTH: That is correct, Your Honor.

2 THE COURT: All right. What is the intention of the
3 defense at this time regarding the presentation of evidence?

4 MR. EDGEWORTH: Your Honor, I've spoken to my client on
5 multiple occasions including while we were at our recess here.
6 He's indicated to me that he does not wish to testify and
7 therefore the state intends to -- or excuse me, the defense
8 intends to rest.

9 THE COURT: All right. So, let's cover that then. If
10 you would, if you would stand up, Mr. Bessellieu, please, and
11 Madam Clerk, you need to place him under oath.

12 CLERK: Mr. Bessellieu, please raise your right hand.

13 TY'SHUN BESSELLIEU, HAVING BEEN SWORN

14 TESTIFIES AS FOLLOWS:

15 CLERK: Thank you.

16 THE COURT: All right. Now, Mr. Bessellieu, at this
17 point in time, I'm gonna explain to you certain of your
18 constitutional rights. If at any point in time, you don't
19 understand anything we're talking about or you've got a
20 question about it or you want to ask your attorney about it,
21 you need to indicate that to me, okay, because otherwise I'm
22 not gonna know it. So, you can raise your hand, you can tell
23 your attorney, Mr. Edgeworth, but you've got to indicate in
24 some way you've got a question or you want to talk to him or
25 you, you need to, to have him explain something to you. Do

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TY'SHUN BESSELLIEU - BY THE COURT

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1 you understand me?

2 MR. BESSELLIEU: I understand.

3 THE COURT: All right, sir. Now, we've reached the stage
4 of the trial where you can present your defense. You've got
5 the right to claim protection given to you by the Fifth
6 Amendment to the Constitution of the United States of America
7 and that states in part that no person can be compelled, no
8 person can be forced to testify against themselves or testify
9 in a matter.

10 Now, in this case, you can testify if you want to, but
11 nobody can make you do that; you understand that?

12 MR. BESSELLIEU: I understand.

13 THE COURT: All right, sir. Now, if you testify in this
14 particular matter, you'd be subject to the same rules that
15 govern all the other witnesses that have testified in this
16 case. You'd be asked questions by Mr. Edgeworth. You would
17 be cross examined or asked questions by the state regarding
18 facts that are pertain to this matter or relevant to this --
19 to this matter.

20 Is there any criminal record that the defendant has that
21 the state would be asking about?

22 MS. RICHARDSON: Your Honor, obviously with his age, he
23 doesn't have an adult record, but under Rule 609(d) juvenile
24 adjudications would be treated the same way. He does have a
25 number of those. He has, from 2012, a pointing and presenting

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TY'SHUN BESSELLIEU - BY THE COURT

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1 and a shoplifting; from 2012 also, a shoplifting and receiving
2 stolen goods; from 2012 a burglary in the second degree; and
3 in 2016, a discharging a firearm into a dwelling; and 2013,
4 burglary second.

5 THE COURT: Okay. Now, regarding those, I'm not certain
6 that the Court would allow the shoplifting charges, but the
7 other offenses would seem to me to qualify under the rule. Do
8 you disagree with that, Mr. Edgeworth?

9 MR. EDGEWORTH: No, Your Honor, and I've advised him
10 accordingly.

11 THE COURT: All right, sir.

12 So, regarding those offenses and crimes that the state
13 just mentioned, Mr. Bessellieu, maybe with the possible
14 exception of the shoplifting charges, the state would be able
15 to ask you, if you testified, have you been previously
16 adjudicated delinquent of these particular crimes. All right?
17 They couldn't go into what the facts of each one of them were,
18 but they can ask you and, if you agreed, yes, you've been
19 adjudicated delinquent of those, then that would be the end of
20 it but they would be able to ask. You understand that?

21 MR. BESSELLIEU: I understand.

22 THE COURT: All right, sir. Now, if you decide to
23 testify, you understand it's your decision. You get the
24 advice from your attorney and discuss the matter with him, but
25 you understand it's your decision whether or not you want to

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TY'SHUN BESSELLIEU - BY THE COURT

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1 testify in this matter; do you understand that?

2 MR. BESSELLIEU: I understand.

3 THE COURT: All right, sir. Now, so, understanding the
4 -- your rights, the consequences of potentially of testifying,
5 the benefits that may come to you from, from testifying,
6 first, do you understand what we've talked about?

7 MR. BESSELLIEU: Yeah, I understand it.

8 THE COURT: All right, sir. Do you want to ask your
9 attorney any questions at this time? If you do, go ahead.

10 (REPORTER'S NOTE: Defendant confers with counsel.)

11 THE COURT: All right, sir. Now, I don't want you to
12 tell me what you talked with about your attorney, but whatever
13 questions you had, did he answer them for you?

14 MR. BESSELLIEU: Yeah, he answered my question.

15 THE COURT: All right, sir. Very good.

16 All right. Do you wish to testify in this case?

17 MR. BESSELLIEU: No, sir.

18 THE COURT: All right, sir. Very good.

19 Thank you very much.

20 All right. So, with that, you want to renew your motion
21 for directed verdict at this time, Mr. Edgeworth?

22 MOTIONS:

23 MR. EDGEWORTH: Yes, Your Honor, I would. At this time,
24 again, Your Honor, and in light of the Court's previous
25 decision, we still rely on our indication that the state has

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1 failed to prove or to demonstrate any acts before the jury
2 that would show that he consciously intended to complete the
3 acts required of attempted murder.

4) THE COURT: All right. Very good. All right. Again,
5 I'm not gonna review all the testimony again, but if you look
6 at the testimony presented, I do find there is direct evidence
7 and substantial circumstantial evidence that reasonably tends
8 to prove the defendant guilty of the crime charged of
9 attempted murder with the element as required by the state
10 that a specific intent to kill is part of, and so with that,
11 that -- and that again meaning that the defendant consciously
12 intended the completion of the acts comprising the offense of
13 attempted murder and, therefore, I respectfully decline to
14 grant your renewed motion for a directed verdict.

15 CHARGE CONFERENCE:

16 THE COURT: All right. We're gonna have to make sure
17 that -- and I'm gonna work on it some more and we're gonna
18 print the attempted murder charge. I want both of y'all to
19 review it.

20 Now, with that, the crime of murder itself requires
21 malice aforethought. So, is there any question about that in
22 that should be part of the charge of attempted murder?

23 MS. RICHARDSON: No, Your Honor, and actually that is
24 part of the statute that he would -- with intent to kill,
25 attempts to kill another person with malice aforethought

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1 either expressed or implied.

2 THE COURT: All right. Very good. All right. Now, in
3 this particular matter -- well, I'll tell you what, let's just
4 -- we'll print out the attempted murder charge and I want
5 y'all to thoroughly look through it and see what -- see what
6 corrections, additions, changes you want to it before we
7 charge it to the jury. So, to make sure we've got enough time
8 to do that, what I'm gonna do is send the jury to, to lunch,
9 tell them to go to lunch, not send them to lunch, tell them to
10 go to lunch and come back at 1:30. Tell them to come back at
11 1:30. That's basically two hours. So, we'll -- do we need to
12 call the jury out or can we have the bailiff tell them to go
13 to lunch and come back at 1:30? Is there any need to call
14 them out to tell them that, Solicitor?

15 MS. RICHARDSON: Your Honor, unless the defense wants to
16 go ahead and rest on the record.

17 THE COURT: Well, they definitely will. I mean, when the
18 jury comes back in, what we'll do is, you know, I'll ask the
19 -- Mr. Edgeworth, what's the position of the defense, you'll
20 tell me that the defense rests at this point in time, and then
21 I'll just briefly tell the jury, okay, you've heard all of the
22 evidence, what we're gonna do now is the closing arguments of
23 the counsel and then I'll give you the charge on the law, and
24 then we will go into the closing arguments, obviously, the
25 full and complete argument of the state and then last argument

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1 by the defense. So, that would be my intentions. Any problem
2 with that from the state?

3 MS. RICHARDSON: No, Your Honor.

4 THE COURT: From the defense?

5 MR. EDGEWORTH: No, Your Honor.

6 THE COURT: All right. So, Mr. Bailiff, just tell the
7 jury that -- to go to lunch. Tell them, make sure they're
8 back in the jury room so that we can call them out at 1:30.
9 So whatever time you want them back in there. Okay?

10 BAILIFF: All right.

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

12 All right. So, what we'll do it we'll be at ease while
13 they're printing this and as soon as it gets printed and I've
14 gone through it all, get you copies of it, and y'all look at
15 it and then we'll, we'll go from there. Okay?

16 MS. RICHARDSON: So, you want us to wait ---

17 THE COURT: Yes, ma'am ---

18 MS. RICHARDSON: --- here.

19 THE COURT: --- yeah, just -- I don't want y'all to go
20 anywhere yet, so that we're clear about it before you --
21 before you leave.

22 MS. RICHARDSON: Yes, sir.

23 (RECESS.)

24 *****OFF THE RECORD*****

25 (On the Record.)

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1 THE COURT: Y'all let me know whenever you're done
2 reading that, please?

3 MS. RICHARDSON: I've read it, Your Honor.

4 MR. EDGEWORTH: I've completed it, Your Honor.

5 THE COURT: All right. Now, in conjunction with that, I
6 will define the word attempt. Okay? The word attempt is an
7 effort to accomplish a crime, which does not succeed. An
8 attempt includes a specific intent to do a particular criminal
9 act along with falling short of the act intended. Specific
10 intent means the defendant intended to complete the act
11 comprising the underlying offense consciously. The state must
12 show more than mere preparation and intent. There must be an
13 overt act committed in the effort to commit the crime. Intent
14 means intending the result which actually occurs, not
15 accidentally or involuntarily. So ---

16 MS. RICHARDSON: Intending what actually occurred?

17 THE COURT: Huh?

18 MS. RICHARDSON: Intending what actually occurred?

19 THE COURT: Intends -- intending -- intent means
20 intending the result -- I'm sorry, no, I read that wrong.
21 Intent means -- okay, I'm sorry. I had struck that out and I
22 forgot to -- I read that.

23 So, therefore, to prove intent, the state must prove the
24 defendant had the specific intent to commit the underlying
25 offense along with some overt act beyond mere preparation in

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1 furtherance of the commission of the crime. So, it will not
2 have that intent means intending, which actually occurs.
3 Okay. All right.

4 So, looking at attempted murder, the charge there, do you
5 have -- do you have any problems with the charge?

6 MS. RICHARDSON: Your Honor, the statute specifically
7 provides expressed or inferred. I do understand the footnote
8 from *King*, but the state would ask for the inferred charge.

9 THE COURT: Inferred malice?

10 MS. RICHARDSON: It's in -- because it's in the statute.
11 I know, I understand where *King* is coming from as well.

12 THE COURT: Well, you know, I mean they specifically talk
13 about it. Okay? I'm not gonna -- I am not charging inferred
14 malice.

15 MS. RICHARDSON: Okay.

16 THE COURT: I'm just not going to. Number 1, I don't
17 think it's -- it'll confuse the jury and, and take away from
18 the intent of *King*, that the state has to prove specific
19 intent. So, I'm not gonna talk about inferred malice.

20 MS. RICHARDSON: And then, Your Honor, as to in -- I've
21 lost my place, I'm sorry. As far as defining -- so, under
22 some of the case law, we have the need to prove both intent,
23 specific intent and malice ---

24 THE COURT: Yes, ma'am.

25 MS. RICHARDSON: --- which may have a little different

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1 definition. So, the state would ask for a charge regarding
2 intent as well as regarding malice, that specific intent and
3 expressed malice can be shown not just by words which express
4 hatred and the preparations beforehand, but language regarding
5 the manner in which the act was occurred, and you talk about
6 being prepared for beforehand. For example, lying in wait for
7 a person or any other acts in preparation going to show that
8 the deed was within the defendant's mind would be express
9 malice. In *State v. Williams*, towards the end on Page 6 it
10 says the specific intent to kill can be inferred by the
11 surrounding circumstances of the case, including the use of a
12 deadly weapon and the character of the attack, and that's for
13 intent not for malice, that specific intent can be shown by
14 the circumstances of the case and the use of a weapon.

15 THE COURT: What do you say, Mr. Edgeworth?

16 MR. EDGEWORTH: Your Honor, I would ask the Court to rely
17 on the attempted murder charge as it's been drafted because I
18 think otherwise it will create a bunch of confusion for the
19 jury to differentiate between the statutory language regarding
20 intent to kill and the malice. While they are certainly, you
21 know, related in that regard and the state has the burden of
22 proving both elements, the manner in which the state in this
23 particular case has attempted prove both are through the same
24 set of facts. They're -- it's, it's in a sense
25 circumstantial, they're saying because he was either ashamed

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1 or embarrassed or otherwise, you know, therefore, he had the
2 intent to -- intent to kill and that in turn is the malice.
3 And that, that's the state's case in a nutshell. That's how
4 -- that's why we're here.

5 THE COURT: All right. Looking at that *State v.*
6 *Williams*, Court of Appeals case, trying to reconcile what they
7 say in *State v. Williams*, the Court of Appeals and what the
8 Supreme Court said in *State v. King* and how they talk about
9 it, I'm -- I am not convinced that the state -- that the
10 Supreme Court will agree with the Court of Appeals in *State v.*
11 *Williams*. How they characterized it, looking at what the
12 Supreme Court has set forth in *State v. King*, therefore, I'm
13 gonna charge attempted murder as I have presented to you and
14 I'll read one paragraph on attempt and then the attempt is --
15 an attempt is an effort to accomplish a crime which does not
16 succeed. An attempt includes a specific intent to do a
17 particular criminal act along with an act falling short of the
18 act intended. Specific intent means the defendant intended to
19 complete the act comprising the underlying offense
20 consciously. The state must show more than mere preparation
21 and intent. There must be some overt act committed in the
22 effort to commit the crime. So, that's how I'm gonna define
23 attempt and attempted murder as I have presented it to you. I
24 will not go further than that.

25 MS. RICHARDSON: Your Honor, the state is also requesting

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1 that there be a charge regarding transfer intent along the
2 line of *Williams* also to explain that a victim -- the law does
3 not require the victim be injured and that it does not require
4 a specific victim, which would go along with the transferred
5 intent language in -- and I've got a proposed request to
6 charge on that if you want to see that?

7 THE COURT: Yes, ma'am. Do you have a copy for Mr.
8 Edgeworth?

9 MS. RICHARDSON: I do. It does already have the thing in
10 there you told me you weren't gonna do. So, I'm not asking
11 again, I'd just -- it was already typed up.

12 THE COURT: All right.

13 MS. RICHARDSON: And, Your Honor, the transferred intent,
14 the typical charge applies for injuries, so I would ask that
15 that -- that the transferred intent language mimic the
16 language of *Williams*, which is the doctrine -- and it's on
17 Page 5. The doctrine of transferred intent applies when a
18 defendant is charged with the attempted murder of an intended
19 and unintended victim, but neither intended nor unintended
20 were injured would apply in that circumstance. I think the
21 one in the Deskbook is basically for when somebody kills the
22 wrong person.

23 THE COURT: All right. How about this? If the
24 defendant, with malice aforethought, attempts to kill another
25 person, but my mistake, injures or kills a different person,

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1 the defendant still had the intent to kill. The intent to
2 kill is merely transferred from the original person the
3 defendant attempted to kill, to the actual person killed or
4 injured. The defendant -- well, I'd probably stop there.

5 MS. RICHARDSON: And, Your Honor, and that's the thing
6 about the *Williams* case that was different in because of the
7 way the statutory scheme is for attempted murder, particularly
8 when you bring in the lesser included offenses, it does serve
9 to possibly confuse the jury, because the way the law is
10 written and the way it's set up is attempted murder doesn't
11 require any injury. ABHAN, which is a lesser included,
12 requires an injury and assault and battery first does not
13 require an injury. So, so, what I want to be able to do is
14 make sure with the jury that even if nobody was injured, that
15 the doctrine of transferred intent applies to everybody just
16 like it did in the *State v. Williams* case, who was there and
17 in the line of fire, and that's where it gets confusing when
18 you kind of start saying well this one has injury, this was
19 doesn't. I just want to make sure the jury understands very
20 clearly that intent can be transferred when there is no injury
21 and that the specific intent that is required in the attempted
22 murder statute, does not require an injury; it's just the
23 intent, it's not the result.

