

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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May 27 2020

SC Court of Appeals

Appeal from Lexington County

Honorable Eugene C. Griffith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JOSHUA CW REHER,

APPELLANT

APPELLATE CASE NO 2018-002254

RECORD ON APPEAL

ADAM SINCLAIR RUFFIN
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

WILLIAM F. SCHUMACHER
Assistant Attorney General Rembert
Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

S.R. HUBBARD, III
Solicitor, Eleventh Judicial Circuit

ATTORNEY FOR APPELLANT

Post Office Box 874
Lexington, SC 29071
(803) 785-8352

ATTORNEYS FOR RESPONDENT

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBITS NO. 73 and 74 (VIDEOTAPES OF SULLIVAN’S EXPERIMENT)
STATE’S EXHIBITS NO. 75 and 76 (PHOTOGRAPHS OF SULLIVAN’S
EXPERIMENT)**

State of South Carolina
 County of Lexington

Court of General Sessions

State	)	
	)	
	)	Transcript of Record
v.	)	2016-GS-32-01077
	)	2016-GS-32-01837
Joshua Reher	)	
	)	
<u>Defendant.</u>	)	

December 10 - 13, 2018
 Lexington, South Carolina

B E F O R E:

The Honorable Eugene Griffith, Jr., Judge; and
 a jury.

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

Robby McNair, Assist. Solicitor
 Bradley Pogue, Assist. Solicitor
 Attorneys for the State

Patrick Lir Deirig, Esquire
 Attorney for the Defendant

Bethanie K. Creppon
 Circuit Court Reporter

1 narrative. That's him writing a paragraph in
2 narrative form about what happened. The rest of the
3 statement is question-and-answer. So your question
4 about whether it's the same information, I will say
5 it's not.

6 THE COURT: I haven't reviewed it. I don't
7 know. Y'all know the facts better than I do.

8 All right. I'm going to take this under
9 advisement until shortly -- we've got a motion in
10 limine. So do you want to go on the record before
11 tomorrow or do you want to do it in the morning
12 first thing?

13 MR. DEIRIG: I can put it on the record now, if
14 you want to -- see, I haven't discussed this with
15 the State yet, so my thought about doing it this
16 morning, so if you want to --

17 THE COURT: Talk with him first and we'll do it
18 in the morning before the jury comes in. We'll try
19 to convene now and do it while they're coming up the
20 stairs.

21 MR. DEIRIG: Okay. Well, I'll tell you it is a
22 motion to suppress evidence and testimony regarding
23 a firearms demonstration or experiment almost that
24 was done by Investigator Sullivan. It was -- it was
25 testified to extensively at the immunity hearing,

1 Your Honor. And I'd be happy to provide you with my
2 transcript of that hearing. And I would be making a
3 motion to suppress any and all evidence regarding
4 that so-called experiment, because it was not done
5 with the weapon my client used.

6 The weapon my client used was never examined by
7 Sullivan. And, based on the evidence that was more
8 or less gleaned from this test -- as you'll see, he
9 essentially testifies to saying that he didn't learn
10 anything from trying to figure out a shell ejection
11 pattern. They do an extensive amount of testing to
12 try and come up with a scenario where it's possible
13 for a shell casing to end up in a room where the gun
14 wasn't fired. And it has to do with ejection
15 patterns of an AR-15. And during this so-called
16 experiment, the ejection pattern was all over the
17 place. Apparently it was forward, it was backwards,
18 it was sideways.

19 THE COURT: Are y'all going to try to utilize
20 that?

21 MR. MCNAIR: Yes, sir. Judge, what it was he
22 shot -- we went to a range, he shot the same make
23 and model weapon, the same caliber, utilizing the
24 same brand of ammunition. All he did was fire a
25 course of rounds and mark where the shell casings

1 landed on the range. That was it. There's nothing
2 scientific, really, about it. I shot this gun, same
3 make and model, same ammo, and this is where the
4 shell casings landed.

5 MR. DEIRIG: And he testified that there was --
6 that he couldn't -- not only did he not examine my
7 client's weapon, but he couldn't say that that's how
8 the shell casing and ejection pattern would be for
9 my client's weapon. They just took some random
10 AR-15, shot it a bunch, and marked some shell
11 casings, and are trying to say now, because there
12 are some shell casings behind, that means -- from
13 this gun, that means another gun we've never tested,
14 it could happen there too.

15 And I just think that the danger -- because the
16 probative value of a shell casing ejection pattern
17 of a rifle similar to the one my client used is
18 substantially outweighed by the danger of unfair
19 prejudice to Mr. Reher and has the potential to
20 confuse the jury.

21 THE COURT: Okay. I think what we'll do when
22 we get there -- I'll have a little more familiarity
23 with the facts. I understand why you're concerned.
24 I understand why you're trying to introduce --

25 MR. MCNAIR: Judge, I'll tell you this: I

1 mean, to me, that is weight, not admissibility.

2 But, again, if he will consent, we'll take his
3 weapon into evidence, with his ammo, and we'll do
4 the same thing now.

5 THE COURT: That's y'all's problem. You may
6 have already done that. I don't know.

7 All right. Anything else we need to deal with
8 before in the morning?

9 MR. MCNAIR: I think it would be good for us to
10 probably mark the transcript from the Castle
11 Doctrine as a Court exhibit just in case we need to
12 refer to it during the course of the trial.

13 THE COURT: Fair enough. Do you object --

14 MR. DEIRIG: No objection to that, Your Honor.

15 THE COURT: Are any Court exhibits marked yet?

16 MR. MCNAIR: Yes, sir. I mean, I didn't enter
17 them. I just marked them. Well, they're State's
18 exhibits.

19 THE COURT: All right. That will be Court's
20 Exhibit 1.

21 MR. MCNAIR: Court's Exhibit 1. I'm sorry.

22 THE COURT: All right. We'll stand at ease
23 until 9:15 in the morning.

24 (Court's Exhibit No. 1 marked for
25 identification.)

1 (The following proceedings were held December
2 11, 2018.)

3 MR. MCNAIR: Judge, we would ask that the
4 witnesses in this case be sequestered until they've
5 testified or determined they're not going to
6 testify.

7 THE COURT: I think that's fair. I would
8 rather have it that way, to be honest with you. I'd
9 say 90 percent of my trials, they ask for it, and I
10 grant it. We'll do that, but your investigator, and
11 defendant, and your investigator.

12 MR. MCNAIR: We would ask that, obviously, our
13 investigator, Mr. Sullivan, be allowed to stay, and
14 lead investigator Marthers, and the victim, of
15 course.

16 THE COURT: Sure.

17 MR. MCNAIR: And just in an abundance of
18 caution -- I've never tried a case against
19 Mr. Deirig -- but I'd just make a motion to preclude
20 any reference to sentencing in opening or closing.
21 That's outside the province of the jury.

22 MR. DEIRIG: That's not an issue, Your Honor.

23 THE COURT: Okay. Anything else we need to do?

24 MR. DEIRIG: I think -- Mr. Pogue and I were
25 talking earlier and were wondering what Your Honor

1 intends to do about ruling on my motion to suppress
2 the firearms testing.

3 THE COURT: I want to hear more about this, so
4 I'm not going to grant your motion. It seems to
5 me -- I'd rather get there.

6 MR. DEIRIG: Fair enough. I'll just avoid it
7 entirely in my opening.

8 THE COURT: Okay.

9 MR. MCNAIR: Judge, we did find a case on that
10 issue regarding out-of-court experiments. So if
11 you'd like me to pass that up, I will at this time,
12 or just whenever we deal with that issue.

13 THE COURT: Just hand it up when we get there.

14 MR. MCNAIR: Okay.

15 THE COURT: Bring us the jury, please.

16 (The jury enters the courtroom at 9:34 AM.)

17 THE COURT: Folks, time to begin the trial.
18 What's going to happen -- as I told you before, the
19 indictment is notice of allegations of what the
20 State is accusing Mr. Reher of doing. The State has
21 got to prove that case beyond a reasonable doubt, to
22 which I'll explain to you at the very end what that
23 burden is, how you weigh the evidence, and whatnot.

24 Your purpose right now is to listen to the
25 witnesses and listen to the presentation that the

1 Remember, when I have a conference with the
2 lawyers over here, if y'all want to stand up and
3 move around, feel free. If you can't hear, give me
4 the I-can't-hear sign. Ms. Creppon, she'll tell the
5 lawyers don't talk over each other, because I like
6 questions, answers, and not interruptions back and
7 forth, because that's hard to listen to, and really
8 hard to type. So she won't like that. And she's
9 not the only one. All my court reporters, please
10 make a clear statement, question, answer, taking
11 turns and being polite. So that's how we're going
12 to try to do it.

13 So if y'all will stand, the clerk of court will
14 place you under oath and we'll go forward.

15 THE CLERK: Raise your right hand, please.

16 THE JURY (collectively): I do.

17 (Jury sworn.)

18 (State's Exhibit Nos. 1 - 77 marked for
19 identification.)

20 THE COURT: Mr. Pogue.

21 MR. POGUE: Thank you, Your Honor. May it
22 please the Court?

23 THE COURT: Yes, sir. Good morning.

24 THE JURY: Good morning.

25 MR. POGUE: As State prosecutors, Mr. McNair

1 and I strongly believe in the Second Amendment and
2 the right to self-defense. In fact, it's because
3 we're such hardened supporters of those rights, it's
4 our responsibility to protect the integrity and the
5 legitimacy of those rights for real victims, to
6 protect those sacred rights from those who intend to
7 hijack those rights to cover up their crimes.

8 From people like the defendant in this case,
9 Josh Reher, who gets drunk and pissed off at his
10 friend, his best friend, shoots him, lies to the
11 police about what happens, and then tries to claim
12 self-defense.

13 As you learned yesterday, the defendant is
14 charged with attempted murder and possession of a
15 weapon during the commission of a violent offense.
16 During this trial, the evidence will show that the
17 defendant and the victim -- as I mentioned, the
18 victim in this case being Joseph Meyers, he
19 affectionately goes by nickname Jersey -- they are
20 best friends and that worked together at the time in
21 2015 at Agnew's Lake Service.

22 The defendant in this case lives at [REDACTED]
23 [REDACTED] in the Coldstream area. He lives with
24 his live-in girlfriend and her two sons, Jo.F. and
25 J.L-F. . Jersey also lives in the Coldstream area

1 with his wife and his two small children. Jersey
2 drives Josh back and forth to work every day with
3 Jersey's four-year-old little girl in the car. Josh
4 was known to play even games on their way to take
5 the four-year-old little girl to daycare. So they
6 were close.

7 On August 21st, 2015, it was a Friday, and they
8 both had been drinking that day. Around 8:00 p.m.
9 that evening, after spending time at work together,
10 later going to have some drinks at a bar and then
11 going by a side job, and then having a few more
12 drinks, they arrive at Josh's house in Coldstream
13 around 8:00 p.m.

14 When they pull up, they see a bunch of kids in
15 the yard. And this was a constant source of
16 frustration for Josh. They get out of Jersey's
17 truck, Josh yells at the kids. I believe Jersey
18 yells at the kids too, tells them to get out of
19 here, because they're all hanging around the house.

20 At that point, he goes inside and yells at his
21 girlfriend, Brooke Floyd, about all the kids that
22 are outside the house. Brook gets upset, being
23 yelled at, and decides to go to the store with one
24 of J.L.F. 's friends, I.K. , who is there at the house,
25 who is a teenager. She, at that point in time,

1 asked the defendant for money. The defendant -- to
2 go to the store.

3 The defendant reluctantly gives her money.
4 Later, the defendant, soon after they leave, he
5 finds out she's leaving with I.K. , he gets upset.
6 The defendant gets angry because he believes that
7 Brooke and I.K. are going to buy pills. Jersey tells
8 the defendant that he doesn't want to hear it,
9 because at that point, Josh, he claimed, was being
10 an enabler to Brooke, and that, you know, if you
11 give somebody who has a pill addiction money,
12 they're going to probably use that and go buy pills.
13 This enraged the defendant.

14 At this point, the defendant tackles Jersey out
15 of the lawn chair that he's sitting in, in the
16 garage, and a skirmish ensues. It starts in the
17 garage, it continues out into the driveway, and
18 eventually ends up in the little grassy area in the
19 side yard of Josh's house.

20 Eventually, after Jersey gets the better of
21 Josh during this struggle, the defendant -- after
22 the victim gets the better of the defendant in the
23 struggle, the victim, Jersey, just lets him up. At
24 that point, Josh is even more enraged that he just
25 got beat up from the fight that he started with the

1 victim.

2 At that point in time, he runs into the house,
3 grabs his AR-15 .22 caliber assault rifle from
4 behind the love seat in the living room and
5 immediately proceeds to the garage door; points the
6 gun at Jersey, shoots at Jersey five times, hitting
7 him once in the abdomen, and closing and locking the
8 door.

9 Another teenager friend of J.L-F. who was in the
10 home at the time, M.A. -- and, to clarify,
11 there's three people in the house other than Josh
12 when this happens. There is M.A. , who is in
13 the living room with ten-year-old Jo.F. at the
14 time, who is one of Brooke's sons. J.L-F. , Brooke's
15 other son, is asleep when this happens in the
16 bedroom. M.A. is the only direct eyewitness
17 that saw the defendant shoot Jersey.

18 The defendant later states in his handwritten
19 statement that he shot Jersey three to four times by
20 the island in the kitchen and indicates to law
21 enforcement that he was acting in self-defense, in
22 his written statement.

23 So the defendant, as you learned yesterday, is
24 charged with attempted murder. What exactly is
25 attempted murder? South Carolina law states that

1 attempted murder is when a person, with the intent
2 to kill, attempts to kill another person with malice
3 aforethought. To break that all down, there's
4 essentially three elements there: You have one, an
5 attempt to kill another person; two, with malice
6 aforethought. Malice aforethought is hatred,
7 ill-will, or hostility towards another person.
8 That's essentially how the law defines malice
9 aforethought. The third element of that is the
10 specific intent to kill when they act. However, as
11 I mentioned, the defendant in this case is asserting
12 self-defense.

13 So what does the law say about self-defense? I
14 beg your indulgence. A lot of words there, but
15 we'll go through it. For a person to assert
16 self-defense in South Carolina, the defendant must
17 essentially prove or show -- actually, I should
18 correct that. The defendant doesn't have to prove
19 anything. We have to prove beyond a reasonable
20 doubt that at least one of these things is not true
21 to you in order to satisfy our burden and to
22 disprove his self-defense claim.

23 One, the defendant must be without fault in
24 bringing on the difficulty. The evidence will show
25 that the defendant started the fight, the victim --

1 excuse me, the fight ended and the defendant then
2 goes in the house, grabs his assault rifle, and
3 reengages the victim by shooting at him five times.

4 Two -- and there's two parts to two -- you must
5 either -- the defendant must either be or reasonably
6 believe to be in imminent danger of death or serious
7 bodily injury. Let me say it again, death or
8 serious bodily injury. The evidence will show that
9 the victim, obviously, was his best friend, and that
10 both the defendant and the victim only incurred
11 minor abrasions and bruises from the skirmish that
12 they had out in the garage and the yard.

13 Three, the last prong, the defendant must have
14 no other probable way to avoid the danger of death
15 or serious bodily injury than to act as the
16 defendant did in this particular case.

17 Now, because the defendant is at his own home,
18 he doesn't have a duty to retreat. However, the
19 evidence will show, in this case, that he did, in
20 fact, after the fight ended, retreat into his house
21 and grab his gun.

22 He also has the right to eject the trespasser
23 using reasonable means of force. The evidence will
24 show that M.A. said that the defendant stood
25 at the door, M.A. being the only person who

1 saw this actually happen with his own eyes; he says
2 that the defendant stood at the door, tells the
3 officer that evening, I should add, that the
4 defendant stood at the door of the garage, between
5 the garage and the kitchen, and shot Jersey while he
6 was in the garage.

7 M.A. says that during the fight and the
8 shooting, Jersey never comes in the house or
9 attempts to come in the house. M.A. says
10 that when asked by law enforcement if the defendant
11 was acting in self-defense or was just angry because
12 he got beat up, he said the defendant shot Jersey
13 because he was mad.

14 The evidence will also show that the defendant
15 tells law enforcement that Jersey came at him in the
16 kitchen and he shot him three to four times.
17 Meanwhile, the physical evidence from the scene will
18 show that all but one of the bullet casings are in
19 the garage.

20 We, the State, have the burden of proving our
21 case beyond a reasonable doubt. That is a burden
22 that we welcome. And at the end of this trial, if
23 you don't feel that we've met our burden and carried
24 our burden, we'd ask that you find him not guilty,
25 give him his gun back, and send him on his merry

1 way.

2 However, we believe that the evidence will
3 prove to you beyond a reasonable doubt that the
4 defendant is guilty of attempted murder and
5 possession of a weapon during the commission of a
6 violent crime.

7 So what does that even mean, as well? What is
8 reasonable doubt or beyond a reasonable doubt?
9 Well, I actually had a trial recently that the
10 defense attorney used a chart like this to try to
11 confuse the jury as to what reasonable doubt is.
12 It's really a bunch of gibberish. There's a lot of
13 source of confusion about reasonable doubt.

14 Let me tell you what the law says reasonable
15 doubt is. The law says that proof beyond a
16 reasonable doubt is proof that leaves you firmly
17 convinced of the defendant's guilt. A reasonable
18 doubt is the kind of doubt that would cause a
19 reasonable person to hesitate to act.

20 Now, there are very few things in this world
21 that we know with absolute certainty. In criminal
22 cases like this, we do not have a burden of proving
23 his guilt beyond all possible doubt. Any doubts
24 that you have must be reasonable if you are to find
25 him not guilty.

1 I want to say this: Don't make the mistake of
2 losing the forest through the trees. Folks, we
3 chose you for this jury because you struck us as
4 people who possess good old fashioned common sense.
5 You struck us as folks who don't have their common
6 sense and their natural intuition and their BS
7 meter, for lack of a better term, easily offended.

8 When you go back in that jury room, the most
9 valuable thing that you're going to have with you
10 when you deliberate this case is going to be your
11 common sense. What does your common sense tell you?
12 Pay particular attention to the credibility of the
13 witnesses that take this witness stand and testify.
14 Who has an incentive to lie? Who doesn't have an
15 incentive to lie? Whose stories have changed over
16 time and whose stories are still consistent from
17 what they told law enforcement that evening when the
18 incident happened? Don't allow the defense to
19 insult your intelligence in regard to those issues.

20 As jurors, you have the duty to render a
21 verdict. In fact, the word verdict is a Latin term
22 that means to speak the truth. So, in other words,
23 when you took that oath as jurors, you have taken an
24 oath and have a duty to go to render a verdict that
25 speaks the truth.

1 The truth is, in this case, that the defendant
2 did not act in self-defense, and that he's guilty of
3 attempted murder. At the end of this trial, we'll
4 ask you to go back in the jury room and come back
5 with a verdict that speaks the truth in this case,
6 which is that the defendant is guilty of attempted
7 murder and possession of a weapon during a violent
8 crime. Thank you. Please give your same attention
9 to the defense attorney.

10 THE COURT: Mr. Deirig.

11 MR. DEIRIG: May it please the Court, Your
12 Honor?

13 THE COURT: Yes, sir.

14 MR. DEIRIG: Mr. Pogue just asked you not to
15 let me insult your intelligence. All I'm going to
16 ask you to do this week is use simple logic and
17 common sense to come to your verdict. I'm not going
18 to stand up here and pander to you and tell you how
19 much I love the Second Amendment in hopes that those
20 of you who are strong supporters of the Second
21 Amendment come to my side.

22 But, make no mistake, a fundamental American
23 right is on trial this week. It's your right to
24 defend yourself in your own home. You're going to
25 hear two vastly different stories about the same

1 event. They both end in the same way, and that's
2 Jersey getting shot one time. But what makes this
3 case somewhat unique is that when it comes to how
4 the lawyers in this case are going to be
5 characterizing evidence and testimony, particularly
6 when it comes to closing arguments. This case will
7 be, in my opinion, somewhat opposite of what most
8 cases are.

9 In most cases, you have a defense attorney
10 coming up and asking you not to pay attention to the
11 most logical explanation for evidence, not to take
12 the most obvious, logical, easiest answer, not to
13 accept things for what they are, but instead trying
14 to get law enforcement or victims or whomever to
15 admit that there is some possibility under -- no
16 matter how remote, that there is some possibility
17 that something else happened or the evidence
18 isn't -- the evidence doesn't say what, logically,
19 it should say; try and muddy the waters, throw up
20 smokescreens, if you will, try and come up with
21 reasons and explanations, possibilities of why the
22 evidence doesn't say what it obviously says.

23 But that's not what the defense is going to do
24 in here this week. That's what the prosecution is
25 going to do. They're going to take the physical

1 evidence and ask you not to believe the logical
2 conclusion that you come to from that physical
3 evidence. They're going to try and make you believe
4 that there is some possibility that this incident
5 happened in a different way than what the physical
6 evidence says. And purely by proving that there
7 might be some possibility, no matter how remote,
8 that this incident happened, in a way that the
9 physical evidence doesn't say, they're going to
10 expect you to use that possibility to convict my
11 client beyond a reasonable doubt and to rob him of
12 the American right of defending yourself in your own
13 home.

14 Conversely, the defense is only going to ask
15 you to take the evidence at face value. Use your
16 logic, use your common sense. And the best example
17 I can give you of where what I just talked about is
18 going to come into play is about five shell casings.
19 There's no -- I don't think there's going to be any
20 dispute that Josh shot his weapon five times. The
21 first four shots, you will see from pictures, go
22 into his toolbox. He fires into his own toolbox.
23 And you'll hear from him that these were warning
24 shots to try to get somebody who had just beaten him
25 up to leave when they would not leave.

1 There are four shell casings in the garage.
2 You'll see that. You'll see pictures of the shell
3 casings. We got four bullet holes in the garage in
4 his own toolbox. There are four bullet holes --
5 four shell casings in the garage.

6 Now, the prosecution is going to have you try
7 and believe that my client shot all five shots from
8 the exact same spot, which would be in the doorway
9 between the kitchen and the garage; that he fired
10 four times at his toolbox, and then he turned and
11 fired on Jersey himself. The State's story is going
12 to try and explain to you how the fifth shell casing
13 ended up behind where that door frame is, out in the
14 middle of the kitchen, over by the island.

15 You're going to hear Josh tell you that he
16 stood at the doorway, fired four shots into a
17 toolbox, then he closed the door and -- excuse me,
18 he fired four shots into the toolbox, and Jersey
19 decides to come at him. And the State's probably
20 going to tell you that that doesn't make sense. Why
21 would somebody do that? And I'll get to that.

22 But Jersey runs at the person who is firing
23 into the toolbox. Josh retreats into his own home,
24 closes the door as Jersey is trying to come through
25 the door. Josh is holding his kitchen door shut

1 from someone who has just beaten him up multiple
2 times from coming into his own home. After two or
3 three minutes of the two of them pushing that door
4 and Josh being able to keep the door shut, the
5 pressure -- the tension on the door releases, so
6 Josh thinks Jersey has given up. So Josh steps back
7 from the door, cracks the door to look out and see
8 where Jersey is.

9 And at that point, Jersey comes up the step,
10 busts the door open, reaches out, and tries to grab
11 Josh's gun. And he gets shot one time in the side.
12 And there's one shell casing in the kitchen. Jersey
13 says he got shot while he was in the garage. Josh
14 is going to tell you that he shot Jersey while they
15 were in the kitchen.

16 There's five shots that got fired; four shell
17 casings in the garage, one shell casing out in the
18 middle of the kitchen. We're going to ask you to
19 use logical inferences, common sense. When you see
20 the pictures, it will be even more clear to you that
21 the logical explanation for why there's four shell
22 casings in the garage and one shell casing out in
23 the middle of the kitchen, that the first four shots
24 in the toolbox were fired from that doorway and the
25 fifth shot was fired in the middle of Josh's kitchen

1 with Jersey coming at him.

2 I want you to pay special attention, not only
3 to the credibility of witnesses, as Mr. Pogue asked
4 you to do, because I will agree with him on that,
5 see who has a reason to lie and see who doesn't.

6 Admittedly, my client is on trial, so I'm sure
7 the State is going to tell you that he has every
8 reason in the world to lie. However, I want you to
9 think about, as you hear these stories, that if what
10 my client is saying is true, if that doesn't give
11 Jersey a reason to lie, keep himself from getting
12 charged.

13 And I want you to pay special attention to the
14 other witnesses, particularly the witnesses the
15 defense is going to call, and see what reason they
16 would have to lie. They will have nothing to
17 benefit, nothing to gain from this. So if you want
18 to call the victim and the defendant in this case in
19 terms of their reason to lie, call that a wash,
20 evaluate the rest of the witnesses.

21 You're going to see defense witnesses have no
22 reason to come in and say what they're going to say,
23 other than it's the truth. Pay attention to which
24 side in this case presents their case in a more
25 angry and emotional way, trying to prey on your

1 feelings, and which side gives a presentation that
2 is more composed, more logical, focuses on the
3 facts. Because one side of the courtroom is going
4 to try and prey on your feelings this week and the
5 other side is going to ask you to look at the facts
6 and use your common sense and logic to make the
7 right decision.

8 So what you're going to hear is that on August
9 21st, 2015, Jersey picks up Josh, they go to work.
10 There's a work meeting where beer is provided, so
11 Josh has a couple beers, Jersey starts drinking too.
12 There's some period of time where the two of them
13 aren't together. Jersey comes back and picks up
14 Josh. And Jersey is significantly more drunk this
15 time than when Josh originally saw him at work; that
16 instead of going directly from work to Josh's house,
17 as they normally do, they stop by a bar in Irmo
18 called Hemingway's.

19 You're going to hear that Jersey was so
20 belligerently drunk and angry at Hemingway's that
21 they get kicked out. You're going to hear that
22 Jersey drives Josh to Josh's house, then when they
23 get to the house, there's a white car parked out
24 front and there's two kids that neither Josh nor
25 Jersey know sitting on top of this white car.

1 You're going to hear that Jersey gets out of
2 his truck and goes and confronts these kids. It's
3 not going to be Jersey's story. He's going to tell
4 you he never went and talked to these kids. But
5 Jersey got out of his truck and went and confronted
6 these two kids, started screaming and yelling at
7 them that were sitting on top of this white car.
8 And we're going to let you hear from one of them.

9 There's also a neighbor across the street who
10 witnesses a whole lot of what happens. You'll hear
11 that this witness across the street has even been
12 interviewed by law enforcement. But we're going to
13 be the ones to let you hear from them, a completely
14 neutral third party, independent witness, who
15 doesn't know either one of the two people. He knows
16 who lives across the street from him and who
17 doesn't, and he's going to tell you what the kid
18 that lives across from him did and he's going to
19 tell you what the person that doesn't live across
20 the street from him did.

21 And that's going to corroborate what Josh says
22 about -- and what the kid on top of the car says
23 about Jersey getting out of the truck and going and
24 confronting these kids that are on top of the car.
25 That may seem like, at least at this point,

1 inconsequential. But it does go to credibility. It
2 goes to who is lying and who's telling the truth and
3 who has independent people and evidence
4 corroborating their story.

5 After Jersey goes inside and argues with Josh's
6 girlfriend, Brooke, Jersey comes outside, Brooke
7 comes outside; Brooke leaves with the child, and
8 then Jersey and Josh -- well, Jersey turns and
9 starts yelling at Josh then comes at Josh; Josh
10 tries to back up, back up, puts his hand up, tries
11 to keep Jersey off of him, and Jersey attacks him.

12 There is no real logical answer for why Jersey
13 attacked Josh. Josh is going to tell you he has no
14 idea. They're arguing over Josh being upset about
15 these random kids that are allowed to hang out at
16 his house, and Jersey is accusing Josh of allowing
17 it to happen. Why this led to Jersey getting angry
18 enough to attack Josh, nobody will be able to tell
19 you, because Jersey is going to tell you that didn't
20 happen and Josh has no idea why one of his best
21 friends came at him, other than the fact that he was
22 incredibly drunk and belligerent as had already been
23 exhibited at Hemingway's just a few minutes earlier.

24 There's multiple skirmishes or tussles that
25 Josh and Jersey have. First one happens in the

1 garage where Josh gets punched in the face. Josh
2 gets laid on -- gets put on the ground, the concrete
3 ground; gets punched in the eye multiple times, has
4 his head slammed on the ground multiple times.
5 Ultimately, Josh is able to wrestle Jersey off of
6 him and try to run away. He runs out of his garage,
7 tries to get around his house. Jersey catches him
8 right around where some rose bushes at Josh's house
9 are, tackles him into the flower bed, and they have
10 another tussle or skirmish right there.

11 And there's two kids that see this: There's
12 M.A. and Jo.F. . And we're going to
13 let you hear -- the State has already told you all
14 about M.A. . You're going to hear that M.A.
15 has given multiple versions of what happened. But
16 we're also going to call -- we're going to call
17 Jo.F. and let you hear from Jo.F. who was also
18 there, also present, saw what was happening. And
19 he's going to come and sit on that stand and tell
20 you what he saw.

21 And then there's a third child in the house,
22 J.L-F. . And all three kids, their stories don't
23 match up exactly. There's details -- well,
24 especially when it comes to M.A. , depending on
25 which version of his story you're going by, there

1 are either minor details or major details that are
2 different. But three children witnessing a
3 traumatic event, especially with guns going off and
4 not remembering it the exact same way is not
5 uncommon.

6 In fact, the 12 or 14 of you, when you get back
7 into the jury room and are actually able to start
8 your deliberations, you will find that each of you
9 perceived what happened in this trial a little bit
10 differently. And just because these kids have
11 different details about the story -- the major
12 points are fairly consistent. And because minor
13 details are a little different, it doesn't mean that
14 they're lying; it just means they perceive things
15 differently.

16 Mr. Pogue talked to you about intent, about
17 Josh having to have the intent to kill Jersey. I
18 would ask you to look to the intent of Josh Reher
19 and his actions immediately upon law enforcement
20 arriving. Because after Jersey gets shot, he leaves
21 and goes home, and law enforcement has already been
22 called. They show up a short time later.

23 Josh comes outside. The first thing he says to
24 law enforcement is, I shot him, I had to do it,
25 telling law enforcement right away. And then law

1 enforcement is like, wait, what, who did you shoot,
2 because there's nobody at the house that has been
3 shot. Josh not only tells law enforcement who he
4 shot, he tells law enforcement where Jersey lives
5 and sends one of the kids with law enforcement to go
6 show them where Jersey lives so that they can get to
7 Jersey and get him the medical attention he needs.
8 Does that sound like the intent of somebody trying
9 to kill somebody?

10 Then you're going to hear, when law enforcement
11 gets to Jersey's house, they're lied to. Jersey's
12 wife tells law enforcement he's not there. Jersey
13 and his wife are initially wholly uncooperative with
14 law enforcement. Jersey even tries to tell law
15 enforcement he didn't know that he'd been shot. But
16 judge that deception, decide whether or not that
17 deception of law enforcement lends to these
18 people -- this alleged victim being credible or if
19 it seems like he's lying.

20 Then you're going to hear about Josh going to
21 the hospital. Because after he got beaten and had
22 his head smashed in the ground, he asked for medical
23 attention. And at the hospital, he gives a
24 statement to Investigator Marthers. While wanting
25 medical attention, he gives a statement to

1 Investigator Marthers; while beaten and bloody, he
2 gives a statement to Investigator Marthers.

3 Ultimately, Josh is arrested, goes to jail.
4 And you'll hear about a week and a half, two weeks
5 later, after he got put in jail, Josh finally gets a
6 copy of the statement that he wrote for Investigator
7 Marthers. You'll hear how Josh rereads his
8 statement and immediately knows that he made some
9 mistakes in what he told law enforcement, that he
10 did not tell them what was accurate.

11 The State is going to try to tell you that the
12 reason Josh Reher tells a different story -- a
13 little bit different story now than what he did that
14 night in the hospital is that he had an opportunity
15 to meet with me and see all the evidence, and that
16 when he realized that his story didn't match up with
17 what the State says the evidence says, that he
18 decided to change his story.

19 You'll hear from Josh that it was about two
20 weeks after he got arrested that he realized his
21 statement to police was somewhat inaccurate. And
22 you'll hear he didn't meet me until long after those
23 two weeks. The only thing he saw to make him know
24 that he had made a mistake in what he told law
25 enforcement was being given the copy, finally, and

1 him being able to reread it.

2 You'll hear about how Josh was scared, he was
3 nervous, he's dyslexic, he was in pain, he was
4 bloody, and he wrote a statement that, he'll tell
5 you, there are some parts that are inaccurate.

6 And, finally, ladies and gentlemen, you're
7 going to hear from two people that are friends with
8 both Josh and Jersey. These two people welcome you
9 to judge their credibility. There is no gain or
10 reward from either of them coming in to testify
11 before you guys. And what they're going to tell you
12 is that -- because we're dealing with a case that
13 happened about three years ago -- maybe a little
14 longer than three years ago -- about a year after
15 this incident happened, Jersey comes over and is
16 hanging out with these two boys and starts bragging
17 to them about how he beat up Josh and about how the
18 reason he got shot is that he went to take the gun
19 from Josh to teach him a lesson.

20 Remember, I told you the State is going to tell
21 you it doesn't make sense for somebody to run
22 towards a shoot er. Well, you're going to hear from
23 these two guys as to why Jersey says he did just
24 that. He's drunk, he's angry, he's belligerent, and
25 he's going to go take that gun from Josh and teach

1 him a lesson.

2 These two guys that are going to come in here
3 and tell you that, they have no reason to make this
4 up. In fact, they're probably going to be losing a
5 friend because of it. But they're coming in to tell
6 you guys the truth of what happened or at least as
7 far as they know what happened. And the only way
8 they know about anything that happened that night,
9 other than general details about Jersey getting
10 shot, is from Jersey himself.

11 Ladies and gentlemen, this is a self-defense
12 case. We will be putting up a significant defense.
13 We're not going to sit silently. Josh had to defend
14 himself in his kitchen and Josh is going to defend
15 himself in this courtroom. And I submit to you,
16 ladies and gentlemen, that that defense, when you go
17 back in the jury room and you talk about what the
18 State has put up and talk about what the defense has
19 put up, use your logic, use your common sense.

20 You don't fall for the smokescreens that are
21 going to be put in front of you this week. There's
22 only one verdict on both counts that truth will
23 dictate and that just justice will demand, and those
24 two verdicts must be not guilty. Thank you.

25 THE COURT: Call your witness.

1 MR. POGUE: Thank you, Your Honor. The State
2 calls Nikki Rodgers.

3 THE COURT: Y'all can have notepads if you want
4 to.

5 NIKKI RODGERS

6 being first duly sworn, testified as follows:

7 THE WITNESS: I do.

8 THE CLERK: Have a seat. Once you're seated,
9 state your full name, spelling your last please.

10 THE WITNESS: My name is Nikki Rodgers,
11 R-O-D-G-E-R-S.

12 DIRECT EXAMINATION

13 BY MR. POGUE:

14 Q. Hey, Ms. Rodgers. Where are you currently
15 employed?

16 A. Lexington County 911.

17 Q. Okay. And what is it that you do there?

18 A. I am the chief of communications. I handle all
19 of the departmental needs including 911 records and
20 keeping the records -- everything is confidential --
21 and making sure that it's an accurate record.

22 Q. Can you tell me what sort of -- when you say
23 record, like what -- are you referring to a written
24 record?

25 A. There are written records, there's audio

1 recordings, there are training records, there's --
2 anything that comes into the 911 center is
3 documented on a recorded line and tracked.

4 Q. Okay. And the written records, what are those
5 records of?

6 A. There are CAD reports. It's called Computer
7 Aided Dispatch. That is the -- kind of a dispatch
8 record of who was sent, who called in, what units
9 was sent. And that is tracked on every call.

10 Q. And how is it tracked?

11 A. In a -- the OSSSI, which is our vendor, a
12 computer aided dispatch system, which is a records
13 management system.

14 Q. And what information, specifically, is tracked
15 and recorded?

16 A. The time of the call, the caller's information,
17 who called, the location that they're requesting
18 assistance, and then what is going on at the scene.
19 We ask a system of questions. All of that is
20 documented and then it's relayed to the officers or
21 the EMS or the fire personnel that is responding.
22 And then we track what units is going and their
23 actual dispatch times, en route times, arrive times,
24 cleared time s, that information.

25 Q. And do you have 911 call and/or written records

1 for this particular case?

2 A. I do.

3 Q. All right. Did you bring those records with
4 you today?

5 A. I did.

6 Q. Okay. In regard to the records involved in
7 this case, what time -- or excuse me. Let me ask
8 you this: Do we have a record as to who it was or a
9 number that called 911 in reference to this case?

10 A. We do.

11 Q. Okay. And what is that phone number?

12 A. The actual location of the wireless call came
13 in on a -- from a wireless tower. So the actual
14 location of the call and the phone number that was
15 recorded is the 939-9200.

16 Q. What time did that call come in?

17 A. That call came in at 2049, which is 8:49 p.m.

18 Q. Okay. And what time did law enforcement, the
19 first law enforcement, arrive on the scene in this
20 particular case?

21 A. The first officer arrived at 2053 -- I'm sorry.
22 Yes, 2053, which is 8:53 p.m.

23 Q. 8:53 p.m.?

24 A. Uh-huh.

25 Q. Okay. And I should have asked you this before:

1 Are these records kept in the ordinary course of
2 business there at the 911 Lexington communication
3 center?

4 A. Yes, they are. Once an entry is made into the
5 dispatch record, it cannot be altered. It can be
6 added to, but it cannot be changed in any way.

7 Q. Do you have, in those business records, a
8 recording of the 911 call in reference to this
9 particular incident?

10 A. Yes.

11 MR. POGUE: Beg the Court's indulgence.

12 Permission to approach the witness, Your Honor?

13 THE COURT: Yes, sir.

14 BY MR. POGUE:

15 Q. Ms. Rodgers, I'm handing you what's marked as
16 State's Exhibit 3 for identification purposes. Do
17 you recognize that item?

18 A. Yes. This is the CD that has the recording on
19 it.

20 Q. How do you know that?

21 A. Because it has my initials on it.

22 Q. Did you listen to that recording?

23 A. I did.

24 Q. That's the same one from your records?

25 A. Yes.

1 MR. POGUE: Your Honor, at this time State
2 would move State's Exhibit 3 into evidence.

3 MR. DEIRIG: Without objection.

4 THE COURT: Without objection, State's 3.

5 MR. POGUE: Permission to publish, Your Honor?

6 THE COURT: Certainly.

7 (State's Exhibit No. 3 admitted into evidence.)

8 MR. POGUE: It always goes fine in practice,
9 Your Honor. But in realtime, issues arise.

10 THE COURT: Let's take a break while we're
11 doing this.

12 MR. POGUE: I think I've about got it now. If
13 you want to take a break, you can.

14 THE COURT: Don't talk about the case. I'll
15 have you back in a moment.

16 (The jury exits the courtroom at 10:29 AM.)

17 THE COURT: Are we ready to keep going?

18 MR. POGUE: Yes, sir, Your Honor.

19 THE COURT: All right. Bring the jury in,
20 please.

21 (The jury enters the courtroom at 10:48 AM.)

22 THE COURT: All right.

23 MR. POGUE: Thank you, Your Honor. I think we
24 got it fixed.

25 BY MR. POGUE:

1 Q. Ms. Rodgers, what is the date of this call
2 again?

3 A. The date is August 21st, 2015.

4 Q. Thank you.

5 (State's Exhibit No. 3 published to the jury.)

6 MR. POGUE: No further questions, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. DEIRIG:

9 Q. Good morning, Ms. Rodgers.

10 A. Good morning.

11 Q. So from that call, it's pretty apparent that
12 the caller is not at that -- at the incident
13 location, right?

14 A. Correct.

15 Q. So everything that she relayed to law
16 enforcement or to 911 came from somebody else,
17 correct?

18 A. She was a third-party caller, not on scene.

19 Q. All right. So it's fair to say that she wasn't
20 relaying anything that she observed other than when
21 she was on the phone when she arrived at the house?

22 A. Yes, sir.

23 Q. Okay.

24 MR. DEIRIG: I beg the Court's indulgence.

25 That's all I have, Your Honor. Thank you.

1 MR. POGUE: Just very briefly, Your Honor.

2

3

REDIRECT EXAMINATION

4

BY MR. POGUE:

5

Q. Just to clarify what the defense attorney was

6

asking, Ms. Rodgers, was the caller on that call

7

relaying what they saw at that time when she pulled

8

into the driveway at the house?

9

A. When she -- on her initial call, she was not at

10

the house. And then she did arrive at the house at

11

approximately 2051.

12

Q. So she arrives at the house during this call?

13

A. Yes.

14

MR. POGUE: Thank you.

15

THE COURT: You may step down.

16

MR. POGUE: Your Honor, may this witness be

17

excused?

18

MR. DEIRIG: Without objection.

19

THE COURT: You're excused.

20

MR. POGUE: State calls Andrew Senn, Your

21

Honor.

22

ANDREW SENN

23

being first duly sworn, testified as follows:

24

THE CLERK: Have a seat and state your first

25

name and spell your last, please.

1 THE WITNESS: Deputy Andrew Senn, S-E-N-N.

2

3

DIRECT EXAMINATION

4

BY MR. POGUE:

5

Q. Good morning, Deputy.

6

A. Good morning.

7

Q. Where are you employed?

8

A. Lexington County Sheriff's Department.

9

Q. In what capacity are you employed?

10

A. Traffic Division as well as collateral duty for

11

SWAT operator.

12

Q. Okay. How long have you been employed in both

13

of those particular capacities?

14

A. As far as Lexington County as a deputy, six

15

years; traffic, four; and SWAT operator for two.

16

Q. Okay. And were you on duty the evening of

17

August 21st, 2015?

18

A. Yes, I was.

19

Q. Okay. Did you respond to the incident involved

20

in this particular case?

21

A. I did.

22

Q. Tell me what happened. How did you become

23

involved?

24

A. Dispatch advised me that a man with a gun shot

25

his friend. My corporal and my partner were sitting

1 around the corner doing saturation for the area, get
2 the call, come out, respond. When we get to the
3 scene, the lady, later identified as the defendant's
4 mother, was telling us that her son had shot
5 somebody and that for us not to hurt him and
6 everything. And as I'm talking to her, I tell her
7 to stand back. He starts walking out of the
8 garage --

9 Q. Sorry to interrupt you. Just back up and slow
10 down a little bit. I think you testified that when
11 you arrived there, you -- were there other deputies
12 that were already on scene when you arrived?

13 A. Yeah. One or two other deputies were already
14 on scene.

15 Q. Had any of those deputies made contact with
16 anyone at the house?

17 A. Not that I'm aware of.

18 Q. Okay. When you arrived on scene, who was it
19 you said you made contact with?

20 A. The victim's mother -- or defendant's mother,
21 Josh's mom, Mary Reher.

22 Q. And what did she say to you?

23 A. She said don't hurt her son. And as I'm
24 talking to her, I told her to back up for us to
25 surround the house and everything else. As I'm

1 walking down the driveway, the defendant winds up
2 coming out the door. And she yells, that's him,
3 that's him. So I start yelling at him to show me
4 his hands. And other deputies come to me, another
5 officer and I detain the defendant, Mr. Reher, and I
6 stand by with him until we figure out what's going
7 on.

8 Q. And the suspect you made contact with, is that
9 the defendant in this case, Josh Reher?

10 A. Yes, Josh Reher.

11 Q. And what was the address again that you
12 responded to? I just want to be fair about
13 jurisdiction.

14 A. I'm not sure. It's [REDACTED] in Irmo
15 area of Lexington County.

16 Q. That is in Lexington County?

17 A. Yes, sir.

18 Q. All right. When you made contact with the
19 defendant, what happened?

20 A. As we're sitting there, we got him detained, we
21 sat him up, he keeps talking. Some of the things he
22 kept telling me was I had to do it, I had to do it.
23 One of the things I noticed about him, by working
24 traffic and everything else, was a strong odor of
25 alcohol coming from his breath and person, slurred

1 speech and everything. He keeps talking. I tell
2 him to sit down and calm down and we'll figure out
3 what happened once everything settles down.

4 Q. Okay. Did he have any injuries that appeared
5 apparent to you?

6 A. He had an abrasion or something to his cheek,
7 but nothing that was too noticeable.

8 Q. Understanding that you're not a medical
9 professional, did they appear to be minor or
10 serious?

11 A. Minor.

12 Q. Did the defendant appear to have been choked or
13 have redness around his throat?

14 A. No.

15 Q. Okay. After you made contact with the
16 defendant, were you in his presence the entire time
17 while you were on scene?

18 A. I was.

19 Q. Okay. Did you place him in handcuffs?

20 A. Deputy Prater was actually the one that placed
21 him in handcuffs. I stood by with him until we
22 transported him to the hospital.

23 Q. Why did you place him in handcuffs?

24 A. (Nonverbal gesture.)

25 Q. Why did you place him in handcuffs?

1 A. For one, we knew he was involved in a shooting,
2 he shot his friend. Officer safety, an
3 investigative detention is what we call it, until we
4 figure out what's going on. At that point, he was
5 placed in handcuffs.

6 Q. So he wasn't under arrest or anything at that
7 point?

8 A. No.

9 Q. All right. Did he say anything to you other
10 than I had to do it, I had to do it?

11 A. Something to the effect of he come at me. But
12 that's about it.

13 Q. Did he ever -- Defense mentioned in opening
14 statement that the defendant requested that --
15 Defense mentioned in opening statement that the
16 defendant, when he made contact with law
17 enforcement, requested that a unit be sent to the
18 victim's house, Jersey's house, so that he could
19 receive medical attention. Did you ever hear the
20 defendant say anything in regard to that?

21 A. No.

22 Q. Were you in his presence the entire time before
23 he was transported?

24 A. I was.

25 Q. So if he had said that, would you have heard

1 it?

2 A. Yes.

3 Q. So he never asked any officer to go see --
4 check on the defendant -- the victim?

5 A. No.

6 Q. Okay. Did the defendant in this case -- did he
7 request EMS transport or did you automatically
8 determine he was going to be transported for medical
9 treatment?

10 A. The defendant asked for it.

11 Q. So he requested it?

12 A. Right.

13 Q. What happened after he requested to be
14 transported to --

15 A. We asked for an EMS unit to respond to our
16 location. Once EMS got there, they made
17 determination to transport him. Once he got to the
18 hospital, I stood by until they checked him out.

19 Q. Okay. Judging by his demeanor, did he appear
20 to be in a state of shock?

21 A. No.

22 Q. In your past history as a SWAT team member,
23 have you ever encountered people who, by their
24 demeanor, appear to be in shock?

25 A. Yes.

1 Q. And his demeanor didn't seem to be consistent
2 with what you had known to be in shock?

3 A. I wouldn't say so.

4 Q. Okay. All right. When you transported him to
5 the hospital, what happened after that?

6 A. At some time during that process, he was
7 undetained, he was seen by the medical professionals
8 at Lexington Medical Center. And a short time
9 later, he was given his discharge paperwork.

10 Q. When you say undetained, what do you mean by
11 that?

12 A. He was taken out of his handcuffs. Because at
13 that point, we didn't have probable cause to arrest
14 him at that point.

15 Q. So when he was receiving medical treatment was
16 he in handcuffs?

17 A. No, he was not.

18 Q. Okay. And were you with him the entire time he
19 was getting medical treatment?

20 A. I was.

21 Q. Okay. Did you ever deny him medical treatment
22 or prevent him from getting medical treatment?

23 A. No.

24 Q. You never stopped a nurse from treating him?

25 A. I did not.

1 Q. Okay. You never stopped a doctor from treating
2 him?

3 A. No.

4 Q. Okay. All right. You said that the staff at
5 the hospital gave you his discharge paperwork; is
6 that correct?

7 A. That's correct.

8 Q. Okay. Did they say whether he was okay to be
9 discharged and transported, if he was going to be
10 transported anywhere else?

11 A. They said he was cleared to leave.

12 Q. Okay. At any point did you ever observe the
13 defendant crying or upset?

14 A. He was emotional. But, no, not upset.

15 Q. Any tears?

16 A. No.

17 Q. Okay. When you or the other deputy were on
18 scene, did an investigator ever arrive to talk with
19 Josh?

20 A. No. He didn't arrive until we were all at the
21 hospital.

22 Q. At the -- I said scene at the hospital.

23 A. Oh, yes, correct. At the hospital, he showed
24 up, Deputy Marthers.

25 Q. Let me rephrase my question so it's clear.

1 When you're at the hospital, a deputy -- an
2 investigator arrived to ask questions from -- to
3 Josh, the defendant?

4 A. Correct.

5 Q. Okay. All right. Had he received medical
6 treatment and been discharged at that point or was
7 he still in the process of receiving treatment?

8 A. He had already been given his discharge
9 paperwork and was free to leave at that point when
10 Deputy Marthers walked in.

11 Q. And he was no longer handcuffed at that point?

12 A. That's correct.

13 Q. Okay. Did the defendant appear to understand
14 the questions that you asked of him or the commands
15 that you may have given him when he was on scene?

16 A. Correct. He did.

17 Q. Okay. So he didn't seem to have any problem
18 understanding or communicating with people?

19 A. No.

20 Q. As a SWAT team member, what weapon are you
21 trained to use or do you use?

22 A. AR-15.

23 Q. AR-15. And do you practice with the AR-15? Do
24 you shoot the AR-15?

25 A. I do.

1 Q. On a regular basis?

2 A. I do.

3 Q. When you shoot, do you shoot at a range?

4 A. Yes, sir, a range.

5 Q. And when you shoot your AR-15, when you're done
6 shooting, where is the casings in regard to --

7 MR. DEIRIG: Your Honor, I'm going to object.

8 THE COURT: I'm going to overrule your
9 objection. He regularly shoots a gun, he's trained
10 to shoot it.

11 You can ask the questions.

12 THE WITNESS: They're all over the place.
13 They're to the side, behind, everywhere.

14 BY MR. POGUE:

15 Q. So in regard to the ejection pattern you
16 observe with your AR-15, some eject to the front; is
17 that correct?

18 A. Correct.

19 Q. Some eject to the side?

20 A. Yes.

21 Q. Some eject to --

22 MR. DEIRIG: Objection to leading.

23 THE COURT: Sustained as to leading.

24 MR. POGUE: Let me rephrase.

25 BY MR. POGUE:

1 Q. In which directions do they eject? Or is there
2 a certain pattern that's discernible?

3 A. There's no certain pattern. They're just
4 everywhere: Front, side, back to where the ejection
5 ports are.

6 MR. POGUE: Beg the Court's indulgence.

7 No further questions, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. DEIRIG:

10 Q. What is the first thing you heard Josh Reher
11 say?

12 A. I had to do it.

13 Q. What is the second thing you heard him say?

14 A. I had to do it.

15 Q. And what would be the third thing you heard him
16 say?

17 A. He come at me.

18 Q. You said that when Marthers arrived to the
19 hospital, that Josh was free to leave.

20 A. That's correct.

21 Q. Had anybody informed him of that?

22 A. No. The nurse come in there and gave him his
23 discharge paperwork.

24 Q. I thought the nurse gave you the discharge
25 paperwork.

1 A. It was in hand.

2 Q. Whose hand?

3 A. I turned it over to Marthers whenever I got
4 there.

5 Q. Right. So the discharge paperwork was in your
6 hand, right?

7 A. Right.

8 Q. So the discharge paperwork telling Josh that he
9 was free to leave, he was never given, right?

10 A. He was standing there -- or sitting there in
11 the bed when that happened, when the nurse came in
12 and gave them to us.

13 Q. Did he get to see the papers?

14 A. I didn't see the papers.

15 Q. So how did you know they were discharge
16 paperwork?

17 A. Because the nurse come in there and said this
18 is his discharge paperwork.

19 Q. And did anybody ever tell Josh that he was free
20 to leave?

21 A. No.

22 Q. Have you ever responded to -- throughout your
23 course of law enforcement, have you ever responded
24 to a crime scene that had a dead body?

25 A. I have.

1 Q. Have you ever responded to a crime scene that
2 had a dead body that didn't have significant
3 physical exterior injuries?

4 A. Yeah.

5 Q. So it is possible to be significantly injured
6 without exhibiting superficial or outward external
7 injuries, right?

8 A. I'm not a doctor, but I'm sure it can happen.

9 Q. Okay. So seeing the abrasions on Josh and any
10 contusions or swelling wouldn't give you any idea as
11 to whether or not anything internal was going on
12 with him, would it?

13 A. Like I said, I'm not a doctor. No.

14 Q. All right. What caliber is your AR-15?

15 A. .223.

16 Q. .223?

17 A. Uh-huh.

18 Q. How much gunpowder does it use?

19 A. Depends on the grain.

20 Q. Well, what ammo do you typically use?

21 A. What ammo?

22 Q. Right.

23 A. Winchester, stuff like that. Depends.

24 Q. So --

25 A. We're always testing different ammo.

1 Q. So lots of different types of ammo when
2 shooting a .223? Do you know kind of -- what
3 caliber rifle Josh had?

4 A. .22.

5 Q. Do you know what kind of gunpowder was being
6 used in -- by Josh and what kind of ammo was being
7 used by Josh?

8 A. I don't. I know it was Remington and
9 Winchester.

10 Q. And have you ever -- well, how do shell casings
11 eject differently between a .22 and a .223?

12 A. They eject out of the ejection port and land on
13 the ground.

14 Q. Do they eject in the same pattern?

15 A. I would say so.

16 Q. Which is, by your testimony, not to have a
17 consistent pattern at all?

18 A. Yeah.

19 Q. I mean, you said forward, sideways, and
20 backwards, right?

21 A. That's right.

22 Q. How often do you shoot an AR-15 .22 caliber?

23 A. .22 caliber?

24 Q. Yeah.

25 A. I have not.

1 Q. You've never?

2 A. Not a .22 caliber. No.

3 Q. Were you just guessing when you said that a .22
4 and a .223 would eject in the same pattern?

5 A. I mean, most guns are shot the same way, so
6 they'd eject the same way, typically.

7 Q. But you don't know?

8 A. I don't know.

9 Q. So you were just guessing?

10 A. No.

11 Q. Have you ever examined Josh's gun?

12 A. I've seen it.

13 Q. Have you ever seen it shoot?

14 A. I have not.

15 MR. DEIRIG: I beg the Court's indulgence.

16 BY MR. DEIRIG:

17 Q. What is the difference in the gunpowder between
18 a .22 caliber and a .223 AR-15?

19 A. I do not know.

20 Q. So do you know -- well, without knowing, how
21 can you say that a .22 would likely have the same
22 kind of ejection pattern that a .223 would?

23 A. They have to come out the ejection port. So I
24 mean...

25 Q. Well, a .223 has more gunpowder than a .22,

1 doesn't it?

2 A. It depends on the grain. But, yeah, it could.

3 Q. So that would cause a bullet and a shell to fly
4 further, wouldn't it, and faster?

5 A. Not necessarily.

6 Q. In your experience and training, does having
7 different amounts of gunpowder in different shell
8 casings and bullets affect the trajectory of a shell
9 casing?

10 A. Trajectory of a shell casing?

11 Q. Yes.

12 A. I couldn't answer that.

13 Q. But you did, on direct, testify that your
14 pattern was all over the place, but you have no idea
15 how it would happen with Josh or Josh's gun.

16 A. Correct.

17 Q. Thank you. No further questions.

18 MR. POGUE: Just briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. POGUE:

21 Q. Deputy Senn, is it your policy to tell a
22 defendant that he is free to leave -- or I should
23 not say just defendant -- any person that may have,
24 at one point, been in investigatory detention that
25 they're free to leave? Is that common policy that

1 you tell them that they're free to leave?

2 A. No.

3 MR. POGUE: No further questions.

4 THE COURT: You may step down.

5 MR. DEIRIG: Your Honor, I have Deputy Senn
6 under subpoena as well, and I'm happy to release him
7 from that subpoena now.

8 THE COURT: All right. You're free to go.

9 MR. POGUE: Your Honor, the State calls Keith
10 Sprinkle.

11 KEITH SPRINKLE

12 being first duly sworn, testified as follows:

13 THE WITNESS: I do.

14 THE CLERK: Have a seat. Once you're seated,
15 state your name, spelling your last on the record,
16 please.

17 MR. DEIRIG: Your Honor, could we approach?

18 (Sidebar conference.)

19 DIRECT EXAMINATION

20 BY MR. POGUE:

21 Q. I guess it's still morning. Good morning,
22 Keith. How are you doing?

23 A. Doing well.

24 Q. Where are you employed?

25 A. First, I'm -- I'd like to answer. My name is

1 Keith Sprinkle, S-P-R-I-N-K-L-E.

2 I work for -- I currently work for the U.S.
3 Probation Office in the Columbia office of South
4 Carolina.

5 Q. I apologize. I didn't know if you already put
6 your name on the record at this point or not. Where
7 were you employed in August of 2015?

8 A. With the Lexington County Sheriff's Department.

9 Q. In what capacity were you employed there?

10 A. I was serving as a crime scene investigator at
11 that time.

12 Q. Okay. Instead of me just asking you questions,
13 can you just give us a brief history of your law
14 enforcement experience.

15 A. Yes. I currently have approximately nine
16 years -- or right over nine years of law enforcement
17 experience, graduated from University of South
18 Carolina with a criminal justice background. I
19 started my career with City of Columbia. I was
20 there for a brief time.

21 And then I did almost eight years or seven and
22 a half years at Lexington County Sheriff's
23 Department. Been through the State academy, I've
24 been through the federal academy as I went to the
25 federal probation office. And there's several

1 different trainings and certifications that I've
2 obtained through those years.

3 Forensic-wise, approximately over 369 hours of
4 forensic-related training, and I -- for crime
5 scenes, I've responded to over 170 actual physical
6 crime scenes.

7 Q. Just to clarify, you've had how many hours of
8 crime scene investigation training?

9 A. For forensic-related training I've had over 369
10 hours.

11 Q. 369 hours? And how many crime scenes have you
12 processed?

13 A. Over 170.

14 Q. Have you ever been qualified as an expert
15 witness in general sessions court before?

16 A. I have.

17 Q. In what fields are you qualified as an expert?

18 A. It was crime scene investigation back on June
19 22nd of 2016.

20 Q. Okay. On the evening of August 21st, 2015,
21 were you called to conduct a crime scene
22 investigation in this case?

23 A. Yes, I was.

24 Q. And where did you respond?

25 A. At -- like I said, August 21st, 2015, at

1 approximately 9:45, I was contacted to respond to
2 [REDACTED] in the Columbia area of
3 Lexington County to process this crime scene. I
4 received a phone call preliminarily. And when I
5 responded, I made contact with, at that time,
6 Sergeant Lint and Detective Marthers.

7 Q. Was that the residence -- the [REDACTED]
8 [REDACTED], was that the residence of the defendant?

9 A. That's what I was made aware of. Yes.

10 Q. Okay. What did you do when you first arrived
11 on scene?

12 A. Whenever I first got on the scene, I made
13 contact with the lead investigator and the sergeant
14 at that time. And once obtained the search warrant
15 in hand -- because we don't proceed with anything on
16 the crime scene until the search warrant is in hand.
17 So we obtained the search warrant.

18 The crime scene at that time was taped off with
19 crime scene tape, and nobody was inside the crime
20 scene whenever I arrived on scene. I spoke with the
21 detectives and advised that it was a shooting
22 incident. I was advised that the incident occurred
23 in the garage and kitchen area of the residence. So
24 I was -- again, I was advised that the three main
25 areas of the residence that the incident took place

1 in was the garage, kitchen, and living room. Those
2 three rooms were the three main areas of the house
3 where the incident took place.

4 Q. Had the crime scene been tampered with in any
5 way at that point?

6 A. No. At that time, like I said, nobody was in
7 the crime scene area. It was taped off and
8 everybody was outside of the crime scene tape at the
9 time.

10 Q. Where and how did you begin your CSI
11 investigations in this case?

12 A. Once the search warrant was signed and in hand
13 and after speaking with the detectives on this case,
14 I initially took photographs of the outside and the
15 inside of the residence. I didn't disturb anything
16 until photographs were taken of the house, like I
17 said, inside and out. And then I proceeded to
18 locate, identify, and mark, and then eventually
19 collect evidence on the scene.

20 THE COURT: They got a bunch of pictures --
21 photographs to mark and to verify. They're the same
22 ones that they exchanged earlier. It's going to
23 take a few minutes. Y'all step into the jury room.
24 I'm going to step back there into my chambers right
25 by your room, just down the hall. We'll take a few

1 minutes' break and come back in once they get this
2 organized for us.

3 (The jury exits the courtroom at 11:23 AM.)

4 (State's Exhibit Nos. 4 - 54 marked for
5 identification.)

6 THE COURT: Let's bring in the jury.

7 (The jury enters the courtroom at 11:42 AM.)

8 MR. POGUE: Permission to approach the witness?

9 THE COURT: Yes, sir.

10 CONTINUED DIRECT EXAMINATION

11 BY MR. POGUE:

12 Q. Now that we have everything marked, I'm handing
13 you what was marked as State's Exhibits 4 through
14 51. Would you mind taking a look at these items and
15 telling me if you recognize them?

16 MR. DEIRIG: Your Honor, I don't have any
17 objection to any of those pictures. I'll stipulate
18 to the foundation. I know he took the pictures and
19 I know he knows what they are. And I don't have an
20 objection to any of them.

21 THE COURT: They're all admitted without
22 objection. That's 4 through 51.

23 MR. POGUE: Your Honor, I believe the defense
24 has stipulated to the admission into evidence as
25 well, State's Exhibits 52, 53, and 54, which are

1 diagrams.

2 MR. DEIRIG: That's correct, Your Honor, no
3 objection.

4 THE COURT: 52, 53, 54 are diagrams, all
5 admitted without objection.

6 (State's Exhibit Nos. 4 - 54 admitted into
7 evidence.)

8 BY MR. POGUE:

9 Q. All right. Agent Sprinkle, at the risk of
10 stating the obvious, what were these items, 4
11 through 51, that I handed up to you that are now in
12 evidence?

13 A. Those are photographs that I took of the crime
14 scene on the night of the incident.

15 Q. And you took these pictures?

16 A. Yes, I did.

17 Q. Okay. Showing you State's Exhibit 4, can you
18 tell me what this is?

19 A. Yes. This photograph I took as I approached
20 the residence that is [REDACTED] -- that's the residence,
21 [REDACTED] driveway. And then that's the
22 garage to the left side of the photograph.

23 Q. State's 5?

24 A. That's another photograph of the residence.
25 You can see the crime scene tape is along the bottom

1 of the photograph. And that goes across the
2 residence, blocking off and securing the residence.
3 But that's a photograph of the right side of the
4 residence.