24 THE COURT: All right. So, if we said the defendant with
25 malice aforethought attempts to kill another person, but by

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1 mistake attempts to kill a different person, the defendant
2 still has the intent to kill. The intent to kill is merely
3 transferred from the original person the defendant attempted
4 to kill, to the person, right, to the person -- to the actual
5 person he attempted to kill. So, the intent to kill is merely
6 transferred from the original person the defendant attempted
7 to kill, to the actual person the defendant attempted to kill.
8 What's wrong with that? So, again, it would say, if the
9 defendant with malice aforethought attempts to kill another
10 person, but my mistake attempts to kill a different person,
11 the defendant still has the intent to kill. The intent to
12 kill is merely transferred from the original person the
13 defendant attempted to kill to the actual person the defendant
14 attempted to kill. Any problem with that?

15 MS. RICHARDSON: No, Your Honor, as long as there's also
16 something saying that there is no requirement of an injury for
17 the attempted murder statute.

18 THE COURT: Well ---

19 MS. RICHARDSON: And that's ---

20 THE COURT: I'm not sure I want to say that.

21 Mr. Edgeworth?

22 MR. EDGEWORTH: Well, Your Honor, my problem with it the
23 whole time is that I do believe that a lot of the statements
24 coming out of *Williams* arises out of the same confusion that
25 led to the Court's decision on the other -- on the attempted

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1 murder. I think it blends what would've been the common law
2 attempted murder where there was a general intent requirement
3 which would allow for these unintentional and consequences of
4 the act itself. And here we're requiring a specific intent to
5 kill and we're eluding to the components that normally would
6 have arised out of the unintentional consequences or the --
7 the general intent requirement as opposed to a specific intent
8 requirement.

9 THE COURT: I -- I'm not gonna add anything else. So,
10 I'm going to charge the attempted murder as reflected, the
11 attempt paragraph I read to you, what I just read to you
12 regarding transferred intent; that's what I'm gonna charge.
13 Okay?

14 Now, does the defense -- is the defense requesting any
15 lesser included offenses?

16 MR. EDGEWORTH: After consulting with my client, Your
17 Honor, our position is not to ask for any lesser included
18 offenses.

19 THE COURT: All right. So, Mr. Bessellieu, could you
20 stand up for just a second, please? I'm just gonna ask you a
21 couple of questions.

22 Did your attorney talk to you about lesser included
23 charges?

24 MR. BESSELLIEU: Yes, sir.

25 THE COURT: All right. And one potentially being assault

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1 and battery in the first degree, which carries a maximum
2 penalty of 10 years; you understand that?

3 MR. BESSELLIEU: Yes, sir.

4 THE COURT: All right, sir. So, he talked to you about
5 that. Now, he has told me that as a result of talking with
6 you that you do not want the Court to charge the jury any
7 lesser included offenses; you just want the jury to consider
8 whether you're guilty of attempted murder or not. Do you
9 understand me?

10 MR. BESSELLIEU: Yes, sir.

11 THE COURT: All right, sir. Is that what you want?

12 MR. BESSELLIEU: Yes, sir.

13 THE COURT: All right, sir. Very good. All right. So,
14 I will not then charge any lesser included offenses in this
15 particular matter. We will just be charging the attempted
16 murder. So, with that then obviously we've got the possession
17 of a weapon during the commission of -- where are the
18 indictments?

19 All right. So, we've got the four counts of attempted
20 murder. We're gonna charge the jury with possession of a
21 weapon during the commission of a violent crime, discharging a
22 firearm into a dwelling, unlawful possession of a pistol by a
23 minor, possession of marijuana with intent to distribute and
24 possession of a schedule IV controlled substance. Is there
25 any request as to any of those charges from the defense?

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1 MR. EDGEWORTH: No, Your Honor.

2 THE COURT: All right. Very good. So, we'll just charge
3 those as I have set forth.

4 All right. So, with that then, we'll come back at 1:30.

5 Is there anything else from the state?

6 MS. RICHARDSON: Do you have a copy of what you just said
7 you were gonna charge as far as the transferred intent and
8 attempted murder with ---

9 THE COURT: I will.

10 MS. RICHARDSON: Okay.

11 THE COURT: All right. I'll tell something else -- but
12 again, I'll just -- I'll read it to you. If the defendant
13 with malice aforethought attempts to kill another person, but
14 by mistake, injures -- I'm sorry -- but by mistake attempts to
15 kill a different person, the defendant still has the intent to
16 kill. The intent to kill is merely transferred from the
17 original person, the defendant attempted to kill, to the
18 actual person the defendant attempted to kill. That's what
19 I'm gonna say.

20 MS. RICHARDSON: Okay.

21 THE COURT: All right. So, we'll be at ease until 1:30.

22 Thank you.

23 (RECESS.)

24 *****OFF THE RECORD*****

25 (On the Record.)

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1 THE COURT: All right. As I understand it --- all right.
2 So, as I understand it, Mr. Edgeworth, your client has asked
3 you to make a request to the Court?

4 MR. EDGEWORTH: Yes, Your Honor, following the colloquy
5 with the Court before we went on break and upon my return, my
6 client informs me that he wants me to request of the Court to
7 actually go against his previous request and add the lesser
8 included offense of assault and battery first degree be
9 included in the charges to the jury.

10 THE COURT: Okay. Very good. All right. And what's the
11 state's position then?

12 MS. RICHARDSON: Your Honor, the state relied on his
13 assertions in preparing the closing. However, given the state
14 of the case law, if Your Honor does decide to charge A&B
15 first, we'd also ask that you charge ABHAN. The difference
16 being, one requires an injury and one does not and then we
17 would renew our request, based on that, to avoid confusion,
18 that the Court instruct the jurors that attempted murder does
19 not require injury and then we would also need additional
20 instructions added since those are general intent crimes
21 instead of specific intent crimes, we would need instructions
22 regarding general intent and also implied malice for those two
23 charges.

24 THE COURT: Okay. All right. So, assault and battery
25 high and aggravated nature, a person commits the offense of

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1 assault and battery high and aggravated nature if the person
2 unlawfully injures another person and great bodily injury
3 results to another person or the act is accomplished by means
4 likely to produce death or great bodily injury. Great bodily
5 injury means bodily injury which causes a substantial risk of
6 death or which causes serious permanent disfigurement or a
7 protracted loss or impairment of the function of a bodily
8 member or organ.

9 So, let's talk about that. Obviously, great bodily
10 injury did not occur in the one circumstance. So, it would
11 have to be under the Subsection (b), the act is accomplished
12 by means likely to produce death or great bodily injury and
13 then great bodily injury is defined by -- great bodily injury
14 means bodily injury which causes a substantial risk of death
15 or which causes serious permanent disfigurement or protracted
16 loss or impairment of the function of a bodily member or
17 organ. So, how do -- how do the facts of the one case,
18 Danasha Anderson, fit assault and battery high and aggravated
19 nature?

20 MS. RICHARDSON: Because, Your Honor, we're looking at
21 the or, which is or the act is accomplished by means likely to
22 produce death or great bodily injury.

23 THE COURT: Right ---

24 MS. RICHARDSON: So, we're looking at the means.

25 THE COURT: Right, but then you go on to -- but then it

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1 defines what great bodily injury is. Okay? It says what
2 great bodily injury is.

3 MS. RICHARDSON: And so, by means and if you took out
4 death for a minute, by means likely to cause great bodily
5 injury. A gun is likely to cause great bodily injury if it
6 doesn't cause death. It's likely to. We're looking at the
7 means, the instrumentality, the way that it's done. So, you
8 look at the method. So, if somebody threw a small pebble at
9 somebody and it happened to cause some major -- then that
10 might be an issue. Is this means usually result in deaths,
11 but a gun or a knife or a weapon like that is a means that
12 would cause death or great bodily injury if it didn't cause
13 death.

14 THE COURT: Okay. What's your position, Mr. Edgeworth?

15 MR. EDGEWORTH: Your Honor, in that case, I think you
16 have to read that together. It's a further description of the
17 great bodily injury or the bodily injury that would include
18 those specific elements as to what that injury is. Because
19 otherwise, it would kind of corrupt the nature of the statute
20 and you would -- and it would just be -- it would just be the
21 fact that you'd have one type of bodily injury, great bodily
22 injury or this bodily injury, and you could circumvent the
23 means. As the state is basically saying, they're -- the state
24 is just simply saying that if you happen to -- if you happen
25 to use a gun in a crime then it's automatically ABHAN because

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1 it could cause any number of injuries, whether -- however
2 slight.

3 MS. RICHARDSON: No, it's only ABHAN if you hit them --
4 it's not ABHAN if you don't hit them. That's the difference.
5 If there's no injury, it's not ABHAN. So, what the
6 legislature is saying, the worse thing is to purposefully try
7 to kill somebody, whether you hit them or not. The second
8 worse thing is to hurt somebody in a way that usually could
9 kill somebody, that you actually hit them or something like
10 that happens in a way that can usually kill them. And then
11 the next thing is, is you miss them, but it's a -- the means
12 could've been serious. But the difference between ABHAN and
13 attempted murder and that is that there's an injury and it's
14 treated worse because she got hit.

15 THE COURT: All right. I think you have to read them
16 together. Since it's gone on to define what great bodily
17 injury is, then I don't see the facts of this case covering
18 the crime of assault and battery high and aggravated nature.
19 I understand your argument, Solicitor and, you know, it might
20 very well be right but I don't feel comfortable presenting to
21 the jury under the facts of this case the lesser included
22 offense of assault and battery high and aggravated nature.

23 Assault and battery first degree, says a person commits
24 the offense of assault and battery in the first degree if the
25 person unlawfully injures another person and the act either

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1 involves nonconsensual touching of the private parts of an
2 adult, either under or above the clothing, that's not here, or
3 occurred during the commission of a robbery, burglary,
4 kidnapping or theft.

5 How does that apply to the facts of this case, Mr.
6 Edgeworth?

7 MR. EDGEWORTH: Well, Your Honor, given the strict nature
8 of, of that particular statute -- this is the reason why there
9 was confusion before, I believe, with my client in describing
10 her -- interpreting to him what the request would mean in
11 regards ---

12 THE COURT: Right.

13 MR. EDGEWORTH: --- in regards to this. And as Your
14 Honor probably understands, this request is coming from my
15 client after having previous discussions.

16 THE COURT: Okay. Well, and then -- and then we also
17 have to look at what the Supreme Court said in *Williams* -- in
18 *King*, and the Court of Appeals said in *Williams*, and they
19 talked about, and I can't honestly remember right now, which
20 -- whether it was *King* or *Williams*, but in one of those
21 appellant decisions, they're specifically talking about, you
22 know, logically or if you look at regarding a lesser included
23 offense. What normally is supposed to happen is the lesser
24 included offense has all of the elements that the greater --
25 the elements in the lesser included are in the greater

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1 offense, but there's more in the greater offense. Okay? But
2 as recognized in *King* and *Williams*, assault and battery high
3 and aggravated nature and assault and battery in the first
4 degree are lesser included even though it doesn't follow the
5 regular definition of lesser included offense. Okay? So,
6 even though the normal definition of lesser included offense
7 would argue against assault and battery in the first degree,
8 because of what the Court, the Appellant Courts have said, I'm
9 gonna include assault and battery in the first degree.

10 All right.

11 MS. RICHARDSON: Your Honor ---

12 THE COURT: Let me go back and look. I'm gonna go back
13 and -- do y'all have *Williams* and *King* in front of you?

14 MS. RICHARDSON: Your Honor, I left all of my research
15 and the statutes downstairs.

16 THE COURT: Do you have those?

17 MR. EDGEWORTH: I have *King*.

18 THE COURT: All right. So, why don't you look at that
19 and let me -- I'll find it again here. I don't need -- I want
20 you to look in there. You don't have that cite for *State v.*
21 *Williams*?

22 MS. RICHARDSON: *State v. Williams*?

23 THE COURT: *Williams*, yes, ma'am.

24 MS. RICHARDSON: 2018 WL 1074369. I have an extra copy
25 if you need it.

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1 THE COURT: I'm sorry. Tell me that again, 2018 WL what?

2 MS. RICHARDSON: 1074369.

3 THE COURT: All right. Very good.

4 Do you have that case, Mr. Edgeworth?

5 MR. EDGEWORTH: I do, Your Honor.

6 THE COURT: All right. All right. Looking at *Williams*
7 then, and reconsider what the state requested about assault
8 and battery high and aggravated nature. What -- let me hear
9 your argument about that to have -- include both of them,
10 assault and battery high and aggravated nature and assault and
11 battery in the first degree. So, let me hear your argument on
12 that, Mr. Edgeworth?

13 MR. EDGEWORTH: To include them both, Your Honor?

14 THE COURT: Yes, both of them, and if they don't -- what
15 it would be was if they don't find the state proved the
16 defendant guilty beyond a reasonable doubt of the crime of
17 attempted murder, they must consider assault and battery high
18 and aggravated nature. If they do not find the defendant --
19 that the state's not proved the defendant guilty of the crime
20 of assault and battery high and aggravated nature beyond a
21 reasonable doubt, then they must consider assault and battery
22 first degree. So, it would be descending. So, for each
23 attempted murder charge, there would be the lesser included of
24 assault and battery high and aggravated nature and assault and
25 battery in the first degree for each one.

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1 MR. EDGEWORTH: Your Honor, the -- obviously, in this
2 particular example and having read where *Williams* is coming
3 from, you know, certainly it separated the two inquiries based
4 on -- based on the elements of that particular crime. And I
5 apologize, I'm trying to look here as we speak, but just based
6 on the definition of the assault and battery in the first
7 degree, the component of that, that would apply to this case
8 of course, is a person commits the offense of assault and
9 battery in the first degree if the person unlawfully injures
10 another person and the act does accomplish by means likely to
11 produce death or great bodily injury and it would not include
12 occurred during the commission of robbery, burglary,
13 kidnapping or theft in this particular case. Which leads me
14 down the road of ---

15 THE COURT: And I agree with you, but the way the Court
16 of Appeals addressed it, and I know the Supreme Court in other
17 related matters has said the same thing, that even -- and here
18 the case says even if the elements of the greater offense do
19 not include all the elements of the lesser offense, we may
20 still construe the lesser offense as a lesser included offense
21 if it has -- and they put quotes -- has "traditionally" been
22 considered a lesser included offense of the greater offense
23 and they go on to talk about the statute and says -- they list
24 them in descending order; attempted murder, assault and
25 battery high and aggravated nature, assault and battery in the

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1 first degree, second degree, third degree. And so while,
2 again, it doesn't fit the usual and normal definition of
3 lesser included offense as the Court of Appeals recognized,
4 our state has, for whatever reason, traditionally accepted it
5 to be a lesser included offense. So, on that basis, I would
6 include ABHAN and first degree. Now, not to complicate any
7 further, but do you want to make any argument about that it
8 shouldn't apply to all four cases?

9 MR. EDGEWORTH: Your Honor, I think it pits me both ways
10 regardless because now we're talking about a, a situation
11 where in the others where there were no injury, you know, if
12 there's gonna be -- my client would then be pitted with, you
13 know, either asking for the attempted murder and seeking to
14 get a not guilty verdict on those charges as relates to people
15 that didn't get injured, and the only other option would have
16 been to in the assault and battery first, we'd still be asking
17 the Court on the basis of is accomplished by means likely to
18 produce death or great bodily injury, that I think, think
19 would -- we're making the inference that the, the use of the
20 -- use of the gun is qualifying the specific act and then in
21 turn, may lead the jury to conclude that my client had intent.
22 So, I'm kinda stuck both ways regardless of how the charge
23 goes down.

24 THE COURT: All right. I appreciate that. All right.
25 So, understanding that position, what I'm gonna do then is

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1 we'll reformulate the verdict forms to have a, a lesser
2 included of assault and battery high and aggravated nature and
3 assault and battery in the first degree on all four attempted
4 murder charges. All right.

5 MS. RICHARDSON: And in that case, Your Honor, there
6 would also be an instruction on inferred malice and the use of
7 a weapon, all of that would come in for those two -- those
8 charges.

9 THE COURT: Well ---

10 MS. RICHARDSON: It's a different intent.

11 THE COURT: I understand exactly what you're saying. I
12 know the Supreme Court has not spoken directly on this point,
13 but I think it's proper to infer from their previous decisions
14 that they are having problems with implied malice by the use
15 of a deadly weapon and I am not going to charge that. So,
16 what I will charge is that the law considers assault and
17 battery high and aggravated nature to be a lesser included
18 offense of attempted murder. I'll define as set forth in the
19 statute. A person commits the offense of assault and battery
20 high and aggravated nature if the person unlawfully injures
21 another person and great bodily injury to another person
22 results or the act is accomplished by -- whoops, I'm sorry,
23 that's the wrong one; that was the old one; I'm sorry -- that
24 assault and battery -- okay. I was adding a sentence that
25 didn't need to be added. I'm sorry. And great bodily injury

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1 to another person results or the act is accomplished by means
2 likely to produce death or great bodily injury. Great bodily
3 injury means bodily injury which causes a substantial risk of
4 death or which causes serious permanent disfigurement or
5 protracted loss or impairment of the function of a bodily
6 member or organ. So, it could fall within and on all of them
7 that great bodily injury means bodily injury which causes a
8 substantial risk of death by its use. And then assault and
9 battery as we've previously talked about it, that if the
10 person unlawfully injures another person and the act either
11 involves nonconsensual touching or occurred during the
12 commission of a robbery, burglary, kidnapping, or theft, and
13 the, the person may also commit the offense of assault and
14 battery in the first degree if the person unlawfully offers or
15 attempts to injure another person with the present ability to
16 do so and the act either is accomplished by means likely to
17 produce death or great bodily injury or occurred during the
18 commission of a robbery, burglary, kidnapping, or theft.
19 Again, the same definition of great bodily injury. So, that's
20 what intend to do. All right?

21 MS. RICHARDSON: Your Honor, as far as intent on those
22 crimes, would there be an intent, the general intent charge?

23 THE COURT: I do not intend to do so. I'm gonna read it
24 as it says. Assault and battery is -- high and aggravated
25 nature can be accomplished by means likely to produce death or

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1 great bodily injury. The facts fit that. Assault and battery
2 first degree, the person may commit the offense of assault and
3 battery in the first degree if the person unlawfully offers or
4 attempts to injure another person with the present ability to
5 do so and the act either is accomplished by means likely to
6 produce death or great bodily injury. The facts fit that.
7 That's what I'm gonna charge.

8 All right. And I know we talked about it and I read it a
9 couple of times but, transferred intent, if the defendant with
10 malice aforethought attempts to kill another person by mistake
11 -- but my mistake attempts to kill a different person, the
12 defendant still has the intent to kill. The intent to kill is
13 merely transferred from the original person the defendant
14 attempted to kill to the actual person the defendant attempted
15 to kill, and so that will be part of it.

16 All right. So, with all that, when we bring the jury in,
17 Mr. Edgeworth, I'll ask what is the position of the defense,
18 you can tell me the defense rests, and I'll speak to the jury
19 briefly and then we'll go into the closing arguments.

20 Ask the jury to come in, please.

21 (REPORTER'S NOTE: Jury enters courtroom.)

22 BY THE COURT:

23 THE COURT: All right, Mr. Edgeworth, what is the
24 position of the defense?

25 MR. EDGEWORTH: Your Honor, the defense rests.

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BY THE COURT

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1 THE COURT: All right. Very good.

2 All right, ladies and gentlemen, we have concluded the
3 evidentiary portion of the trial. You will receive no more
4 evidence in this particular case. That does not end the
5 matter. What we're gonna do now is we're gonna have the
6 closing arguments of the attorneys, after which time, I will
7 give you the law that you will apply to the facts and evidence
8 you have heard in this particular case. So, as I told you,
9 opening statements, closing arguments by the attorneys, that's
10 not evidence. You've already heard all the evidence in this
11 case, but the closing arguments by the attorneys, are
12 important. They are each side's summation to you of what they
13 believe the evidence has shown to you during the course of the
14 trial, remembering of course, that you are the judges of the
15 facts of this particular case. And when we get done with
16 those closing arguments by the attorneys, they'll be a full
17 argument by the state and then a full argument by the defense,
18 then I will give you the law that you will apply to the facts
19 you've heard in this particular case and then I'll submit the
20 case to you for your deliberations and unanimous decision in
21 all of these matters.

22 Solicitor?

23 MS. RICHARDSON: May it please the Court?

24 THE COURT: Yes, ma'am.

25 CLOSING BY RICHARDSON:

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BY THE COURT

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1 MS. RICHARDSON: On Monday, when I first talked with you,
2 I described this case as being a close call, dodging bullets,
3 a brush with death. There's some indication, maybe I was
4 overstating it, but we can't, in this case, just look at the
5 result. This is an attempt. This is attempted murder. So,
6 what was planned or what was attempted didn't actually happen
7 but we have to look at the fact that it could have. It could
8 have. And if it were up to him, it would have, and that's
9 what we look at. What was he trying to do? What was he
10 trying to do?

11 Now, I'm glad, everybody in this room should be glad,
12 including him, that she walked out of that hospital and that
13 the other three or four didn't have to go in there. I'm
14 thrilled. You heard the doctor. They still talk about that.
15 He remembered it. You've heard how many patients he treats.
16 You're all from Georgetown. You've probably had family
17 members that have gone to the Georgetown ER or Tideland; you
18 know how busy they are. He remembers this because somebody
19 got shot in the face and lived to tell about it. But, are we
20 to reward him for that?

21 The law already does. It's attempted murder, not murder.
22 There's your difference. There is your difference. But
23 again, we look at what he was trying to do; what was he trying
24 to do? Now, you'll hear and the Judge will tell you and I'm
25 sure Mr. Edgeworth will talk about the burden of proof. The

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CLOSING BY RICHARDSON

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1 burden of proof is on the state to prove this in each and
2 every case beyond a reasonable doubt. The Judge will tell you
3 that doesn't mean an absolute certainly; it's firmly convinced
4 and it's what's reasonable, what's reasonable, when you put
5 everything together. You have to use your common sense.

6 So, the first thing that we have to do or that I have to
7 do for the state is prove that it was him, is prove that he's
8 the one that did it. All right. Nobody saw his face. Nobody
9 saw his face. There's a reason for that; he planned it that
10 way. He didn't just want to kill them; he wanted to get away
11 with it. He didn't want to be sitting over there, especially
12 on a murder case. So, there's a reason we didn't see his face
13 or that they didn't see his face. But that's nothing new,
14 that's nothing new in crime, that's nothing new in the law.
15 People go into situations masked all the time. People go into
16 a house when nobody's home, nobody sees them. But in this
17 case, he had the mask of darkness, of shadows, of distance.
18 So, you have to figure it out just like you do anything else
19 in life, you figure it out. You look at the evidence, you put
20 two and two together, and you figure out who did it.

21 Well, first of all, his name was called. His name was
22 called immediately. Well, not to sound like my middle
23 schooler, but duh. Somebody is shooting at you and trying to
24 kill you, you're not gonna look at the Sunday school teacher
25 or your grandmamma, usually, you're gonna look at who was mad

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CLOSING BY RICHARDSON

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1 with you, who had something against you. Who was mad with
2 them, that had something against them that same night or
3 morning. I say night because it was still dark. But, that
4 same morning, who had something against them? Who was the
5 last person they had a run-in with? Tight there, right
6 there. So, of course they call his name. Of course, they
7 call his name and they had just seen him. They had just seen
8 him. They had this altercation at the club. There's, you
9 know, well, what did he mean by the avenue? Tysha Moultrie
10 told you what he meant. The way you say something, your body
11 language makes a difference. I don't know if any of you watch
12 Friends, old episodes, but if I were to say, hey, what are you
13 doing; that, that's one thing. If Joey Trevino says, what you
14 doing, like this, that's something different. So, it's your
15 body language. It's how you say it. And she told you this
16 wasn't the same as earlier in the night, like let's go on
17 back, have a little fun. He was angry. He was angry. That's
18 kinda like go on to my house, step out in the road, you know,
19 that kind of thing that you hear. He was angry.

20 So, they knew he was mad, they left. He doesn't live out
21 there. He doesn't live out there; he's 17 years old. It's 3
22 o'clock in the morning, almost 3 o'clock in the morning. His
23 momma's at home. Drive by, turns around, drives back by.
24 Well, for most of them, just from what they saw, it scared
25 them enough, they ran off. Tysha, who has seven brothers and

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CLOSING BY RICHARDSON

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1 probably has dealt with a lot there, she stayed out there a
2 little while but sees him come back. She gets out, too. He
3 drove by, they saw him, they knew him, they go inside, they
4 come back out, trying to figure out how they're gonna get
5 home. They don't want to drive their own cars; they're that
6 worried. They don't want to drive their own cars home or to
7 take the other two girls home. They're making a plan to go,
8 again, at 3 o'clock in the morning, to go get Danasha's
9 momma's car. I don't know how happy her momma would've been
10 about that time of the morning, but they're making a plan
11 because they're scared, because they're worried something's
12 gonna happen. But guess what, they were right. They were
13 right. So, they're sitting there -- and you've seen some of
14 the pictures and the aerial map and some of the video, and I
15 know it's a little hard to tell. Video is great. Video is
16 great; I'm glad we've got it. But sometimes you can kinda see
17 better yourselves. They saw him. They saw him. Now, he was
18 far away and they could tell, you know, enough about him.
19 They couldn't see his face and they didn't come in here and
20 try to tell you they did. They didn't. They could sure tell
21 it wasn't me. They couldn't tell -- they could tell it wasn't
22 a 300-pound football player. I mean, you can kind of tell
23 size and if it's consistent. You can tell. Even on a
24 football field, even on a football field you can tell, so
25 consistent. And they're about to get worried when the shots

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CLOSING BY RICHARDSON

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1 came out. They could see him; he could see them. Shots were
2 fired, they start scattering, and Danasha's hit. How do we
3 know it was him? He was mad and he had just scoped them out.

4 But then we look at the evidence, at the evidence.
5 That's where police come in and start gathering evidence.
6 Well, from where they were sitting -- and I do this every
7 time. So, from where they were sitting, you know, you heard
8 the police say, when we started kinda up in here and then we
9 ended up going back because we just kept getting more
10 information and going back, and it was back here, but what did
11 they find in that area? Four shell casings in the same area.
12 And you'll get to see the video again and you can kind of pick
13 it out. There's that little bridge here that the officer was
14 telling you about, the ditch, and there's a ditch here and a
15 bridge. You can kinda figure it out, but you'll, you'll see
16 from the video about where the shots were fired.

17 Well, so right after that, the police had been out there
18 the whole time, what do they find? They use a metal detector,
19 they find four shell casings. Find another one up on the
20 porch. I've got to get these terms right, but a projectile.
21 So, what came out of the gun? Four of them are found back in
22 the field and one of the projectiles is found up on the porch.
23 So, they find those and collect them.

24 Well, what else? The girls said he was driving the
25 Lexus. He was driving a Lexus. Now, there was some

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CLOSING BY RICHARDSON

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1 disagreement about the color of the car, but he was driving a
2 Lexus. So, they go to his mom's house. What's sitting there?
3 A Lexus. What's not sitting there? Him. He ditched that car
4 so quick that he had to take the keys to his cousin's house.
5 And what did she say? 4:00, 5:00 in the morning and her with
6 a child. And he didn't hang around there either; he was gone.
7 So, it's the car, shell casings, and he's not there. He's not
8 there. So, they search his house and what do they see? Gun
9 magazine, some bullets, some other things in his room. So,
10 they're looking for him, looking for him. He's been named a
11 suspect, he's not at home, and they didn't find him. Where do
12 they find him? Home? No. Aunt's house? No. In the car?
13 No. Over the bridge like he's headed towards Charleston.
14 Over -- I'm not saying he's going to Charleston, but over the
15 bridge on 17, walking, 17. By this time it's what, almost
16 7:00, 6:00, 7:00 in the morning, and it starts raining. Just
17 like he ditched that car, he was getting out of Dodge. They
18 find him. How does he act? How does he act? Like he wants
19 to get away. The officer told you he gave him a fake name,
20 backed up, fidgeting, fidgeting, the back side over there.
21 They ended up having to kind of side get him and tackle him.
22 What's he got on him? Got some drugs. But right where he was
23 grabbing, right where he was grabbing, he's got this. And
24 he's got this, full of this, like what was laying on his bed.
25 And then he's got these weird bullets, and I'm gonna call them

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1 that even if SLED doesn't. He's got these weird bullets.
2 John Gregory told you. I had to look it up; I didn't know
3 what it was. SLED said it's rare and it's new and you can
4 look at them. It does, it looks like a screwdriver drill bit
5 on the end. And I didn't pull it back up for you, but John
6 Gregory said, huh, that looked familiar. Look at the side of
7 her face. Look at the side of her face where the doctor said
8 the bullet went in.

9 So, they get him back -- they had to wrestle him on the
10 ground, fighting him to get him handcuffed, he gets back to
11 the police station, complains about his clothes being wet. It
12 started raining at some point, maybe it was dew, I don't know,
13 but he complained about it to Officer Smith, Noel Smith,
14 fidgeting around in there. This is about they said 7 o'clock.
15 The shift for the officers was ending about 6:00, some were
16 going home. The sun was coming up about 7 o'clock. This
17 happened about 3 o'clock; that's when the shooting happened.
18 You heard the doctor say she got to the hospital before 4:00,
19 about a quarter of 4:00. So, it was about 3 o'clock in the
20 morning when all this happened. So, they find him, it was
21 about 7:00 and get him to the police station, and you can see
22 that's when they collected the GSR and swabbed his hands and
23 all that.

24 So, the lady from SLED who does the GSR told you, well
25 four to six hours, you know, it's starting to kind of come off

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1 and then it depends -- I don't know what all he did other than
2 going to his aunt's house, there's no way to know, went to his
3 aunt's house, walking or whatever, but you can remove it, you
4 can remove it. But guess what? There was still at least one
5 little piece there, gunshot residue, gunshot residue. Checked
6 the car, and she told you, look, if the gun had been fired in
7 the car, it'd be covered. So, anything found on the car --
8 and it wasn't, it wasn't covered. It wasn't covered with
9 gunshot residue. But anything that was on there because there
10 was only a piece on there, had to be from secondary transfer,
11 meaning it was on his hands or something that touched it. So,
12 we still found at least a piece there.

13 And then about 18 months later, 18 months later, his
14 clothes, we got his clothes out of the jail, they had been
15 sitting there for 18 months, and 18 months later, now the
16 shirt didn't have anything on it, it didn't. Again, I don't
17 know with it raining and him down on the ground, but the shirt
18 didn't have anything on it. The pants did, multiple particles
19 both sides, even 18 months later.

20 So, we got some gunshot residue on his clothes, hand,
21 steering wheel. Another thing to add together; another thing
22 to look at. Then they send this stuff to SLED. Chad Smith,
23 the firearms guy -- and I'll be honest, all that he was
24 explaining was pretty technical, but he tells you that he
25 takes this gun -- he's been doing this a long time, tested

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1 lots and lots. He takes this gun and checks it against -- I'm
2 not gonna pull it out again -- but against -- and he takes
3 this ammunition that he got with the gun and compares with
4 them with the stuff in these boxes. So, you would think this
5 ought to be the drugs, but -- so, you got four of them that
6 are shell casings that were found back in the field and then
7 you got that little piece right there, and you can tell the
8 star tips, kinda messed up. Well, he told you, with this one
9 and the kind of ammunition it was, I can't tell you that it
10 came from that gun. I can tell you that it's the kind that
11 could've come from that gun, but I can't tell you and I'm not
12 gonna try to tell you that this came from that gun. It's
13 consistent with it. I will tell you that this is the same as
14 10 rounds of that rare ammunition or new ammunition we pulled
15 off of him. It's the same thing, but I can't tell you it came
16 from that gun. But what I can tell you, he says, is that
17 every gun is different and that when they fire based on the
18 rifling and all that stuff he was talking about, and then just
19 the normal wear and tear, they leave a different mark. Ding,
20 ding, ding, ding; it's a match. These came from that, came
21 from him just a few hours after this to Danasha.

22 Proof, how you figure it out. It's like you hear all the
23 time. You have the smoking gun. So, then there's been a lot
24 made of the fact, or to them a lot was made of the fact that
25 they were out at a bar, they were drinking; they're grown

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1 women. They're grown women and he's not -- he wasn't a grown
2 man. They're grown women; if they want to go out and do that,
3 they can. But it doesn't mean they're any less a victim than
4 anybody else. And what did Tysha -- people are gonna look for
5 a reason, a reason why things happen and kinda well, that
6 wouldn't happen to me because I wouldn't -- I wouldn't do
7 that. Well, what did she say? She blamed herself. So, he
8 can talk junk to her, I mean that happens, and she can react,
9 but somebody can't shoot you just because you make them mad.
10 My God, it'd be like the Wild West. You can't shoot somebody
11 because you're mad at them over something that stupid.
12 She, she shouldn't have to feel guilty about it. Maybe she,
13 you know, would feel bad about calling him what she did or
14 question his manhood, but it doesn't mean she deserves to get
15 shot or shot at. It's crazy. It's crazy.