5 Q. Okay. And what is this back here?

6 A. Back there is a fence. If you go -- if you can
7 go straight forward, there's a fence right there
8 blocking the back side of the residence.

9 Q. Okay. And, again, State's 6?

10 A. That's another angle. That's the residence on
11 the front right-side corner of the property taking
12 photographs of the residence.

13 Q. State's 7?

14 A. That's moving up -- that's a photograph of me
15 moving up closer to the residence showing this is
16 the end of the driveway. You have the fence there
17 and the garage that's open.

18 Q. What is this door here?

19 A. That door right there is the garage door
20 leading into the kitchen of the residence.

21 Q. I'm also showing the jury a diagram. Did you
22 draw this diagram?

23 A. Yes, I did.

24 Q. Okay. And was that based upon your
25 measurements and investigation at the scene?

1 A. Yes, it is.

2 Q. Okay. All right. Can you point to where the
3 garage and the door is in this diagram?

4 A. Yes. So this is the main garage door leading
5 outside to the driveway here. This is the garage
6 and this is the retractable garage door. So right
7 here to the photo up above is this area right here.
8 You have a seven-inch stool right there, a wooden
9 stool right in front of the garage door leading into
10 the kitchen. And this is the kitchen. So this door
11 right there is that door on the photograph.

12 Q. Okay. State's 8?

13 A. That's a photograph moving closer toward the
14 end of the driveway, closer to the residence. And
15 so here's the end of the driveway. Again, you have
16 the fence. You have -- this is the living room area
17 of the house. And you have a couple windows of
18 different rooms of the residence right there.

19 Q. Okay. This is a diagram, State's 54. Did you
20 also construct this diagram?

21 A. Yes, I did.

22 Q. Okay. Could you briefly just orient us in
23 regards to what exactly we're looking at here?

24 A. Okay. This right here is the garage of the
25 residence. This is the garage retractable door that

1 goes into the driveway. Here you have the garage
2 door leading into the kitchen of the residence.
3 This is the kitchen. You have a bathroom and you
4 have a laundry room; both have one window in those
5 rooms.

6 Q. Is that -- is that this window here in State's
7 8?

8 A. Yes. That window right there is this window
9 I'm pointing at on the diagram with the laser. Then
10 you have -- laser pointer. And then you have one
11 window in the kitchen that's viewable from the
12 outside. And then you have a door right here -- an
13 inside door going into the living room of the
14 residence.

15 Q. All right. State's 29, what are we looking at?

16 A. That is me standing in the entrance of the
17 garage on the diagram right about this area. I'm
18 taking a photograph facing the inside of the garage.
19 You can see the garage door going into the kitchen,
20 interior door right there. Like I said, you have a
21 seven-inch step -- wooden block step right there.
22 And in the photograph, there's items already marked
23 there as evidence.

24 Q. So these yellow placards, what are they for
25 again?

1 A. The evidence ID placards are placards that we
2 mark evidence. Once we take photographs and before
3 collection and manipulation of any kind of evidence
4 on scene, we take the yellow ID placards and place
5 it next to the item of evidence. And we take
6 photographs of it prior to collection.

7 Q. Are those placards placed based upon what you
8 deem to be of potential evidentiary value?

9 A. Yes. Correct.

10 Q. State's 30?

11 A. That's a photograph that I took standing back
12 on the diagram here, right here on the doorway of
13 the kitchen leading into the kitchen at the garage.
14 The door -- I'm holding the door open with one hand
15 because this door swings out. If you're in the
16 kitchen, the door will swing out into the garage.
17 I'm holding the door with one hand and taking the
18 photograph directly across, towards the front of the
19 residence, towards the front of the garage area.

20 Q. What is this here?

21 A. That is a toolbox. And in the diagram, that
22 box right there is representing the toolbox in the
23 garage in that photograph.

24 Q. State's 33, is this pretty much the same
25 picture?

1 A. Yes. That's just a second photograph of the
2 same area I took, same area and position.

3 Q. Okay. State's 34?

4 A. This is me standing at the entrance of the
5 garage near the driveway, facing into the garage,
6 left side of the garage if you're -- that's the
7 front of the residence. This is the -- if you're
8 facing the garage, this is the left side of the
9 garage itself.

10 Q. And just so that everyone knows what we're
11 looking at here, would you mind, on your diagram
12 that you drew, to point to the numbers that you have
13 there and explain what those numbers correlate to.

14 A. Okay. Like I said, this box right there is the
15 tool -- black toolbox right there on the photograph.
16 On the diagram, I have a 1 and a 2 right beside each
17 other. On the photograph on top of the toolbox, you
18 have item 1 and 2.

19 Item No. 1 is going to be a
20 black-and-silver-in-color flip-blade knife found on
21 top of the toolbox. And right beside it, number 2,
22 is going to be a white-in-color Marlboro Special
23 Blend cigarette box that was empty.

24 In the photograph I have 3 and 4. Right there
25 on the diagram, 3 and 4. 3 is going to be a

1 black-in-color hair band and number 4 is going to be
2 a black-in-color lock of hair or fiber believed to
3 be hair.

4 Q. Okay. State's 32?

5 A. Same spot that I'm facing of the garage, just
6 turned. So this is, again, 3 and 4. Now, we're
7 also seeing 5 in the photograph and you can see ID
8 Placard No. 8 as well. 3 is the hair band, 4 is the
9 lock of hair fibers; number 5 is a spent shell
10 casing, a spent .22 long rifle shell casing, and so
11 is number 8.

12 Q. State's 35?

13 A. That is a photograph closer up of the black
14 toolbox in the garage. And, as you can see, the ID
15 placards number 1 and 2 are on top. Those items
16 have not -- still had not been collected at that
17 time it was photographed.

18 Q. What were items 1 and 2 again?

19 A. You have number 1 -- ID number 1 references a
20 flip-blade knife and number 2 is a cigarette packet.

21 Q. State's 19?

22 A. This is a photograph of the garage floor. In
23 the photograph you have 3, which is referencing that
24 item right there, which is a black-in-color hair
25 band, stretchy hair band; and number 4 right there,

1 and there's some hair fibers or fibers believed to
2 be hair on the floor. And then you have 5, which is
3 a -- pointing at the diagram, 4 and 5. And 5 is a
4 spent .22 long rifle shell casing.

5 Q. Same thing?

6 A. Yes. Same photograph, just closer up, 4 and 5.
7 You can see the fibers right there -- hair fibers.

8 Q. State's 31?

9 A. This is -- I'm going to point on the diagram.
10 That's me standing right where the laser pointer is
11 facing the residence, facing the kitchen area. And
12 you can see 8, 7, and 6 on the photograph. 8, 7,
13 and 6, all three of those are referencing spent .22
14 long rifle shell casings.

15 Q. What's this item here that's underneath this
16 plastic?

17 A. This item is a bicycle, if that's what you're
18 referencing to. You have a bicycle at the bottom of
19 the photograph. It was knocked over on the -- I
20 found it. It was laying down in the garage floor.

21 Q. It was in that position when you arrived there?

22 A. Yes, it was in that position.

23 Q. What is this item -- this screen item right
24 here that's underneath the bicycle?

25 A. That appears to be a fold-up chair.

1 Q. Lawn chair?

2 A. Yes.

3 Q. Tailgating chair. State's 21?

4 A. This is a photograph I'm going to show on the
5 diagram with the laser pointer standing right in
6 front of the door step and door in the garage facing
7 toward the inside of the residence. So facing
8 there, you see 8 and 9. And 9 is inside the
9 kitchen. And in the photograph you have 8 and you
10 have 9 inside the kitchen right there. And both of
11 those, 8 and 9, are spent .22 shell casings.

12 Q. Okay. All in all, how many spent shell
13 casings, .22 casings, did you find at the scene?

14 A. A total of five spent shell casings. Four were
15 located inside the garage and one was located right
16 inside the residence.

17 MR. POGUE: Permission for the witness to step
18 down, Your Honor?

19 THE COURT: Sure.

20 BY MR. POGUE:

21 Q. Mr. Sprinkle, I'm going to have you take this
22 highlighter, if you don't mind, and mark the five
23 numbers on your diagram that are spent shell
24 casings. Just highlight those so those are obvious.

25 A. Okay.

1 Q. So on your diagram and in the pictures,
2 placards 5, 6, 7, 8, and 9 are all spent shell
3 casings?

4 A. Yes, that's correct.

5 Q. Is this the hair band?

6 A. Yes. That's Evidence ID Placard No. 3. And
7 right above it, you have the black-in-color hair
8 band.

9 Q. That was State's 36. State's 37, what is this?

10 A. You've got Evidence ID Placard No. 4. And then
11 right next to it, you have the lock of
12 black-in-color fibers believed to be human hair.

13 Q. Hair?

14 A. Believed to be human hair. Yes.

15 Q. State's 38, is that just a close-up picture of
16 that?

17 A. Yes. That's a close-up photograph of the lock
18 of black-in-color fibrous hair.

19 Q. Okay. State's 39?

20 A. That's a close-up photograph of Evidence ID
21 Placard No. 5. Next to it is the spent .22 long
22 rifle shell casing.

23 Q. This is, again, stating the obvious. But how
24 do you know it's spent?

25 A. Spent when there's no projectile in there.

1 There's no gunpowder at that time. It is a hollow
2 cylinder, the shell casings itself. So there's no
3 projectile in it. It's been spent. Also on the
4 back of the bullet -- the bullet is the cartridge
5 with the primer and the projectile itself. Once
6 it's fired inside the firearm, the firing pin -- in
7 any kind of firearm, the firing pin is going to hit
8 the primer on the back of it. They've been marked
9 on the back of the head of the bullet or the back of
10 the bullet.

11 Q. Are these .22 LR casings?

12 A. Excuse me?

13 Q. These were .22 casings?

14 A. Yes.

15 Q. Okay. And these casings -- this particular
16 ammunition, is that rim fire or center fire?

17 A. That's going to be rim fire.

18 Q. Can you explain what rim fire versus center
19 fire is?

20 A. On -- rim fire is whenever the firing pin
21 strikes the side of the rim of the back of the
22 bullet. And a -- and the center strike is going to
23 be whenever the firing pin strikes the dead center
24 of the back of the bullet where the primer is.

25 Q. Is there indentation in the back of the casing

1 on the primer after it's been spent?

2 A. Yes.

3 Q. State's 40?

4 A. That's Evidence ID No. 6 with the placard, and
5 referencing that item, which is, again, a spent .22
6 shell casing.

7 Q. State's 41?

8 A. That is Evidence Item No. 7, referencing that
9 item right there, which is a spent .22 shell casing.

10 Q. State's 42?

11 A. Evidence ID No. 8, referencing that item right
12 there, which is a spent .22 shell casing.

13 Q. Okay. State's Exhibit 43, what is this?

14 A. That is ID Placard No. 12. And that's
15 referencing that item right there, which is a piece
16 of metal, a fragment of metal, that would be
17 consistent with a fragmented piece of a projectile.

18 Q. Okay. And can you use your laser pointer to
19 show on the diagram where number 12 is?

20 A. Number 12 was actually right in front of
21 this -- of this tool chest; would be right in front
22 of it on the ground.

23 Q. Okay. State's 44?

24 A. That's Evidence ID Placard No. 13 referencing
25 these metal fragments right there. Again, would be

1 consistent with fragmented projectile, a bullet
2 projectile.

3 Q. State's 45?

4 A. 45 is a photograph of Evidence ID Placard
5 No. 14. And you have -- I believe that's it right
6 there, fragment -- a metal fragment consistent with
7 a fragment of a bullet projectile.

8 Q. So just to understand 12, 13, and 14 are what
9 appear to you to be projectile fragments?

10 A. Yes.

11 Q. From a bullet. State's Exhibit 46?

12 A. That's a photograph of behind the toolbox --
13 actually, both Evidence ID Placard No. 14 and 15
14 both reference fragments right there. There's a
15 fragment of -- I believe to be -- which would be
16 consistent with the fragment of a projectile.

17 Q. And just to circle back, placards 1 and 2, what
18 were those items again?

19 A. 1 and 2 -- 1 was a knife, a flip-blade knife,
20 and number 2 was an empty Marlboro cigarette packet.

21 Q. Was there any particular reason why you had
22 those marked and took pictures of those?

23 A. Yes. 1 showing that -- I found those items of
24 interest for the fact that you had an altercation,
25 you have human activity in that area. There was an

1 altercation, shows that a knife and cigarette packs,
2 things that we -- any kind of weapon that may be in
3 the area we're typically going to identify and
4 collect as evidence. Whether that was used in the
5 altercation or not -- or the incident, that's still
6 of interest to me.

7 And once we collect something, whether it be,
8 like I say, something that may or may not have been
9 used, once I -- if I failed to collect that or do
10 not collect that, then identify and collect it, then
11 once that crime scene is opened, once I leave that
12 scene and it's opened back up, I can't ever go back
13 and re-collect it.

14 So I don't know if that's of importance of this
15 incident, but I found that interesting enough to
16 identify and collect it; again, because any time
17 that you have an assault or two or more people that
18 are involved in an altercation, that shows you got
19 cigarettes, a knife, I thought that was of
20 importance of a possible altercation of people being
21 there.

22 Q. So you weren't sure at the time whether it had
23 evidentiary value, you just took pictures?

24 A. Correct.

25 Q. 15, this is State's Exhibit 47. Did I just

1 show that?

2 A. That is a little bit zoomed-out photograph of
3 behind the toolbox. So at this time, I've already
4 moved the toolbox, following the trajectory of the
5 projectile. And ID number 15 is identifying a
6 piece -- a small piece of metal fragment located at
7 the scene.

8 Q. State's Exhibit 48?

9 A. That is a photograph of the bottom of the
10 toolbox. So -- give me one second. So this is
11 the -- if you kind of tilt your head to the left,
12 you've got the bottom of the toolbox right here, you
13 have the garage floor, you have the wheels of the
14 toolbox over here, you have -- that right there is a
15 defect in the toolbox metal that's consistent with a
16 bullet hole. And you've got two of them, but that
17 first one right there, I identified it as evidence
18 placard A.

19 Q. All right. I'm publishing to the jury State's
20 Exhibit 53. What is this here that we're looking
21 at?

22 A. This is a diagram that I drew up showing the
23 toolbox that is on the photograph above. And that
24 right there, A, is referencing on the photograph the
25 ID Placard No. A and bullet hole or defect in the

1 bottom of the toolbox.

2 Q. Okay. State's 49?

3 A. Now, this is going to be the -- this is the
4 garage floor, toolbox. That would be A right there.
5 This is B, the second defect consistent with a
6 bullet hole found at the -- first, the bottom drawer
7 of the toolbox, that right there is referencing, and
8 the diagram B right there.

9 Q. State's Exhibit 50?

10 A. The left side of the photograph is going to be
11 towards the bottom of the tool chest, the right side
12 of this photograph, again. So if you kind of tilt
13 your head to the right on this one, you have this
14 defect right there consistent with a bullet hole
15 identified as ID placard number -- letter C. And
16 looking at the diagram, that's where it is right
17 there on the tool chest.

18 Q. State's Exhibit 51?

19 A. Looking at the diagram right here, D, on the
20 tool chest, this is a photograph representing that
21 defect consistent with a bullet hole and the tool
22 chest right in the center of the tool chest.

23 Q. Okay. I'm going to try to set these diagrams
24 up so that you can -- the jury can see both 54 and
25 52 at the same time in case you need to go back and

1 forth.

2 I'm now showing State's Exhibit 9. What is
3 this that we're looking at here?

4 A. That photograph is -- can you flip that around?

5 Q. Sorry about that.

6 A. That's a photograph of the kitchen door leading
7 out to the garage, the garage kitchen door, door
8 handles, and the deadbolt. This is going to be on
9 the outside, this is the garage side, and this is
10 the kitchen side of the door.

11 And the reason I took that photograph is that's
12 common practice for us any time -- for CSI whenever
13 we photograph any kind of residence, just showing
14 whether there was any kind of forced opening to the
15 residence at all.

16 Q. Were there any signs of forced entry or stress
17 to the deadbolt equipment in this case, the locking
18 mechanisms on this door?

19 A. No, there was not.

20 Q. State's Exhibit 10?

21 A. This is a backed-out photograph of that same --
22 this is the -- that door, the kitchen and garage
23 door, garage side, kitchen side. And this right
24 here is the other photograph, but this is a
25 backed-up, zoomed-out photograph showing the door.

1 And then there's no pry marks or damage or anything
2 like that to the door.

3 Q. So through this door right here is the garage;
4 is that correct?

5 A. Yes. This is a -- you've got two doors in the
6 kitchen. You've got the wooden door and then you
7 have a glass or screen-type shutter -- screen -- or
8 a storm door. And this is the garage right outside.

9 Q. State's Exhibit 11, what are we looking at
10 here?

11 A. If you can reference to the diagram right here,
12 I'm standing -- this square right here on my diagram
13 is referencing this island in the kitchen. Right
14 about where I'm standing is right where the laser
15 pointer is in the diagram facing towards the living
16 room area taking a photograph. That's from that
17 position photograph of the -- towards the living
18 room.

19 Q. Okay. Just zooming in on this particular
20 exhibit, what is this item right here? What is this
21 structure?

22 A. This is the living room. And right here you
23 have a sofa and you have a -- just a side table with
24 a lamp.

25 Q. Okay. So this is like the very edge of the

1 sofa that's in the living room; is that right?

2 A. Yes, very edge of the back of the sofa.

3 Q. Okay. State's 13?

4 A. That's a photograph of -- in the kitchen facing
5 towards the garage door. You've got the kitchen
6 counter, cabinets, and the doors.

7 Q. State's 14?

8 A. To the left, this is a photograph of the dining
9 area in the kitchen. To the left, you have that
10 door leading into the living room. And this is the
11 window I referenced earlier, the one window in the
12 kitchen viewing from the outside.

13 Q. Okay. Would you point that window out on your
14 diagram?

15 A. So this window in the photograph, the bottom
16 diagram, that window right there.

17 Q. Just to orient folks on what it looks like from
18 the outside, so everybody kind of has some spatial
19 orientation, this -- this window in State's Exhibit
20 14 that's in the kitchen, this window, this is
21 State's Exhibit 7, can you see that window in this
22 picture?

23 A. No, you cannot.

24 Q. Where is that window in this photo?

25 A. So right here is the -- after this wall you

1 have a bathroom, you have a laundry room. And if
2 you went around this part of the house, as you can
3 see, it kind of sinks in from here to the other side
4 of the wall. It would be behind that. That's kind
5 of the best way I can explain it. You have to go
6 around that corner of the house to see that window.

7 Q. So could you see this area of the driveway
8 looking through that kitchen window?

9 A. No, it's impossible. You can't view it.

10 Q. State's Exhibit 15?

11 A. That is ID -- the photograph of ID Placard
12 No. 9 and the referenced shell casing. So this is
13 the shell casing that is spent, the .22 rifle shell
14 casing on the diagram right there, number 9.

15 Q. Just to clarify for the jury's information,
16 what is this right here, this, like, round bottle?

17 A. I do not know. It's trash or something,
18 debris. That right there that you're -- that
19 you're --

20 Q. Is it possible that is debris or a chip in the
21 tile?

22 A. Yes, that could be.

23 Q. Let me rephrase. Let me ask the question this
24 way: Did you search the kitchen for any signs of
25 blood?

1 A. Yes, I searched the kitchen, the garage, and
2 the driveway area for any kind of signs of blood
3 stain, and there were none.

4 Q. And did you find any blood in the kitchen
5 whatsoever?

6 A. No.

7 THE COURT: Let's take a break, Mr. Pogue.

8 MR. POGUE: Okay.

9 THE COURT: Step into the jury room and don't
10 discuss the case. We'll have you back out here in a
11 couple minutes and we'll go to lunch.

12 (The jury exits the courtroom at 12:19 PM)

13 MR. MCNAIR: The weapon has been cleared by
14 court personnel.

15 THE COURT: Bring the jury in.

16 (The jury enters the courtroom at 12:31 PM)

17 THE COURT: All right.

18 MR. POGUE: Thank you, Your Honor.

19 CONTINUED DIRECT EXAMINATION

20 BY MR. POGUE:

21 Q. State's Exhibit 15, just real quickly, just to
22 refresh, placard 9, what is that again?

23 A. I'm sorry. You're asking for what?

24 Q. I'm asking what is this item placard 9 is
25 marking again?

1 A. Placard No. 9 is referencing this item right
2 there which is a spent .22 long rifle shell casing.

3 Q. Where is that on your diagram?

4 A. Referencing the diagram, it's number 9, right
5 in the entrance of the kitchen.

6 Q. So just inside the entrance door; is that
7 right?

8 A. Yes.

9 Q. State's Exhibit 16, what are we looking at?

10 A. That is Evidence ID Placard No. 10 referencing
11 and identifying this item right there, which is an
12 unspent .22 long rifle bullet.

13 Q. Okay.

14 A. And on the diagram, that number right there,
15 No. 10, on the kitchen floor.

16 Q. State's Exhibit 18?

17 A. That is a photograph -- I am standing on the
18 diagram right here at the entrance into the kitchen
19 from the garage facing into the kitchen. I'm
20 showing Evidence Placard ID No. 9 and 10, again, on
21 the diagram right there, 9 and 10.

22 Q. So just so I'm understanding, are you standing
23 in the threshold of the kitchen and the garage when
24 you take this picture?

25 A. Yes, I am.

1 Q. All right. Is this the entrance to the
2 kitchen -- I'm sorry, to the living room?

3 A. To the living room, yes. There's a door right
4 up here, entrance into the living room.

5 Q. Okay. And what is this right here that's on
6 the other side of the door? What is that?

7 A. That is a cabinet, a kitchen cabinet.

8 Q. Does it go all the way to the ceiling?

9 A. I don't recall if it goes all the way to the
10 ceiling, but I know it's a tall pantry cabinet.

11 Q. State's Exhibit 17, is this the same picture,
12 minus the placards? Or close to the same picture,
13 minus the placards?

14 A. Yes. Essentially right near the same area
15 facing straight -- straight ahead into the kitchen.
16 And you can see the dining area. And this door
17 leads into the living room.

18 Q. Again, is this the very edge of the couch there
19 in the living room again?

20 A. Yes. Very edge of the couch, we've got a side
21 table and, like I said, there's a lamp.

22 Q. State's Exhibit 24?

23 A. It's a photograph right at the entrance into
24 the living room, and as mentioned before, as we've
25 seen, that is the edge of the couch, table, and lamp

1 that you've seen from the kitchen. This is the
2 sofa. We've got -- this is a photograph of the
3 living room area from the doorway entrance.

4 Q. And did you locate and collect an AR-15 assault
5 rifle on scene?

6 A. I did.

7 Q. Where was that weapon located?

8 A. Searching this room, I found a bag on the floor
9 behind this love seat. So you have a sofa, a chair,
10 and a love seat. Behind this love seat, I found a
11 gun bag unzipped, and inside was an AR platform
12 rifle.

13 Q. Just to orient ourselves again, just to
14 clarify, are you standing here or roughly in this
15 area when you take that photograph?

16 A. Yes, I was.

17 Q. Okay. State's Exhibit 25?

18 A. It's just a --

19 Q. Pretty much the same thing?

20 A. Pretty much the same thing, just a little
21 bit -- a little bit different of an angle, more
22 zoomed-in photograph of the left side of the -- that
23 living room.

24 Q. And what is this door right here that's open?

25 Where does that go to?

1 A. That door goes into a screened-in porch. I
2 can't recall if that was a screened-in porch or a
3 glass window, like a sun room, but it's a -- it's a
4 porch.

5 Q. Okay. State's Exhibit 26?

6 A. Same position, just I'm angling -- turning my
7 body towards the center of the living room. So
8 that's the center area of the living room.

9 Q. Okay. All right. What is this window here?

10 A. You have a window right there, you have a
11 fireplace. And if we move on over into that living
12 room, you've got two windows, one to the right of
13 the fireplace and one to the left of the fireplace.

14 Q. Okay. And just to orient ourselves again,
15 State's Exhibit 7, can you see those windows in that
16 picture and/or the chimney?

17 A. You can see the chimney right here. But you
18 cannot see either of the windows from this --

19 Q. Let me show you --

20 A. -- photos of this --

21 Q. This is State's Exhibit 8. Can you see the
22 windows that we were talking about in the living
23 room?

24 A. Yes, you can, from this photograph, which is
25 moved up a little bit further back to the driveway.

1 You've got the chimney in the living room, and
2 that's the two windows in the living room.

3 Q. Okay. And is -- on your photo, is the kitchen
4 window -- the view is obstructed to the driveway.
5 Is that essentially around this corner over in this
6 area?

7 A. Yes. Around that corner is the window of the
8 kitchen.

9 Q. Okay. State's Exhibit 27?

10 A. That is a photograph I took standing -- same
11 position right there at the entrance into the living
12 room. To the right of where that photograph is, is
13 the living room. This is that side table right next
14 to the couch. This right here is an entrance into a
15 hallway down the residence where the bedrooms are
16 located at.

17 Q. And referencing State's Exhibit 5, does that
18 hallway -- in State's Exhibit 27, does that hallway
19 go to the left down the line of the house in State's
20 Exhibit 5? Is that the direction that hallway goes?

21 A. Yes, it is.

22 Q. Okay. And that goes towards the bedrooms; is
23 that what you said?

24 A. Yes.

25 Q. Finally, State's Exhibit 28. What are we

1 looking at here?

2 A. That is the gun bag that I found on the floor
3 behind the love seat in the living room. Opening
4 the bag, the gun bag, and that is what I find --
5 what I observe. I mark it with Evidence ID Placard
6 No. 11 and I take a photograph of it prior to any
7 sort of manipulation or movement or collection of
8 the evidence.

9 Q. Okay. And on State's Exhibit 26, can you point
10 out one more time where that gun bag was, that gun
11 and gun bag?

12 A. The gun bag was found behind this love seat on
13 the ground.

14 Q. Okay. I'm handing you what's marked State's
15 Exhibit 60 for identification purposes. Do you
16 recognize that item?

17 A. I do.

18 Q. And what is that?

19 A. This is Evidence ID No. 4 referencing the loose
20 black fibers that look to be consistent with human
21 hair that was found on the garage floor. This is a
22 package that I -- I packaged and sealed myself in
23 2015.

24 Q. Okay.

25 MR. POGUE: Your Honor, at this time, the State

1 moves to enter State's Exhibit 60 into evidence.

2 MR. DEIRIG: Without objection, Your Honor.

3 THE COURT: Without objection, State's Exhibit
4 60.

5 (State's Exhibit No. 60 admitted into
6 evidence.)

7 BY MR. POGUE:

8 Q. I'm handing you what's marked as State's
9 Exhibit 61. Do you recognize that item?

10 A. Yes, I do.

11 Q. What is that?

12 A. This is the -- the unspent .22 bullet that was
13 marked Evidence ID No. 10, the unspent .22 caliber
14 bullet that was found in the kitchen on the floor.

15 Q. Can you use your laser pointer to point out
16 where item was located on the diagram again?

17 A. This item right here was located on the diagram
18 right there.

19 Q. And where was the spent casing?

20 A. The spent casing was there, there --

21 Q. Closer to the door?

22 A. Closer to the door, yes.

23 MR. POGUE: Your Honor, at this time, State
24 would move Exhibit 61 into evidence.

25 MR. DEIRIG: Without objection.

1 THE COURT: 61 is admitted without objection.

2 MR. POGUE: Your Honor, permission to publish
3 these exhibits?

4 THE COURT: Yes, sir.

5 (State's Exhibit No. 61 admitted into
6 evidence.)

7 BY MR. POGUE:

8 Q. Agent, I'm handing you State's 63, 64, 65, and
9 66. Do you recognize these exhibits?

10 A. I do.

11 Q. What are those items?

12 A. These are -- these are all individual pieces of
13 metal fragment -- projectile fragments that I
14 located on scene referencing ID placard 15, 13, 14,
15 and 12.

16 Q. Were those all in the garage?

17 A. Yes.

18 MR. POGUE: Your Honor, the State would move
19 Exhibits 63, 64, 65, and 66 into evidence.

20 MR. DEIRIG: Without objection.

21 THE COURT: 63 through 66 admitted without
22 objection.

23 MR. POGUE: Permission to publish, Your Honor?

24 THE COURT: Sure.

25 (State's Exhibit Nos. 63 through 66 admitted

1 into evidence.)

2

3 BY MR. POGUE:

4 Q. Agent, I'm handing you now what's marked as
5 State's Exhibits 55 through 59. Do you recognize
6 these five items?

7 A. I do.

8 Q. What are they?

9 A. These are the five spent .22 caliber rifle
10 shell casings that I collected from the scene
11 referencing Evidence ID Nos. 9, 8, 7, 6, and 5.

12 MR. POGUE: Your Honor, at this time the State
13 would move State's Exhibits 55 through 59 into
14 evidence.

15 MR. DEIRIG: Without objection, Your Honor.

16 THE COURT: 55 through 59 all admitted without
17 objection.

18 MR. POGUE: May I publish, Your Honor?

19 THE COURT: Sure.

20 (State's Exhibit Nos. 55 through 59 admitted
21 into evidence.)

22 BY MR. POGUE:

23 Q. Agent, I'm handing you what's marked as State's
24 Exhibits 62 and 68. Do you recognize these two
25 items?

1 A. Yes.

2 Q. And what are they?

3 A. These are items that were located inside the
4 bag. That last photograph that you had of the black
5 gun bag with the AR --

6 Q. State's Exhibit 28, is that what you're
7 referencing?

8 A. Yes. You have a magazine and you have a bag
9 right there, a bag of .22 bullets. And that's what
10 these two items are.

11 Q. Okay.

12 MR. POGUE: Your Honor, at this time, the State
13 would move State's Exhibits 62 and 68 into evidence.

14 MR. DEIRIG: Without objection, Your Honor.

15 THE COURT: Without objection, 62 and 68
16 admitted.

17 (State's Exhibit Nos. 62 and 68 admitted into
18 evidence.)

19 BY MR. POGUE:

20 Q. Agent, Investigator Sullivan is now handing up
21 what is marked as State's Exhibit 67.

22 MR. POGUE: And for the record, it has been
23 rendered safe for court purposes, Your Honor.

24 BY MR. POGUE:

25 Q. What is that item?

1 A. This is the firearm found on scene. The Smith
2 and Wesson AR AirLite rifle that was referenced in
3 that photograph, number 11, and inside number 11 --
4 inside the black gun bag behind the love seat in the
5 couch -- I mean, in the living room.

6 Q. Thank you.

7 MR. POGUE: Your Honor, at this time State
8 would move State's Exhibit 67 into evidence.

9 MR. DEIRIG: Without objection.

10 THE COURT: Without objection, 67 in evidence.

11 (State's Exhibit No. 67 admitted into
12 evidence.)

13 MR. POGUE: I beg the Court's indulgence.

14 No further questions, Your Honor.

15 THE COURT: All right. Let's take a lunch
16 break and do his cross-examination at 2:00. That
17 gives you about an hour and ten minutes. Go to the
18 jury room, get whatever you need. Be back in the
19 jury room about 2:00, and we'll try to resume
20 shortly after that. All right? Don't discuss the
21 case.

22 (The jury exits the courtroom at 12:51 PM.)

23 THE COURT: All right. We'll stand at ease
24 until right at 2:00.

25 (The jury enters the courtroom at 2:05 PM.)

1 THE COURT: All right. Are we ready to
2 continue? Agent Sprinkle's still on the stand.
3 Your witness, Mr. Deirig.

4 MR. DEIRIG: Thank you, Your Honor.

5

6

7

CROSS-EXAMINATION

8

BY MR. DEIRIG:

9

Q. Afternoon, Agent Sprinkle.

10

A. Afternoon.

11

Q. I believe on direct Mr. Pogue asked you if you
12 had ever been offered and qualified as an expert
13 witness. Is that true?

14

A. Yes, that's true.

15

Q. Well, he asked you that. And you have been
16 qualified as an expert before, right?

17

A. Yes, I have.

18

Q. Have you ever been offered as an expert and
19 failed to be qualified as an expert?

20

A. I have.

21

Q. And when was the last time that happened?

22

A. I honestly can't recall the last time. I think
23 it was sometime close to a year ago.

24

Q. Has it ever happened in relation to this case?

25

A. Yes.

1 Q. Now I want to take a look at State's No. 8.

2 And where was it that you said the window to the
3 kitchen would be in this picture?

4 A. The window to the kitchen is around this corner
5 of the house. If you went around, it would be on
6 the this side of the house, but it would be directly
7 behind that wall.

8 Q. Okay. And what about in this area right here?
9 What is this?

10 A. Well, this is grass. And, I mean, you've got
11 some plants over here. You have a window -- that's
12 the first window to the right in the living room.

13 Q. Right in this -- where these plants are right
14 here, is that essentially a flower bed?

15 A. I'm not quite sure.

16 Q. Did you examine it to see what kind of bushes
17 or plants were in that area?

18 A. I did not, no.

19 Q. All right. You didn't? Well, this area with
20 the bushes and the plants, would this be visible
21 from the window that -- from the kitchen window
22 that's not visible in this picture?

23 A. Yes.

24 Q. So if somebody is standing in the kitchen -- if
25 somebody is standing at State's 14, standing,

1 looking out of this window, would be able to see
2 what's happening right in here, right?

3 A. Yes, that's correct.

4 Q. Okay. Now looking at State's 9, you said the
5 purpose of State's 9 and State's 10 was to show that
6 there wasn't any forced entry into the house,
7 correct?

8 A. That's correct.

9 Q. In your crime scene investigation experience or
10 just law enforcement experience in general, would a
11 door being pushed open that's already cracked open
12 exhibit any signs of forced entry?

13 A. It can. That's all based on certain factors.
14 I mean, if the -- if there is nothing -- no locking
15 mechanism of the door attached to the door frame as
16 it is -- say in your situation, if the door is not
17 attached to the frame at all and you just pushed,
18 there would be no sign of forced entry. No.

19 Q. Okay. So if somebody -- if the door was closed
20 and then somebody opened it and cracked it to look
21 out and then the door got shoved open, there
22 wouldn't be any physical indication that that had
23 happened, right?

24 A. Possibly not. I mean, if the force itself,
25 maybe someone's hand or foot or body part whatever

1 may be striking the door, that's potentially -- it's
2 possible that that object, whatever it may be, could
3 cause damage to the door, or if it swung open, the
4 door handle may cause damage to the wall. But --

5 Q. But not from --

6 A. Not the actual locking mechanisms of the door,
7 no.

8 Q. Not in the areas of State's 9 and State's 10,
9 right?

10 A. No. That's true.

11 Q. Taking a look at State's 18, is this the
12 picture that you were testifying about the cabinet
13 inside the kitchen?

14 A. Yes.

15 Q. So this -- this right here would be the
16 cabinet?

17 A. Yes.

18 Q. Here?

19 A. Uh-huh.

20 Q. And were there any markings or damage or
21 anything of any significance on the side of the
22 cabinet?

23 A. No, not that I -- not that I observed, no.

24 Q. If there was you would have taken pictures of
25 it, right?

1 A. Yes.

2 Q. And here in State's 31, I think you testified
3 that it appears to be a bicycle wheel on top of a
4 folder chair here?

5 A. Yes, that's correct.

6 Q. Is that the same bicycle and folding chair
7 that's depicted right here?

8 A. Yes, that's the bicycle tire and chair right
9 there.

10 Q. Okay. And in relation to the other chair, how
11 close is that? I mean, is that -- is that a chair
12 that's sitting open and upright on top of that or
13 right next to it?

14 A. I'm sorry. Can you point out what you're
15 talking about?

16 Q. This chair right here.

17 A. Yes.

18 Q. Where is it in relation here? I can't -- I
19 can't tell whether or not this chair is kind of on
20 top of the other chair or if there's just a depth
21 perception issue --

22 A. Yes.

23 Q. -- in this picture?

24 A. Yeah. This chair that you're referring to --

25 Q. Yeah.

1 A. -- is directly behind -- I mean, it's behind it
2 further from where -- say if we were in the garage,
3 we were standing right here, it's slightly further
4 back from there.

5 Q. Okay. About how far?

6 A. I couldn't say.

7 Q. Two inches? A foot?

8 A. I do not recall. I didn't take measurements of
9 that.

10 Q. Okay. That's fair.

11 A. If I had to guess, probably about a foot. I
12 mean, I did not take measurements. It's not on top
13 of it. It's not on top of the -- that chair is not
14 on top of the bicycle or anything.

15 Q. I understand. And I believe on direct you said
16 that you searched the kitchen, driveway, and garage,
17 but didn't find blood anywhere.

18 A. That's correct.

19 Q. And if you had, you would have taken a picture
20 of it, right?

21 A. Yes, absolutely, photographs and swabs.

22 Q. You know somebody got shot at that scene,
23 right? Or did you know that? I mean, I'm sure you
24 know that now. But at the time, did you know that
25 you were investigating somebody had gotten shot?

1 A. Yes.

2 Q. Is it surprising to you to not find any blood
3 anywhere at the incident location, given the fact
4 that somebody was shot?

5 A. Whenever I saw that it was the caliber of the
6 firearm, it being a .22, it was a really small
7 caliber in which I've seen other crime scenes in the
8 past where people have been shot with a .22 caliber
9 and have seen no blood or very little blood on crime
10 scenes with that caliber of round.

11 MR. DEIRIG: Your Honor, may I approach the
12 witness?

13 THE COURT: You may.

14 BY MR. DEIRIG:

15 Q. Are you familiar with the AR-15?

16 A. I am.

17 Q. Just by looking at this weapon, can you tell
18 which side that it ejects from?

19 A. Yes.

20 Q. Which side is that?

21 A. It's going to eject from -- the firearms from
22 this side.

23 Q. Okay. From the right side?

24 A. Yes, sir.

25 Q. Okay. Did the unspent round, I believe it was

1 Placard No. 10, match the same kind of shell as in
2 State's 62?

3 A. Yes.

4 Q. Okay. What kind of ammo is this?

5 A. If you don't mind, give me one second. It's a
6 .22 caliber, but --

7 Q. What brand?

8 A. I'm not sure. Hold on one second, please. Let
9 me see if I have it.

10 Q. Okay.

11 A. That -- I do not have the make of the
12 ammunition itself since it was a loose bag of loose
13 .22 rounds.

14 Q. There wasn't any brand marking on it that would
15 make it identifiable?

16 A. That -- I did not check of what was in the bag
17 of loose ammunition. No.

18 Q. Okay. In your experience as a crime scene
19 investigator, when you find a spent shell casing in
20 a particular room, doesn't that usually indicate to
21 you that that's the room where the shot was fired
22 from?

23 A. It depends, because shell casings can -- say if
24 you have a massive amount of shell casings, a large
25 quantity, say, in this case -- well, we have five

1 spent shell casings -- it being close to a doorway
2 or if they were all in the center of one room
3 versus, in this case, where we have it near a door
4 frame -- to answer your question, if there are all
5 shell casings, say, in one room, then, yes, it would
6 be believed that that is the room that the firearm
7 was fired from.

8 Shell casings themselves can be moved, as
9 you're are aware of. But, yes, if they're
10 specifically in just one room, then, yeah, that
11 would be -- or the majority of the shell casings
12 that would indicate where -- or lead one to believe
13 that's where the firearm was fired at. Yeah.

14 Q. And if you don't have any evidence of shell
15 casings being moved or any indication that any shell
16 casings have been moved and you find shell casings
17 in two separate rooms, would that logically lead you
18 to believe that a weapon was fired in each room?

19 A. It's possible. That's something that you have
20 to look at the totality of evidence, look at the
21 crime scene itself. And to come to that conclusion,
22 you have to look at the evidence.

23 Q. The cases that you've dealt with, more often
24 than not, what is the conclusion that you end up
25 coming to or that is come to?

1 A. For -- for what exactly?

2 Q. If you've got multiple spent shell casings in
3 one room and a spent shell casing in a separate room
4 that's divided by a door, what would you tend to
5 find -- or what would tend to be the end result of
6 an investigation like that in terms of belief where
7 a weapon was fired?

8 A. Uh-huh. Again, I'm not trying to make this
9 complicated, but trying to answer your question,
10 it -- again, it all depends on the environment, it
11 depends on the crime scene itself.

12 In this case where you have -- where you have
13 four different bullet holes or defects -- bullet
14 holes in the tool chest, and we know that a victim
15 had been shot, I find four shell casings near the
16 door, and you do have a -- an object blocking that
17 right side or on that right side of where the
18 ejection port would be on that firearm, there's
19 no -- I didn't -- I did -- I did search that door,
20 the two doors, the kitchen doors, the wooden door,
21 and you have the storm door, I did search those,
22 make sure that there were no bullet holes through
23 there.

24 If I did find a bullet hole through one of the
25 doors, then, yes, that would make me -- be evidence

1 to believe that that firearm was shot in the
2 kitchen. But in this case, there was lack of
3 evidence of any kind -- there was no bullet holes,
4 there was no defects in either the storm door or the
5 wooden door into the kitchen.

6 So that -- and along with the -- with that
7 cabinet being right there at the door, in this case
8 specifically, would not have me believe that -- or
9 the evidence does not show that the firearm was shot
10 from the kitchen into the garage, because you have
11 two doors that had to have been left open.

12 But, say, in other circumstances -- so
13 answering your question, yes. In this situation,
14 the evidence did not provide those results, but
15 there are certainly other situations and
16 circumstances where you could. If you were shooting
17 from multiple rooms, then, yes, if that answers your
18 question.

19 Q. So what you're saying is you don't believe that
20 5, 6, 7, and 8 could have been shot from the
21 kitchen?

22 A. 5, 6, 7, and 8, no.

23 Q. What about 9?

24 A. With the two doors being there -- again, I did
25 not observe any kind of bullet holes through either

1 of those doors. And the storm door had a -- had
2 a -- I'm sorry, I lost track of thought -- the
3 hydraulic system where you have to keep the door
4 open. So, again, if someone was in that -- in the
5 kitchen shooting, then someone would have -- that
6 door would have to have been propped open. Both
7 doors would have to be propped open or else that
8 would not have been it the case.

9 Q. What if 9 came from someone being shot in the
10 kitchen? Would that make sense as to why 9 is where
11 it is?

12 A. All I can say is there -- you have a spent
13 shell casing in the kitchen. If -- is it possible
14 that -- the shell casing being so close to where
15 it's at, again, if there was a shooting incident
16 that occurred right at that door, that's -- I guess
17 that's possible.

18 You -- there's not much space from where 9 was
19 located and to the door. Two people would have to
20 pretty much be on top of each other for it to be
21 right there. But, again, every -- looking at the
22 totality of the evidence where you have that one
23 shell casing right there and then you have the other
24 four right outside, it would be consistent with them
25 being fired right at the doorway.

1 Q. How does this door open?

2 A. It opens -- the hinges are on this side -- the
3 hinges of the door are right here. So the door
4 handle is here and it opens out towards the opening
5 of the garage.

6 Q. Right. And with this gun ejecting to the
7 right, this door opens here, and the shell casings
8 end up -- that would make sense, right?

9 A. Yes.

10 Q. Because when this door is open, is it a
11 straight line to the toolbox or does he have to turn
12 to the left a little bit?

13 A. No. As you can see -- again, this is -- this
14 is not drawn to scale. But you do have -- if you
15 did draw a straight line from the door, straight
16 across to this side of the garage, it would be
17 somewhere right about here. So the toolbox is
18 directly across and down slightly. I don't have a
19 measurement, but that is down and over some.

20 Q. So someone opening this door that opens out to
21 the left and needing to shoot to the left would have
22 to kind of come out and come around the door a
23 little bit, correct?

24 A. No. No. Not at all. Facing -- because on
25 scene, you know, I'm taking the photograph s. One

1 of the -- one of the photographs that were shown --
2 and I don't know which State's Exhibit it was -- but
3 taking a photograph from the kitchen door facing out
4 into the garage, directly across -- and you can see
5 where the tool chest is, is directly across, but
6 ever so slightly. So it wouldn't be if someone in
7 your scenario would be pointing a firearm out, it
8 wouldn't be a dramatic turn. It would be just ever
9 so slightly. It wouldn't be anything dramatic.

10 Q. All right. What if that fifth shot -- we've
11 got four bullet holes in the toolbox, right?

12 A. Correct.

13 Q. Did you ever find a fifth bullet hole or fifth
14 bullet?

15 A. I've searched and was only able to retrieve a
16 certain amount of bullet fragments.

17 Q. And that was all right around here, right?

18 A. Yes. Some of them were on the ground in front
19 and some were behind that went through and through.

20 Q. Gotcha.

21 A. And actually some into the wall.

22 Q. Okay. Well, in that example I gave you before
23 about that door being open, what if that fifth shot
24 was made right in this area, right here at the
25 garage opening, right -- right where the garage and

1 driveway meet each other? If that fifth shot was
2 shot, alleged to have been fired into something that
3 was located right here, would my example of having
4 to turn left more to get around that door be valid?

5 A. So you're saying the firearm would have been
6 discharged here?

7 Q. No. I'm saying that's where the bullet went.
8 I'm saying the firearm gets discharged here.

9 A. Uh-huh.

10 Q. The same -- if we're working under the State's
11 theory that all the shots came from the same place
12 and you got four that go here, if the fifth one is
13 alleged to be around in this area, where would --
14 how would the gun have to be? Would it have to be
15 turned more left?

16 A. Yes. It would have to be turned more left.

17 Q. Okay.

18 A. Obviously since you're -- you'd be having to
19 face left more towards the exit of the garage.
20 You'd have to turn left. I do not know exactly what
21 angle that would be. But, yes, obviously you'd have
22 to turn or angle more left for that. Yes.

23 Q. Okay. Do you have any idea where number 10
24 came from?

25 A. No, I do not.

1 Q. You just saw it and took a picture of it?

2 A. Correct. Now, we have a shooting incident. I
3 see any kind of loose ammunition, spent casings, I'm
4 going to collect ammunition on the scene.

5 Q. That's your job, right?

6 A. Yes. That's standard protocol for a shooting
7 incident.

8 Q. So if a shot -- looking at State's 18, if a
9 shot is fired from this doorway going out into the
10 garage and the ejection port is on the right side of
11 the weapon, in order for that shell casing to be --
12 for Shell Casing No. 9 to have come from a shot that
13 was in that doorway, would not that casing have to
14 eject to the right, hit something, and ricochet back
15 there?

16 A. If -- in theory, yes, that would be -- if that
17 shell casing ejected the right side of the firearm
18 and, what you're saying is, if it struck an object,
19 say, like this cabinet and bounced off and landed on
20 the floor, yes, that's a possibility. It's possible
21 that it could have ejected and gone backwards to the
22 right side, because in my experience, ejection
23 patterns on any kind of ammunition, regardless of
24 handgun s, rifles, or even shotguns, there's no
25 determined exact pattern of ejection.

1 It's going to be somewhere on the right side,
2 whether it be directly to the side, forward, or even
3 backwards. But somewhere on the right side. And
4 then -- in the near vicinity. So it's possible it
5 struck the -- the cabinet. It's possible that it
6 could have gone directly to the right behind the
7 firearm whenever it ejected and landed. So that's
8 hard to say. But the evidence would conclude that
9 the firearm was fired somewhere in that vicinity
10 right there.

11 Q. Okay. You don't believe that number 9 could
12 have been fired from right around where it fell?

13 A. Again, it's possible, but in this case, not
14 very probable for the fact that if it was discharged
15 right there, the two individuals in that
16 altercation, there's not much space. As you can
17 see, you have three tiles. That shell casing is
18 right there at the edge of Tile No. 3. You've got
19 three tiles to the edge of the door. That's not a
20 whole lot of space. Is it possible? It's possible.

21 But, again, I have -- from the totality of the
22 evidence where I have four bullet holes or defects
23 in that toolbox across into the garage and then I
24 have one that struck a victim, I don't know where
25 the victim was exactly whenever he was struck,

1 because we don't have any kind of blood stain
2 pattern or blood stain analysis done in this case
3 because of the bullet size. I can't say exactly
4 where the victim was when he got hit.

5 Q. Okay. Given your example of the shooter and
6 the person that got shot being right together --

7 A. Yes.

8 Q. -- if that, in fact, is what happened --

9 A. Uh-huh.

10 Q. -- then number 9 makes sense where it is,
11 right?

12 A. That's a possibility. Yes.

13 Q. Like if, say, the person that got shot was
14 coming through that door trying to grab the gun and
15 tackle the person that had the gun, that would put
16 them in close enough proximity for number 9 to be
17 fired where it is and land, essentially, where it
18 got fired, right?

19 A. In that specific situation, it's possible.

20 Yes.

21 Q. In fact, if that is exactly how it happened,
22 that makes the most sense as to why 9 is where it's
23 at, right?

24 A. Again, I cannot say what makes more sense for
25 where that shell casing is, because, again -- and,

1 yes, your specific situation, that's a possibility.
2 Yes. Again, I cannot say exactly where that shell
3 casing is going to land whenever it falls after
4 ejection because whenever a shell casing is ejected,
5 it can land directly to the right of the firearm, to
6 the right in front of the firearm, to the right
7 behind the firearm. There is an area of where it
8 can land, so I cannot say exactly where the firearm
9 was when that -- based off of solely just on where
10 that shell casing is located.

11 Again, I can say it was discharged somewhere in
12 that area. And, again, to answer your question,
13 your specific situation, that is a possibility for
14 that shell casing to land if it was --

15 Q. If two people are on top of each other,
16 essentially, it's more than a possibility, right,
17 it's a probability?

18 MR. POGUE: Objection, Your Honor. That's
19 argumentative.

20 THE COURT: I'll allow the question.

21 THE WITNESS: Again, that's a possibility.

22 MR. DEIRIG: Your Honor, that's all I have at
23 this time. Thank you.

24 THE COURT: Redirect?

25 MR. POGUE: Thank you, Your Honor.

1 REDIRECT EXAMINATION

2 BY MR. POGUE:

3 Q. Agent Sprinkle, is that storm door
4 spring-loaded?

5 A. Yes. I can't recall what sort of tension, but,
6 yeah, there is a mechanism on the door that closes.
7 I can't recall if it's a spring or what. But there
8 is a mechanism on the door where it closes and you
9 have to hold it open. Yes.

10 Q. Okay. So if you don't hold it open, it will
11 close, correct?

12 A. Correct.

13 MR. POGUE: I beg the Court's indulgence.

14 THE COURT: Sure.

15 BY MR. POGUE:

16 Q. Agent Sprinkle, the defense attorney was asking
17 you about the likelihood of casings ending up in
18 certain places. If -- based upon your investigation
19 of the crime scene, is it possible that somebody
20 fired three to four shots by the island that's in
21 the kitchen without somebody having moved those
22 casings? Is it possible, based upon what you
23 observed of the evidence at the scene?

24 A. No. That's -- that's not -- the evidence does
25 not show that nor would lead anyone to believe that

1 the firearm was discharged three or four times
2 inside the residence. No.

3 Q. Is it possible for shell casings to fly through
4 a closed door?

5 A. No.

6 Q. Or wall?

7 A. No.

8 Q. Based upon the location of the shell casings in
9 your diagram and what you observed at the scene, is
10 it logical that the shooter could have been standing
11 at this threshold right here?

12 A. Yes, that's logical based on, like I said, the
13 totality of the evidence, the location of all five
14 of these spent shell casings. That's logical of
15 where the -- where the individual discharging a
16 firearm would be located.

17 Q. In fact, in your investigation of the crime
18 scene, and the kitchen in particular, was there any
19 evidence whatsoever of an altercation that occurred
20 in the kitchen?

21 A. Not in the kitchen, no.

22 Q. Okay. The defense attorney asked you whether
23 you were qualified, and he referenced a pretrial
24 hearing in this case, and asked if you had been
25 attempted -- the State had attempted to qualify you

1 as an expert witness at that pretrial hearing. Do
2 you recall what it was that the State was trying to
3 qualify you as an expert regarding?

4 A. I do not recall. I believe it was ballistics.

5 Q. It was for what purpose?

6 A. Ballistics.

7 Q. Okay. Essentially, would it be fair to say,
8 that it's the same testimony that we were trying to
9 elicit you as an expert witness that the defense
10 counsel questioned you about in regard to the
11 probability of shell casings ending up in certain
12 places?

13 A. Yes. To my knowledge, yes.

14 MR. POGUE: No further questions, Your Honor.

15 THE COURT: You may step down.

16 MR. MCNAIR: Your Honor, the State calls Joe
17 Meyers.

18 JOSEPH THOMAS MEYERS

19 being first duly sworn, testified as follows:

20 THE WITNESS: I do.

21 THE CLERK: Have a seat please, sir. Once
22 you're seated, state your name, spelling your last
23 please.

24 THE WITNESS: Joseph Thomas Meyers,
25 M-E-Y-E-R-S.

1 DIRECT EXAMINATION

2 BY MR. MCNAIR:

3 Q. Joe, give the jury a little bit of background
4 on yourself. How old are you?

5 A. 46.

6 Q. Do you have a nickname?

7 A. Jersey.

8 Q. Jersey. How long have you been in South
9 Carolina?

10 A. About 13 years.

11 Q. All right. Are you married?

12 A. Yes, sir.

13 Q. Do you have kids?

14 A. I have a three-and-a-half-year-old and a
15 seven-year-old.

16 Q. Where are you currently working?

17 A. Self-employed.

18 Q. What do you do?

19 A. I build docks and decks on Lake Murray.

20 Q. All right. Now, do you know the defendant in
21 this case, Joshua Reher?

22 A. Yes, sir.

23 Q. Tell the jury how you know him.

24 A. 2014, I got hired on by Agnew Lake Service to
25 be a welder. And Josh was their welder and he

1 started training me from the day I started, and we
2 became buddies.

3 Q. All right. Did you work at Agnew with the
4 defendant up until the time of this incident?

5 A. Yes, sir.

6 Q. How would y'all get to work every day?

7 A. I drove.

8 Q. Did you pick up Josh from his house?

9 A. Yes, sir.

10 Q. At White Falls in Coldstream?

11 A. Yes, sir. And his other house before he moved
12 over into that neighborhood.

13 Q. Where was his other house?

14 A. Up in Ballentine, a little bit out of the way
15 from the shop and from where I live.

16 Q. Where do you live?

17 A. I live in the Coldstream neighborhood.

18 Q. All right. So that was out of your way to go
19 to Ballentine to pick him up?

20 A. Uh-huh. Yes.

21 Q. Who else would ride with y'all sometimes?

22 A. Just me and Josh. But before we -- when he
23 lived in the White Falls neighborhood, I dropped my
24 daughter off every day at school, so he'd drive with
25 me and my daughter in the morning to school. Some

1 days he'd be with me after work to pick her up.

2 Q. Okay. Now -- so did y'all pretty much work
3 together every day?

4 A. Yes, sir.

5 Q. And he'd pretty much ride to work with you
6 every day?

7 A. Yes.

8 Q. Did you take him home too?

9 A. Yes, sir.

10 Q. Now, outside of work -- were y'all friends
11 outside of work?

12 A. Yeah.

13 Q. Did you hang out together from time to time?

14 A. Yes, sir. All the time. I spent more time
15 with Josh than I did my wife.

16 Q. He'd been to your house before?

17 A. Yes, sir.

18 Q. You'd been to his house?

19 A. Yes, sir.

20 Q. Had y'all had drinks together?

21 A. Yes, sir.

22 Q. How would you describe your relationship with
23 Josh back in 2015?

24 A. I loved him. I thought he was my buddy. We
25 did everything together. He was really gifted. He

1 taught me a lot about welding and a lot about
2 carpentry. We did a lot of things.

3 Q. Would you describe your relationship with Josh
4 as your best friend?

5 A. Yes, sir.

6 Q. All right. Prior to August 21st of 2015, had
7 y'all ever had an argument before?

8 A. No, sir.

9 Q. Had you ever been in a fight?

10 A. No, sir.

11 Q. Let's talk about that day. How did that day
12 start?

13 A. Like any other day. I dropped Grace off at day
14 care and we went to work. I went with my partner to
15 do some work and he went with his partner, David.
16 And we were all meeting back at the shop around
17 noontime because they were going to have a company
18 meeting to go over some of the new protocols of the
19 company.

20 Q. Do you remember what day of the week that was?

21 A. Friday.

22 Q. Friday? So y'all worked that morning and then
23 you had a company meeting around noon?

24 A. Uh-huh.

25 Q. Okay. And was alcohol being served at that

1 company meeting?

2 A. Yes, sir.

3 Q. Were you drinking?

4 A. Yes, sir.

5 Q. Was Josh drinking?

6 A. Yes, sir.

7 Q. How long did that company meeting last?

8 A. A few hours.

9 Q. So you were there for a few hours?

10 A. Yes, sir.

11 Q. They serve food as well?

12 A. Yes, sir.

13 Q. Did you leave that meeting at some point and go
14 somewhere else?

15 A. No, sir.

16 Q. You never left the meeting?

17 A. No.

18 Q. You didn't stay there all day, did you?

19 A. No. After the meeting, when they were wrapping
20 it up, me and Josh went to go do a side job.

21 Because I always took Josh on side jobs with me so
22 he'd make extra money and I'd make extra money.

23 Q. Okay. So you and Josh --

24 A. And we both worked good together, so we'd be
25 able to knock a job out real quick.

1 Q. All right. So in addition to working for
2 Agnew, y'all also did side jobs together?

3 A. Yes, sir.

4 Q. Where would you do your side jobs?

5 A. All over the lake. Like, Norman would let me
6 weld the ramp in the shop and he'd sell it to me at
7 a discount, and we'd go install it somewhere on the
8 lake, one of our side customers.

9 Q. What I'm asking is, would you do those side
10 jobs after normal business hours? Would you do them
11 on the weekends?

12 A. On the weekends and sometimes after work, if it
13 ain't getting dark at that time until later, and if
14 it's little enough that we could get it done in an
15 hour or two.

16 Q. Okay. So I guess the point being you spent a
17 lot of time with Josh?

18 A. Yes.

19 Q. And you left the company meeting that day with
20 Josh?

21 A. Yes, sir.

22 Q. Had you left the meeting prior to leaving with
23 Josh and then come back?

24 A. No.

25 Q. So y'all had been at the meeting together the

1 whole time?

2 A. Yes, sir.

3 Q. And then you said you went to go see about a
4 side job.

5 A. Yes.

6 Q. Do you know about what time that was?

7 A. I want to say it was around 4:30-ish, 5:00,
8 maybe a little after, somewhere in that area.

9 Q. All right.

10 A. And it wasn't that far from the Agnew shop to
11 the side job.

12 Q. Okay. And what happened once you got to the
13 side job?

14 A. We started bringing down material down to the
15 job, and the lady came out and said she wanted to
16 get another quote. So I called the guy that I was
17 subcontracting from, Jeff Blair from Decks, Docks &
18 More, and I told him the lady wants to get another
19 quote, so we're going to take off from here. So we
20 gathered up all our tools and left.

21 Q. Okay. So where did you go after that?

22 A. We were headed back to the house. Then we
23 decided to go have a beer at Hemingway's and shoot a
24 few games of pool. And that's where we ended up, at
25 Hemingway's.

1 Q. Okay. How many beers do you think you had at
2 Hemingway's?

3 A. A couple. I had probably two beers.

4 Q. Okay. And how long do you think you were
5 there?

6 A. Probably an hour, hour and a half, I'd say,
7 give or take.

8 Q. So what time was it, do you think, when you
9 left Hemingway's?

10 A. Quarter to eight, 7:30, 8:00, somewhere in
11 there.

12 Q. And up until this time, is Josh drinking as
13 much as you were?

14 A. Yeah. He was drinking mixed drinks.

15 Q. You were drinking beer?

16 A. Yes, sir.

17 Q. So after Hemingway's, where did y'all go?

18 A. Over to Josh's house. It was right around the
19 corner from both of our houses.

20 Q. That's the [REDACTED]?

21 A. Yes, sir.

22 Q. All right. That's where Josh lived?

23 A. Yes, sir.

24 Q. Who else lived there with Josh?

25 A. His mom, Mary; Brook, I.K. , J.L-F. , and Jo.F. .

1 Q. Okay. And J.L.F. and Jo.F. are Brooke's
2 children?

3 A. Yes, sir.

4 Q. Okay.

5 A. And I.K. is J.L.F.'s best friend that stays with
6 them.

7 Q. Okay. Now, when y'all first pull up to White
8 Falls, what do you see?

9 A. Kids out in front of the house. And it's been
10 a sore spot with Josh for the last year and a half
11 driving him to work. Every morning, he'd cry about
12 the kids with the TV on and the air conditioning and
13 drinking -- over there drinking. Brooke would get
14 them liquor. It was a constant sore spot.

15 Q. So that was -- I guess Josh had talked to
16 you about kids being at the house before --

17 A. We talked every day. We talked about tons of
18 stuff. He was my buddy.

19 Q. And that was a source of frustration for him?

20 A. That and Brooke using pills.

21 Q. Okay. And we'll get to that in just a minute.
22 So was Josh the only person who paid the bills at
23 the house?

24 A. Yes, sir.

25 Q. And was that a common occurrence for kids to be

1 hanging out over there?

2 A. Yes.

3 Q. And what would the kids be doing over there?

4 A. Drinking and pretty much whatever they wanted
5 because Brooke didn't tell them no.

6 Q. Okay. So you pulled up this day. It's a
7 Friday afternoon. And where are the kids that you
8 see?

9 A. Out in front of the house.

10 Q. What are they doing?

11 A. Just hanging out.

12 Q. Were they drinking or do you recall?

13 A. I don't remember exactly. But that's what they
14 were usually always doing, drinking wine coolers or
15 whatever.

16 Q. All right. So what happened when you pulled up
17 and saw the kids?

18 A. Josh got out yelling at them, and they really
19 didn't take him too serious. I got out, yelled at
20 them, with a little bass in my voice, and they
21 pretty much took off.

22 Q. So you felt like they weren't respecting what
23 Josh was telling them to do?

24 A. Yeah. I told them to get the hell out of here,
25 you heard what he said. And they ended up leaving.

1 And Josh had went into the house and I went into the
2 garage, and I could hear yelling coming from --

3 Q. Stop. Stop right there. So Josh yelled at the
4 kids to leave?

5 A. Uh-huh.

6 Q. And you did as well?

7 A. Yes, sir.

8 Q. Why was that?

9 A. Because they weren't listening to him.

10 Q. Trying to help your buddy?

11 A. Of course.

12 Q. This is something he's complained about to you
13 for how long?

14 A. Year and a half. It was worse than the other
15 place, because it was a closer neighborhood where
16 all the kids were a lot closer, so there was usually
17 way more kids. And he thought when he moved over
18 here there wouldn't be as many kids over at the
19 house. But it seemed like they just migrated from
20 that place over to this place.