16 And a thing that's been made a lot of is how far he was
17 away. What did he intend? You'll see it on the video. You
18 point a gun, loaded gun, at human beings, at least one of
19 which you're mad at and pull the trigger, not just once, but
20 four or five times. And you're gonna hear a lot about intent.
21 What did he intend? What else would you intend? What else
22 would you intend? People get real technical and red-tape and
23 this and that. Somebody points a gun at you and pulls the
24 trigger, what do they intend? To kill you, to kill you.
25 Yeah, maybe he could've -- I don't know if he had the gun on

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1 him at Ming'z or not. If he just wanted to kill her there,
2 yeah, okay, but everybody would have saw it. He wanted to
3 kill her, but he wanted to get away with it, too. So, he went
4 out in the shadows, went out into the shadows and shot. Yeah,
5 it was pretty far, a pretty good shot. He was a pretty good
6 shot. At least two and maybe three of them hit in the general
7 vicinity out of five. That's not so bad. And what did the
8 doctor say? Inches, inches, and we'd be talking about
9 something different.

10 I mean it's just ridiculous to say, you know what, look
11 at this place. Look at this place, it's on the video, you'll
12 see that there are other people. Look at this place, all
13 this. He's over here. People live here, children live here,
14 people were standing out here.

15 Now, one thing I did want to clear up is the time. Now,
16 the guy from the housing authority camera system told you that
17 sometimes it could be off. He didn't have a whole lot of
18 specifics. And until you get familiar with it, it is kinda
19 hard to know where this is and if you'll -- this is in
20 evidence. These are the video clips that are in evidence and
21 this is one of them. This is Clip 4. If you'll look, this is
22 the one that is labeled [REDACTED]. Now, I'm gonna go on
23 down to the end and you can see right here the police are
24 coming, 2:09. They all told you the call came in at 3:07 is
25 when they got the call. The doctor told you he treated her at

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1 3:45. So, the camera is off. I don't know if it's daylight
2 savings; I mean, it shouldn't have been in the middle of the
3 summer, but the cameras are off an hour and you can tell from
4 that.

5 And I know I've been talking a long time. All right.
6 There are a bunch of charges. You heard us read them all off
7 in the beginning with the numbers. There's a bunch of charges
8 and the Judge is gonna tell you, you're gonna have to consider
9 each and every one of them. So, I'm gonna go through them
10 with you just to, to show you the evidence and what
11 constitutes each charge. Now, the Judge will tell you, he'll
12 instruct you on the law and you'll hear him say elements.
13 Elements are the factors or what you have to show for each
14 crime. So, if you can -- all right. This is the State v.
15 Ty'Shun Bessellieu. All right. So here's the charges and I'm
16 not gonna read the numbers or anything. You've got possession
17 of Schedule IV controlled substance; possession of marijuana
18 with intent to distribute, sometimes people call that PWID
19 marijuana; unlawful possession of a pistol by a minor;
20 discharging a firearm into a dwelling; four counts of
21 attempted murder; possession of a weapon during the commission
22 of a violent crime. Those can be divided into two things,
23 what was found on him and what happened back at [REDACTED].

24 So, what was on him was the pills, the gun, and the
25 marijuana. The pills, that's the possession of this

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1 controlled substance, Schedule IV. You heard Mr. Zivkovich
2 from SLED tell you about that and the schedules. The gun,
3 unlawful possession of a pistol by a minor; he had a pistol on
4 him, 17 at the time, he has to be 18. Possession of
5 marijuana, PWID marijuana, all right, for the PWID marijuana,
6 you don't just look that he had it on him. You have to say,
7 well, he had some intent to distribute, and you can do that by
8 the weight, packaging, or other things that are found with it.
9 So, the marijuana is all in this bag now, but John Gregory and
10 Blair Cribb told you when they got it, it was in these little,
11 there were 29 of these little tiny baggies; they dumped it out
12 so they could weigh it. The Judge is gonna talk to you about
13 a weight level, but you can also look at -- now this was just
14 over an ounce, but you can also look at how it's packaged.
15 So, it's 29 little baggies. That's a lot for one person.
16 Usually, when you buy something, they've got it packaged it
17 for you because you're buying the little packs.

18 In his bedroom, they found these. And, if you'll look at
19 these, there are several different kinds of those little bags
20 and they're all brand new and stuff here. They match those;
21 the one with the little 7's on it and the little eagles or
22 whatever. Those are the variety of bags that he had in there.
23 So, then based on what was on him at arrest, those are the
24 three charges.

25 So, then what happened at [REDACTED], he's been charged

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1 with discharging a firearm into a dwelling; four counts of
2 attempted murder, and it's one for each of the girls that are
3 here that you heard from; and then possession of a weapon
4 during the commission of a violent crime. So, it's a lot of
5 charges, but just to break down what each one's for.

6 So, discharging a firearm into a dwelling, you see people
7 live there, got a bullet hole under the window, one on the
8 porch, and then the projectile. So, there's the four counts
9 of attempted murder, one for each person that came, and then
10 possession of a weapon during the commission of a violent
11 crime. To convict him of that, you first got to decide he
12 committed a violent crime. So, attempt -- and the Judge will
13 tell you which ones are violent and which ones aren't.
14 Attempted murder is violent and discharging a firearm into a
15 dwelling is not violent. You'll also hear about some other
16 charges, ABHAN, assault and battery of a high aggravated
17 nature, that is violent. Assault and battery first, that's
18 not violent. You're gonna hear about some other charges too
19 that aren't specifically charged and I'll explain that to you
20 in a minute.

21 So, attempted murder, what does that mean? Well, here's
22 the definition under the law. A person who with intent to
23 kill, attempts to kill another person with malice aforethought
24 expressed commits the offense of attempted murder. Notice, it
25 doesn't say that they got to be hurt. You try to kill them

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1 with intent, and you're gonna hear the words specific intent,
2 you're trying to kill them or you want to kill them and then
3 you attempt to kill them with malice, express malice, and
4 we'll tell you about that, and that's -- you'll have to
5 actually get.

6 So, the Judge is gonna talk to you about specific intent
7 to kill and about malice, but again, it's kind of common
8 sense; are you trying to kill somebody? Are you trying to
9 kill somebody and do you make -- with attempted murder, do you
10 make an attempt? It's not just that it's in your head, you do
11 something; you make an overt act. You don't just plan it, you
12 actually try to do it. So, here, I mean, he pulled the
13 trigger a couple of times. So, there was an overt act. And
14 then when you talk about malice, it's hatred, ill will,
15 hostility. Kind of like meanness or mad or, you know, there's
16 a reason that you want to do it. It's not accidental or
17 anything like that or it's not reckless like, you know,
18 goofing off with a gun or something like that. And express
19 means that you have to have expressed some kind of animosity
20 and you've heard about all of that at the club. Or, that you
21 planned it or prepared ahead of time, you planned it or
22 prepared. Well, we already know he didn't do anything at the
23 club, he came, drove by, saw where they were, went out in that
24 field and shot them. Planned, prepared, ahead of time, and
25 you heard when he's at the club, they close at 2:00, it was

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1 about 2 o'clock, but this was at 3:00. A whole hour, a whole
2 hour of this.

3 And then the other thing that gets a little tricky is
4 transferred intent. So, you can be mad at one person, like
5 Tysha. You can be mad at one person and that intent can be
6 transferred to another person. So, the Judge will tell you if
7 you want to kill one person and then when you're doing it, you
8 almost kill another person, then it's not like, oops, my bad,
9 sorry, I'm not guilty because I didn't mean it for you, I
10 didn't mean it for you. No, you're responsible. You're
11 responsible. Just because you're mad at one of them, if you
12 shoot in the direction of four or five of them, if you hit one
13 of them or if you hit somebody in one of those houses, it
14 could go in that window and hit somebody asleep in there.
15 Same thing, it's not, oops, my bad, wasn't mad at you. I
16 weren't mad at you. But anyway, and he knew all of them were
17 together. He had seen them. So, that's the thing about the
18 intent, but basically what it boils down to is, what did he
19 mean to do? What was he there for?

20 And again, common sense, his actions, the premeditation,
21 about an hour, at least, hiding. He was like a sniper, hiding
22 out there, ambush. And he wasn't throwing smoke bombs at
23 them, he wasn't trying to throw knives from that far, he was
24 shooting a gun. He was shooting a gun, so you have to look at
25 how he did it and what he used to figure out what he was

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1 trying to do. That's just common sense. And again, he wanted
2 to get away with it.

3 So, I'm asking that you find him guilty of all these
4 charges for the reasons that we went through.

5 And I want to show you, you can look at this evidence,
6 you can take the evidence back with you and you'll have a
7 computer if you want to look at some of this stuff and, and
8 compare it and see what was on there. And I want to show you
9 this Clip 4, and I showed you the end of it earlier. Now,
10 this is showing 2:03 but I want you to look right in here and
11 you saw in that first clip that I showed you that right in
12 here is where the police responded. If you look at the end of
13 it, you'll see where the police show up, so you know this is
14 the -- this is the house. So, I want you to watch this corner
15 over here. Look right there.

16 (REPORTER'S NOTE: Clip 4 published.)

17 MS. RICHARDSON: This is where they were standing. And
18 again, the video is dark -- this has been copied. They told
19 you they had their phones out. At 2:04:48 that light starts
20 moving fast. Why? It wasn't pitch black over there. He had
21 a target. He had a target.

22 And this is another one of the video clips and so you'll
23 see it in evidence designated as field view that points back
24 into that field and I want you to focus right over here.

25 (REPORTER'S NOTE: Field view published.)

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1 MS. RICHARDSON: This is another view. Now, I want you
2 to notice, walks this way, stops and looks, walks back, gets
3 the vantage point he wants. How many people were on that
4 porch when he went by? How many? Those four plus -- he's got
5 an automatic weapon. I want you to look at how slow and
6 deliberate his motions were. Walking back. One, two, three,
7 four, five, then he runs back in the shadows to get away.

8 What other reasons, what other reason to shoot in the
9 direction of five people but that you wanted to kill them.
10 What other reason?

11 And you're gonna hear the Judge tell you that when you
12 consider -- you first consider attempted murder of the four
13 girls. And like I said, attempted murder, it doesn't matter
14 if they were hit or not, because you know you've got Danasha,
15 who was hit; Shaniqua thought she might have been grazed; and
16 the other two who dodged the bullets. And the law doesn't
17 require that you actually hit them. What you were trying to
18 do. So, the first thing you do is consider that and whether
19 we've proved beyond a reasonable doubt that he attempted to
20 kill somebody and that he tried to do it and he did some
21 action to do it and he did that because he was -- had malice.
22 He had a little bit ahead of time beforehand, he had malice
23 and that had been expressed in some way. Mad, being mad with
24 them earlier, stalking them, hiding, and lying in wait back
25 there. He intended to do it, tried to do it. That's what you

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1 consider first. And, only if you think or you don't find that
2 has been proven, then you go to the other two. You don't look
3 at them first because they're included in this. We're talking
4 about the intent; that's the difference is what the intent
5 was. And if not, then you go to the other two. And then you
6 decide, oh, well, if he didn't -- he pointed the gun at
7 somebody and shot at them and he didn't really mean to kill
8 them, didn't really mean to kill anybody, then we go to ABHAN.
9 And then you'll see where that's injured somebody in a way or
10 in a manner that normally can cause death or great bodily
11 injury. I mean, you know, if you get shot in the head or
12 neck, you get shot, but my goodness, you could get shot in the
13 leg and die. So, you know when you're shot with a gun or you
14 use a gun at somebody. And then if you don't find that, then
15 you can go to assault and battery first, which is the lesser
16 of that.

17 So, we'd ask that you look at attempted murder, what he's
18 charged with. Use your common sense. Pointed a gun at
19 people, tried to kill them, and almost did. He almost did.

20 Thank you.

21 THE COURT: All right, Mr. Edgeworth?

22 CLOSING BY EDGEWORTH:

23 MR. EDGEWORTH: Thank you, Your Honor. Well, you've been
24 here a while and you've heard a lot and you have a lot to
25 consider. And the state has presented a case where they're

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1 wanting you to see it through the eyes of the victims and
2 hoping that you take that version of events and crumble it up
3 and turn it into attempted murder. I want to go over the
4 facts that those very same victims told you from the witness
5 stand and then put it into a perspective that you should be
6 listening to it from because what we're here about is the
7 intent, the specific intent to commit a murder, an attempted
8 murder.

9 First, we heard from Ms. Anderson, she was the one who
10 got struck. And she said on the night of the incident, she
11 said that there was not much of a crowd. She said that the
12 events that took place were not serious. She said that Mr.
13 Bessellieu, Ty'Shun was backing away. She said in fact, when
14 Ms. Moultrie was calling him out, he wasn't saying anything.
15 She also said that she didn't even -- she did not know him by
16 his name; she knew the face. As it concerns the events at the
17 house, she, she said that he was more than 300 feet away --
18 he, meaning the shooter -- because no one saw who was out
19 there. She also said that there was 30 minutes from the time
20 that they saw the car pass by from the shooting, 30 minutes.
21 There was no light in the field and there was no light on the
22 porch.

23 Ms. Shaniqua Kennedy, she said, she only knew him from
24 around the way. She didn't know him very much. No connection
25 between these people. She could not remember a lot. She was

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1 drinking a little bit. She didn't even remember Ms. Anderson
2 being there. She did not see him in the vehicle and she saw
3 no one in the field. When they went inside the house, she
4 couldn't see out the window, and she also could not see where
5 the bullets were coming from.

6 Now, we have Ms. Shaniqua McGirt. She was the one who
7 lived in the house. Remember, she was happy to be out. She
8 had kids, she rarely got out. In fact, she was all over the
9 place, probably meeting and greeting, you know, didn't really
10 get to see people very much because she's staying home with
11 her kids. She did not see what started the "argument", what
12 was deemed an argument by everyone. She did say that Mr.
13 Bessellieu was not violent and she said it was more like he
14 was a little embarrassed. She also said that it was 30 to 35
15 minutes of them sitting out on the porch before they saw the
16 shots. So, again, that's another person who indicates it was
17 about 30 minutes from the time they came outside from going
18 inside before there were any shots. And she also said, that
19 she believed the shots were all over the place; not in one
20 direction, all over the place.

21 Ms. Moultrie, who was the person that Mr. Bessellieu was
22 making the advances towards said that it all started with him
23 making a remark, and that she wasn't used to being hit on like
24 that, so she wasn't used to being hit on aggressively, and
25 that she only called him gay just to get him to leave her

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1 alone. No intent otherwise. Get away. And that she was just
2 talking trash because she only -- she had had a few drinks,
3 but she was beefing him back because, you know, remember she
4 went inside and played some pool and had a couple of drinks
5 before she came back outside.

6 Now, why is all that important? Well, Mr. Bessellieu
7 doesn't have very much connection with these people. The only
8 connection that he has was on this particular night that, you
9 know, he went to the bar, tried to make sexual advances
10 towards Ms. Moultrie. Those were shot down, but how did he
11 react? They said he left. He left. A little while later
12 when they're back at the house, approximately, the testimony
13 was somewhere between 20 to 25 minutes from most of the
14 victims, you see him riding by. Now, you saw the car ride by
15 in the -- in the video. You can't see a person, but it's
16 riding at a very relatively normal pace. There's no speeding
17 up and rushing off or there's no creeping by, just normal
18 driving.

19 So, what do we need to look at? How do we go from those
20 facts that you heard right there to turn it into intent to
21 kill? Intent to kill. Well, he was -- the shooter was more
22 than 300 feet away based on the statements from Ms. Moultrie,
23 or excuse me, Ms. Anderson. And then when Officer Ward went
24 out there after they pointed out where he approximately was,
25 it ended up being, Officer Ward said, further than what they

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1 said. So, he's more than 300 feet away. And then where did
2 the shots land? 'Well, look at those photos. You have one on
3 the second floor, another one on the opposite second floor,
4 one that you saw that was in the brick, and there was also a
5 projectile on the floor, right, that's what we saw. That was
6 the photos that were shown to us. That's consistent with one
7 of the victim's statements, all over the place.

8 Now, if the shooter was going to kill someone, would he
9 be more than 300 feet away? Would the shots be all over the
10 place? Would he miss so badly that it's in the second floor,
11 two of them, two on the second floor? Extremely bad shot, I
12 doubt it. If he wanted to kill somebody, he would've done it
13 when he drove by. He can see exactly what he's shooting at.
14 Want to kill the people on the porch. Wouldn't that make more
15 sense? What would also make more sense, if he was trying to
16 kill someone, why would he take the car back to his parents'
17 house and start walking, walking down the street? If he was
18 trying to kill someone and assumed he was gonna kill someone,
19 wouldn't he drive off and leave? Wouldn't he just take off
20 like the state says and maybe head on down to Charleston, or
21 at a minimum, drop the car off and run, not walk down a main
22 street, Highway 17, just to get picked up. Does that make any
23 sense to you? If he intended to kill, he would've assumed he
24 killed someone and he would have taken off. But that's not
25 how the facts went. Shots all over the place, walking down

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1 the road. Right?