21 Q. Okay. Now, did he express anger toward any
22 particular person over the kids being there?

23 A. Brooke.

24 Q. He blamed Brooke for that?

25 A. Yes, sir.

1 Q. These were friends of her kids?

2 A. Yes. J.L.F. 's friends. Jo.F. is a lot younger
3 than J.L.F. .

4 Q. So once you got there and Josh yelled at the
5 kids to leave and you yelled at them as well, what
6 happened after that?

7 A. He went into the house and I went into the
8 garage and I was sitting down. And I heard him
9 arguing inside. I couldn't make out what they were
10 saying because the doors were shut.

11 Q. Who did you hear arguing?

12 A. Brooke and Josh.

13 Q. You heard raised voices?

14 A. Yes, sir, yelling.

15 Q. You're not sure what they were yelling about?

16 A. No. I didn't hear it word for word, but I was
17 just assuming it was about the kids being there.

18 Q. Okay. And you're in the garage?

19 A. Yes, sir.

20 Q. And where were they when you could hear the
21 yelling?

22 A. In the kitchen.

23 Q. All right. And what happened after that?

24 A. Brooke came out all upset and crying. And I
25 apologized for bringing Josh home drunk. And she

1 left and I.K. left with her. And then Josh came back
2 out and he was over by his chair, and he was ranting
3 and raving because he ended up -- gave her money.

4 Q. All right. So Brooke came out of the kitchen
5 with I.K. ?

6 A. Uh-huh.

7 Q. I guess -- who is I.K. to Brooke?

8 A. It's like her little son's son. You know, it's
9 J.L-F. 's friend, but she coddled I.K. all the time.

10 Q. Did she use I.K. for anything?

11 A. Say again.

12 Q. Did she use I.K. for anything?

13 A. It was her pill connection.

14 Q. Had Josh talked to you about that in the past?

15 A. Yeah. And that's why he didn't like I.K. over
16 at the house.

17 Q. Was that something Josh talked about regularly?

18 A. Yes, sir. And that's why he'd be mad at
19 Brooke, because she would coddle I.K. .

20 Q. So he did not like Brooke hanging out with I.K. ,
21 correct?

22 A. Correct.

23 Q. Because that was her pill connection?

24 A. Yes, sir.

25 Q. And he complained about that to you in the

1 past?

2 A. Plenty of times.

3 Q. Okay. So after you heard yelling in the
4 kitchen -- you're in the garage, correct?

5 A. Yes, sir.

6 Q. And Brooke comes out with I.K. ?

7 A. Yes, sir.

8 Q. And they leave?

9 A. Yes, sir.

10 Q. What happens next?

11 A. Couple minutes later, Josh came out. And he
12 found out that I.K. left with Brooke and he just got
13 pissed and he was ranting and raving.

14 Q. Did he say --

15 A. After a year or so hearing it -- and I'd give
16 Josh the best advice I can. And I'd tell him if
17 nothing changes, nothing changes. If you don't
18 change, the fact that she's not changing, you got to
19 change it. And he wouldn't, you know. I started
20 making fun of him, you know.

21 Q. Do you know whether or not he had given Brooke
22 money before she left?

23 A. I didn't know until he came out complaining
24 about it.

25 Q. All right. What did he say about it?

1 A. That she probably ain't even going to the store
2 to get the stuff. I started calling him a dumbass.
3 What do you think she's going to do with the money?
4 The pill head is going to go buy pills. And then he
5 just went ballistic and tackled me off the chair.
6 And we started fighting. And it started in the
7 garage and it escalated out into the driveway. We
8 were rolling around, hitting each other. I rolled
9 Josh over and I hit him with my elbow. He said,
10 Jersey, let me up, and I let him up. And he ran in
11 the house. I went to start getting my stuff
12 together.

13 Next thing I know, I heard a bang, and I turned
14 around. And everything is dark from there except
15 for the only thing I remember was breathing into my
16 vent, because I couldn't breathe. And I thought it
17 was because I smoke Black & Milds cigars. So I was
18 like, damn, I got to quit smoking, I'm out of shape,
19 I can't breathe after a little fight. And then
20 ended up, J.L-F. came out, help me find my keys, I
21 was breathing in the vent, and I drove home.

22 Q. Okay. Let's back up. Do you remember exactly
23 what you said to Josh when he came out and started
24 talking about Brooke was probably using his money to
25 buy pills?

1 A. I called him a dumbass. I said, you're the
2 retard that gave her the money, what do you expect
3 her to do?

4 Q. And as a friend, is that something that you had
5 talked to him about in the past?

6 A. Numerous times. I got tired of telling him
7 that. I'd tell him and tell him and tell him, and
8 nothing changes. You know, you pay the bills; if
9 not, move. You know what I mean?

10 Q. When you called him a dumbass for doing that
11 this time, what happened?

12 A. He attacked me.

13 Q. Where were you?

14 A. Sitting in a chair in the garage.

15 Q. And how did he attack you?

16 A. He football tackled me off the chair.

17 Q. That's in the garage?

18 A. Yes, sir.

19 Q. All right. After he football tackled you off
20 the chair, what happened?

21 A. We started fighting. And I had long hair about
22 down to here (indicating), and he grabbed my hair,
23 he was banging it off the floor, and we just were
24 fighting around. You know, it probably lasted two
25 to three minutes.

1 Q. Okay. And was he -- what was he -- he was
2 banging your head off the floor, grabbing you by the
3 hair?

4 A. Uh-huh. And punching me. And I was punching
5 him and we were rolling around.

6 Q. All right. How would you describe this fight?

7 A. Fistfight, tussling around, and --

8 Q. Fistfight between friends?

9 A. Yes, sir.

10 Q. In your mind, was this any type of deadly
11 encounter?

12 A. No, sir.

13 Q. All right. You testified that you eventually
14 got on top of Josh?

15 A. Yes, sir.

16 Q. And you were able to subdue him?

17 A. Yeah.

18 Q. You were able to stop him?

19 A. Yes, sir.

20 Q. All right. And what did you do?

21 A. I hit him with an elbow.

22 Q. In the face?

23 A. Yes, sir.

24 Q. All right. And then what?

25 A. He yelled, Jersey, let me up. I let him up.

1 He ran in the house and I started getting my shit to
2 leave thinking, you know, I'd see him tomorrow, you
3 drunk ass, you know, and it would be over with and
4 we'd be back to work and driving to school and be
5 back to normal. So I woke up a day later in the
6 hospital, and I know that's not the case.

7 Q. Okay. So he asked you to leave, you stopped,
8 and you were leaving. Now, from the time --

9 A. He never asked me to leave. He asked me to get
10 off him, let me up.

11 Q. Okay. From the time, I guess, you got off him
12 and he ran back in the house, how much longer was it
13 until he came back to that door?

14 A. Minutes. Three to five minutes, not even.

15 Q. And you were looking for your stuff to try and
16 leave?

17 A. Yes, sir.

18 Q. All right. And what do you remember at that
19 point?

20 A. Then I heard a bang. And I turned around and
21 everything was dark after that.

22 Q. You really have a memory of anything after
23 that?

24 A. No, except breathing in my vent and when I got
25 home. I got in the shower with freezing cold water

1 to try to open my lungs up and breathe because I
2 couldn't catch my breath.

3 Q. Did you even know you had been shot?

4 A. No, sir.

5 Q. Prior to him coming back to the door and you
6 hearing that pow, had he ever asked you to leave his
7 residence?

8 A. No, sir.

9 Q. Prior to you hearing that shot, had you ever
10 charged at him or threatened him in any way?

11 A. No, sir.

12 Q. Did you ever barge into his house?

13 A. Absolutely not.

14 Q. Where were you when you actually heard the pow
15 or the shot?

16 A. By Josh's toolbox, by the pan -- gold pan and
17 stuff, in that area.

18 Q. Okay. I'll show you picture in a second. Now,
19 when did you actually learn you were shot?

20 A. When I woke up in the hospital and Officer
21 Marthers came there to interview me. And he told me
22 that I was shot at five times. And that's when I
23 had a realization my buddy tried to kill me.

24 Q. Before that moment, did you think this was just
25 a fight between friends?

1 A. Yeah, absolutely. And I didn't want him to get
2 in trouble or me get in trouble for, you know,
3 simple assault or something. It was two buddies.

4 Q. All right. And, I guess, what changed in your
5 mind when you realized he shot you five times?

6 A. That's what changed my mind, when Officer
7 Marthers told me that it was an AR-15-type rifle and
8 five shots were fired, not just one shot.

9 Q. Now, do you remember the police coming to your
10 house that night?

11 A. No, I don't.

12 Q. Do you remember even talking to the police?

13 A. No, I don't.

14 Q. Do you remember telling the police some story
15 about kids beating you up?

16 A. No.

17 Q. Do you have any idea why you would have told
18 the police that?

19 A. So Josh wouldn't get in trouble. That's the
20 only thing I can think of. My buddy, you know.
21 Cops are there, so who beat you up? I didn't know,
22 I was shot. Like I said, I don't even remember --
23 all of that is black except for two little spots;
24 one when I was trying to breathe in the vent of my
25 truck and one when I got in the cold shower to try

1 to breathe.

2 Q. You said, I guess, you think you would have
3 said that to protect Josh. Can you explain that
4 more, why you think that would be protecting Josh?

5 A. Because I didn't want him to get locked up for
6 a fight, for attacking me.

7 Q. So, in your mind, he assaulted you?

8 A. Absolutely.

9 Q. And you were acting in self-defense?

10 A. Yes, sir.

11 Q. Now, where were you actually shot?

12 A. In the stomach right -- right --

13 Q. Can you stand up and just point to it on your
14 body?

15 A. Right here. And the bullet fragment is lodged
16 in my lower tailbone.

17 Q. Okay. How long were you in the hospital?

18 A. A week.

19 Q. Did you have surgery?

20 A. Yes, sir.

21 Q. What did they do?

22 A. They removed, I think, four feet of my large
23 intestines and a couple of feet of my small
24 intestines. And, not to be disgusting, now I got
25 the fast poops. I mean, I don't even eat lunch

1 because if there's not a bathroom around, it's not a
2 good time. At first, when I went back to work, I
3 used to bring a bucket with a lid with me.

4 Q. I didn't ask you this, but did Josh ever fire
5 warning shots at you and ask -- or fire warning
6 shots and ask you to leave?

7 A. No. Like I said, I heard one bang and I turned
8 around and everything went dark.

9 Q. So you didn't even hear him say anything before
10 he shot that first time?

11 A. No, sir.

12 Q. This is State's 29. Can you just point out to
13 the jury where you were when you were tackled in the
14 garage?

15 A. Over in this area. Because Josh was over by --
16 this is Josh's seat where he sits all the time and
17 everything. And there was a chair right over by
18 where that bicycle was. I believe that bicycle was
19 up but the handle bars were down and the tires were
20 low.

21 Q. Okay. What about the fan?

22 A. I believe that got knocked over during our
23 scuffle.

24 Q. All right. So is that where -- the area where
25 the scuffle started?

1 A. Yes, sir; right over here, somewhere in this
2 area.

3 Q. This is State's 36. Do you recognize that
4 item?

5 A. It's a hair tie.

6 Q. Was that your hair tie?

7 A. Yes, sir.

8 Q. 37. Does that look familiar to you?

9 A. Yes, that's my hair.

10 Q. So your hair was ripped out during this
11 scuffle?

12 A. Yes, sir.

13 Q. And how was it ripped out?

14 A. By the defendant holding onto my head, banging
15 it on the ground.

16 Q. State's 33. What does that show?

17 A. That's Josh's toolbox right there. And his
18 gold pan and stuff were in this little area right
19 here. And that's where I was when I heard the first
20 bang. And I turned around, faced the noise I heard,
21 and now everything is dark after that.

22 Q. All right. So you were right there by that
23 tool chest?

24 A. Yes, sir.

25 Q. State's 5. Where was your truck parked in his

1 driveway?

2 A. Nose of my truck would have been, like, right
3 here, and the truck would have came back out this
4 way.

5 Q. All right. So the nose of your truck was
6 even --

7 A. By that bush right there. This wall right
8 here, it would have been, like, parallel, running
9 this way with the garage.

10 Q. So your front bumper was right at the first
11 opening of the garage?

12 A. Yes, sir.

13 Q. State's 31. Do you see the chair that you said
14 you were sitting in when you got tackled?

15 A. The green chair right there.

16 Q. The one that's folded up on the ground?

17 A. Uh-huh.

18 Q. Now, during all of this -- let's go back to the
19 fight. Did the fight stay in the garage or did
20 it --

21 A. No. It escalated out into the driveway area
22 slash grass or whatever is out there. Mostly all
23 driveway. There's no grass.

24 Q. You're saying the whole fight lasted how long?

25 A. Couple minutes; three minutes, four minutes.

1 Wasn't like we were out there fighting for hours.

2 Q. When Josh asked you to stop and you stopped,
3 what did he do at that point?

4 A. He ran in the house.

5 Q. And you didn't chase after him?

6 A. No, sir. I started getting my stuff and
7 leaving, thinking he's a dumbass for jumping me and
8 I'll see him tomorrow. And that was it.

9 Q. I think that's all the questions I have at this
10 time. Please answer any questions Mr. Deirig has.

11 A. Absolutely.

12 CROSS-EXAMINATION

13 BY MR. DEIRIG:

14 Q. So you hear a loud bang, you turn around,
15 everything goes dark; is that correct?

16 A. Yes, sir.

17 Q. Did you get shot in the back?

18 A. No, sir.

19 Q. You got shot from the front, right?

20 A. Yep.

21 Q. Do you have the ability to turn around faster
22 than a bullet can move?

23 A. Absolutely not.

24 Q. And you didn't hear five bangs, you just heard
25 one?

1 A. Yep.

2 Q. Then you turned around and everything went
3 dark?

4 A. Yes.

5 Q. But you didn't get shot in the back?

6 A. Nope.

7 Q. Okay. So today you say that when you and Josh
8 got home -- first of all, who drove home?

9 A. I did.

10 Q. You were in the driver's side of your truck?

11 A. Yes, sir.

12 Q. And you would have been the person to get out
13 of the driver's side of your truck?

14 A. Yes, sir.

15 Q. And Josh was on the passenger's side?

16 A. Yes, sir.

17 Q. Okay. When y'all got to Josh's house, today
18 you say that not only did Josh yell at the kids, but
19 you had yelled at them too; is that right?

20 A. Correct.

21 Q. Previously, have you not said that while Josh
22 was yelling at the kids, you just went into the
23 garage?

24 A. I don't recall.

25 Q. You don't recall?

1 A. We were out there screaming at the kids. And
2 we yelled at them and they left. And he went into
3 the house and I went into the garage.

4 Q. Say that again.

5 A. I said, it ain't like we were screaming at the
6 kids. He yelled at them, I yelled at them. He went
7 into the house and I went into the garage.

8 Q. So at the hearing that there has been
9 previously to this trial, do you deny that you
10 said -- all you said was you went into the garage?

11 A. No, I'm not denying it. If that's what it
12 says, that's what it says.

13 Q. Have you ever told anybody that you yelled at
14 those kids before today?

15 A. Yeah, the prosecutor. When he was asking me
16 the other day, I said there's a possibility I yelled
17 at the kids. And I'm sure I did because that's my
18 buddy. If they're not listening, I'm going to take
19 his back for him.

20 Q. So now there's a possibility that you yelled at
21 the kids?

22 A. No. I yelled at them.

23 Q. What kind of prior record do you have?

24 MR. MCNAIR: Judge, can we approach?

25 THE COURT: Uh-huh.

1 (Sidebar conference.)

2 THE COURT: All right. Folks, disregard the
3 last question. It was not responded to, so no
4 response to this regard.

5 BY MR. DERIEG:

6 Q. When you drove Josh home, how many kids were
7 out in front?

8 A. Like, two or three.

9 Q. Two or three. Did you see if the neighbor
10 directly across the street from Josh was outside?

11 A. I didn't notice.

12 Q. But you are familiar, at least, with there
13 being a house directly across the street from Josh,
14 right?

15 A. There's a couple of them.

16 Q. So if the neighbor across the street was out in
17 his front yard when you got home, he'd have a pretty
18 good vantage point to see what was going on?

19 A. Sure, if he's right across the street.

20 Q. You said the reason -- let me back up.

21 What was it that you answered as to what
22 initially you told the cops happened to you?

23 A. I don't remember what I told the cops.

24 Q. You don't remember you telling them that a
25 group of kids jumped you?

1 A. I don't remember saying that. I know now,
2 after the fact.

3 Q. And today you testified that the reason you did
4 it was to protect Josh, right?

5 A. Correct.

6 Q. Previously, haven't you testified that not only
7 were you trying to protect Josh, but you were also
8 trying to protect yourself?

9 A. Sure.

10 Q. When was it that you told law enforcement that
11 you got jumped by a group of kids?

12 A. It was at my house some time when I was there.

13 Q. Okay. Didn't you get kicked out of Hemingway's
14 that night?

15 A. No.

16 Q. Have you ever been kicked out of Hemingway's?

17 A. No.

18 MR. MCNAIR: Objection.

19 THE COURT: Sustained.

20 BY MR. DEIRIG:

21 Q. So you weren't kicked out of Hemingway's that
22 night?

23 A. No.

24 MR. MCNAIR: Asked and answered.

25 THE COURT: Move on.

1 BY MR. DEIRIG:

2 Q. You said you and Josh never had an argument
3 before that day, right?

4 A. Right.

5 Q. Right about a week before the this incident
6 happened, weren't you and Josh over at John Jenkins'
7 house having an argument kind of about the same
8 thing, about kids drinking over at Josh's house?

9 A. No.

10 Q. No?

11 A. No.

12 Q. Who is John Jenkins?

13 A. John Jenkins is a guy that worked for Agnew
14 forever and he's the one that taught Josh how to
15 weld.

16 Q. How to what?

17 A. Taught Josh how to weld.

18 Q. Okay.

19 A. And Josh ended up taking John Jenkins' spot
20 when John got fired or let go from Agnew.

21 Q. Do you and -- in the past, especially right
22 around this time and maybe a little bit after, were
23 you and John friends?

24 A. Acquaintances. Wasn't like we went and hung
25 out at his house all the time. If I needed

1 something welded, I'd pay him to weld up a project
2 for his workload or something like that.

3 Q. But sometimes you'd go over there and hang out
4 at his house, right?

5 A. No. It would be while he was making a part or
6 something. It wasn't like he ever came to my house
7 or I came to his house and hung out and had dinner.
8 That was not the relationship we had.

9 Q. Who was Daniel Koon?

10 A. Daniel Koon is someone I met working over at
11 Agnew Lake Service also.

12 Q. Is he a friend of yours?

13 A. I think so.

14 Q. Have you ever hung out with Daniel at John's
15 house?

16 A. No. But I hung out with Daniel at his house at
17 a bonfire.

18 Q. You hung out with John at Daniel's?

19 A. No. I hung out with Daniel at Daniel's.

20 Q. Okay. Have you ever hung out with Daniel and
21 John together?

22 A. Yeah. We went out on a boat one time together
23 with my older brother fishing out by the dam.

24 Q. So you and John have never hung out at Daniel's
25 with the three of y'all together?

1 A. No.

2 Q. Have you ever told Daniel or John that when
3 Josh got a gun and shot the toolbox that you went at
4 Josh to take the gun away and that you got shot when
5 you grabbed the gun?

6 A. Absolutely not.

7 Q. Never told either one of them that?

8 A. Nope.

9 Q. Did you ever tell Daniel Koon that you kind of
10 blacked out and didn't even realize that you were
11 shot?

12 A. If you want to say dark. I never knew I was
13 shot until I woke up in the hospital.

14 Q. So you did tell -- you did Daniel that, but you
15 didn't tell him that you had taken the gun from
16 Josh?

17 A. You're taking it in a different context. If it
18 was said, it wasn't saying I got shot. And I didn't
19 know I got shot.

20 Q. Okay. I think you mentioned Norman Agnew on
21 direct. Who is Norman?

22 THE COURT: Hold on. His chair collapsed.
23 Let's give him a minute to get it back in place.

24 BY MR. DEIRIG:

25 Q. Who is Norman Agnew?

1 A. Norman Agnew is the owner of Agnew Lake Service
2 that I used to work for.

3 Q. And after this incident, did you have occasion
4 to talk to Norman?

5 A. He came to me in the hospital when I just got
6 out of surgery and he told me be careful what I say
7 to the police. And I told him I was going to tell
8 them the truth. And then I had had occasion to see
9 him at their shop because I went to get some rollers
10 for the -- because they're the only ones that make
11 roller brackets anymore. Everybody else is using a
12 non-roller bracket and they use a roller bracket, so
13 I went and got some rollers from him. And that's
14 really the only interactions we had. Or I see him
15 passing on the road, because I know his truck and he
16 knows mine.

17 Q. Didn't you tell Norman, when he came and talked
18 to you in the hospital after you had gotten shot,
19 that you couldn't remember what happened?

20 A. No, sir.

21 Q. You did not say that?

22 A. No, I didn't. I told Norman I'm going to tell
23 them the truth when he was telling me to be careful
24 what I said to the police.

25 Q. Okay. Who is Helen Bradberry?

1 A. I don't know.

2 Q. Do you know who Brooke is?

3 A. Yes.

4 Q. Do you know Brooke's mother?

5 A. Oh, yeah.

6 Q. Do you know her as Helen?

7 A. I know her as Helen. I didn't know Bradberry
8 was her last name.

9 Q. Okay. Fair enough. Fair enough. And the two
10 of them picked you up from the hospital, actually,
11 didn't they?

12 A. Correct.

13 Q. Didn't you tell both of them that you blacked
14 out and didn't know what happened?

15 A. Absolutely not. Brooke was telling me -- and
16 it was -- you got to know who Brooke is. But Brooke
17 has always got to be the center of attention, woe is
18 me. She was saying how Josh has --

19 THE COURT: You can't say what she said.

20 THE WITNESS: Okay.

21 No, I didn't, to answer your question.

22 BY MR. DEIRIG:

23 Q. You didn't tell either one of them that you
24 blacked out and couldn't remember?

25 A. No, I didn't. I might have told them there

1 were dark parts of the thing that I don't remember,
2 but never did I tell them I was blacked out.

3 Q. Okay. Looking at State's 32, you said this is
4 Josh's chair, right?

5 A. Uh-huh.

6 Q. And you said that you were sitting in this
7 little folding chair that's on the ground right
8 here, right?

9 A. Somewhere in that area. Yes, sir.

10 Q. Okay. Where was -- where was -- was Josh
11 sitting in that chair prior to you being tackled?

12 A. He was standing up in that area doing something
13 because that's all his stuff over in that corner.
14 He was pissed off that Brooke left with I.K. and he
15 was ranting and raving.

16 Q. So he was standing up by his chair?

17 A. Uh-huh. Yes, sir.

18 Q. Which way was your chair facing?

19 A. My chair was facing towards the opening of the
20 garage, so I was facing Josh like this. If this is
21 the back of the garage, this is how I was facing,
22 and that's Josh's area.

23 Q. So your back was to the opening of the garage?

24 A. Yes, sir.

25 Q. Okay. And -- so where did -- what angle did

1 Josh tackle you from?

2 A. I don't remember the angle. I know he tackled
3 me off the chair.

4 Q. Did he attack you from the front or behind?

5 A. From the front. Football tackle.

6 Q. And football-tackled you from the front with
7 you sitting in this chair right here?

8 A. Somewhere in that area. Yes, sir.

9 Q. And despite being football-tackled from the
10 front, this chair ends up still right around in here
11 instead of out here somewhere?

12 A. It ended up where it was.

13 Q. And after being football-tackled from the
14 front, somehow a bike ends up on top of that chair?

15 A. Yes, sir.

16 Q. Okay. Where all did you and Josh fight?

17 A. In the garage, out in the driveway. I mean, we
18 were rolling around fighting. I didn't keep track
19 of where we ended up fighting. I know we were
20 fighting in the garage, is where it started, and it
21 ended up outside.

22 Q. Did you ever fight in the flower bed?

23 A. Not that I recall. I'm sure we could have
24 ended up over in that area.

25 Q. The flower bed is right around in this area

1 where these big leaves are, right?

2 A. Sure. That can be considered a flower bed.

3 Q. Did you guys end up fighting over in this area?

4 A. Not that I recall. I mean, I'm sure -- we were
5 out in the driveway right there. But did we make it
6 up underneath that bush? I don't think so.

7 Q. You lost your keys, didn't you?

8 A. Yes, sir.

9 Q. And who found them?

10 A. J.L-F. .

11 Q. And J.L-F. found your keys right around in here,
12 right?

13 A. I don't know where J.L-F. found them.

14 Q. Didn't Josh stay at the shop while you went and
15 bid on a side job that day?

16 A. Absolutely not. I don't bid on the side job.
17 I get the side job given to me through another owner
18 that went out and looked at it at Decks, Docks &
19 More. He went out and looked at it, and he gives
20 them a quote and bids the job.

21 Q. He did what?

22 A. Bids the job.

23 Q. Okay. Well, regardless of whether or not you
24 were bidding on a job, didn't Josh stay at the shop
25 while you went to go take care of this job?

1 A. Absolutely not.

2 Q. Have you attempted to contact any defense
3 witnesses in this case?

4 A. I called Koon yesterday.

5 Q. Why is that?

6 A. That's my buddy. And I wanted to see what he
7 was up to. And I heard that his name was pulled up
8 as a possible witness.

9 Q. How did you hear that?

10 A. Through a list that we had. I was asked about
11 four people: John Jenkins, Daniel Koon. I think
12 the other one -- I don't know Breana's last name.
13 But Brooke's sister and then some name I don't even
14 know.

15 Q. Were you trying to influence Daniel Koon's
16 testimony when you called him?

17 A. Absolutely not.

18 Q. What time did you call him?

19 A. I want to say 4:00 maybe, 5:00, somewhere in
20 that area.

21 Q. Do you intend on contacting any more defense
22 witnesses this week?

23 A. No, sir. I don't know none of the other
24 defense witnesses. I know Daniel because we hung
25 out and I've given him side work. He's given me

1 side work.

2 MR. DEIRIG: I beg the Court's indulgence, Your
3 Honor.

4 THE COURT: Sure.

5 BY MR. DEIRIG:

6 Q. When you said on direct that you had gotten
7 frustrated with Brooke, is that right?

8 A. No. Frustrated with Josh, not Brooke.
9 Brooke's not my friend.

10 Q. Then you got frustrated with Josh. Why?

11 A. Because he'd tell me every day how he'd go in
12 the bathroom and he'd see crushed up residue, or
13 when he talked to her, her nose would just start
14 bleeding from sniffing pills. And he was just tired
15 of it and the kids over at the house and her buying
16 the kids liquor. That's why they were always
17 hanging over there. That's why I got frustrated
18 with Josh, not Brooke. I could care less about
19 Brooke. She's not my friend.

20 Q. So why do you get frustrated with Josh about
21 that? Why do you care?

22 A. Because when you hear it for a year and a half
23 and it's your buddy and you care about somebody, you
24 keep giving him the same advice to leave her and he
25 just keeps dealing with it, you get tired of hearing

1 that same story. If nothing changes, nothing
2 changes. He has to make a change in order for
3 something to change. And when you hear it for a
4 year and a half, every day in the morning, oh, she
5 did this or this happened and that happened, you
6 kind of get frustrated, or at least I do. You might
7 not, but I do.

8 Q. So did it make you angry or frustrated when you
9 got to Josh's house and saw what was going on?

10 A. Not frustrated that he gave her money. Like,
11 dumbass, that's the only thing I can think. You're
12 the one that gave her the money. How can you be
13 pissed and moaning?

14 Q. So wasn't it bothering you that those kids were
15 hanging out at the house?

16 A. No. What was bothering me is that they'd
17 straight disrespect him and not listen to the man.
18 It's his house.

19 Q. And you were tired of hearing Josh talk about
20 it?

21 A. Huh?

22 Q. And you were tired of hearing Josh talk about
23 it, right?

24 A. Yes, I was.

25 Q. Frustrating?

1 A. Frustrating. Yep.

2 Q. When you're drinking, does frustration ever
3 turn into anger?

4 A. Nope. Not that against a friend. I'm not
5 going to start being frustrated and start hitting
6 Josh because he gave her money. That's absolutely
7 false.

8 Q. So when you're drinking, your frustration never
9 turns into anger?

10 A. No.

11 MR. DEIRIG: That's all I have, Your Honor.
12 Thank you.

13 THE COURT: Mr. McNair?

14 MR. MCNAIR: Yes, sir, Your Honor. Hold on one
15 second.

16 REDIRECT EXAMINATION

17 BY MR. MCNAIR:

18 Q. Now, yesterday I showed you the defense witness
19 list, correct?

20 A. Yes, sir.

21 Q. And I asked you if you knew certain people on
22 that list, did I not?

23 A. Yes, sir.

24 Q. And I advised you of what I thought the
25 substance of their testimony was going to be,

1 correct?

2 A. Yes, sir.

3 Q. Based on what was told to me.

4 A. Yes, sir.

5 Q. Do you recall ever even talking to any of these
6 people?

7 A. I talked to Daniel Koon yesterday.

8 Q. Do you recall ever talking to him about this
9 incident?

10 A. No.

11 Q. So you called Daniel Koon to find out what in
12 the world it was he was going to say?

13 A. Yeah.

14 Q. Because you hadn't talked to him about this?

15 A. No. And I was --

16 Q. And you had told him what I advised you I
17 thought he was going to say, correct?

18 A. Correct. I was just trying to wonder from what
19 you said is he's trying to say how can a friend lie
20 like that. Obviously, it's not a friend.

21 Q. Correct. And I was asking you when in the
22 world you ever would have said something like that
23 to him, correct?

24 A. Right.

25 Q. And you have no recollection ever telling him

1 anything about that?

2 A. No. And you asked me when -- with John
3 Jenkins' name being in there, the only time we were
4 ever together like that was on the boat out by
5 the -- when we went fishing.

6 Q. Okay. Because he's not really that close of a
7 friend of yours. He's more of an acquaintance,
8 correct?

9 A. Correct.

10 Q. All right. Now, as far as you heard what you
11 believed to be one shot --

12 A. Yes, sir.

13 Q. -- and then everything went black, you don't
14 know which shot actually hit you, whether it was the
15 first or the second, do you?

16 A. No. I don't know exactly.

17 Q. Could have been the second shot?

18 A. That's what makes sense to me.

19 Q. Because that's why you heard the first shot?

20 A. When I turned around, I don't remember nothing
21 else after that.

22 Q. Do you have a practice of charging at people
23 with loaded guns?

24 A. No, sir.

25 Q. Especially after they've already fired four

1 alleged warning shots?

2 A. No, sir.

3 Q. Is that something you would do?

4 A. No, sir.

5 Q. Charge at them to take the gun away after
6 they've already fired four shots, is that something
7 you would do?

8 A. No, sir.

9 Q. Let's talk about Norman Agnew. How long had
10 you known Norman prior to this?

11 A. Same amount of time I knew Josh, probably 18
12 months. And, you know, Norman, I was like, you
13 know, I would go out and do things that the boss
14 didn't do and the guys would say, oh, you're making
15 us look bad. And I'd tell them step your game up.
16 You know, I've gotten raises and promotions, and
17 that's why he let me do side jobs. Norman gave me
18 side jobs.

19 Q. All right. So you had worked for Norman for 18
20 months, correct?

21 A. Correct.

22 Q. How long had Josh worked for Norman?

23 A. Since Josh was a kid.

24 Q. All right. So Josh had known Norman and Norman
25 known Josh since Josh was a kid?

1 A. Yeah.

2 Q. Were they tight?

3 A. I imagine so. He worked there forever.

4 Q. After this incident, Norman kept Josh and he
5 fired you, right?

6 A. Yes, sir.

7 Q. And that happened pretty -- pretty early on,
8 correct?

9 A. Oh, it was pretty much immediately. And it was
10 because I did side work. But he would let me weld
11 ramps in his shop and sell them to me at a discount.
12 He gave me side work to redo the Patriot or, hey, I
13 got this little reboarding, do you want to go do it?

14 Q. So you were let go how soon after this
15 incident?

16 A. I don't even think Josh got out of jail before
17 I got fired. It was probably not even -- he came
18 with his manager or whatever. And when he started
19 giving me the bull crap about being -- because of
20 side jobs, I threw him out of my house. I told them
21 both to get out.

22 Q. And you said Norman told you what in the
23 hospital?

24 A. Be careful what I say to the police.

25 Q. And what did you take that to mean?

1 A. Be careful what I say to the police. I mean,
2 it made me feel awkward. Mind you, I'm still just
3 fresh out of surgery. I didn't even hear any of the
4 facts.

5 Q. Why would you need to be careful about what you
6 said to the police?

7 A. I don't know. All I know is what the man said.
8 And I know he had just come from seeing Josh,
9 because he said that.

10 Q. Now, as far as where things were located in
11 that garage, after you were tackled out of that
12 chair, y'all continued to fight around in the
13 garage, right?

14 A. Yes, sir.

15 Q. Things were knocked around, things were knocked
16 over?

17 A. Yes, sir.

18 Q. Just because that's where they are located now
19 doesn't mean that's where they were initially,
20 correct?

21 A. Correct.

22 Q. That's all I have. Thank you.

23 THE COURT: All right. You may step down now.

24 THE WITNESS: Thank you.

25 THE COURT: All right. Good time for a break.

1 Just so y'all know, we're going until right about
2 5:00. The courthouse is having some maintenance on
3 some water pipes, so they're cutting the water off
4 at 5:15. So we're not going past 5:15.

5 (The jury exits the courtroom at 3:32 PM.)

6 THE COURT: Bring the jury in, please.

7 (The jury enters the courtroom at 3:46 PM.)

8 THE COURT: Call your next witness.

9 MR. POGUE: Your Honor, the State calls Vito
10 Cosola.

11 VITO COSOLA

12 being first duly sworn, testified as follows:

13 THE WITNESS: Yes, sir.

14 THE CLERK: Here you go, sir. Have a seat
15 right up there, sir. Once you're seated, state your
16 full name, spelling your last.

17 THE WITNESS: My full name is Vito Cosola,
18 V-I-T-O, C-O-S-O-L-A is my last name.

19 DIRECT EXAMINATION

20 BY MR. POGUE:

21 Q. Good afternoon, Mr. Cosola. How are you?

22 A. Good afternoon. I'm fine.

23 Q. Where are you employed?

24 A. Currently I work for two corporations: One
25 Vital Care EMS is a private EMS corporation, and the

1 second is Octapharma Plasma, donation of -- people
2 donate plasma and I take care of their physical
3 needs and respond to medical emergencies in the lab.

4 Q. Okay. And where were you employed on August
5 21st, 2015?

6 A. I was employed with Lexington County EMS.

7 Q. Okay. And how long had you been employed by
8 Lexington County EMS at that time?

9 A. At that time, I don't remember. In total, it
10 was approximately ten years.

11 Q. So you have ten years' experience in what
12 capacity? I'm assuming you're a paramedic.

13 A. I'm a paramedic.

14 Q. Okay. Did you respond to a victim in regard to
15 this particular case?

16 A. I did.

17 Q. Okay. And did -- was a report generated in
18 regard to EMS's response to a victim in this
19 particular case?

20 A. Yes, sir, it was.

21 Q. Okay. Did you bring that report with you?

22 A. I do have it.

23 Q. Okay. Do you recall the victim in this
24 particular case, Mr. Joseph Meyers?

25 A. I don't recall him from memory, no.

1 Q. Okay. All right. Having looked through your
2 report and seeing photos in regard to this
3 particular incident, did you -- do you have a
4 recollection of this particular patient that you
5 responded to treat?

6 A. I do.

7 Q. Okay. All right. So you were called to
8 respond. Tell me what happens when you get to the
9 house -- to the victim's home.

10 A. Yes, sir. When I got to the residence, I noted
11 a male in his 30s laying on the couch to the right
12 and a couple police officers to the left. I asked
13 what happened to the police officers. They
14 indicated that he had a gunshot wound, and that's
15 about all they could tell me at the time. On exam,
16 I noted he did indeed have what appeared to be a
17 gunshot wound to his abdomen, his stomach. And that
18 was my initial observation.

19 Q. Okay. Was -- Jersey, the victim, was he
20 conscious?

21 A. He was conscious.

22 Q. Was he responsive to you?

23 A. He was.

24 Q. Okay. All right. What injuries, if any, did
25 you notice in regard to the victim?

1 A. Beyond his gunshot wound, I did not -- I do not
2 recall any other injuries to his person.

3 Q. But you noticed a gunshot wound?

4 A. Absolutely.

5 Q. Okay. All right.

6 MR. POGUE: I beg the Court's indulgence.

7 BY MR. POGUE:

8 Q. Mr. Cosola, I'm handing you up what's marked as
9 State's Exhibits 69 through 71. Do you recognize
10 these images?

11 A. I do recognize them.

12 Q. And what are they?

13 A. They're pictures of the scene that I responded
14 to that we're talking about.

15 Q. And are they a fair and accurate reflection of
16 the scene on that particular evening?

17 A. They are.

18 MR. POGUE: Your Honor, at this time, the State
19 would move State's Exhibits 69 through 71 into
20 evidence.

21 MR. DEIRIG: Without objection, Your Honor.

22 THE COURT: 69, 70, and 71 are admitted without
23 objection.

24 (State's Exhibit Nos. 69 through 71 admitted
25 into evidence.)

1 BY MR. POGUE:

2 Q. This is -- all right. This is State's Exhibit

3 69. Can you tell me what we're looking at here?

4 A. You're asking me?

5 Q. Yes.

6 A. This is the young male that I observed that --
7 what is happening in the scene, is we're packaging
8 him for the transport to the hospital. You'll see
9 the yellow by the top of his head there. That's a
10 long spine board. And below his chin is a plastic
11 collar to keep his neck in line.

12 Q. Do you have a laser pointer up there?

13 A. I do.

14 Q. Is he laying on the couch?

15 A. It's hard to tell from this photograph. The
16 long spine board is right here, this yellow part
17 here; the collar is here holding his neck in line.

18 Q. Okay. All right. Now, State's Exhibit 70,
19 what are we looking at here?

20 A. And here is the gunshot wound to the abdomen
21 here with some blood trailing out.

22 Q. From your experience, were you dealing with an
23 emergent situation with regard to the injury that
24 the victim suffered in this case in regard to the
25 gunshot wound?

1 A. Yes, sir, very much.

2 Q. Okay. Tell me a little bit about that and why
3 that struck you as an emergent need?

4 A. Based on the injury that you see here in the
5 picture and what I observed, it was my -- on exam, I
6 believed that, you know, he was bleeding internally
7 and that he needed intervention to -- which only a
8 surgical procedure could --

9 Q. What signs did you observe that he was bleeding
10 internally?

11 A. He was very pale on exam and he was in a lot of
12 pain. And he was holding his abdomen, as I recall.
13 And his abdomen was also what we call distended.

14 Q. What does that mean, distended?

15 A. Distended means that there's swelling, in
16 layman's terms, and that his abdomen was also hard
17 to the touch, to palpation.

18 Q. For a gunshot wound, why is that significant to
19 you?

20 A. It's significant because it tells me that
21 there's internal bleeding occurring, and, you know,
22 the only way to stop it is by surgical means.

23 Q. Was this -- having observed all this, was this
24 a life-threatening injury?

25 A. It was, certainly.

1 Q. If left untreated, is it fatal?

2 A. It would be fatal.

3 Q. If somebody is bleeding internally from a
4 gunshot wound, from your experience, are we talking
5 hours or minutes in regards to bleeding out?

6 A. Minutes.

7 Q. Did you observe anything else about the
8 victim's demeanor or responsiveness?

9 A. Just his level of distress overall really
10 concerned me.

11 Q. Okay. Have you had any training in regard to
12 shock?

13 A. Yes. Besides my total years in emergency
14 medical services, I did work for a level-one trauma
15 center for 16 years in the state of New York.

16 Q. Okay. Did you observe any stages of shock from
17 your treatment of the victim?

18 A. I did. The pale skin was my -- that, coupled
19 with the distended abdomen, really concerned me to
20 package him quick and get him off this.

21 Q. What exactly is shock, in layman's terms?

22 A. Shock, by definition, is called inadequate
23 tissue perfusion, which is just a fancy word saying
24 that your body isn't getting the oxygen it needs
25 to -- is delivered by your blood flow, because, you

1 know, your body is a closed system, closed
2 container.

3 Now we have a hole in that system and you're
4 leaking blood, so your organs aren't getting the
5 oxygen and blood supply they need. And that's also
6 why you would see the pale skin, because what
7 happens in shock is, your body shunts blood to your
8 core organs, you know, mainly your thorax and also
9 your brain, to sort of protect itself. It's just
10 a -- it's a reflex, if you will.

11 Q. Okay. All right. And you -- I apologize. You
12 said you did or did not observe the victim, in your
13 opinion, to be in any sort of stages of shock?

14 A. Yes. There's two major -- there's two major
15 types of shock. There's compensating shock and
16 decompensating shock. So in a compensating phase of
17 shock is -- what you're doing is, your body
18 compensates to it by shunting this blood, as we
19 talked about, and also elevating -- not elevating.
20 I don't want to make this complicated.

21 But, basically, by shunting your blood and
22 trying to keep the blood to your core organs for
23 survival reasons. You know, that's what I was
24 observing at this time that he was in a compensating
25 phase of shock.

1 Q. Does that have any effect on your cognitive or
2 memory abilities, potentially?

3 A. It could be potentially, yes.

4 Q. All right.

5 MR. POGUE: Beg the Court's indulgence.

6

7 BY MR. POGUE:

8 Q. I don't know if you recollect or not, but do
9 you recall whether he had any bleeding from his head
10 or -- did he have any bleeding from his head?

11 A. I do not recall that.

12 Q. If someone had their hair ripped out from the
13 back of their head, does that potentially lead to
14 bleeding in the back of the head?

15 A. It could lead to bleeding. It's a very
16 difficult question to answer. It depends on --

17 Q. Would you expect a lot of blood to come from --

18 A. No, no.

19 Q. If someone had their head dribbled off the
20 concrete, would that potentially have left a wound
21 that could produce at least a moderate amount of
22 blood?

23 A. Sure.

24 Q. Okay. Is it potential that they'd need to have
25 some sort of preventative or diagnostic measures

1 performed to determine whether they had any sort of
2 potential internal brain bleeding or brain injury?

3 A. Yes.

4 Q. All right. Do you recall if you noted anything
5 like that or if you noticed it even?

6 A. I remember that. You know, in cases like this,
7 we conduct what's called a primary survey where we
8 look for life-threatening injuries. And at that
9 time when I -- I did not notice any other
10 life-threatening than the gunshot wound.

11 MR. POGUE: No further questions. Thank you.

12 CROSS-EXAMINATION

13 BY MR. DEIRIG:

14 Q. Good afternoon, Mr. Cosola.

15 A. Good afternoon.

16 Q. Is it sergeant?

17 A. It was lieutenant at the time.

18 Q. Lieutenant?

19 A. Yes, sir.

20 Q. Do you still have rank or...

21 A. No. I retired from 911. Yes.

22 Q. I believe one of the last answers you just gave
23 to Mr. Pogue was regarding somebody that had had, I
24 believe he said, their head dribbled off of pavement
25 or concrete.

1 What did you say should happen in a situation
2 like that when somebody's head has been dribbled off
3 the concrete in regards to cognitive ability?

4 A. Well, if you're talking about someone's head
5 that hits a concrete surface, based on, you know,
6 we'll call it protocol, you know, depending on the
7 severity of if they saw a large laceration and good
8 amount of bleeding, it would certainly warrant, in
9 their emergency department, order a CAT Scan and
10 things of that nature.

11 Q. Okay. And if a patient is complaining about
12 having his head bounced off the concrete multiple
13 times and some swelling occurs, do you think it
14 would be standard operating procedure or protocol to
15 get a CAT Scan or MRI on his brain?

16 A. It would be, in my opinion; however, that's a
17 judgment call of the physician.

18 Q. I gotcha. You said that Mr. Meyers potentially
19 would have bled out in minutes if you guys hadn't
20 gotten there when you did, right?

21 A. What I said was that if left untreated. And he
22 had the potential to definitely do that. Yes.

23 Q. Okay. So, potentially, you guys arriving when
24 you did saved his life?

25 A. Yes, sir.

1 Q. And if you had arrived some period of time
2 later, he could have died, right?

3 A. He could have.

4 Q. All right. And did you -- did I hear you
5 correctly that you don't recall any other injury to
6 Mr. Meyers besides the gunshot wound?

7 A. That is correct.

8 Q. In fact, didn't Mr. Meyers himself deny other
9 trauma of any kind?

10 A. I don't recall him saying that or not saying
11 that. You know what I'm saying? I don't recall him
12 making a statement to me other than what's in my
13 report.

14 Q. Do you have your report with you?

15 A. I do.

16 Q. May I take a look at it?

17 A. Sure.

18 Q. I'll direct you to look at the end of the first
19 paragraph of the narrative of the report and tell me
20 whether or not those last three sentences refresh
21 your recollection of what Mr. Meyers may or may not
22 have told you.

23 A. If you're referring to -- I'll let you tell me
24 what part -- the last three sentences contain my
25 physical exam and -- not really sure of the

1 question.

2 Q. The last sentence of the first paragraph in
3 your narrative, do you not state that patient denies
4 any other complaints?

5 A. Yes. That's what I wrote.

6 Q. And two sentences before that, do you not say
7 that patient denies other trauma of any kind?

8 A. Yes. I did write that.

9 MR. POGUE: Thank you. Your Honor, that's all
10 I have.

11 THE COURT: Any redirect?

12 MR. POGUE: No further questions.

13 THE COURT: Anybody ever told you you looked
14 like Adam Sandler?

15 THE WITNESS: Yes. A lot.

16 MR. MCNAIR: Your Honor, State calls Detective
17 Brannon Marthers.

18 BRANNON MARTHERS

19 being first duly sworn, testified as follows:

20 THE WITNESS: Yes, ma'am.

21 THE CLERK: Have a seat, sir. Once you're
22 seated, state your name, spelling your last for the
23 record please.

24 THE WITNESS: Brannon Marthers,
25 M-A-R-T-H-E-R-S.

1 DIRECT EXAMINATION

2 BY MR. MCNAIR:

3 Q. Detective Marthers, what is your current
4 position at Lexington Sheriff's Department?

5 A. Currently assigned to the major crimes unit as
6 an investigator.

7 Q. How long have you been with major crimes?

8 A. Since January of 2015.

9 Q. Right. And do you have prior law enforcement
10 experience before that?

11 A. I've been with the Sheriff's Department since
12 August of 2008.

13 Q. And you were the lead investigator in this
14 case, correct?

15 A. Yes, sir.

16 Q. All right. How did you initially become
17 involved in the investigation of this?

18 A. I received a phone call from the acting
19 supervisor, Sergeant Lint, regarding the incident,
20 and he requested I start to respond to that
21 location.

22 Q. All right. And what was the actual incident
23 location?

24 A. The actual incident location was [REDACTED]
25 [REDACTED] which is in the Coldstream area of the

1 Columbia part of Lexington County.

2 Q. All right. And where did you initially
3 respond?

4 A. That's where I was initially heading; however,
5 while en route, I learned of Mr. Meyers being
6 located at his residence at [REDACTED],
7 which was in the same area of the Lexington area.

8 Q. All right. Did you go by that location?

9 A. I'm sorry, sir?

10 Q. Did you go by [REDACTED]?

11 A. Yes, sir. I did respond to that location.

12 Q. All right. And what did you do once you got
13 there?

14 A. Once I arrived on scene, I saw fire service,
15 law enforcement, EMS going in and out of the
16 residence. I seen them treating the patient. At
17 that point, I grabbed my camera -- digital camera,
18 took a couple of photographs, and proceeded inside
19 to where the patient was.

20 Q. All right. Did you observe Mr. Meyers at that
21 point?

22 A. Yes, sir. I found him laying on the couch.

23 Q. All right. Did you observe his injuries?

24 A. EMS pointed out he had a gunshot wound to his
25 abdomen, stomach area.

1 Q. Were you able to speak to him at that time?

2 A. I didn't try to due to them asking questions
3 pertinent to his care.

4 Q. All right. So you took some photos of that
5 scene?

6 A. Yes, sir.

7 Q. Where did you go after that?

8 A. After I left that location, I responded to the
9 original incident location of White Falls; however,
10 I was only there for a matter of minutes before I
11 got redirected to another location.

12 Q. All right. Where was that?

13 A. Lexington Medical Center.

14 Q. Okay. And who was at Lexington Medical Center?

15 A. Mr. Reher.

16 Q. And why was Mr. Reher transported to Lexington
17 Medical Center?

18 A. To my understanding, he requested to be
19 transported to be seen for the injuries he had
20 sustained during an assault.

21 Q. All right. So Mr. Reher had requested that
22 transport to the hospital?

23 A. That's my understanding. Yes, sir.

24 Q. All right. So did you go to the hospital?

25 A. Yes, sir.

1 Q. And where was Mr. Reher when you got there?

2 A. In the rapid assessment area of the ER.

3 Q. And what was going on with him when you first
4 got there?

5 A. Once I got there, he'd already been seen with
6 medical staff, the discharge paperwork was already
7 provided, and as I was entering the room where he
8 was at, a nurse came in to take him to clean the
9 wounds he had on his face.

10 Q. All right. Did the nurse actually clean his
11 wounds?

12 A. I wasn't present for that. I stayed in the
13 room when they were out of the room.

14 Q. Okay. So when you arrived, he had already
15 been -- had his discharge paperwork?

16 A. Yes, sir.

17 Q. Do you know how long he was actually at the
18 hospital prior to your arrival?

19 A. I'd have to refer back to the call card. No,
20 sir, not exactly.

21 Q. Was it a long time or a short time?

22 A. Maybe two hours.

23 Q. Okay. Now, so when you got there, he wasn't
24 being treated any more other than a nurse maybe
25 walking him to the bathroom? Is that what you just

1 said?

2 A. Yes, sir.

3 Q. Did you observe any injuries on him?

4 A. I saw some abrasions and lacerations to his
5 face and a laceration to his knee.

6 Q. All right. I know you're not a doctor, but
7 would you describe his injuries as major or minor?

8 A. From what I've experienced in the past, I would
9 expect them to be minor.

10 Q. All right. Did he have any broken bones or
11 need stitches or anything like that?

12 A. None that I was aware of.

13 Q. Didn't require surgery?

14 A. No, sir.

15 Q. Was he being sedated in any way when you got
16 there?

17 A. I saw no indications of him having sedation.

18 Q. All right. Did he appear to be in any great
19 deal of pain?

20 A. Not that I was aware of or not that I could
21 notice.

22 Q. Was he alert?

23 A. Appeared to be.

24 Q. Did he appear to be under the influence of
25 alcohol or drugs?

1 A. I could smell an alcohol odor coming off of his
2 person. However, he was in control of his
3 faculties, he was able to talk and make logical
4 conversation when he spoke.

5 Q. So, to your knowledge, he was able to
6 understand what he was doing and answer any
7 questions you had for him?

8 A. Yes, sir.

9 Q. Now, when you initially got to the hospital,
10 was he under arrest at that point?

11 A. No, sir.

12 Q. Was he in handcuffs?

13 A. Not when I arrived.

14 Q. Was he in custody?

15 A. No, sir.

16 Q. All right. What was the purpose of you meeting
17 with him initially?

18 A. To speak with him about the incident as we had
19 no information at that point from him as far as his
20 account.

21 Q. So you're still kind of in the
22 information-gathering mode?

23 A. Yes, sir.

24 Q. Trying to figure out what happened?

25 A. Correct.

1 Q. Talked to all the witnesses who were there?

2 A. Yes.

3 Q. And get everybody's version of events?

4 A. Yes, sir.

5 Q. So you started talking to him, asking him about
6 what happened, correct?

7 A. Yes, sir.

8 Q. All right. Now, as you're talking to
9 Mr. Reher, are you also getting updates from the
10 people who are -- the law enforcement personnel on
11 scene about what the witnesses are saying on the
12 scene and what the evidence is on the scene?

13 A. After I was there for a few minutes, I did
14 receive a phone call from Sergeant Lint.

15 Q. All right. And what did -- did he inform you
16 of information they were gathering at the crime
17 scene?

18 A. Yes, sir. He was letting me know about witness
19 statements as well as the actual crime scene itself.

20 Q. All right. So during the course of your
21 interview with Mr. Reher, did kind of the posture of
22 the interview change at some point?

23 A. Yes, sir.

24 Q. All right. And was that because you were
25 provided information from Investigator Lint?

1 A. Yes, sir.

2 Q. Sergeant Lint. All right. And was that
3 information consistent with what Mr. Reher was
4 telling you?

5 A. It did not appear to be.

6 Q. All right. So what did you do at that point?

7 A. The point where the information came from
8 Sergeant Lint and what Mr. Reher already provided, I
9 advised Mr. Reher of his Miranda rights.

10 Q. And how did you do that?

11 A. On one of our documents that the Sheriff's
12 Department has is a statement form. On that
13 statement form, the very top portion has a place for
14 biographical information, name, address, date of
15 birth, things of that sort. And then the middle
16 section is specifically the Miranda rights
17 enumerated.

18 Q. Did you read those rights to him or did he read
19 them himself?

20 A. I read them to him.

21 Q. All right. And did he acknowledge he
22 understood those rights?

23 A. Yes, sir. Beside each one, there's a section
24 where you can initial, and he placed his initials in
25 each section.

1 Q. Did he ask you any questions about his rights?

2 A. No, sir.

3 Q. All right. Did he ever ask for an attorney?

4 A. No, sir.

5 Q. Did he ever say he wished to stop talking to
6 you?

7 A. No, sir.

8 Q. All right. After you Mirandized him, did you
9 continue to talk to him about the incident?

10 A. Yes, sir.

11 Q. And during that time frame, did you continue to
12 get updates from what was going on at the scene?

13 A. I believe I received one more phone call from
14 Sergeant Lint for an update.

15 Q. All right. And what was the nature of that
16 conversation?

17 A. Just to provide further information as far as
18 what he was being told as well as other stuff that
19 was seen at the location as far crime scene
20 evidentiary stuff, as well as for me to update him
21 as far as what Mr. Reher was saying.

22 Q. Okay. Now, I guess, after that conversation
23 with Sergeant Lint, what did you do?

24 A. At that point in that conversation, I continued
25 speaking with Mr. Reher.

1 Q. Okay. And he provided you additional
2 information?

3 A. Yes, sir.

4 Q. At some point, did you decide to place
5 Mr. Reher under arrest?

6 A. Yes, sir. After speaking with him, I did make
7 contact with Sergeant Lint to make sure no other
8 information was learned. We exchanged information
9 that had been learned since the second phone call,
10 and at that point, it was determined that probable
11 cause existed for an arrest.

12 Q. Okay. Now -- so at that point he was arrested.
13 Did you -- he was placed in handcuffs, correct?

14 A. Yes, sir.

15 Q. All right. Did you talk to him any more after
16 he was placed under arrest?

17 A. No, sir.

18 Q. All right. And while you were at the hospital,
19 did he provide you with a written statement?

20 A. Yes, sir.

21 Q. And did he give you any verbal information that
22 was not put in his written statement?

23 A. We spoke prior to the written statement just to
24 essentially give a synopsis of what transpired. And
25 then the written statement was started. And what he

1 provided was provided in the written statement. If
2 he said something to me that wasn't written, I did a
3 question-and-answer to get that information as well.

4 Q. All right. I'm going to show you State's
5 Exhibit 1 and ask you if you recognize that.

6 A. It's the written statement that was taken that
7 night.

8 MR. MCNAIR: All right. Your Honor, at this
9 time, we would offer State's 1 into evidence.

10 MR. DERIEG: No objection.

11 THE COURT: Admitted without objection.

12 (State Exhibit No. 1 admitted into evidence.)

13 BY MR. MCNAIR:

14 Q. I hate to do this, but do you have a copy of
15 the statement up there with you?

16 A. Yes, sir, I do.

17 Q. Can you -- I guess let's just read the
18 statement for the jury.

19 A. Okay. Started in the garage. We started
20 wrestling. I tell him to stop. He hits me. We
21 wrestle some more, making our way out to the
22 driveway. Wrestled with him, hitting me in the
23 face. I make it through the back door and lock it.

24 I waited for 10 to 20 minutes and open it, and
25 he come through the door and tries to come at me

1 again. And that is when I shot three to four times
2 at him. Then we fought some more outside the garage
3 with me telling him to leave and go home and for
4 someone in the house to call the police. Then he
5 got off me and sat in his truck and then left.

6 Q. All right. Let's stop right there. So is it
7 your understanding, based on your conversation with
8 him, that all these shots were fired after the
9 victim allegedly barged into his kitchen?

10 A. The way this statement was written, yes, sir.

11 Q. And then after he shot the victim, he tells you
12 that they fought some more out in the garage?

13 A. Yes, sir.

14 Q. Okay. And then after -- I guess after he shot
15 the victim, then they fought some more in the
16 garage. He asked the victim to get off him, and the
17 victim left at that point?

18 A. Got in his truck for a minute and then left.

19 Q. Okay. All right. You can continue.

20 A. At that point, I began some question-and-answer
21 with Mr. Reher. I inquired with him, who was
22 wrestling? He replied it was his defense from
23 being -- from Joe attacking him. Asked who Joe was;
24 he stated it was Joseph Meyers. He said he had a
25 nickname and he said it was Jersey Joe.

1 Then I asked if he -- after you opened the
2 front door, explain what happened. Mr. Reher
3 provided that Joe came into the house and charged at
4 me and I shot three to four times at him.

5 Q. All right. Let me stop you there. So this is
6 the second time, in his handwriting, he has said he
7 shot three to four times?

8 A. Yes.

9 Q. And he is saying he shot three to four times
10 when Jersey was in his house, right?

11 A. Yes, sir.

12 Q. That's the way you understood that and that's
13 the way it's written?

14 A. Yes, sir.

15 Q. All right. Continue, please.

16 A. Then I asked: What did you shoot him with?

17 He said a .22 caliber rifle.

18 Where was it when you picked it up?

19 Under the chair.

20 In what room was the chair?

21 Living room.

22 Were you holding the gun when he came through
23 the front door?

24 Had it in hand.

25 Where were you when you shot?

1 Island in the kitchen towards the door, backing
2 up.

3 Q. All right. So, according to him, first shot is
4 fired by the island in his kitchen?

5 A. Yes, sir.

6 Q. Okay.

7 A. Where was Joe? Through the door by the
8 cabinets.

9 Q. So first shot, Joe is already through the door
10 by the cabinets in the kitchen?

11 A. Yes, sir.

12 Through what door? Garage door.

13 After you shot, what happened?

14 We fought some more. He let me up. I went
15 inside. He left.

16 Who else was there?

17 John Michael, Mike.

18 Were you drinking earlier?

19 Three beers, two mixed drinks.

20 Q. All right. Now what happens at this point?

21 A. That's when I received the first phone call
22 from Sergeant Lint.

23 Q. All right. So this first statement he's giving
24 you is when you were just kind of trying to gather
25 information from him about what happened?

1 A. Yes, sir.

2 Q. And then you received the call from Sergeant
3 Lint. And you were informed of what the witnesses
4 and the evidence are saying at the scene, correct?

5 A. Yes, sir.

6 Q. All right. So what did you do at that point?

7 A. That's when I grabbed the other statement form
8 that has the Miranda warning on it.

9 Q. All right. And who filled out the top portion
10 of this form?

11 A. The top portion was filled out by Mr. Reher,
12 with the exception of the identification part of
13 myself and Sheriff's Department.

14 Q. All right. And these rights down here, one
15 through five, are those the Miranda warnings that
16 you previously testified to?

17 A. Yes, sir, they are.

18 Q. All right. And those were read to Mr. Reher?

19 A. Yes, sir.

20 Q. And whose initials are those beside each right?

21 A. Mr. Reher's.

22 Q. All right. You can continue with the
23 statement.

24 A. I inquired at that point: Who was at the
25 residence?

1 Mary Reher, Brooke Floyd, and Helen Bradberry.

2 How do you know these people?

3 Q. Stop right there and just explain. Who is Mary
4 Reher?

5 A. His mother.

6 Q. All right. Brooke Floyd?

7 A. Fiancee -- girlfriend.

8 Q. All right. Is she also the one who called 911
9 in this case?

10 A. Yes, sir.

11 Q. All right. And Helen Bradberry?

12 A. It's my understanding that Ms. Bradberry is
13 Brooke Floyd's mother.

14 Q. Okay. Continue.

15 A. How do you know these people?

16 They live at the house. And Helen Bradberry is
17 Brooke's mom.

18 Do all three people live at the house?

19 No.

20 Who lives at the house with you?

21 Brooke, J.L.F. , Jo.F. , Mary, and me.

22 How are you related to these people?

23 Jo.F. and J.L.F. are Brooke's kids. And I date
24 Brooke. And Mary is my mom.

25 How old are Jo.F. and J.L.F. ?

1 12 and 17.

2 Were they at the house?

3 Not sure.

4 Q. So when he talked to you that night, he was not
5 sure whether or not Jo. F. or J. L. F. were even in the
6 house?

7 A. Right.

8 How long have you and Brooke dated?

9 Five years.

10 How long have you lived together?

11 One and a half years.

12 Has Joe ever come over before?

13 Yes. Maybe five to eight times.

14 Have you and Joe fought or had any issues in
15 the past?

16 No.

17 What started the altercation today?

18 Not sure. He started yelling and then started
19 fighting.

20 Q. So he did not really have an explanation for
21 what started the fight?

22 A. No, sir, other than just saying they were
23 wrestling.

24 Q. Okay.

25 A. Was Joe drinking today, to your knowledge?

1 Yes.

2 Do you know how much?

3 Maybe about six or so.

4 Six or so what?

5 Beers.

6 Who opened the front door?

7 I did.

8 When you opened the door, did you have the gun
9 in hand?

10 Yes.

11 Did you know he was still at the house?

12 No.

13 Q. All right. So, according to his statement to
14 you, when he first opened the door, he didn't know
15 Jersey was still even at his house?

16 A. That's correct.

17 Q. And at that point, is that when he says that
18 Jersey barged in the house?

19 A. I'm sorry. Say that one more time.

20 Q. He said he went to the door with gun in hand --

21 A. Yes, sir.

22 Q. -- and he opened the door, not knowing whether
23 or not Jersey was still at his house.

24 A. Correct.

25 Q. Okay.

1 A. After you went inside, why did you not call the
2 police if you were concerned he could still be
3 around?

4 I have no phone. I use Brooke's phone.

5 Where was Brooke when he came in?

6 Gone.

7 When did she leave?

8 When I got home.

9 Did you talk to her when you got home?

10 Yeah.

11 What was said?

12 How my day was and what all happened through
13 the day.

14 Was there any argument?

15 No. But she left to go to the gas station or
16 Kroger.

17 Were there any arguments between Joe and
18 anybody else other than you?

19 Not that I'm aware of.

20 How do you know Joe?

21 From work.

22 Where do you work?

23 Agnew Lake Service.

24 Prior to the altercation at your house, were
25 you with Joe?

1 Yes.

2 Where and why?

3 He was driving me home from work.

4 At what point in the day were you guys
5 drinking?

6 Lunchtime.

7 What time did you guys stop?

8 7:30 to 8:00.