2 Now, how did someone get injured? I'm sure that's a big
3 question. You know, why did all the shots go all over the
4 place? Well, think about the injury. Ms. Anderson said she
5 was sitting in a chair on the left side of the porch. She got
6 struck on the left side of the face. They said when they
7 started hearing shots, they ran to the door that was to the
8 right. A random bullet hits here as you're ducking or moving
9 out of the way going back to the door. It didn't just -- how
10 can you get shot here if you're trying to kill somebody in the
11 front. Not to mention the fact they were saying there was two
12 and two or two and two by side standing on the porch from more
13 than 300 feet away. Does any of that lead you to believe
14 there is an intent to kill? No. If the, the shooter was
15 trying to, you know, get the heck out of Dodge like the state
16 said, that was a very poor way of doing it. Easy way to get
17 caught walking down 17.

18 The state also mentioned something about, you know,
19 hiding, you don't hide very well walking down 17. This case
20 boils down to the intent, the specific intent to kill someone
21 and the fact that they didn't get killed is the reason why the
22 charge was attempted murder. If there's no specific intent to
23 kill, it can't be attempted murder, not just for one but for
24 all four counts.

25 Remember, the case isn't about what the victims think;

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CLOSING BY EDGEWORTH

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1 it's what the victim's said from there. It's not about what
2 the state thinks about the case; it's what those facts lead
3 you to believe in a reasonable way that would be the most
4 clear and reasonable connection of those facts. And is it
5 really connection, a connection to say that someone who
6 intended to kill someone to just kind of walked back through
7 the field and take the car back to his parents' house, walked
8 down 17 to be caught two hours later? No.

9 If he was intending to kill, he would've assumed he
10 killed and he would have ran. No one would have found him
11 walking down 17. It's not what the victim's think; it's what
12 the shooter thought that matters. Only if he intended to kill
13 can you convict and these facts do not lead you to that
14 conclusion, and I'm asking you to come back with a not guilty
15 verdict.

16 Thank you.

17 CHARGE TO JURY:

18 THE COURT: All right, ladies and gentlemen, those are
19 the closing arguments of the attorneys. What remains is the
20 charge on the law. I am gonna have to talk to you for a
21 little bit because of the number of charges that there are and
22 you have to make a separate decision on each one. So, what
23 we'll do is we'll take a short break here for about five or
24 ten minutes and then I'll come back in -- or we'll come back
25 in and I'll give you the law that you'll apply to the facts

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1 and evidence you've heard. All right?

2 Take a short break.

3 (REPORTER'S NOTE: Jury exits courtroom.)

4 THE COURT: All right. We'll take a short break for
5 about five minutes or so.

6 Thank you very much.

7 (RECESS.)

8 *****OFF THE RECORD*****

9 (On the Record.)

10 THE COURT: The state ready for the jury to come in?

11 MS. RICHARDSON: Yes, Your Honor.

12 THE COURT: And Defense?

13 MR. EDGEWORTH: Yes, Your Honor.

14 THE COURT: All right. Very good.

15 Ask the jury to come in, please.

16 (REPORTER'S NOTE: Jury enters courtroom.)

17 THE COURT: All right, ladies and gentlemen, it's now my
18 duty and responsibility to give you the law for you to apply
19 to the facts and evidence you have heard in this case. Now,
20 you've heard throughout and I told you at the very beginning,
21 the state has charged the defendant with numerous charges.
22 There four counts of attempted murder; there's possession of
23 weapon during the commission of a violent crime; discharging a
24 firearm into a dwelling; unlawful possession of a pistol by a
25 minor; possession of marijuana with intent to distribute; and

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1 possession of a Schedule IV controlled substance drug.

2 Now, each and every one of these is a separate charge.

3 So, what that means is that you will be rendering, delivering
4 a verdict on each and every one of these charges. Each one of
5 them is a separate case. Each one of them has its own
6 distinct facts that apply to it and the law.

7 Now, I told you at the very beginning that I would not
8 indicate to you in any way what I thought the facts of this
9 case were because it wasn't my job and my responsibility; it's
10 your job and your responsibility. So, if you came into this
11 courtroom and -- the same thing, if you came in the courtroom
12 with any preconceived ideas of what the law is, what it ought
13 to be, what it should be, what you hope it would be, you will
14 disregard that. You will take the law as I now give it to you
15 and apply it to the facts and evidence you have heard in this
16 particular case. I told you at the very beginning, one of
17 your jobs is to be the judges of the facts is to judge the
18 credibility and believability of the witnesses that came
19 before you and testified under oath. So, in this particular
20 matter, you can believe one witness several, several against
21 one, you can believe a portion of what a witness says,
22 disregard the remaining portion of it. If you've got a good
23 and sound reason for doing so, you can disregard in its
24 entirety the testimony of a particular witness. You look at
25 whether or not that witness has exhibited to you any kind of

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1 interest, motive, bias, prejudice they might have in giving
2 you the testimony they gave you from the witness stand. And
3 obviously, you look at the opportunity for knowledge; how did
4 they come about that information that they gave it to you.
5 You don't have any friends to reward, you don't have any
6 enemies to punish in this matter. You're simply looking to
7 find the facts and evidence and whether or not the state has
8 proven the defendant guilty beyond a reasonable doubt of the
9 crime or crimes charged.

10 There are two types of evidence generally presented in
11 every single case that's tried and this case is no exception.
12 It's called direct and circumstantial evidence. Now, direct
13 evidence, that's the testimony of a person who asserts or
14 claims to have knowledge of a fact; what they say, what they
15 heard, what took place in their presence. Now, circumstantial
16 evidence, that is proof of a chain of facts indicating the
17 existence of a fact. The law doesn't make any distinction
18 between the two and a greater degree of proof is not -- you
19 know, certainty is not required of one over the other, but to
20 the extent that the State of South Carolina relies on any
21 circumstantial evidence to prove a chain of facts or proof a
22 fact, all of the circumstances have to be consistent with each
23 other and when taken together, point conclusively to the guilt
24 of the accused, beyond a reasonable doubt. If the
25 circumstances merely portray that the defendant's behavior as

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1 suspicious, the proof has failed. The state has the burden of
2 proving the defendant guilty, beyond a reasonable doubt. That
3 burden rests on the state regardless of whether the state
4 relies on direct evidence, circumstantial evidence, or some
5 combination of the two. After weighing all of the evidence,
6 if you are not convinced of the guilt of the defendant beyond
7 a reasonable doubt of a particular crime, you must find the
8 defendant not guilty.

9 I qualified several witnesses in this matter to be --
10 give their opinion, sometimes called expert witnesses. We
11 normally don't allow witnesses to give their opinion, what
12 they think. They have to tell you what they saw or observed.
13 Now, sometimes because of education, training, experience, we
14 allow witnesses to give their opinion, but that doesn't give
15 them any special status. You judge all the witnesses the
16 same, you look at everybody's credibility and believability
17 the same.

18 In this particular matter, the defendant did not testify.
19 That fact is not to be used in your deliberations and your
20 decision in this matter in any way. It is not a factor to be
21 used in deciding this case. You can't talk about it, you
22 can't use it mentally to make your decision. And why is that?
23 I'm gonna talk about it again in a minute. The defendant is
24 presumed innocent when the state charges somebody with a
25 criminal offense, the defendant pleads not guilty, the burden

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1 of proof goes immediately on the State of South Carolina.
2 Defendant has nothing to prove to you, the defendant has
3 nothing to show to you. The fact the defendant did not
4 testify is not a factor in this case in any shape, manner, or
5 form.

6 The presumption of innocence. It's an important rule of
7 law that a defendant in a criminal case will always be
8 presumed innocent of the crime for which the state has charged
9 him, unless and until you believe the state has proved to you
10 the guilt of the defendant of that particular crime, beyond a
11 reasonable doubt. That presumption of innocence doesn't end
12 at the start of the trial, it hasn't ended now, it will not
13 end unless and until you believe on that particular charge,
14 the state has proved the defendant guilty beyond a reasonable
15 doubt. We liken it to a robe of righteousness. It's placed
16 on the shoulders of the defendant and it stays on the
17 shoulders of the defendant unless and until the state can rip
18 that robe of righteousness from the shoulders of the defendant
19 by proof that convinces you of the guilt of the defendant of
20 the crime charged, beyond a reasonable doubt. It's not just
21 some legal phrase or legal theory, we have. It's a
22 substantial right to which every American and which every
23 defendant is entitled.

24 Reasonable doubt. Reasonable doubt is the kind of doubt
25 that would cause an ordinary, reasonable person to hesitate to

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1 act. The state has the burden of proving the defendant's
2 guilt by that standard. Proof beyond a reasonable doubt is
3 proof that leaves you firmly convinced of the defendant's
4 guilt. Now, there are very few things we can know with
5 absolute certainty. Now, the law doesn't require the State of
6 South Carolina to give you that kind of proof. But what is
7 required is based upon the facts and evidence presented to
8 you, based upon your consideration of that evidence, you are
9 firmly convinced the defendant is guilty of the crime charged,
10 you must find the defendant guilty. On the other hand, if you
11 are not firmly convinced of the defendant's guilt of a
12 particular crime, then you must give the defendant the benefit
13 of the doubt and find him not guilty.

14 The defendant, has I've told you, has been charged with
15 four counts of attempted murder. Now, attempt; what is
16 attempt? Attempt is an effort to accomplish a crime, which
17 does not succeed. An attempt includes a specific intent to do
18 a particular criminal act along with an act falling short of
19 the act intended. Specific intent means the defendant
20 intended to complete the act, comprising the underlying
21 offense. Consciously, the state must show more than mere
22 preparation; there must be some overt act committed in the
23 effort to commit the crime. So, the defendant is charged with
24 four counts of attempted murder. In order to prove this
25 crime, the state must prove the defendant had the specific

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1 intent to commit the underlying offense of murder, with
2 express malice aforethought. Attempted murder requires the
3 specific intent to kill. Specific intent means the defendant
4 consciously intended the completion of the acts comprising the
5 offense of murder.

6 So, murder with express malice aforethought. Malice,
7 that's hatred, ill will, hostility towards another person.
8 The intentional doing of a wrongful act without just cause or
9 excuse and with an intent to commit murder.

10 Malice aforethought does not require that malice exists
11 at any particular time before the act is committed. But it
12 has to exist in the mind of the defendant just before and at
13 the time the act is committed. So, there has to be that
14 combination of the previous intent to commit murder and the
15 act.

16 THE COURT: Malice aforethought must be expressed.
17 Expressed malice is shown when a person speaks words, which
18 express hatred or ill will for another or when a person
19 prepared beforehand to do the act which was later
20 accomplished.

21 There's a theory in the law called transferred intent.
22 If the defendant with malice aforethought attempts to kill
23 another person but by mistake attempts to kill a different
24 person, the defendant still has the intent to kill. The
25 intent to kill is merely transferred from the original person

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1 the defendant attempted to kill to the actual person the
2 defendant attempted to kill.

3 Now, if you find the State of South Carolina has not
4 proven to you, and again, there's four of these, so you
5 consider each one of them separately, but if you find the
6 defendant has not -- I'm sorry -- the state has not provide to
7 you beyond a reasonable doubt the defendant is guilty of the
8 crime of attempted murder and any one of those four, or all
9 four of them or any combination thereof, then you go to lesser
10 included offenses. The law of this state says that the crime
11 of assault and battery high and aggravated nature -- and I'll
12 tell you also assault and battery in first degree, those two
13 are lesser included of attempted murder. So, if the state
14 hadn't proved to you beyond a reasonable doubt attempted
15 murder, then you look at assault and battery high and
16 aggravated nature, first. A person commits the offense of
17 assault and battery of high and aggravated nature if the
18 person unlawfully injures another person and great bodily
19 injury to another person results, or the act is accomplished
20 by means likely to produce death or great bodily injury. And
21 great bodily injury means bodily injury which causes a
22 substantial risk of death or which causes serious, permanent
23 disfigurement or protracted loss or impairment of body
24 function. If you find on that particular charge, the state
25 has not proved the defendant guilty beyond a reasonable doubt

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1 of assault and battery high and aggravated nature, you must
2 include the next lesser included offense, assault and battery
3 first degree.

4 A person commits the offense of assault and battery in
5 the 1st degree, if the person unlawfully injures another
6 person and the act either involves nonconsensual touching of
7 the private parts or occurred during the commission of
8 robbery, burglary, kidnapping or theft or a person may commit
9 the offense of assault and battery in the first degree, if the
10 person unlawfully offers or attempts to injure another person
11 with the present ability to do so and the act is accomplished
12 by means likely to produce or death or great bodily injury or
13 again, occurred during the commission of a robbery, burglary,
14 kidnapping, or theft.

15 If you have any reasonable doubt for a reasonable doubt
16 as to whether the defendant is guilty of a greater or a lesser
17 offense, it is your duty to resolve that doubt in favor of the
18 defendant and find him guilty of the lesser offense if that is
19 your view of the evidence and it's been proven to you by the
20 state beyond a reasonable doubt.

21 The other charges, possession of a weapon during the
22 commission of or attempt to commit a violent crime. The
23 defendant is charged with possession of a weapon during the
24 commission of or attempt to commit a violent crime. The state
25 has to prove beyond a reasonable doubt that the defendant was

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1 in possession of a firearm during the commission of a violent
2 crime. So, firearms, any kind of machine gun, rifle,
3 revolver, pistol, weapon, which is designed to or may readily
4 be converted to expel a projectile. In order to find the
5 defendant guilty of possession of a weapon during the
6 commission of a violent crime, you must first find the
7 defendant guilty of committing a violent crime or attempting
8 to commit a violent crime.

9 Now, in this state, attempted murder and assault and
10 battery high and aggravated nature are both defined as violent
11 crimes. So, if you have found the defendant guilty of either
12 attempted murder or assault and battery high and aggravated
13 nature, then you can consider possession of a weapon during
14 the commission of a violent crime. If you haven't found him
15 guilty of either one of those, then you can't consider this
16 crime at all. But if you have found him guilty, then the
17 second thing they have to prove beyond a reasonable doubt is
18 that the weapon further advanced or it helped in the
19 commission of the crime.

20 The defendant is also charged with discharging a firearm
21 at or into dwelling, structure, enclosures. The state has to
22 prove to you beyond a reasonable doubt a firearm was
23 discharged at or into a regularly occupied dwelling, house,
24 structure, enclosure or other building and the defendant was
25 the person who discharged the weapon. Again, all that has to

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1 be proved to you beyond a reasonable doubt.

2 Unlawful possession of a pistol by a minor. It's
3 unlawful for a person under the age of 18 to possess a handgun
4 unless they are a member of the armed forces of the United
5 States, South Carolina National Guard, the State Militia, or
6 ROTC, on duty or during training. To prove possession, the
7 state must prove beyond a reasonable doubt that the defendant
8 had both the power and the intent to control the use of the
9 firearm.

10 The defendant is charged with possession with intent to
11 distribute marijuana. The state has to prove beyond a
12 reasonable doubt that the defendant possessed the marijuana
13 with the intent to distribute it. They have to prove beyond a
14 reasonable doubt that the defendant had the power and intent
15 to control the disposition or the use of the marijuana. It
16 can be actual or constructive. Actual means the drug was in
17 the actual physical custody of the defendant. Constructive
18 means the defendant had the right to exercise dominion or
19 control of the drug. Now, mere presence at the scene where
20 drugs are found is not enough. The state also has to prove
21 beyond a reasonable doubt that the defendant intended to
22 distribute the marijuana. Distribute means to deliver.
23 Intent means it can be shown by acts or conduct of the
24 defendant from which you can infer intent. You can consider
25 the circumstances surrounding the defendant's possession, the

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1 amount, the manner in which it was possessed, how it was
2 possessed, where it was possessed, any other factors you deem
3 important. You may also consider possession of more than 28
4 grams or one ounce of marijuana as an inference, but again,
5 the state has to prove to you beyond a reasonable doubt the
6 defendant possessed the marijuana and had the intent to
7 distribute it.

8 The defendant's finally charged with possession of a
9 Schedule IV drug, commonly known as Xanax. To prove
10 possession, the state must prove beyond a reasonable doubt
11 that the defendant had both the power and intent to control
12 the disposition of its use. Again, actual construction,
13 actually had it in his possession or he had the power to
14 control wherever the drugs were found.

15 All right. Those are the charges and the law that
16 applies to it. Now, prepared for you or had prepared for you
17 a verdict form on each and every one of these. Okay? So, on
18 each page, there is a separate charge. So, we go -- let's
19 just take the first one. The attempted murder of Danasha
20 Anderson; it's got her name on there. On the charge of
21 attempted murder of Danasha Anderson, we, the jury, by
22 unanimous consent, find the defendant, Ty'Shun Bessellieu --
23 and there's two choices, had to put one before the other,
24 don't assign anything to that, not guilty or guilty. If you
25 find the defendant guilty of that particular crime, then you

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1 skip the assault and battery of high and aggravated nature in
2 the first degree regarding Danasha Anderson. If you found him
3 not guilty of that crime, then you have to go to assault and
4 battery high and aggravated nature regarding Danasha Anderson
5 and, by unanimous consent, find the defendant not guilty or
6 guilty. Again, you find him guilty, you're done with that
7 particular charge. If you find him not guilty, you go to
8 assault and battery in the first degree. Regarding Danasha
9 Anderson, unanimous consent, find the defendant guilty or not
10 guilty. Once you're done with the charge of attempted murder
11 and the lesser included, if necessary, for Danasha Anderson,
12 you go on to the next one.

13 On the charge of attempted murder of Shaniqua Kennedy, we
14 the jury, by unanimous consent, find the defendant, again, not
15 guilty or guilty. If you find him guilty on that one, that's
16 the end of that one. If you find him not guilty, you go to
17 assault and battery high and aggravated nature. You find him
18 guilty, that's the end of the one regarding Shaniqua Kennedy.
19 If not, assault and battery first degree.

20 You go to the next one. On the charge of attempted
21 murder of Shaniqua McGirt. By unanimous consent, find the
22 defendant not guilty or guilty. So, again, attempted murder,
23 assault and battery high and aggravated nature, assault and
24 battery in the first degree on Shaniqua McGirt. Depending on
25 your verdict, not guilty, go to assault and battery high and

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1 aggravated nature; not guilty, go to assault and battery in
2 the first degree. Once you have found him guilty, if that's
3 your view, the state has proved it to you beyond a reasonable
4 doubt.-- the state's got to prove everything to you beyond a
5 reasonable doubt. If that's your view of the evidence, then
6 you mark the verdict form and you go on to the last of the
7 four attempted murder charges.

8 Tysha Moultrie. On the charge of attempted murder of
9 Tysha Moultrie, we, the jury, by unanimous consent, find the
10 defendant not guilty or guilty. Again, consider the state
11 proven it to you beyond a reasonable doubt, not guilty or
12 guilty. If you find not guilty, you go to assault and battery
13 high and aggravated nature. If you find not guilty, you go to
14 assault and battery in the first degree. Whatever your
15 verdict is, you're putting that on the verdict form, and I'll
16 talk to you about that in just a second, Mr. Foreman.

17 Possession of a weapon during the commission of a violent
18 crime, only if you have found the defendant guilty of at least
19 one count of attempted murder or one count of assault and
20 battery high and aggravated nature. That's the only time you
21 can consider possession of a weapon during the commission of a
22 violent crime, because those are violent crimes and if you
23 don't find him guilty of a violent crime, then you can't
24 consider possession of a weapon during the commission of a
25 violent crime.

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1 Discharging a firearm into a dwelling. Again, not guilty
2 or guilty by unanimous consent.

3 Unlawful possession of a pistol. Again, unanimous, not
4 guilty or guilty.

5 Possession of marijuana with intent to distribute.
6 Unanimous, not guilty or guilty.

7 Possession of a Schedule IV drug. Not guilty or guilty,
8 unanimous.

9 Unanimous means exactly what you think it means; it means
10 12/0, not 10/2, 11/1, any combination thereof.

11 Mr. Foreman, on all these pages, there is a place,
12 depending upon the jury's view of the evidence, the unanimous
13 decision of all of the jurors, not guilty or guilty, a place
14 for you to sign and put the correct date on it. The jury must
15 consider all of the charges, must render a unanimous verdict
16 on all of the charges and, if necessary, consider the lesser
17 included offenses if necessary, and render a unanimous verdict
18 on all those.

19 Regarding this, and again, being a unanimous verdict, Mr.
20 Foreman, when you've checked all the blocks, you've signed it,
21 knock on the door and told the bailiff that your jury has
22 reached a unanimous verdict on all these matters. Understand
23 that the usual course of business is once the jury is called
24 back in and the verdicts are read by the Clerk of Court, the
25 Clerk will inquire of the jury, to affirm their verdicts as

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1 read by her by the raising of their right hand. So, that is
2 why it is important that you make sure that every member of
3 the jury agrees, that's their verdict that you put on that
4 form before the jury comes back out.

5 All right. So, what I'm gonna ask that you do, Mr.
6 Foreman, is -- the two alternates, ladies, if you'll stay with
7 us, the rest of the members of the jury go to the jury room.
8 Do not, do not begin your deliberations until the bailiff
9 brings to you the verdict forms and the exhibits. Okay? When
10 the bailiff hands to you the verdict forms and the exhibits,
11 then you may begin your deliberations.

12 Mr. Foreman, take the jury to the jury room. The two
13 alternates please stay with us..

14 (REPORTER'S NOTE: Jury exits courtroom. The following takes
15 place outside the presence of the jury.)

16 BY THE COURT:

17 THE COURT: All right. As to the two alternates, is
18 there any reason from the state or the defense that the Court
19 should not excuse the two alternates at this time?

20 MS. RICHARDSON: None from the state, Your Honor.

21 THE COURT: From the defense?

22 MR. EDGEWORTH: None from the defense, Your Honor.

23 THE COURT: All right.. Ladies, I appreciate the
24 attention that y'all have placed and you've been attentive and
25 worked on this case just like regular members of the jury. I

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BY THE COURT

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1 can't tell you how many times we have to replace some juror;
2 they get sick or things happen. It just didn't happen in this
3 particular case, but I tell you it happens a lot. So, that's
4 why we needed you. But, in this case we just didn't have to
5 use you to replace one of the 12 members of the jury.

6 I appreciate your service. Because you participated in
7 this case, we're gonna excuse you for the balance of the week
8 regarding any jury service that you have this particular week.
9 That gives you the -- I don't know if Judge Culbertson told
10 you about it, but it gives you an exemption for three years
11 from coming back to Circuit Court jury duty. So, if you get a
12 summons from our fine Clerk of Court here in Georgetown, you
13 can tell her, within the, you know, the next three years that
14 you served. Now, your local city judge or magistrate or
15 Federal Judge sends you a summons, you got to go see them.
16 Just don't have to come see us. All right? With that, you
17 are now excused.

18 Thank you very much.

19 (REPORTER'S NOTE: Alternates exit courtroom.)

20 THE COURT: Exceptions, deletions, additions to the
21 charge from the state?

22 MS. RICHARDSON: Not from the charge itself, Your Honor,
23 but I would ask that the jury be advised about the
24 availability of the laptop and the necessity of keeping the
25 firearm and ammunition separate.

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BY THE COURT

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1 THE COURT: Okay. Where is the laptop? Okay. So, you
2 think I need to explain to them that when we sent it in to
3 them that they have to use it or they can use it if they want
4 to or I'm not sure what you want me to do?

5 MS. RICHARDSON: Not necessarily that the Court advise
6 them, but just that they -- that it be taken it and can be
7 told they can use it if they want to.

8 THE COURT: Okay. Well, it's gonna go in with all the
9 evidence and the DVDs. I feel certain if they've got some
10 questions as to how to use it or, or anything like that,
11 they'll be asking. So, we're just gonna send it all in there
12 to them. You've packaged the weapon and then the ammunition
13 and the, the magazine separately though, right?

14 MS. RICHARDSON: Yes, Your Honor.

15 THE COURT: All right. I mean, if you want me to, I'll
16 be glad to call the foreman out and tell him, you know, under
17 no circumstances are they to put the, the magazine in the
18 weapon or the bullets in the magazine. If y'all want me to do
19 that, I'll be glad to tell the foreman that's one of his
20 duties and responsibilities to make sure that obviously
21 doesn't occur in there. I don't have a problem doing that. I
22 mean, that's -- well, why don't I do that just to be a hundred
23 percent safe. Ask the foreman to step out for just one
24 second.

25 (REPORTER'S NOTE: Juror 197 enters courtroom.)

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BY THE COURT

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1 THE COURT: Mr. Foreman, right there is good. Part of
2 the evidence is a pistol, magazine, and bullets. Obviously,
3 under no circumstance are the bullets to be placed in the
4 magazine, nor the magazine to be placed in the pistol. That's
5 your duty and responsibility to make sure that doesn't occur.
6 You understand?

7 JUROR 197: I understand.

8 THE COURT: Thank you very much.

9 (REPORTER'S NOTE: Juror 197 exists courtroom.)

10 THE COURT: All right. So, with that then, we're gonna
11 send the evidence and the laptop into the jury.

12 I'm sorry. Exceptions, deletions, additions to the
13 charge from the defense? I just asked the state.

14 MR. EDGEWORTH: None from the defense, Your Honor.

15 THE COURT: All right. Very good.

16 Will y'all come up and make sure with the court reporter
17 and make sure we've got all the correct evidence going in and
18 then just send it all in with the laptop at the same time to
19 the jury with the verdict forms that the court reporter has.
20 And then we'll just be at ease until the jury needs us. All
21 right?

22 Thank y'all.

23 MS. RICHARDSON: Thank you, Your Honor.

24 (REPORTER'S NOTE: Counsel review and consent to exhibits to
25 be submitted to jury.)

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BY THE COURT

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1 (REPORTER'S NOTE: Deliberations commence @ 3:45 P.M.)

2 (RECESS.)

3 *****OFF THE RECORD*****

4 COURT'S EXHIBIT NUMBER 1

5 MARKED FOR IDENTIFICATION

6 (On the Record.)

7 THE COURT: All right. Ask the jury to come in, please.

8 (REPORTER'S NOTE: Jury enters courtroom @ 5:14 P.M.)

9 THE COURT: All right, ladies and gentlemen, I understand
10 that you have requested the re-charging of certain aspects of
11 the law and I will do that first thing in the morning. We're
12 gonna, looking at the time, I'm not gonna keep you here
13 tonight. We'll reconvene tomorrow morning at 9:30. When I
14 call you in in the morning, I'll re-charge you those aspects
15 of the law, and then I will send you back in for your
16 continued deliberations.

17 Now, remember, don't talk about the case. Don't allow
18 anybody to talk to you about it. I understand that you have
19 started your deliberations and if for some reason, just by
20 chance, you happen to see another member of the jury tonight,
21 you can't talk about it because all 12 of you are not
22 together. You may not discuss this case with anyone,
23 obviously outside of the jury, and you can't discuss it among
24 yourselves unless all 12 of you are there present during the
25 discussion. All right.

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1 So, with that, I'll let you go and I'll see you back
2 tomorrow morning at 9:30.

3 Thank you very much.

4 (REPORTER'S NOTE: Jury exits courtroom @ 5:30 P.M.)

5 THE COURT: All right. For the record, the jury -- and I
6 shared this with counsel, the jury requested the recharge of
7 the definitions of attempted murder, assault and battery high
8 and aggravated nature. As I have explained to counsel, I will
9 certainly do that, but I don't believe it's proper to do that
10 in a vacuum. So, what I intend to do is recharge the jury on
11 all those aspects. So, with that, what I would intend to
12 recharge them on is the definition of attempt and what I
13 charged them about attempted murder, assault and battery high
14 and aggravated nature, assault and battery in the first degree
15 and the greater and lesser offenses and obviously talking to
16 them, referring back to the verdict forms that they have to
17 make a decision on the attempted murder charge find him guilty
18 or not guilty and, if they find him not guilty, they must
19 proceed on to the next lesser included offense until they
20 reach a decision of guilty or not guilty on those matters.

21 All right. So, with that, we'll stop for the evening.
22 We'll reconvene, I would like to make sure that y'all are here
23 in the courtroom by 9:15, please, 9:15. All right.

24 Anything else from the state at this point in time?

25 MS. RICHARDSON: Your Honor, we did have some other

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1 matters scheduled for tomorrow, but we'll work on that.

2 THE COURT: I understand that, but I ---

3 MS. RICHARDSON: I understand.

4 THE COURT: You know, and I hate to make this
5 characterization, but it rarely seems that everybody is ready
6 right at 9:30 anyway. So, I don't think we'll be delaying
7 things too much by charging the -- charging the jury and then
8 obviously, while they're deliberating, we'll just continue on
9 with other business.

10 MS. RICHARDSON: Okay.

11 THE COURT: Okay.

12 MS. RICHARDSON: That's what I wanted to check on. Thank
13 you, Your Honor.

14 THE COURT: All right. Oh, yeah, absolutely. All right.
15 Thank you very much.

16 And, Mr. Edgeworth, is there anything from the defense at
17 this time?

18 MR. EDGEWORTH: Nothing at this time, Your Honor.

19 THE COURT: All right. Very good. I'll see y'all in the
20 morning then.

21 END OF DAY THREE.

22 (RECESS.)

23 *****OFF THE RECORD*****

24 (On the Record.)

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1 THE COURT: All right. Both of you, you ready for the
2 jury to come in?

3 MS. RICHARDSON: Yes, Your Honor.

4 THE COURT: Mr. Edgeworth?

5 MR. EDGEWORTH: Yes, Your Honor.

6 THE COURT: Have the jury to come in, please.

7 (REPORTER'S NOTE: Jury enters courtroom.)

8 RECHARGE TO JURY:

9 THE COURT: All right. Mr. Foreman, ladies and gentlemen
10 of the jury, based upon your request, I'm gonna go over a few
11 aspects of the law with you. I'm gonna start off by reminding
12 you, of course, that you are deciding separate cases. Each
13 one of those attempted murder charges along with obviously all
14 the other charges, they are separate cases and you must reach
15 separate conclusions as to each one because it's another case.
16 All right? So, and certainly means that your decision in one
17 case does not have to be the same decision in another case.
18 You can reach different conclusions because the facts of each
19 are different and obviously with, depending upon the charge,
20 obviously the law might be different depending upon that. So,
21 they can be the same, they can be different, all depending
22 upon your view of the evidence and whether or not the state's
23 proved to you beyond a reasonable doubt the defendant guilty
24 of that particular crime.

25 So, regarding the matters that you asked about and that

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RECHARGE TO JURY

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1 would be the attempted murder and assault and battery high and
2 aggravated nature. Regarding attempted murder, I'll first
3 remind you again about attempt. Attempt is an effort to
4 accomplish a crime which does not succeed. An attempt
5 includes a specific intent to do a particular criminal act
6 falling short of the intended act. Specific intent means the
7 defendant intended to complete the act comprising the
8 underlying offense. He did it consciously. The state must
9 show more than mere preparation. There has to be some overt
10 act committed in the effort to commit the crime.

11 So, attempted murder. The defendant being charged with
12 attempted murder and again, four charges, four cases and four
13 separate decisions. In order to prove this crime, the state
14 must prove the defendant had the specific intent to commit the
15 underlying offense of murder with express malice aforethought.
16 Attempted murder requires the specific intent to kill.
17 Specific intent means that the defendant consciously intended
18 the completion of the acts comprising the murder offense.

19 So, we'll talk about express malice aforethought. What's
20 malice? Malice is hatred, ill will, hostility towards another
21 person. It's the intentional doing of a wrongful act without
22 just cause or excuse and with an intent to commit murder.

23 Malice aforethought. Now, it doesn't -- it's not
24 required that that malice exist for any particular time before
25 the act is committed but it has to exist, that malice has to

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1 exist in the mind of the defendant just before and at the time
2 he commits the wrongful act. So, there's previous -- there's
3 a combination of the previous intent to commit murder and the
4 act. That malice aforethought has to be expressed. Expressed
5 malice is shown when a person speaks words which express
6 hatred or ill will for another person or when the person
7 prepared beforehand to do the act which was later
8 accomplished.

9 Now, in looking at the attempted murder charges, you also
10 have to take into consideration transferred intent. If the
11 defendant with malice aforethought attempted to kill another
12 person, but my mistake, attempted to kill a different person,
13 the defendant still has the intent to kill. The intent to
14 kill is merely transferred from the original person the
15 defendant attempted to kill to the actual person the defendant
16 attempted to kill.

17 Assault and battery high and aggravated nature. A person
18 commits the offense of assault and battery of a high and
19 aggravated nature if the person unlawfully injures another
20 person and great bodily injury to another person results or
21 the act is accomplished by means likely to produce death or
22 great bodily injury. And great bodily injury would mean
23 bodily injury which causes a substantial risk of death or
24 which causes a permanent disfigurement or protracted loss or
25 impairment.