9 Were you both drinking from lunchtime to 7:30
10 or 8:00?

11 No. I was drinking from 4:00 to 7:30 to 8:00
12 and Joe was from lunchtime to 7:30.

13 Were there any other arguments or altercations
14 at the house other than what happened with you and
15 Joe?

16 Not that I'm aware of.

17 Did anyone else at your house have a weapon
18 other than you?

19 No.

20 Did you ever point the gun or any other gun at
21 any other person other than Joe?

22 No.

23 Is there anything else you wish or you want to
24 tell law enforcement about this case or another?

25 I will answer any question y'all have. No.

1 Have you been promised or threatened in any way
2 to write this statement?

3 No.

4 Q. All right. So you didn't limit how much he
5 could have written. He could have written 100 pages
6 if he wanted to, correct?

7 A. Correct.

8 Q. All right. Now, you asked him why he didn't
9 call the police. And what was his explanation for
10 that?

11 A. He didn't have a phone and he used Brooke's
12 phone.

13 Q. Did he ever mention to you asking -- telling --
14 asking anyone else to call 911?

15 A. No, sir.

16 Q. Did he ever tell you had he told Jersey to
17 leave prior to firing shots?

18 A. It was not told to me until after the shots
19 were fired.

20 Q. And that was he didn't tell Jersey to leave
21 until after he had shot him and they were fighting
22 on the floor in the garage?

23 A. Yes, sir.

24 Q. And at that point, he said Jersey did, in fact,
25 leave, correct?

1 A. After he sat in his truck for a moment.

2 Q. Okay. And he told you there were no other
3 arguments or an altercations between anybody at the
4 house that afternoon other than he and the victim,
5 correct?

6 A. None that he was aware of.

7 Q. Okay. Now, did you have an opportunity to
8 speak with Joe Meyers after this incident?

9 A. On the 23rd, two days later, at the hospital.

10 Q. All right. And why did you have to wait?

11 A. He was transported from the scene and, of
12 course, went to trauma center of Richland Memorial;
13 at some point underwent surgery, and was intubated.

14 Q. All right. And, I guess, what was his
15 condition when you spoke to him?

16 A. When I spoke to him, he was able to speak. I'm
17 not sure if he was on pain management or what, but
18 he was clear and of conscious thought whenever I
19 talked to him.

20 Q. All right. And that was on the 23rd, correct?

21 A. Yes, sir.

22 Q. So that was two days after the incident?

23 A. Yes, sir.

24 Q. And was he able to provide you some details
25 about what happened?

1 A. Minimal details. He didn't recall much, but he
2 did recall some things.

3 Q. Was there -- is there a distinction between
4 what he remembers before he was shot and what he
5 remembers after he was shot?

6 A. In regards to what he remembers?

7 Q. Yes.

8 A. He remembers more of what happened before than
9 what happened after.

10 Q. Okay. State's 72, do you recognize that?

11 A. Yes, sir. It's one of the photographs I took
12 at Mr. Meyers' house.

13 MR. MCNAIR: Your Honor, the State moves to
14 admit State's 72 at this point.

15 MR. DEIRIG: Without objection, Your Honor.

16 THE COURT: No objection. State's 72.

17 (State's Exhibit No. 72 admitted into
18 evidence.)

19 BY MR. MCNAIR:

20 Q. All right. And what is this a picture of?

21 A. The back of Mr. Meyers' truck.

22 Q. All right. And that's how you found it when
23 you arrived on scene at [REDACTED] that night?

24 A. Yes, sir.

25 Q. All right. Do you remember what time of day

25 Q. Didn't they do that after you got done talking

1 to him?

2 A. No, sir.

3 Q. Did you ever take a look at the back of Josh's
4 head?

5 A. Directly, no, sir. I did not.

6 Q. He was pretty beat up though, wasn't he?

7 A. He had abrasions and some lacerations, some
8 little swelling to the face.

9 Q. Yeah. I'm going to show you what's been marked
10 as State's No. 2 for identification. Do you
11 recognize that photo?

12 A. It's a photo that was taken of Mr. Reher, I
13 believe by responding deputies.

14 Q. Have you seen that before?

15 A. Yes, sir.

16 Q. Does that fairly and accurately depict what you
17 saw Mr. Reher look like on the night of August 21st,
18 2015?

19 A. I saw him after this. But, yes, sir.

20 Q. But it fairly and accurately depicts what he --

21 A. Yes, sir.

22 Q. What he looked like?

23 A. Yes, sir.

24 MR. DEIRIG: Your Honor, I'd like to move
25 State's No. 2 into evidence, I guess, as Defense

1 No. 1.

2 MR. MCNAIR: No objection.

3 THE COURT: Moved without objection.

4 (Defendant's Exhibit No. 1 admitted into
5 evidence.)

6 BY MR. DEIRIG:

7 Q. When you got to the hospital, there were two
8 officers that were, more or less, guarding his door,
9 correct?

10 A. Two officers were with him, yes, sir.

11 Q. But he was free to leave, right?

12 A. Yes, sir.

13 Q. Did anybody tell him he was free to leave?

14 A. No, sir.

15 Q. Do you guys make a habit of leaving multiple
16 officers with somebody that is not in custody?

17 A. There's times that officers do go to the
18 hospital with people who aren't in custody.

19 Q. And why were they waiting for him?

20 A. They were waiting for me to arrive, which is
21 also not uncommon.

22 Q. Is it uncommon for patients that are not in
23 custody to have their discharge paperwork given to
24 law enforcement?

25 A. As far as why the discharge paperwork may have

1 been given to law enforcement, you'd have to defer
2 that to the medical staff. They may have assumed
3 that they were there with him other than there just
4 to stand by. But as far as why he had it in hand, I
5 can't answer that.

6 Q. So medical providers may have assumed he was in
7 custody?

8 A. Potentially.

9 Q. So wouldn't it be fair to say that Josh might
10 have assumed that he was in custody?

11 A. I can't answer that.

12 Q. He had already been handcuffed, right?

13 A. He was detained on scene.

14 Q. And he went to the hospital handcuffed, right?

15 A. I do not know the answer to that.

16 Q. Do you know at what point his handcuffs were
17 removed from him?

18 A. No, sir, I do not.

19 Q. So if he'd been in handcuffs for a while before
20 they were removed, it would be fair to say that he
21 could probably assume that he was in custody, right?

22 MR. MCNAIR: Your Honor, I think he's asking
23 for speculation there.

24 THE COURT: Rephrase that question.

25 MR. DEIRIG: I'll move on, Your Honor.

1 BY MR. DEIRIG:

2 Q. You said Josh had been at the hospital for
3 about two hours when you arrived.

4 A. That's an estimate. If you bear with me, I can
5 look at the call card and see when EMS may have been
6 called.

7 Q. Okay.

8 A. Okay. At 9:57 p.m., EMS was on the way to the
9 hospital with Mr. Reher.

10 Q. And you got there when?

11 A. Somewhere after 11:00.

12 Q. So more than an hour at least?

13 A. Yes, sir.

14 Q. And you don't have any idea at what point he
15 was taken out of handcuffs?

16 A. No, sir. I do not have that information.

17 Q. And being an investigator -- you said over
18 major crimes, right?

19 A. Yes, sir.

20 Q. You deal with people pretty frequently that
21 experience traumatic experiences, right?

22 A. Yes, sir.

23 Q. And is it uncommon for people that have
24 experienced a traumatic situation to -- especially
25 directly after the event has just occurred, to have

1 some memory issues?

2 A. At some point, more is always recalled. But
3 it's usually enough information to understand a
4 generalized idea of what transpired at first.

5 Q. Okay. And you said oftentimes -- or I think
6 you said more is always recalled, right?

7 A. Yes, sir.

8 Q. So would it be fair to say that a couple weeks
9 after this incident happened that Josh likely would
10 have recalled more than he recalled the night that
11 he was speaking with you?

12 MR. MCNAIR: Objection.

13 THE COURT: Sustained.

14 BY MR. DEIRIG:

15 Q. Did you ever talk to Josh again after that
16 night?

17 A. No, sir.

18 Q. But you knew that Josh had been through a
19 traumatic event, right?

20 A. As far as experienced, yes, sir.

21 Q. Sure. And since you've testified that more is
22 always remembered, why didn't you try to talk to
23 Josh again after the incident happened?

24 A. Typically, if more information is learned,
25 people would come to us. I never really approached

1 him.

2 Q. Okay. Why did Josh tell you he didn't call
3 911?

4 A. He didn't have a phone, he used Brooke's.

5 Q. But he did tell you that he yelled for someone
6 to call 911, right?

7 A. Eventually, yes, sir, he did. He yelled for
8 whoever was in the house to do that.

9 Q. And where was he when he was yelling for 911 to
10 be called?

11 A. I would assume, based off the statement, he was
12 in the garage area or outside the residence, as they
13 were still struggling.

14 Q. Did he give you any indication exactly where
15 outside the residence that it was he yelled at?

16 A. No, sir.

17 Q. Okay. I'm going to show you what's been marked
18 as State's No. 1. If you look at this question
19 here, who else was there? John Michael, Mike?

20 A. Uh-huh.

21 Q. That question, who else was there, what was
22 that in reference to?

23 A. Who else was at the house.

24 Q. John Michael, Mike. Is that accurate?

25 A. As far as the people that were on scene, it

1 would have been Josh, Mr. Meyers, Jo.F. , and
2 M.A. , and J.L-F. .

3 Q. What about I.K. ?

4 A. I.K. , to my understanding, was with Ms. Floyd.

5 Q. But they weren't back at the residence when you
6 went by there?

7 A. When I went by the residence, I didn't talk to
8 anybody other than Sergeant Lint and Investigator
9 Sprinkle.

10 Q. Okay. Were there two people at the -- to your
11 knowledge, were there ever two people at the
12 residence that night both named Michael or Mike?

13 A. As far as during the time or --

14 Q. At any point on August 21st or 22nd, to your
15 knowledge, through your investigation, were there
16 ever two people named Mike or Michael at the house
17 at the same time?

18 A. The only people that I'm aware of, to give you
19 a full list, Ms. Floyd, Mr. Reher, Mr. Meyers, I.K.
20 , J.L-F. , M.A. , Ms. Reher -- Josh's
21 mom -- and Ms. Bradberry were the names that,
22 ultimately, I was able to establish as people being
23 there.

24 Q. It would be fair to say that John Michael Mike
25 is not a correct answer, right, an accurate answer?

1 A. Depends on your perspective answer of it.

2 Jo.F. , Jo.F. , M.A. -- well, I see what you're
3 saying now, as far as his interpretation of Mike and
4 Michael. It could be the same person.

5 Q. Is it fair to say that John Michael Mike is not
6 an accurate representation of the people that were
7 at the residence?

8 A. Not everybody.

9 Q. So it is an incorrect answer to your question?

10 A. Yes, sir.

11 Q. He gave some other incorrect answers, didn't
12 he?

13 A. As far as what?

14 Q. That there were three or four shots fired from
15 the kitchen?

16 A. He never said whether they were -- as far as
17 the number of shots, yes, sir. But it's not
18 uncommon for situations like that, for somebody to
19 not know how many times they shot.

20 Q. Were you present at Mr. Meyers' home when
21 Mr. Meyers and his wife were attempting to deceive
22 law enforcement?

23 A. No, sir.

24 Q. But you learned about it later, right?

25 A. Yes, sir.

1 Q. It's fair to say initially they weren't
2 cooperative with law enforcement?

3 A. Mrs. Meyers didn't know what was going on.
4 And, of course, Mr. Meyers was still in the state
5 that he was in.

6 Q. Did -- are you aware of anybody lying to law
7 enforcement about Mr. Meyers' presence at the
8 residence that night?

9 A. I'm not sure if they denied him being there or
10 not. I'd have to look back at other people's notes.

11 Q. That's fair.

12 MR. DEIRIG: I beg the Court's indulgence.

13 Nothing further, Your Honor. Thank you.

14 THE COURT: Redirect.

15 REDIRECT EXAMINATION

16 BY MR. MCNAIR:

17 Q. While this is up, now, M.A. also goes by
18 M.A. , correct?

19 A. It's a common nickname or shortened name.

20 Q. All right. So we're speculating on whether the
21 defendant made a mistake or not; that could be
22 M.A. , comma, but also goes by M.A. , correct?

23 A. Correct.

24 Q. All right. That might not be him saying
25 there's two --

1 MR. DEIRIG: Your Honor, I'm going to object to
2 the speculation.

3 MR. MCNAIR: That's exactly what he asked.

4 THE COURT: I'll let him go into it a little
5 further. I'm going to allow him to see if he can
6 explain it.

7 BY MR. MCNAIR:

8 Q. That's a possibility too, isn't it?

9 A. It's a possibility.

10 Q. In his written statement, he said: I shot
11 three to four times at him, then we fought some more
12 outside in the garage with me telling him to leave
13 and go home and for someone in the house to call the
14 police. Then he got off of me and sat in his truck.

15 That's the first time in his written statement
16 where he ever says he asked anybody to call the
17 police, correct?

18 A. Yes, sir.

19 Q. Now, at the hospital, he was asking about
20 deputies guarding the door. What was the purpose of
21 those -- those deputies were there for what reason?

22 A. To stand by with Mr. Reher in case something
23 happened, to wait for my arrival.

24 Q. And when you left, what did they do?

25 A. When I left, what did they do?

1 Q. What did the deputies do when you got to the
2 hospital?

3 A. Oh, when I got there? They left.

4 Q. They weren't standing there guarding the door
5 while you were talking to Mr. Reher, were they?

6 A. No, sir. Just me.

7 Q. And when you were talking to Mr. Reher, he was
8 not in handcuffs, was he?

9 A. He was not.

10 Q. If he told you he didn't want to talk to you
11 anymore and I'm leaving and I want to talk to an
12 attorney, would you have stopped him?

13 A. No, sir.

14 Q. He would have been free to walk out of the
15 hospital, correct?

16 A. Correct.

17 Q. In fact, he said I will answer any question you
18 have. And he said -- you asked him, have you been
19 promised or threatened in any way to provide this
20 statement? And he said no, correct?

21 A. Correct.

22 Q. So you didn't threaten him to give that
23 statement, did you?

24 A. No, sir.

25 Q. Let's talk about --

1 MR. DEIRIG: Your Honor, I'm going to object to
2 that going outside of the scope of recross. I don't
3 think I ever alleged that Mr. -- or Detective
4 Marthers threatened Josh to make any sort of
5 statement.

6 THE COURT: I think you're correct. Redirect
7 should be proper redirect. Continue on.

8 MR. MCNAIR: All right.

9 BY MR. MCNAIR:

10 Q. Talk about Mr. Reher's demeanor at the
11 hospital. How would you describe his demeanor?

12 A. He was quiet and reserved.

13 Q. Did you find him to be forthcoming with
14 information?

15 A. If I asked a question, I got a question -- or
16 an answer directly related to what I asked. There
17 was nothing more, nothing less.

18 Q. Was he -- did he appear to be in a state of
19 shock?

20 A. As far as what I understand, no, sir.

21 Q. Was he crying?

22 A. Not that I saw.

23 Q. Was he hyperventilating?

24 A. No, sir.

25 Q. Now, you talked about -- he's asking about how

1 people's memories may improve with time or people
2 may remember more details?

3 A. More details may be learned.

4 Q. Okay. Well, Mr. Reher, he told you the whole
5 shooting happened at his kitchen, correct?

6 A. Yes, sir, from my understanding.

7 Q. Is that a minor detail?

8 A. I would consider that to be significant.

9 Q. All right. Is that something that somebody
10 would forget or mistake?

11 MR. DEIRIG: Your Honor --

12 THE COURT: Don't mischaracterize it. The
13 statement is the statement. I don't want it
14 editorialized any more. Y'all have both done that
15 and I've kind of let it go. You published it. It
16 says what it says. Leave it there. Leave it there.

17 MR. MCNAIR: Okay. We will.

18 BY MR. MCNAIR:

19 Q. Now, he asked you about Ms. Meyers, I can't
20 remember the exact words, being deceitful. Did you
21 later learn why they didn't want law enforcement to
22 enter the residence?

23 A. Yes, sir, I did.

24 Q. Why was that?

25 MR. DEIRIG: Objection.

1 THE COURT: Is that relevant?

2 MR. MCNAIR: He asked about it.

3 THE COURT: Come over here.

4 (Sidebar conference.)

5 THE COURT: All right. Rephrase your next

6 question.

7 MR. MCNAIR: I think that's all I have, Your
8 Honor. Thank you.

9 THE COURT: All right. You may step down.

10 THE WITNESS: Thank you, Judge.

11 MR. MCNAIR: Your Honor, the State calls
12 Prentiss Meyers.

13 PRENTISS MEYERS

14 being first duly sworn, testified as follows:

15 THE WITNESS: I do.

16 THE CLERK: Have a seat up there, please,
17 ma'am. Once you're seated, state your full name,
18 spelling your last, please.

19 THE WITNESS: Prentiss Meyers, M-E-Y-E-R-S.

20 DIRECT EXAMINATION

21 BY MR. MCNAIR:

22 Q. Ms. Meyers, how are you doing?

23 A. Good. Nervous.

24 Q. Tell the jury -- obviously, how do you know the
25 victim, Mr. Meyers, in this case?

1 A. Joe is my husband.

2 Q. All right. And y'all have two children
3 together?

4 A. Yes, sir; six and a half and a three-year-old.

5 Q. Okay. Do you work?

6 A. Yes, sir.

7 Q. What do you do for a living?

8 A. I'm a drug and alcohol counselor at inpatient
9 drug and alcohol at Morris Village.

10 Q. Okay. And you and Joe, obviously, were married
11 back in August of 2015, correct?

12 A. Yes, sir.

13 Q. And y'all lived at that residence on [REDACTED]
14 [REDACTED]?

15 A. Yes, sir.

16 Q. All right. And you recall the night of this
17 incident?

18 A. Very, yes.

19 Q. You remember Joe getting home that night?

20 A. Yes, sir.

21 Q. Did you see him when he first got home?

22 A. No; I heard him.

23 Q. Were you asleep?

24 A. No; I was putting the baby down.

25 Q. Okay.

1 A. My son was three months old.

2 Q. Did you talk to Joe when he first got home that
3 night?

4 A. Yeah. He yelled my name and I could tell
5 something was wrong.

6 Q. Where did Joe go when he got home?

7 A. He came in the back door, which is odd, and I
8 met him -- because I had sent my daughter to the
9 door because she was excited. She was waiting on
10 him to get home. And I said, well, go see him,
11 because he was picking up his brother and they were
12 coming home. And she came back and she said he's
13 not there. I was like, oh, he must be putting tools
14 away or whatever. So then he came through the back
15 door, and that's when he yelled my name. And I knew
16 something was wrong.

17 So I met him in our den. And he was hunched
18 over and just -- you know, I thought he was drunk.
19 I was like, what is wrong with you? He works all
20 the time. He's never home during this time. And he
21 just kept saying, Josh schnucked me. And I didn't
22 know what that meant. I kept saying, what does that
23 mean? What does that mean? He's saying, I can't
24 catch my breath, let me get in the shower. And I
25 was like, what are you talking about?

1 When he got in the shower, I said, do you think
2 a rib went into your lung or something? Why can't
3 you catch your breath? You know. And he wasn't
4 saying much.

5 Q. All right. Did you later learn what the
6 word -- is it snuck? Snook?

7 A. Schnuck.

8 Q. All right. What does that mean?

9 A. Like, jumped him. He didn't know he was
10 coming. He didn't know he was going to hit him.

11 Q. All right. And do you remember the police
12 showing up that night?

13 A. Yes.

14 Q. And why did you think the police were there?

15 A. Because Joe had been drinking and driving.

16 Q. So you thought --

17 A. And something had happened at Josh's house.
18 But he and Josh were such good friends. And Joe
19 wasn't making any sense. I wasn't sure, you know,
20 what, but I was worried that he was going --

21 Q. You didn't even know that he had been shot at
22 that point?

23 A. No.

24 Q. All right. But you thought he had been
25 drinking and driving?

1 A. Yes.

2 Q. Why didn't you initially let the police in?

3 A. Because I was scared he'd get a DUI. And he
4 made the money for our home and I had a
5 three-month-old and a six-year-old.

6 Q. When you learned what they were actually there
7 about, did you let them in the house?

8 A. Yes. The first cop came up and asked me do I
9 have a son named Joe. And I said no. And he said,
10 you don't have a son named Joe? And I said no. He
11 left and then another cop came up and he asked me if
12 anybody here -- if anybody lived here by the name of
13 Joe. I said, yeah, my husband's name is Joe. He
14 said, is he here? And I said, no, he left.

15 He went down -- I think he went over to his
16 truck or something and came back up and said, we
17 know he's here and we have reason to believe there's
18 been a -- he has a gunshot wound or he's been shot
19 or something. And I was like, what? And I knew he
20 hadn't been shot because I had just seen him in the
21 shower.

22 And he said, ma'am, we have reason to believe
23 somebody's hurt, and if you don't let me in, I'm
24 going to have to come in forcefully. And I said,
25 please come in. And then I showed him around the

1 house and then they started talking to Joe.

2 Q. So the only reason you didn't let them in
3 initially is because you thought they were there to
4 investigate a DUI?

5 A. Yes.

6 Q. Thank you.

7 A. Thank you.

8 CROSS-EXAMINATION

9 BY MR. DEIRIG:

10 Q. So it's fair to say you were trying to obstruct
11 the investigation, just not the one that you thought
12 was happening?

13 A. I was trying to help our family not lose my
14 husband's driver's license.

15 Q. I understand. And you thought they were there
16 for a DUI?

17 A. That's the only thing I could think of, because
18 I've never seen him like this. I didn't know what
19 was going on. He did mention, you know, being
20 schnucked. But, again, I didn't really know what
21 that meant. I didn't figure that out until
22 afterwards.

23 Q. He was pretty drunk, wasn't he?

24 A. Well, that's what I thought at first. Now, I
25 know he was bleeding internally and that's why he

1 wasn't making as much sense. But he had been
2 drinking, which he didn't do that much because he
3 was always working.

4 Q. Could you smell it on him?

5 A. Yeah.

6 Q. And you work with this kind of stuff all the
7 time?

8 A. Yes, sir.

9 Q. So that's why you pick up on indicators pretty
10 quickly, right?

11 A. I don't see patients. I just know the
12 consequences of it, like DUIs and stuff.

13 Q. Don't you work with --

14 A. I work with addicts, but they're in treatment.
15 So, no, I don't see them intoxicated.

16 Q. Okay. Okay. At what point was it that you
17 realized that Joe had been shot?

18 A. When I got a phone call from the police. So
19 they had already left and they called me to let me
20 know the EMT had found a bullet wound, because he
21 was, you know, in the tub; he was sitting and, you
22 know, I now believe it was because his skin was over
23 the wound. And then he was sitting on the couch and
24 he was naked on the couch, and so he was still
25 sitting in a position.

1 And so the police were there, I was there. And
2 they said, you know, this kid said he was shot. And
3 I was like, you got shot? And we're all looking
4 over. And I can remember one officer saying is this
5 it? And he wiped something on his face and it was a
6 leaf. There was nothing. The only blood was coming
7 from the back of his head. So I didn't believe it.
8 I thought he's not shot, until he -- the police
9 called to tell me, the investigator. I don't
10 remember who it was.

11 Q. You were the one that led law enforcement into
12 the den where y'all discovered him laying on the
13 couch, right?

14 A. Yes, sir.

15 Q. Showing you what looks like State's Exhibit
16 No. 70.

17 A. That's on the gurney. That's not in the --
18 because I had gone -- once the EMTs came in, I went
19 in the back with the kids because I didn't --
20 there's a lot of noise in the house. So I'm trying
21 to make sure my daughter doesn't come out of the
22 room and see all of these police officers. So I
23 wasn't in there when this happened.

24 Q. Didn't even have to ask my question. I was
25 going to ask if you were in there when this

1 happened.

2 MR. DERIEG: That's all I have, Your Honor.

3 Thank you.

4 THE COURT: Redirect?

5 MR. MCNAIR: Nothing further.

6 THE COURT: You're done. You may step down.

7 Ladies and gentlemen, we're done for the day.

8 I told you I wanted to stop before 5:00 and I don't
9 want to get in the middle of a witness. Once you're
10 on the witness stand and sworn, you've got to finish
11 your questioning before you can step away and talk
12 to other people, more or less, about anything. So
13 it's easier to finish the examination all at one
14 time. So we'll start back in the morning.

15 Now, I've got a matter from Saluda coming in at
16 9:30. So if y'all will be here at 9:45, come up the
17 elevator, we'll try to start at 10:00 sharp. I've
18 got something at 9:30 from Saluda County. I'm the
19 chief administrative judge, so I've still got to
20 marshal some things from McCormick, Edgefield, and
21 Saluda, because they don't have any court for the
22 rest of the year.

23 So they have to bring people to me and me
24 address some issues from over there. So this is
25 something I've got to do with Saluda. We'll pick it

1 up at 10:00. See you in the morning. Don't discuss
2 the case. Have a good evening.

3 (The jury exits the courtroom at 4:53 PM.)

4 THE COURT: All right. We'll stand at ease
5 until the morning.

6 (The following proceedings were held December
7 12, 2018.)

8 MR. MCNAIR: Judge, probably -- I anticipate us
9 calling two witnesses this morning and then resting,
10 one of those would be Investigator Sullivan. So we
11 probably need to deal with that issue that
12 Mr. Deirig brought up at the beginning of this trial
13 about the admissibility of his test.

14 THE COURT: All right. Mr. Deirig, what do you
15 think? This is the test that y'all represented
16 pretrial was that Agent Sullivan got a similar rifle
17 and shot a number of .22 bullets and observed where
18 the cases landed.

19 MR. MCNAIR: That was it. He fired the exact
20 same make and model in a .22 caliber, and then just
21 marked where the shell casings landed and took a
22 picture.

23 MR. DEIRIG: And also testified that he never
24 examined Josh's gun, he never fired Josh's gun, and
25 doesn't know if Josh's gun would have had the same

1 pattern.

2 THE COURT: All right.

3 MR. DERIEG: And I think there's been --

4 THE COURT: There's been testimony similar to
5 that from Sprinkle. Basically, they go to the right
6 in an array; not necessarily front, sideways, back,
7 but to the right.

8 MR. MCNAIR: I know there's cross of Senn,
9 Officer Senn, that he never actually fired a .22
10 caliber AR. So he was making an issue of that. And
11 then Sprinkle testified that it could eject
12 different ways. But this further clarifies that
13 point because there's actually photos of where the
14 casings --

15 THE COURT: I think it goes to weight. If you
16 want to argue it, that's fine. But there's
17 testimony that they go that way everywhere. Do they
18 bounce? I mean, you can argue they bounce on
19 pavement and concrete and scatter more. I think
20 that's within a layman's understanding. I mean, you
21 talked about it being ricocheted and bouncing off
22 the furniture. And all that is fair game,
23 absolutely fair game. All right?

24 So under 403, I think it's undue prejudicial to
25 you. If you want to renew the objection, you may do

1 so. But I'm going to give you wide latitude to
2 cross-examine him.

3 MR. DEIRIG: Okay. Thank you, Judge.

4 (The jury enters the courtroom at 10:03 AM.)

5 THE COURT: All right. Did anybody move?
6 You're all in the same seats? Okay. One
7 observation. All right. Y'all ready to get to
8 work?

9 Call your witness, please.

10 MR. MCNAIR: Thank you, Your Honor. State
11 calls M.A. .

12 M.A.

13 being first duly sworn, testified as follows:

14 THE WITNESS: Yes, ma'am.

15 THE CLERK: Have a seat. State your full name,
16 spelling your last name.

17 THE WITNESS: M.A.

18 DIRECT EXAMINATION

19 BY MR. MCNAIR:

20 Q. M.A. , how old are you?

21 A. 19.

22 Q. Are you currently working?

23 A. Yes, sir.

24 Q. Where do you work?

25 A. I work as a store manager for Jiffy Lube.

1 Q. How long have you been in that position?

2 A. I've been in that position for about five or
3 six months.

4 Q. Okay. Now, do you know the defendant,
5 Mr. Reher, in this case?

6 A. Yes, sir.

7 Q. How do you know him?

8 A. He is the boyfriend of one of my friends'
9 mothers.

10 Q. Okay. And who is your friend?

11 A. My friend is J.L-F. , J.L-F. .

12 Q. Okay. And who is his mother?

13 A. Brooke.

14 Q. What is her relationship to the defendant?

15 A. They were together.

16 Q. Okay. Do you know Mr. Meyers as well?

17 A. Yes, sir.

18 Q. How do you know him?

19 A. Me -- we had worked with him occasionally.

20 He'd come over to the house every now and then.

21 Q. What do you mean you work with him
22 occasionally?

23 A. Sometimes he'd have a side job on the weekend
24 and we'd go and help him out.

25 Q. All right. Now, who lived at the house there

1 on [REDACTED]?

2 A. It was Josh, Brooke, J.L-F. , Jo.F. , and Mary.

3 Q. And Mary is his mother?

4 A. Josh's mother.

5 Q. Is that a place where y'all would regularly
6 hang out?

7 A. Yes, sir.

8 Q. And why would y'all hang out there?

9 A. Something to do, somewhere to go.

10 Q. Did Brooke allow y'all to drink alcohol over
11 there occasionally?

12 A. Occasionally.

13 Q. Now, let's talk about August 21st of 2015.
14 Were you there that day?

15 A. Yes, sir.

16 Q. What were you doing over there that day?

17 A. It was just another day. We were just going
18 over there just to hang out.

19 Q. Okay. And who was there at the house with you?

20 A. At the time whenever I arrived, it was me and
21 my buddy I.K. . We got there and it was J.L-F. ,
22 Brooke, and Jo.F. , I believe, that were there.

23 Q. All right. Now, at some point while you were
24 there, did Mr. Meyers and Mr. Reher show up?

25 A. They showed up not too long after we did.

1 Q. All right. And who all was at the house when
2 they showed up?

3 A. After they showed up, it was the people that I
4 just mentioned, Josh and Jersey. And there were two
5 kids that had also showed up.

6 Q. Okay. Do you know who those two kids were?

7 A. One of them was named Jabari; the other one,
8 I'm not sure who it was.

9 Q. Where were they?

10 A. They were outside. They were in the driveway.

11 Q. All right. And tell us what happened when
12 Mr. Reher and Mr. Meyers pulled up.

13 A. At that point, I was inside. I can't remember
14 if they stepped inside first or they just straight
15 told them to leave. But they showed up and they
16 asked them to leave.

17 Q. All right. The kids outside?

18 A. Yes.

19 Q. Okay. Well, after that, what happened?

20 A. Josh and Jersey came inside the house. Josh
21 yelled at Brooke a little bit.

22 Q. What did he yell at Brooke about?

23 A. I cannot remember. He said something along the
24 lines of, it's all your fault that they're here,
25 something like that.