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1 Now, those, you got attempted murder. You must decide
2 did the state prove that to you beyond a reasonable doubt. If
3 you decide no, the state didn't prove it to us beyond a
4 reasonable doubt, then you consider assault and battery high
5 and aggravated nature. Did the state prove that to us beyond
6 a reasonable doubt? If no, you still must consider and I'm
7 gonna read to you again assault and battery first degree. The
8 person commits the offense of assault and battery in the first
9 degree if the person unlawfully injures another person and the
10 act either involves nonconsensual touching or occurred during
11 the commission of a robbery, burglary, kidnapping, or theft,
12 or a person may commit the offense of assault and battery in
13 the first degree if the person unlawfully offers or attempts
14 to injure another person with the present ability to do so and
15 the act is accomplished by means likely to produce death or
16 great bodily injury or, again, occurred during the commission
17 of robbery, burglary, kidnapping, or theft.

18 Now, if you have a reasonable doubt as to whether the
19 defendant is guilty of a lesser or a greater offense, it's
20 your duty to resolve that doubt in favor of the defendant and
21 find him guilty of the lesser offense. If that's your view of
22 the evidence and the state has proved that to you beyond a
23 reasonable doubt. Just remember in all these, the state has
24 to have produced facts and evidence, in this case that proves
25 those things to you beyond a reasonable doubt. The state has

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1 the burden of proof on everything beyond a reasonable doubt.
2 Okay?

3 So, that's the law again on those two matters, Mr.
4 Foreman. If you'll take the jury back to the jury room,
5 they'll send in the exhibits with you. All right?

6 Thank you.

7 (REPORTER'S NOTE: Jury exits courtroom.)

8 THE COURT: All right. Exceptions, additions, deletions
9 to the requested recharge from the state?

10 MS. RICHARDSON: None from the state, Your Honor.

11 THE COURT: From the defense?

12 MR. EDGEWORTH: None from the defense, Your Honor.

13 THE COURT: All right. Again, we'll be at ease until the
14 jury needs us.

15 We'll take a short break. Solicitor, you get organized
16 and we'll come on in and start the pleas and the motions that
17 you have for today. Okay? So, just let me know when you're
18 ready for that.

19 MS. RICHARDSON: I will, Your Honor.

20 THE COURT: Thank you very much.

21 (REPORTER'S NOTE: Deliberations recommence at 9:44 A.M.)

22 (RECESS.)

23 *****OFF THE RECORD*****

24 (On the Record.)

25 BY THE COURT:

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BY THE COURT

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1 THE COURT: All right. Solicitor and Mr. Edgeworth, it's
2 my understanding the jury has reached a verdict in the matter
3 of the State v. Ty'Shun Bessellieu. Is the state ready to
4 proceed?

5 MS. RICHARDSON: Yes, Your Honor.

6 THE COURT: And Defense?

7 MR. EDGEWORTH: Yes, Your Honor.

8 THE COURT: All right. I understand there are people in
9 the courtroom that are associated with this matter and others
10 who are not. I'm speaking to everyone in the courtroom. I do
11 not know what the verdict is. We'll all receive it at the
12 same time. It will be received with respect and silence.
13 There will be no reaction to the jury's verdict. If you do
14 so, you will be detained by the Georgetown County Sheriff's
15 office and thereafter I'll hold a hearing as to you being held
16 in contempt of court by which I could send you to the
17 Department of Corrections for the period of one year for being
18 held in contempt of court. So, if you cannot abide by the
19 order of respect and silence, please leave the courtroom now.
20 Otherwise, you're bound by that order. Very good.

21 Ask the jury to come in.

22 (REPORTER'S NOTE: Jury enters courtroom @ 11:06 A.M.)

23 THE COURT: All right. Mr. Foreman, has your jury
24 reached a verdict in all of these matters?

25 JUROR 197: We have, Your Honor.

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BY THE COURT

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1 THE COURT: All right. And do you have the verdict
2 forms?

3 JUROR 197: I do.

4 THE COURT: Could you hand them to the Clerk of Court
5 please.

6 Madam Clerk, can you go around and get the verdict forms
7 please?

8 THE COURT: All right, Madam Clerk, you may publish the
9 verdicts.

10 VERDICT OF JURY:

11 CLERK: Will the defendant please stand?

12 The State of South Carolina versus Ty'Shun Mario
13 Bessellieu, on the charge of attempted murder on Danasha
14 Anderson, we, the jury, by unanimous consent, find the
15 defendant, Ty'Shun Bessellieu, guilty, and that was indictment
16 number 2016-GS-22-1071.

17 On the indictment 2016-GS-22-1074, State of South
18 Carolina versus Ty'Shun Mario Bessellieu, on the charge of
19 attempted murder of Shaniqua Kennedy, we, the jury, by
20 unanimous consent, find the defendant, Ty'Shun Bessellieu,
21 guilty.

22 On the indictment of 2016-GS-22-1075, the State of South
23 Carolina versus Ty'Shun Mario Bessellieu, on the charge of
24 attempted murder of Shaniqua McGirt, we, the jury, by
25 unanimous consent, find the defendant, Ty'Shun Bessellieu,

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VERDICT OF JURY

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1 guilty.

2 On the indictment 2016-GS-22-1076, the State of South
3 Carolina versus Ty'Shun Mario Bessellieu, on the charge of
4 attempted murder of Tysha Moultrie, we, the jury, by unanimous
5 consent, find the defendant, Ty'Shun Bessellieu, guilty.

6 On the indictment 2016-GS-22-1070, the State of South
7 Carolina versus Ty'Shun Mario Bessellieu, on the charge of
8 possession of weapon during the commission of a violent crime,
9 we, the jury, by unanimous consent, find the defendant,
10 Ty'Shun Bessellieu, guilty.

11 On indictment 2016-GS-22-1068, the State of South
12 Carolina versus Ty'Shun Mario Bessellieu, on the charge of
13 discharging a firearm into a dwelling, we, the jury, by
14 unanimous consent, find the defendant, Ty'Shun Bessellieu,
15 guilty.

16 On indictment 2016-GS-22-1073, the State of South
17 Carolina versus Ty'Shun Mario Bessellieu, on the charge of
18 unlawful possession of a pistol by a minor, we, the jury, by
19 unanimous consent, find the defendant, Ty'Shun Bessellieu,
20 guilty.

21 On indictment 2016-GS-22-1072, the State of South
22 Carolina versus Ty'Shun Mario Bessellieu, on the charge of
23 possession of marijuana with intent to distribute, we, the
24 jury, by unanimous consent, find the defendant, Ty'Shun
25 Bessellieu, guilty.

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1 On indictment 2016-GS-22-1069, the State of South
2 Carolina versus Ty'Shun Mario Bessellieu, on the charge of
3 possession of Schedule IV controlled substance, we, the jury,
4 by unanimous consent, find the defendant, Ty'Shun Bessellieu,
5 guilty.

6 Now, if I could have the foreperson and ladies and
7 gentlemen of the jury, is this your verdict and is it still
8 your verdict? Please indicate by raising your right hand.

9 Thank you.

10 THE COURT: Thank you. All members of the jury having
11 affirmed their verdict by the raising of their right hand,
12 does the state wish the jury polled?

13 MS. RICHARDSON: No, Your Honor.

14 THE COURT: Does the defense wish the jury polled?

15 MR. EDGEWORTH: No, Your Honor.

16 THE COURT: Thank you very much. You may have a seat.

17 BY THE COURT:

18 THE COURT: As to the jury then, ladies and gentlemen of
19 the jury, I want to thank you for your service. You did
20 exactly what the Court asked you to do and that is too well
21 and truly deliberate, reach a unanimous verdict on all of
22 these matters. I'm going to excuse you from your jury service
23 for this week. Please remember, you've also earned the
24 exemption from Circuit Court jury duty for the next three
25 years. So, if your fine Clerk of Court here sends you a

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BY THE COURT

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1 notice for jury duty, Circuit Court jury duty, you can tell
2 her that you served this particular week. Now, if your local
3 city judge or county magistrate or federal judge sends you a
4 summons, you got to see them; you just don't have to come see
5 us for the next three years.

6 Now, as to the matters, I'm gonna excuse you. If you
7 wanted to -- the Court will proceed with sentencing in a few
8 minutes if you wanted to see that, then you can go around and
9 have a seat in the audience. But with that, your duties this
10 week, you are now excused.

11 Thank you very much.

12 (REPORTER'S NOTE: Jury exits courtroom.)

13 THE COURT: All right. Solicitor, do you -- I'm sorry.
14 First, Mr. Edgeworth, motions on behalf of the defense?

15 MOTIONS:

16 MR. EDGEWORTH: Yes, Your Honor, briefly. On behalf of
17 the defendant, I move that the verdicts as to the attempted
18 murder and the possession of weapon during the commission of a
19 violent crime be set aside. The law is pretty clear that the
20 state must prove specific intent to commit murder in order to
21 be found guilty of attempted murder, and I do not believe that
22 there is any evidence in the record to support the conviction.

23 THE COURT: All right, sir. The Court, in your motion
24 for a new trial in this matter, respectfully declines to grant
25 your motion for a, a new trial. I do find that there was more

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MOTIONS

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1 than sufficient evidence, direct evidence and substantial
2 circumstantial evidence which existed in this particular case,
3 which -- by which the jury could find the defendant guilty of
4 the crime of attempted murder as defined. There was evidence
5 of specific intent throughout the facts as presented in this
6 matter, and therefore I respectfully decline to grant your
7 motion for a new trial.

8 Any other motions by the defense?

9 MR. EDGEWORTH: No, Your Honor.

10 SENTENCING:

11 THE COURT: All right. All right, Solicitor, is the
12 state ready to go forward with sentencing in this matter?

13 MS. RICHARDSON: Yes, Your Honor, and I have prepared
14 sentencing sheets. Do you want to look over them?

15 THE COURT: All right. Solicitor, let me hear from you,
16 please, ma'am.

17 MS. RICHARDSON: Your Honor, first of all would you like
18 to hear his prior record?

19 THE COURT: Yes, ma'am.

20 MS. RICHARDSON: Okay. Your Honor, obviously he was 17
21 years old at the time of this offense. He does not have an
22 adult record prior to this. He does have a pretty extensive
23 juvenile record and involvement with the Juvenile Justice
24 System here in Georgetown County. The state has provided to
25 both the Court and the defense copies of his Reception and

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1 Evaluation reports. He had two evaluations that were
2 performed at the Department of Juvenile Justice. I have
3 provided those to both the Court and to the defense attorney.

4 He has convictions from 2012 for burglary second degree,
5 shoplifting and receiving stolen goods, for one of those he
6 received probation, the other he received determinate
7 sentences of time at the Department of Juvenile Justice. He
8 has a conviction from 2013 for pointing and presenting a
9 firearm. However, Your Honor, in looking at the incident
10 report from that incident, I will note that it was a pellet
11 gun pistol, not a regular firearm. A shoplifting, he violated
12 the probation for the pointing and presenting and the
13 shoplifting and had another burglary second degree. 2015, he
14 had a violation of probation for the second burglary second
15 degree. In January of 2016, he had a charge of discharging a
16 firearm into a dwelling. The juvenile records indicate that
17 he, at some point, did admit to being involved in a gang here
18 in the City of Georgetown.

19 Your Honor, in this case, he did resist law enforcement
20 when he was arrested. Your Honor, didn't see his interview at
21 the police station, but there was just a complete disregard
22 for any authority, profanity, just over the top in that
23 regard, was trying to get out of his handcuffs while he -- or
24 move his handcuffs from the front to the back while he was
25 being interviewed.

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1 Very concerning in this case, is the fact, Your Honor,
2 that while he's been at the detention center, he has contacted
3 the victims in this case. He actually called Danasha
4 Anderson. Another individual that Ms. Anderson knows was
5 incarcerated with him, but he called Ms. Anderson and spoke
6 with her trying to get her not to come to court. He also
7 wrote Shaniqua McGirt and addressed the letter to all four
8 victims offering to even pay them if they would not come to
9 court. In monitoring of his jail calls, which Mr. Edgeworth
10 does have a copy of some of those jail calls, he, in
11 conversations with his mother and with others indicated that
12 they were going through third parties to try to contact the
13 victims to get them not to come to court. Now, the victims
14 deny that any third parties had reached out to them, but there
15 were multiple conversations on the jail calls indicating that
16 they had contacted the victims and the victims would not come.
17 Initially, the state had a very hard time getting some of the
18 victims to come to court and believes that this contact may
19 have contributed to that.

20 I believe Ms. Anderson would like to address the Court,
21 Your Honor.

22 THE COURT: All right. Yes, ma'am, if you'd come around
23 please, ma'am.

24 State your name for the record and then be glad to hear
25 from you, ma'am.

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1 MS. ANDERSON: My name is Danasha Anderson. On behalf of
2 me and the rest of the victims, we were asking that you grant
3 leniency on Mr. Bessellieu. This incident was almost two
4 years ago. He was under age. He's still younger than us and
5 we feel like he shouldn't be punished to the full extent of
6 all these crimes because we don't feel like he was always
7 guided enough. We feel like instead of constantly putting
8 someone in the system, in the system, in the system, all
9 you're doing is making the situation worse instead of trying
10 to help them, trying to support them, trying to help them grow
11 and be better. We don't feel as if him constantly going in
12 there, going there, going there gonna change anything for him.
13 We're not saying okay, just let him out, but locking him up,
14 going back there, like she said, he was in the gang since he
15 was younger. This day and age, this time, basically where
16 we're from, you're mostly forced to handle a situation one way
17 or another. Going back there, you're forced to become
18 ruthless and rough and everything; you have to defend
19 yourself. I'm pretty sure that was the same way he got into
20 the gang. You got to be forced to do this; you have to be
21 forced to do that. We don't feel like he should be constantly
22 punished because of incidences that are forced upon him.

23 THE COURT: Thank you, ma'am.

24 MS. ANDERSON: Thank you.

25 THE COURT: Anything else from the state?

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1 MS. RICHARDSON: No, Your Honor.

2 THE COURT: All right.

3 Mr. Edgeworth, be glad to hear from you, sir?

4 MR. EDGEWORTH: Thank you, Your Honor, may it please the
5 Court? I don't think anything is more telling than, than the
6 statement from the victim who was in fact injured in this --
7 in this matter and to reiterate many of her points, a lot of
8 that is seen in, in the evaluations from, from the DJJ
9 experience that Mr. Bessellieu had. A lot of the, the things
10 in his life that have affected his decision-making include
11 lack of a male role model in his life, a not ideal home
12 environment, which led to poor decision making related to peer
13 choice. The records are replete with, you know, indications
14 of psychological maladjustment, which created what they call
15 oppositional defiant disorder. He became defiant towards
16 teachers and, and role models that he should've maybe attached
17 himself to. All of this led to where he is today and, and
18 we're asking the Court to, to, to essentially side with the
19 victim here and grant the most leniency that the Court can and
20 that any sentence be run concurrent, that he be, you know,
21 granted the time that he has already been incarcerated for
22 almost two years and -- in hopes that he maybe will come out a
23 better man.

24 Thank you, Your Honor.

25 THE COURT: Thank you. Solicitor and Mr. Edgeworth, do

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1 you have the date on which he was incarcerated?

2 MR. EDGEWORTH: August 31st.

3 MS. RICHARDSON: August 31st, 2016.

4 THE COURT: All right.

5 All right, Mr. Bessellieu, if you would stand up, please,
6 sir.

7 All right. In this particular matter, the jury has
8 rendered their verdict regarding the charges in this matter.
9 They have found him guilty of four counts of attempted murder
10 whereby the potential sentence could be up to 30 years and the
11 various weapons charges as well as the drug charges. I am
12 taking into consideration several factors. I've gone through
13 the Department of Juvenile Justice records regarding Mr.
14 Bessellieu and the evaluations that had been done in the past
15 on him. I am taking into consideration the statements and the
16 feelings of the victims in this matter, by which they have
17 shown great mercy because each of them, but for the grace of
18 God, potentially would not be here today. I am taking into
19 consideration Mr. Bessellieu's age and the information that is
20 available as set forth in the evaluations as to his upbringing
21 and/or lack thereof, and what his life was prior to this
22 particular date. I do take into consideration Mr.
23 Bessellieu's prior juvenile record, which is significant. The
24 actions of Mr. Bessellieu on that night or morning were
25 extremely serious and, again, as I've indicated and it's

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1 clear, extremely fortunate this situation was not much worse.

2 Therefore, regarding 2016-GS-22-1071, attempted murder,
3 the sentence of the Court is the defendant is committed to the
4 State Department of Corrections for a determinate term of 16
5 years. The Defendant is given credit for the time he has
6 served since August 31, 2016.

7 The charge in 2016-GS-22-1074 for attempted murder, is
8 the same sentence to run concurrent.

9 2016-GS-22-1075, the sentence is the same on attempted
10 murder to run concurrent.

11 2016-GS-22-1076, again attempted murder, the sentence is
12 the same to run concurrent.

13 2016-GS-22-1070 for possession of a firearm during the
14 commission of a violent crime, the sentence of the defendant
15 is committed to the Department of Corrections for a
16 determinate term five years concurrent with 2016-GS-22-1071,
17 all these given the same credit for the time served since
18 August 31, 2016.

19 Discharging a firearm into a dwelling in 2016-GS-22-1073,
20 the defendant is committed to the State Department of
21 Corrections a determinate term of five years again concurrent
22 with 2016-1071.

23 2016-GS-22-1072, unlawful possession of a pistol by a
24 minor. Again, the defendant is committed to the State
25 Department of Corrections a determinate terms of five years

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1 concurrent with 2016-1071.

2 2016-GS-22-1069, possession with intent to distribute
3 marijuana first offense. The defendant is committed to the
4 State Department of Corrections a determinate term of one year
5 given a time-served sentence since August 31, 2016.

6 2016-GS-22-1068, possession of a controlled substance
7 Schedule IV or V drug -- it was a Schedule IV drug. Defendant
8 is committed to the State Department of Corrections a
9 determinate term of six months, time-served sentence of -- or
10 since August 31 of 2016.

11 Thank you very much.

12 **END OF DAY FOUR.**

13 (ADJOURNED.)
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CERTIFICATE OF COURT REPORTER

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C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of State of South Carolina v. Ty'Shun Mario Bessellieu held in the Court of General Sessions for Georgetown County, Georgetown County Courthouse, Georgetown, South Carolina, on March 19-22, 2018, as reported by Dixie C. Eubank.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Kay H. Richardson

Official Court Reporter

June 19, 2018

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3/21/2018

TIM MCINTOSH (MILITARY)

MAY we have the definitions of

"ATTEMPTED MURDER"

"ASSAULT & BATTERY of high and aggravated nature"

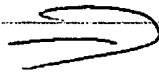
EXHIBIT

COVERS

1 3-21-18

see

I will recharge these
 aspects of the law to you
 in the morning when we
 reconvene.



STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

INDICTMENT

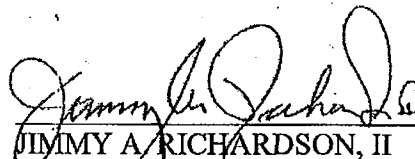
At a Court of General Sessions, convened on November 16, 2016, the Grand Jurors of Georgetown County present upon their oath:

POSSESSION OF SCHEDULE I - V DRUG

CDR: 0179 44-53-0370(d)(2)

That Tyshaun Mario Bessellieu did in Georgetown County on or about 31st day of August, 2016, knowingly and intentionally possess a quantity of Xanax, a Schedule IV controlled substance under provisions of Section 44-53-0110, S.C. Code of Laws, 1976, as amended, such possession not having been authorized by law, in violation of Section 44-53-0370(d)(2), S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JIMMY A. RICHARDSON, II
FIFTEENTH JUDICIAL CIRCUIT

WITNESSES

Georgetown Police Department

DOCKET NO. 2016GS2201068 ✓

The State of South Carolina

County of Georgetown

Alicia Richardson

16G00702

COURT OF GENERAL SESSIONS

NOVEMBER, 2016 TERM

ARREST WARRANT NUMBER

2016A2220200464

CDR: 0179 §44-53-0370(d)(2)

DOI: 8/31/2016

THE STATE

vs.

TYSHAUN MARIO BESSELLIEU

GEORGETOWN, SC 29440

DOB: [REDACTED]

SSN:

B / M

**ACTION OF GRAND JURY
TRUE BILL**

ATTORNEY: ~~Wyn Bessent~~ *Tosh Edgeworth*

Indictment for

**POSSESSION OF A SCHEDULE IV
CONTROLLED SUBSTANCE**

Jimmy A. Richardson, II, Solicitor

Felix Hobbs

Foreperson of Grand Jury

Date: *11-16-16*

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

INDICTMENT

At a Court of General Sessions, convened on November 16, 2016, the Grand Jurors of Georgetown County present upon their oath:

POSSESSION OF MARIJUANA WITH INTENT TO DISTRIBUTE

CDR: 0186 44-53-0370(b)(2)

That Tyshaun Mario Bessellieu did in Georgetown County, on or about August 31, 2016, possess with intent to distribute, dispense or deliver, or did aid, abet, attempt or conspire to distribute, dispense or deliver, a quantity of Marijuana, a controlled substance under provisions of Section 44-53-110, et. seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized by law, and in violation of Section 44-53-0370(b)(2), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JIMMY A. RICHARDSON, II
FIFTEENTH JUDICIAL CIRCUIT

WITNESSES

Georgetown Police Department

DOCKET NO. 2016GS2201069 X

The State of South Carolina

County of Georgetown

Alicia Richardson

16G00702

COURT OF GENERAL SESSIONS

NOVEMBER, 2016 TERM

ARREST WARRANT NUMBER

2016A2220200465

CDR: 0186 §44-53-0370(b)(2)

DOI: 8/31/2016

THE STATE

VS.

TYSHAUN MARIO BESSELLIEU

GEORGETOWN, SC 29440

DOB: [REDACTED]

SSN:

B / M

ACTION OF GRAND JURY

TRUE BILL

ATTORNEY: ~~Wyn Bessent~~ *Josh Edgeworth*

Indictment for

**POSSESSION OF MARIJUANA
WITH INTENT TO DISTRIBUTE**

Jimmy A. Richardson, II, Solicitor

F. J. HOLEMAN

Foreperson of Grand Jury

Date: *11-16-16*

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

INDICTMENT

At a Court of General Sessions, convened on November 16, 2016, the Grand Jurors of Georgetown County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME

CDR: 0549 16-23-0490

That Tyshaun Mario Bessellieu did in Georgetown County, on or about August 31, 2016, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JIMMY A. RICHARDSON, II
FIFTEENTH JUDICIAL CIRCUIT

WITNESSES

Georgetown Police Department

DOCKET NO. 2016GS2201070 x ✓**The State of South Carolina****County of Georgetown**Alicia Richardson16G00702**COURT OF GENERAL SESSIONS****NOVEMBER, 2016 TERM****ARREST WARRANT NUMBER**2016A2220200466CDR: 0549 §16-23-0490DOI: 8/31/2016**THE STATE****VS.****TYSHAUN MARIO BESSELLIEU****GEORGETOWN, SC 29440****DOB: [REDACTED]****SSN: [REDACTED]****B / M****ACTION OF GRAND JURY****TRUE BILL****ATTORNEY: ~~Wyn Bassett~~ Josh Edgeworth****Indictment for****POSSESSION OF A WEAPON
DURING THE COMMISSION
OF A VIOLENT CRIME****Jimmy A. Richardson, II, Solicitor***Frederick Holcomb*
Foreperson of Grand Jury
Date: 11-16-16**VERDICT**Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

INDICTMENT

At a Court of General Sessions, convened on November 16, 2016, the Grand Jurors of Georgetown County present upon their oath:

ATTEMPTED MURDER
CDR: 3410 16-03-0029

That Tyshaun Mario Bessellieu did in Georgetown County on or about August 31, 2016 with intent to kill Danasha Anderson, attempt to kill the victim with malice aforethought, either expressed or implied in violation of Section 16-3-29, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JIMMY A. RICHARDSON, II
FIFTEENTH JUDICIAL CIRCUIT

WITNESSES

Georgetown Police Department

DOCKET NO. 2016GS2201071 ✓

The State of South Carolina

County of Georgetown

Alicia Richardson

16G00702

COURT OF GENERAL SESSIONS

NOVEMBER, 2016 TERM

ARREST WARRANT NUMBER

2016A2220200467

CDR: 3410 §16-03-0029

DOI: 8/31/2016

ACTION OF GRAND JURY

TRUE BILL

THE STATE

VS.

TYSHAUN MARIO BESSELLIEU

GEORGETOWN, SC 29440

DOB: [REDACTED]

SSN: [REDACTED]

B / M

ATTORNEY: Wyn Bessett

Tosh Edgeworth

Indictment for

ATTEMPTED MURDER

Jimmy A. Richardson, II, Solicitor

Felix Holcomb

Foreperson of Grand Jury

Date: 11-16-16

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

INDICTMENT

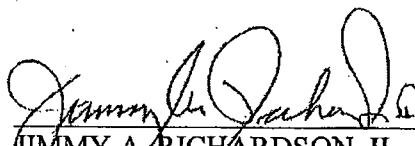
At a Court of General Sessions, convened on November 16, 2016, the Grand Jurors of Georgetown County present upon their oath:

UNLAWFUL POSSESSION OF A PISTOL

CDR: 2364 16-23-0030(B), 16-23-50

That Tyshaun Mario Bessellieu did in Georgetown County on or about August 31, 2016, knowingly possess or acquire a pistol while he was under the age of eighteen (18), in violation of Section 16-23-0030(B), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JIMMY A. RICHARDSON, II
FIFTEENTH JUDICIAL CIRCUIT

WITNESSES

Georgetown Police Department

DOCKET NO. 2016GS2201072

The State of South Carolina

County of Georgetown

Alicia Richardson

16G00702

COURT OF GENERAL SESSIONS

NOVEMBER, 2016 TERM

ARREST WARRANT NUMBER

2016A2220200468

CDR: 2364 §16-23-0030, 0050(A)(1)

DOI: 8/31/2016

ACTION OF GRAND JURY

TRUE BILL

Fruit Holcomb

Foreperson of Grand Jury

Date: 11-16-16

VERDICT

Foreperson of Petit Jury

Date:

THE STATE

VS.

TYSHAUN MARIO BESSELLIEU

GEORGETOWN, SC 29440

DOB: [REDACTED]

SSN:

B / M

ATTORNEY: ~~Wyn-Bessent~~ Josh Edgeworth

Indictment for

**UNLAWFUL POSSESSION
OF A PISTOL**

Jimmy A. Richardson, II, Solicitor

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

INDICTMENT

At a Court of General Sessions, convened on November 16, 2016, the Grand Jurors of Georgetown County present upon their oath:

DISCHARGING FIREARM INTO DWELLING

CDR: 0052 16-23-0440

That Tyshaun Mario Bessellieu did in Georgetown County on or about August 31, 2016, discharge or cause to be discharged unlawfully, firearms at or into a dwelling house or other building or enclosure regularly occupied by persons; or into a vehicle, aircraft, watercraft or other conveyance or equipment while it was occupied, in violation of Section 16-23-0440, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JIMMY A. RICHARDSON, II
FIFTEENTH JUDICIAL CIRCUIT

WITNESSES

Georgetown Police Department

DOCKET NO. 2016GS2201073 ✓

The State of South Carolina

County of Georgetown

Alicia Richardson

16G00702

COURT OF GENERAL SESSIONS

NOVEMBER, 2016 TERM

ARREST WARRANT NUMBER

2016A2220200469

CDR: 0052 §16-23-0440

DOI: 8/31/2016

THE STATE

VS.

TYSHAUN MARIO BESSELLIEU

GEORGETOWN, SC 29440

DOB: [REDACTED]

SSN:

B / M

ACTION OF GRAND JURY

TRUE BILL

ATTORNEY: ~~Wyn Bessent~~

Josh Edgemorth

Indictment for

**DISCHARGING FIREARM
INTO A DWELLING**

Jimmy A. Richardson, II, Solicitor

Felix Hollins

Foreperson of Grand Jury

Date: *11-16-16*

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

INDICTMENT

At a Court of General Sessions, convened on November 16, 2016, the Grand Jurors of Georgetown County present upon their oath:

ATTEMPTED MURDER

CDR: 3410 16-03-0029

That Tyshaun Mario Bessellieu did in Georgetown County on or about August 31, 2016 with intent to kill Shaniqua Kennedy, attempt to kill the victim with malice aforethought, either expressed or implied in violation of Section 16-3-29, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JIMMY A. RICHARDSON, II
FIFTEENTH JUDICIAL CIRCUIT

WITNESSES

Georgetown Police Department

DOCKET NO. 2016GS2201074

The State of South Carolina

County of Georgetown

Alicia Richardson

16G00702

COURT OF GENERAL SESSIONS

NOVEMBER, 2016 TERM

ARREST WARRANT NUMBER

2016A2220200470

CDR: 3410 §16-03-0029

DOI: 8/31/2016

THE STATE

vs.

TYSHAUN MARIO BESSELLIEU

GEORGETOWN, SC 29448

DOB: [REDACTED]

SSN:

B / M

ACTION OF GRAND JURY

TRUE BILL

ATTORNEY: ~~Wyn Bessent~~

Josh Edgeworth

Indictment for

ATTEMPTED MURDER

Jimmy A. Richardson, II, Solicitor

Fruit, Holcomb

Foreperson of Grand Jury

Date: *11-16-16*

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

INDICTMENT

At a Court of General Sessions, convened on November 16, 2016, the Grand Jurors of Georgetown County present upon their oath:

ATTEMPTED MURDER
CDR: 3410 16-03-0029

That Tyshaun Mario Bessellieu did in Georgetown County on or about August 31, 2016 with intent to kill Shaniqua McGirt, attempt to kill the victim with malice aforethought, either expressed or implied in violation of Section 16-3-29, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JIMMY A. RICHARDSON, II
FIFTEENTH JUDICIAL CIRCUIT

WITNESSES

Georgetown Police Department

DOCKET NO. 2016GS2201075 ✓

The State of South Carolina

County of Georgetown

Alicia Richardson

16G00702

COURT OF GENERAL SESSIONS

NOVEMBER, 2016 TERM

ARREST WARRANT NUMBER

2016A2220200471

CDR: 3410 §16-03-0029

DOI: 8/31/2016

THE STATE

vs.

TYSHAUN MARIO BESSELLIEU

GEORGETOWN, SC 29440

DOB: [REDACTED]

SSN:

B / M

ACTION OF GRAND JURY

TRUE BILL

ATTORNEY: ~~Wyn Bessent~~

Josh Edgeworth

Indictment for

ATTEMPTED MURDER

Jimmy A. Richardson, II, Solicitor

Fuill Holone

Foreperson of Grand Jury

Date: *11-16-16*

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

INDICTMENT

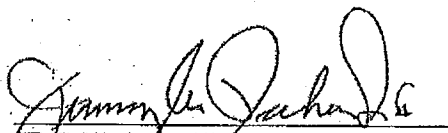
At a Court of General Sessions, convened on November 16, 2016, the Grand Jurors of Georgetown County present upon their oath:

ATTEMPTED MURDER

CDR: 3410 16-03-0029

That Tyshaun Mario Bessellieu did in Georgetown County on or about August 31, 2016 with intent to kill Tysha Moultrie, attempt to kill the victim with malice aforethought, either expressed or implied in violation of Section 16-3-29, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JIMMY A. RICHARDSON, II
FIFTEENTH JUDICIAL CIRCUIT

WITNESSES

Georgetown Police Department

DOCKET NO. 2016GS2201076 X✓**The State of South Carolina**

County of Georgetown

Alicia Richardson

16G00702

COURT OF GENERAL SESSIONS

NOVEMBER, 2016 TERM

ARREST WARRANT NUMBER

2016A2220200472

CDR: 3410 §16-03-0029

DOI: 8/31/2016

ACTION OF GRAND JURY**TRUE BILL***Fritz Holman*

Foreperson of Grand Jury

Date: *11-16-16***VERDICT**

Foreperson of Petit Jury

Date:

THE STATE

vs.

TYSHAUN MARIO BESSELLIEU[REDACTED]
GEORGETOWN, SC 29440

DOB: [REDACTED]

SSN:

B / M

ATTORNEY: ~~Wyn Bessent~~ *Tosh Edgeworth*

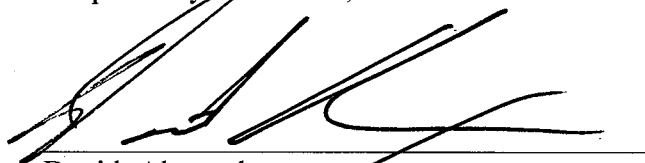
Indictment for

ATTEMPTED MURDER**Jimmy A. Richardson, II, Solicitor**

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 2nd day of January, 2019.

RECEIVED
JAN 02 2019
SC Court of Appeals