1 Q. Talking about the kids?

2 A. I'm assuming so. Yes, sir.

3 Q. Okay. And what was his tone of voice when he
4 was talking to Brooke?

5 A. Not exactly happy.

6 Q. Was he mad?

7 A. Somewhat. Yes, sir.

8 Q. Was he yelling?

9 A. Yes, sir.

10 Q. Was he cussing?

11 A. Possibly.

12 Q. Where were you when you -- or, I guess, where
13 was that conversation between the defendant and
14 Brooke?

15 A. That was taking place in the kitchen.

16 Q. Where were you at that point?

17 A. I was standing in the kitchen.

18 Q. All right. What happened after that?

19 A. After that -- shortly after, Josh went back
20 outside. Brooke was standing in the kitchen crying.
21 Jersey apologized to Brooke for bringing Josh home a
22 little drunk. A few minutes later, Brooke and I.K.
23 leave.

24 Q. All right. Did you hear Jersey yell at Brooke?

25 A. Not that I remember.

1 Q. So at that point, Brooke was crying and she
2 left with I.K. ?

3 A. A few minutes after Jersey apologized to her
4 for bringing Josh home, her and I.K. left.

5 Q. All right. And did Josh say anything to Brooke
6 about I.K. ?

7 A. Not that I know of.

8 Q. Now, I guess, how soon was that argument
9 between the defendant and Brooke after they got
10 home?

11 A. Maybe 10 to 15 minutes. It wasn't extremely
12 long.

13 Q. Okay. So they weren't there long before Brooke
14 left with I.K. ?

15 A. No, sir.

16 Q. All right. So when Brooke and I.K. left, tell
17 me where everybody was situated in the house at that
18 point.

19 A. At that point, I think that me and Jo.F. might
20 have been back in the living room and Josh and
21 Jersey might have been outside. I'm pretty sure
22 J.L-F. was back in his room.

23 Q. What was J.L-F. doing?

24 A. I believe he was asleep.

25 Q. So you and Jo.F. were in the living room and

1 you think Josh and Jersey were outside?

2 A. Yes, sir.

3 Q. All right. At some point, did something catch
4 your attention?

5 A. After a little while, I heard some arguing
6 coming from outside. So I stood up, walked to the
7 kitchen, looked out the window, and saw Jersey
8 holding Josh down.

9 Q. Okay. You saw Jersey holding Josh down?

10 A. Yes, sir.

11 Q. How was he holding him down?

12 A. I can't remember if he was holding him down
13 with his shoulders on the ground or had his hand on
14 his chest.

15 Q. Did you see them actively fighting?

16 A. No, sir.

17 Q. Was Jersey choking Josh?

18 A. No, sir.

19 Q. Was he punching him in the face?

20 A. I never saw it.

21 Q. Was he banging his head on the ground?

22 A. No, sir.

23 Q. Well, when you saw them out the window, did the
24 fight appear to be over at that point?

25 A. I'm assuming at that point, it was over.

1 Q. Did you see or hear Josh say anything?

2 A. I believe he yelled get off me a time or two.
3 That's all I remember.

4 Q. All right. Did you ever hear him yelling for
5 anybody to call 911?

6 A. No, sir.

7 Q. Now, when you went to that kitchen window and
8 saw that, where was Jo.F. ?

9 A. Jo.F. was sitting on the far end of the couch
10 or on the far end of the room. After a minute, he
11 had came up and walked into the kitchen and looked
12 out the window. But I told him to go sit back down.

13 Q. All right. Did he see anything that was going
14 on outside?

15 A. Not that I know of.

16 Q. You told him to go sit back down for what
17 reason?

18 A. I didn't want him watching that.

19 Q. So he went back into the living room?

20 A. Yes, sir.

21 Q. And then where did you go after you left the
22 window?

23 A. I went back and sat back down on the couch.

24 Q. How long do you think you were even at the
25 window?

1 A. Maybe 15, 20 seconds.

2 Q. All right. When you walked back to the living
3 room from the kitchen, where was Jo.F. ?

4 A. He was already sitting back down at the far end
5 of the room.

6 Q. All right. And did you sit back down as well?

7 A. Yes.

8 Q. Where did you sit?

9 A. I sat down on the couch in the seat closest to
10 the kitchen.

11 Q. Okay. So on the end of the couch, I guess,
12 closest to where the doorway is between the kitchen
13 and the living room?

14 A. Yes, sir.

15 Q. What's the next thing that you saw after that?

16 A. A few minutes later, Josh comes walking in and
17 walks across the room and grabs his gun from
18 underneath the couch or underneath the love seat.

19 Q. All right. Did he say anything to anybody?

20 A. He didn't really say anything when he came
21 walking in. Whenever I saw him grab the gun, I told
22 him, yo, slow down, you don't need to take it that
23 far.

24 Q. What tone of voice were you talking to Josh
25 when you're saying that?

1 A. In a bit of a strong tone.

2 Q. You told him not to take it that far?

3 A. Yes, sir.

4 Q. And what did he say to you?

5 A. He told me to get out the way.

6 Q. What exactly did he say to you?

7 A. He told me to get the fuck out of the way.

8 Q. Can you describe his demeanor at that time for
9 the jury?

10 A. Slightly angry.

11 Q. Isn't it true you told Detective Lint he was
12 very mad?

13 A. Yes, sir.

14 Q. Okay. Now, when he came back in the house to
15 get that gun, did he stop anywhere along the way or
16 did he go straight to get the gun?

17 A. He went straight to get the gun.

18 Q. Was the gun loaded or do you know?

19 A. I do not remember.

20 Q. Do you remember if he loaded the gun or not?

21 A. I don't remember if the gun already had the
22 magazine in it, but the magazine was already loaded
23 for the gun.

24 Q. All right. And before he got that gun while he
25 was in the house, did he ever ask you to call 911?

1 A. No, sir.

2 Q. Did he ever ask anyone to call 911?

3 A. No, sir.

4 Q. What did he do after he got the gun?

5 A. He went back to the kitchen, stood on the
6 threshold of the door between the kitchen and
7 garage, propped the door open, and fired several
8 shots.

9 Q. All right. When you say propped the door
10 open --

11 A. He held the door open with his foot.

12 Q. All right. So there's two doors: There's a
13 storm door and then there's a wood door in the
14 kitchen. Correct?

15 A. Yes, sir.

16 Q. So he's holding the storm door open with his
17 foot?

18 A. Yes, sir, the storm door propped open with his
19 foot.

20 Q. All right. Standing in the threshold of the
21 doorway?

22 A. Yes, sir, possibly on the step.

23 Q. How many shots did you hear?

24 A. There were several shots, maybe four or five
25 shots.

1 Q. Okay. Can you describe the -- how were the
2 shots fired? Was it one after the other?

3 A. There was -- there was maybe a second or two in
4 between each other. But they weren't -- there was
5 no long period, there was no space, and they weren't
6 rapidly fired.

7 Q. Okay. So it wasn't four shots then a pause
8 then one more shot?

9 A. No, sir.

10 Q. They were one after another?

11 A. Yes, sir.

12 Q. Where were you at the time Josh was shooting?

13 A. I was possibly sitting back down on the couch
14 or standing up around the threshold of the door
15 between the kitchen and the living room.

16 Q. Where was Jo.F. at the time that Josh was
17 shooting?

18 A. I believe that he was still in the living room.

19 Q. At the end of the couch?

20 A. Yes, sir.

21 Q. Now, could you tell what direction Josh was
22 pointing the gun when he fired the shots?

23 A. Jersey's truck was parked in the driveway. I'd
24 probably say that the front end of his truck was
25 about middle of the garage but sitting in the

1 driveway. It was pointed somewhere between the
2 front of Jersey's truck and the end of the garage.

3 Q. Okay. So you're facing out that door. How far
4 to the left?

5 A. Not too far off to the side.

6 Q. Was it in the vicinity -- are you familiar with
7 where the toolbox is in Josh's garage?

8 A. Yes, sir. It was somewhere between the toolbox
9 and the front of Jersey's truck.

10 Q. All right. Now, from where you're sitting,
11 either on the end of the couch or standing in the
12 doorway where the kitchen is, can you see through
13 that storm door out into the garage a ways?

14 A. A little bit, but not very much.

15 Q. Can you see in front of the wooden steps that
16 lead up to the kitchen?

17 A. If you're standing -- if you're standing up in
18 the threshold of the door, then, yes, sir.

19 Q. I'm saying if somebody was standing in front of
20 those wooden steps in the garage, could you have
21 seen them from where you were?

22 A. Yes, sir.

23 Q. All right. And did you ever see Jersey while
24 Josh was firing shots?

25 A. No, sir.

1 Q. Did Jersey ever come into the house before or
2 after or during the time that Josh is firing shots?

3 A. No, sir.

4 Q. So there was no struggle in the kitchen when
5 Josh shot Jersey, correct?

6 A. No, sir.

7 Q. After the shooting, what did Josh do?

8 A. Josh shut the wooden door for the kitchen and
9 sat back -- he dropped the gun on the floor and kind
10 of sat down in the kitchen.

11 Q. At the kitchen table?

12 A. Yes, sir.

13 Q. And what's the next thing that happened at that
14 point?

15 A. At that point, Jake was finally awake and he
16 came walking up into the kitchen. He said a couple
17 things: He asked what was going on, what happened.
18 Then J.L-F. started walking towards the back door.
19 Josh stood up and grabbed the gun and pointed it in
20 J.L-F. 's direction.

21 MR. DERIEG: Objection.

22 THE WITNESS: I don't think he pointed it at
23 J.L-F. .

24 THE COURT: Hang on.

25 THE WITNESS: I don't think he pointed --

1 THE COURT: Hang on. You have to stop when I
2 say stop.

3 Your objection?

4 MR. DEIRIG: This testimony that is being
5 elicited, I believe, to be improper under 404(b).

6 MR. MCNAIR: Res gestae, goes towards intent.

7 THE COURT: Come over here.

8 (Sidebar conference.)

9 THE COURT: Just for a clear record,
10 Mr. McNair, ask that question again.

11 BY MR. MCNAIR:

12 Q. I was asking you what the defendant did when
13 J.L-F. came out of the back bedroom.

14 A. J.L-F. came out of the back bedroom, asked what
15 was going on; after a second, J.L-F. started walking
16 towards the back door; Josh pointed the gun in
17 J.L-F. 's direction and said, you're on his side,
18 aren't you? And J.L-F. said, no, I'm not on no one's
19 side. And J.L-F. started walking out the back door.
20 And Josh said, if you go out that door, you better
21 lock it behind you.

22 Q. Okay. What was the next thing you remember
23 after that?

24 A. After that, Josh sat back down in the kitchen.
25 I called I.K. -- I.K. calls me, asked what was going

1 on, this and that. I explained to him what's going
2 on. And he said hold on and he called the cops and
3 hangs up the phone.

4 Q. Prior to the defendant firing shots, did you
5 ever hear him say anything to Jersey?

6 A. No, sir.

7 Q. Did he ever ask him to leave before he fired
8 the shots?

9 A. Not that I know of.

10 Q. To your recollection, he just went to the door
11 and started shooting?

12 A. Yes, sir.

13 Q. Have you been contacted by anybody about
14 changing your statement in this case?

15 A. No, sir.

16 Q. Did you meet with the defense attorney?

17 A. I believe I met with him once.

18 Q. Who drove you up there to meet with him?

19 A. It was Brooke -- me, Brooke, and J.L.F. that
20 went up there.

21 Q. Okay. I'm going to show you State's Exhibit

22 25. Is this the couch you just testified to?

23 A. Yes, sir.

24 Q. Do you have a laser pointer up there with you?

25 A. No, sir.

1 Q. Okay. Can you describe where on that couch you
2 were sitting.

3 A. I was sitting right there where the footrest is
4 kicked out where that red pillow is.

5 Q. On this side?

6 A. Yes, sir.

7 Q. All right. Can you describe where Jo. F. was
8 sitting?

9 A. Jo. F. was either sitting on the opposite end
10 of that couch or he was sitting in the chair where
11 the blue blanket is.

12 Q. All right. So he's either on this end of the
13 couch or on this chair?

14 A. Yes, sir.

15 Q. From either of those positions, can you see
16 into the kitchen where Josh was shooting?

17 A. No, sir.

18 Q. In fact, where is the only place in the living
19 room where you can actually see into the kitchen
20 where Josh was shooting?

21 A. Between the area where I was sitting and
22 standing up in the threshold of the door.

23 Q. And when you testified that J.L.F. came out of
24 the back room and Josh pointed the gun at him, where
25 did that happen?

1 A. J.L-F. was standing about right there. And
2 that's where Josh pointed the gun towards J.L-F. .

3 Q. All right. That's what you're calling the back
4 door?

5 A. Yes, sir.

6 Q. That goes into where?

7 A. That steps outside to the back patio in the
8 backyard.

9 Q. All right. State's 17, can you point out on
10 there where you were sitting on the couch?

11 A. Right there.

12 Q. All right. And all you can see from this
13 angle -- and I guess this picture is being taken
14 kind of from where the garage door is, correct?

15 A. That's what it looks like. Yes, sir.

16 Q. All right. And the only thing you can see from
17 that angle is the very end of the couch where you
18 were sitting?

19 A. Yes, sir.

20 Q. And can you point out the window that you
21 looked out of when you saw Jersey holding Josh down?

22 A. The window right there beside it.

23 Q. That's the kitchen window?

24 A. Yes, sir.

25 Q. State's 14, same kitchen window?

1 A. Yes, sir.

2 Q. And on State's 8, where is the kitchen window
3 depicted on this?

4 A. Right there on the other side of this wall.

5 Q. All right. So it's behind that big plant?

6 A. Yes, sir.

7 Q. So you can't see it in the picture?

8 A. No, sir.

9 Q. But from that window, I guess you can't really
10 see more than what's just right there depicted in
11 this photograph?

12 A. Yes, sir.

13 Q. And State's 11, one more picture of the -- in
14 the middle of the kitchen. Again, that's the very
15 end of the couch where you were sitting?

16 A. Yes, sir.

17 Q. And when you saw the shooting, either while
18 you're sitting on the couch or standing up in the
19 threshold between the living room and kitchen,

20 Jo.F. never came up or was standing beside you, did
21 he?

22 A. No, sir, not that I know of.

23 Q. So to your knowledge, Jo.F. didn't see
24 anything?

25 A. No, sir.

1 Q. Now, I mean, based on what you saw, do you
2 think Josh was acting in self-defense or was he just
3 mad?

4 MR. DEIRIG: Objection.

5 THE COURT: I'll sustain that objection.

6 BY MR. MCNAIR:

7 Q. Just to reiterate, beyond a shadow of a doubt,
8 Jersey never came in that house where the shots were
9 fired?

10 A. No, sir.

11 Q. He was not shot inside that house?

12 A. No.

13 Q. If he was, you would have seen it?

14 A. Yes, sir.

15 Q. You were standing right there in the kitchen --

16 MR. DEIRIG: Objection.

17 THE COURT: Sustained. It's leading.

18 MR. MCNAIR: That's all the questions I have.

19 Thank you.

20 CROSS-EXAMINATION

21 BY MR. DEIRIG:

22 Q. Good morning, M.A. .

23 A. Good morning.

24 Q. I think you mentioned that you and I have had
25 an opportunity to meet before, right?

1 A. Once, yes, sir.

2 Q. Once. And it was in my office?

3 A. Yes, sir.

4 Q. And it wasn't too long after all this happened,
5 right?

6 A. No, sir.

7 Q. So roughly about two and a half years ago?

8 A. A little bit longer.

9 Q. Three years ago?

10 A. About three, three and a half, yes.

11 Q. And who was it you said was present when we
12 met?

13 A. I believe it was me, you, J.L-F. , and Jo.F. --
14 me, you, Brooke, and Jo.F. -- me, you, Brooke, and
15 J.L-F. . My apologies.

16 Q. Jo.F. wasn't there?

17 A. No, sir.

18 Q. Okay. Do you remember what you told me?

19 A. No, sir, not really.

20 Q. Do you remember telling me that you helped Josh
21 hold that kitchen door shut to prevent Jersey from
22 coming inside the kitchen?

23 A. No, sir.

24 Q. Do you remember telling me Jersey tried to
25 tackle Josh and Josh shot him?

1 A. No, sir.

2 Q. Do you remember telling me that when you were
3 looking out the kitchen window and saw Josh and
4 Jersey fighting that you heard Josh scream for help
5 and call 911?

6 A. No, sir.

7 Q. Now, in -- I believe Mr. McNair's question was,
8 absolutely, without a shadow of a doubt, Jersey
9 never came inside the house before Josh started
10 shooting; is that right?

11 A. Uh-huh.

12 Q. Did you not already testify that Jersey did, in
13 fact, come inside when they got to the house?

14 A. That is true.

15 Q. You said you never saw Jersey hit Josh in the
16 face, right?

17 A. No, sir, I did not.

18 Q. But you did have an opportunity to see him --
19 see Josh up close and see the swelling in his eyes
20 and the cuts on his face, didn't you?

21 A. I wouldn't say I saw him up close.

22 Q. You were able to see his face at some point,
23 right?

24 A. For a second, yes, sir.

25 Q. Did it look like he had been hit in the face a

1 few times?

2 A. Yes, sir.

3 Q. You said at some point J.L-F. was finally awake
4 and came out into the living room/kitchen area,
5 right?

6 A. Uh-huh.

7 Q. Didn't you go wake him up?

8 A. Yes, sir.

9 Q. So while you were in J.L-F. 's room waking up
10 J.L-F. , what was happening?

11 A. Josh and Jersey were still outside.

12 Q. Josh and Jersey were still outside?

13 A. I believe so, yes, sir.

14 Q. So the shooting hadn't happened yet?

15 A. Whenever I tried to wake up Jake the first
16 time, no, sir.

17 Q. How many times did you try to wake him up?

18 A. Once, twice.

19 Q. When did you try to wake him the second time?

20 A. After the shooting. By that point, I went back
21 and he was already awake.

22 Q. Did you hear any shots while you were back
23 there the second time?

24 A. No, sir.

25 Q. And describe for me again what those four to

1 five shots sounded like. I think you said that they
2 were not rapidly fired, but one after another.

3 A. They were one after another, maybe a second or
4 two between.

5 Q. Okay. Looking at what's been marked as State's
6 No. 7, so roughly -- well, do you remember where
7 Jersey's truck was?

8 A. The front end of his truck was sitting about
9 right there.

10 Q. Right there? And so Josh was pointed somewhere
11 between there and the toolbox?

12 A. Yes, sir.

13 Q. Which way does that storm door swing out?

14 A. It swings out -- if you walk up to it and reach
15 with your right hand, it swings out to the right.

16 Q. Okay. And so Josh had to fire around that
17 door, right?

18 A. He was standing somewhere between the threshold
19 of that door and on the little step.

20 Q. What's between the threshold and the step?

21 A. There's a threshold and there's a step.

22 Q. Was he in the threshold or was he on the step?

23 A. I believe that -- that his right foot was on
24 the -- was on the threshold and his left foot was on
25 the step, propping the door open.

1 Q. Because if he'd been standing in the threshold
2 completely and not on the step, that door would have
3 been blocking the angle that he was trying to shoot
4 at, right?

5 A. Somewhat, yes, sir.

6 Q. And so when he came out on that step, he had to
7 turn to the left to some degree to be able to shoot
8 in the direction that you testified to, right?

9 A. Yes, sir.

10 Q. How far left was he turned?

11 A. Not too far. He wasn't -- he was just turned
12 about somewhere between 25 and 30 degrees to the
13 left.

14 Q. Okay. When you were at the window and observed
15 Josh and Jersey fighting, were they in the rose bed
16 or flower bed?

17 A. Yes, sir.

18 Q. And that would be kind of right behind where
19 those big green leaves are?

20 A. Yes, sir, right around that area.

21 Q. And, in fact, that's where J.L-F. ultimately
22 found Jersey's keys, right?

23 A. I'm assuming. I'm not sure. I was never sure
24 where J.L-F. found Josh's keys -- or J.L-F. found
25 Jersey's keys.

1 Q. Okay. You said, to your knowledge, Jo.F.
2 didn't see anything that happened, right?

3 A. Not that I know of.

4 Q. Have you ever talked to him about it?

5 A. Jo.F. ?

6 Q. Yes.

7 A. No, sir.

8 Q. So you don't know whether or not he knows
9 anything?

10 A. No, sir.

11 Q. And you can't be real sure where he was?

12 A. During?

13 Q. Correct.

14 A. No. During what?

15 Q. During the entire incident. You seem to have
16 multiple possible locations for him on every
17 question Mr. McNair asked you.

18 MR. MCNAIR: That's an objection, Your Honor.
19 That's mischaracterizing his testimony.

20 THE COURT: I don't want you editorializing
21 any answer. Rephrase.

22 BY MR. DEIRIG:

23 Q. Didn't you answer that Jo.F. could have been
24 on the couch, could have been on the chair?

25 A. Yes, sir.

1 Q. Didn't you say there were several times where
2 he could have been one place or another?

3 A. There was a time or two where he had gotten up.

4 Q. And did you see Jo.F. the whole time?

5 A. No, sir.

6 Q. He's not what you were paying attention to, was
7 he?

8 A. No, sir.

9 Q. And while you were watching Jersey and Josh
10 fight out there in the flower bed, did you ever get
11 on the phone?

12 A. No, sir.

13 Q. Weren't you on the phone when Josh came inside
14 the house?

15 A. No, sir.

16 Q. And didn't you hear Josh yell for help and
17 somebody call 911 while you were at that window?

18 A. No, sir.

19 Q. And I believe Mr. McNair asked you if anybody
20 contacted you about changing your statement, right?

21 A. He asked me.

22 Q. And you said, no, right?

23 A. Uh-huh.

24 Q. And when you and I met almost three years ago,
25 did I ever ask you to change your statement?

1 A. No, sir.

2 Q. What did I ask you?

3 A. You might have asked me if I wanted to change
4 it.

5 Q. Did I ask you what happened?

6 A. I believe so. Like I said, I don't really
7 remember too much.

8 Q. And you don't remember what you told me or how
9 you answered my questions, right?

10 A. No, sir, not really.

11 Q. Okay. You mentioned Jabari Harvey and another
12 kid. What did they have do with this situation?

13 A. They just showed up and Josh and Jersey told
14 them to leave.

15 Q. Where were the kids?

16 A. They were outside at the end of the driveway.

17 Q. End of the driveway. And you said Josh and
18 Jersey told them to leave?

19 A. I believe so.

20 Q. How do you know that?

21 A. That's what I'm assuming.

22 Q. Okay. So you don't know whether one or both
23 went and told those kids to leave?

24 A. No, sir.

25 Q. But you just know that they left?

1 A. Yes, sir.

2 Q. Okay.

3 MR. DEIRIG: I beg the Court's indulgence, Your
4 Honor.

5 THE COURT: Yes, sir.

6 BY MR. DEIRIG:

7 Q. So at least twice during this incident, you
8 left the -- either kitchen or living room area and
9 went down the hall to J.L-F. 's room, right?

10 A. Yes, sir.

11 Q. And you had no idea of what was going on in the
12 kitchen, garage, living room, anywhere in the house
13 while you were in J.L-F. 's room, right?

14 A. No, sir.

15 Q. I'm sorry. I couldn't --

16 A. No, sir.

17 Q. And when you say that Josh was out on that step
18 pointing left somewhere in between the toolbox and
19 Jersey's truck, is that the direction that he was
20 pointed for all four to five shots that you heard?

21 A. Yes, sir.

22 Q. So from where you believe he was pointed, he
23 would have been pointed left of the toolbox, right?

24 A. Yes, sir.

25 Q. Are you aware that the toolbox got shot four

1 times?

2 A. No, sir.

3 MR. DEIRIG: Thank you, Your Honor. That's all
4 I have.

5 THE COURT: Any redirect?

6 REDIRECT EXAMINATION

7 BY MR. MCNAIR:

8 Q. You're not saying you know exactly where he
9 shot? I mean, you're saying he was shooting
10 somewhere in the vicinity of where that toolbox was
11 to the left, correct?

12 MR. DEIRIG: Objection.

13 THE WITNESS: Yes, sir.

14 THE COURT: I'll allow it.

15 BY MR. MCNAIR:

16 Q. And he's asking you about where people were
17 kind of during the course of this whole chain of
18 events. Let's talk about the time of the shooting.
19 At the time of the shooting, you said you were
20 either on that couch or you were standing in the
21 threshold of that doorway to the kitchen, right?

22 A. Yes, sir.

23 Q. And was Jo.F. right there standing with you?

24 A. Not that I know of, no, sir.

25 Q. You would know if Jo.F. was standing right

1 there with you, would you not?

2 A. Uh-huh.

3 Q. Okay. Unless you were standing right there,
4 could you have seen anything in the kitchen?

5 A. No, sir.

6 Q. So did Jo.F. see anything?

7 A. No, sir.

8 Q. He was asking you about when you went to go
9 wake up Jake. The first time you went to wake up
10 J.L-F. , was that after you seen them fighting?

11 A. Yes, sir.

12 Q. Okay. So you weren't back there when the
13 shooting happened. When the shooting happened, you
14 were right there looking into the kitchen, right?

15 A. Yes, sir.

16 Q. All right. The second time you went back there
17 was after the shooting, correct?

18 A. Yes, sir.

19 Q. And at that time, J.L-F. was already awake?

20 A. Yes, sir.

21 Q. And that's when you told him what happened?

22 A. Yes, sir.

23 Q. And that's when he came out the bedroom and
24 that's when Josh pointed the gun at him?

25 A. In his direction.

1 Q. Now, you gave a statement to the police that
2 night, didn't you?

3 A. Yes, sir.

4 Q. A written statement --

5 MR. DEIRIG: Your Honor, I'm going to object.
6 This is outside the scope of redirect. I never
7 asked him any questions about statements.

8 MR. MCNAIR: That's all I have. Thank you.

9 THE COURT: All right. You may step down.

10 MR. MCNAIR: Your Honor, the State calls
11 Investigator James Sullivan.

12 JAMES SULLIVAN

13 being first duly sworn, testified as follows:

14 THE WITNESS: Yes, ma'am.

15 THE CLERK: Thank you. Have a seat, state your
16 full name, your first name, and spell your last.

17 THE WITNESS: My name is James Patrick
18 Sullivan, S-U-L-L-I-V-A-N.

19 DIRECT EXAMINATION

20 BY MR. MCNAIR:

21 Q. Mr. Sullivan, you're currently an investigator
22 in our office; is that correct?

23 A. Yes, sir, I am.

24 Q. How long have you worked in our office?

25 A. Approximately four years.

1 Q. Can you give the jury a little bit of
2 background of your previous experience in law
3 enforcement?

4 A. Yes, sir. My previous experience in law
5 enforcement started in 1998 when I enlisted in the
6 United States Marine Corps in the MP field, stayed
7 in the Marine Corps for eight years, several jobs
8 within the Marine Corps.

9 I transitioned to civilian law enforcement in
10 2006 by going to the City of West Columbia where I
11 served as a patrol officer and later as a crime
12 scene investigator before moving to the 11th
13 Judicial Circuit.

14 Q. All right. And then what positions did you
15 hold while you were at the West Columbia Police
16 Department?

17 A. Patrol officer, SWAT team member, crime scene
18 investigator.

19 Q. And can you give the jury a little bit of
20 background on your experience in dealing with
21 firearms, especially regarding the AR-15 platform?

22 A. As a Marine, this is your primary service
23 weapon. All branches of service are trained in the
24 M-16. I went to Marine combat training in 1999.
25 Also in 1999, I attended the Army Special Reaction

1 Team School in Fort Leonard Wood, Missouri. I
2 attended several other trainings.

3 In 2002 I went to, or participated in, the
4 Marine Corps correspondence course for armor for the
5 small arms 240 Gulf M-16, such like that.

6 Q. All right. Are you familiar with an AR-15?

7 A. Yes, sir.

8 Q. Have you shot an AR-15?

9 A. Yes, sir.

10 Q. Have you trained other people how to shoot an
11 AR-15?

12 A. Yes, sir. I've trained over a thousand
13 personnel and qualified them in the M16A2 service
14 rifle.

15 Q. Were you tasked with essentially doing a test
16 in this case?

17 A. Yes, sir, I was.

18 Q. Can you explain to the jury what that was?

19 A. I was tasked with getting the same make, model
20 weapon as used in this case and same ammunition used
21 to determine if there was possibly an ejection
22 pattern with brass extraction.

23 Q. All right. And so you shot the same caliber
24 weapon?

25 A. Yes, sir.

1 Q. The same make and model weapon?

2 A. Yes, sir.

3 Q. And the same brand of ammunition as was used in
4 this case, correct?

5 A. Yes, sir.

6 Q. All right. And where did you test fire that
7 weapon?

8 A. May I refer to my notes, sir?

9 Q. Yes.

10 A. We went to the Defender Shooting Range off of
11 Highway 6, it's an indoor range, in order to prevent
12 any outside influence, either weather or wind.

13 Q. And can you describe for the jury how you
14 conducted these tests?

15 A. Yes, sir. What it is, was I picked a firing
16 line that was wide out in the open, which is
17 consistent with being in the middle of a kitchen,
18 say, and I loaded the weapon with 15 rounds of
19 Remington ammunition, and then I fired shots.

20 Then I put placards down and a tape measurer to
21 determine how far from the shooter the brass landed
22 to see if I can determine a pattern. I did the same
23 thing with Federal ammunition, which is the other
24 ammunition found in the magazine of the weapon, and
25 then fired the shots.

1 The first course of fire was next to a wall,
2 which was consistent with the testimony given, being
3 at that threshold and, once again, firing the shots
4 with a tape measurer and placards.

5 Q. All right. I'm going to show you State's 73
6 and 74. And tell me if you can identify these two
7 discs.

8 A. Yes, sir.

9 Q. And what are those?

10 A. These are videos of me test-firing the weapon
11 and -- both next to the wall and one out in the
12 open.

13 MR. MCNAIR: Your Honor, we'd offer State's 73
14 and 74 into evidence at this time.

15 THE COURT: Subject to objection, they're
16 admitted.

17 (State's Exhibit Nos. 73 and 74 admitted into
18 evidence.)

19 BY MR. MCNAIR:

20 Q. All right. State's 75 and 76, do you recognize
21 those photos?

22 A. Yes, sir, I do.

23 Q. What are those?

24 A. 75 is the plotting of the brass next to the
25 wall, and 76 is the plotting of the brass wide out

1 in the open.

2 MR. MCNAIR: Your Honor, we'd offer State's 75
3 and 76 into evidence as well.

4 THE COURT: Admitted subject to the objection.

5 (State's Exhibit Nos. 75 and 76 admitted into
6 evidence.)

7 MR. MCNAIR: Permission to publish, Your Honor?

8 THE COURT: Photos?

9 MR. MCNAIR: We're going to play a video first
10 and then photos.

11 THE COURT: Okay. I want the volume cut down.
12 Last time we played, it was really loud on me. That
13 911 tape was overwhelming. I had to move.

14 Normally this gentleman, Mr. Sullivan, is in
15 charge of the audiovisual stuff. So we have other
16 help too.

17 Is there a video also? Video and audio?

18 MR. MCNAIR: Yes, sir.

19 (Video played.)

20 BY MR. MCNAIR:

21 Q. All right. So after you fired those rounds,
22 you then marked where the shell casings landed?

23 A. Yes, sir. I used a yellow placard, put out a
24 measuring tape to kind of give me a sense of
25 distance, just wherever the projectiles or the brass

1 casings landed.

2 Q. All right. And that was just shooting straight
3 on where nothing was on the side of the weapon where
4 the shells eject out of?

5 A. Yes, sir.

6 (Video played.)

7 BY MR. MCNAIR:

8 Q. All right. And State's 76, what does that
9 show?

10 A. That shows the location of the brass when
11 extracted to the right and open shooting. And the
12 tape measurer is a 25-foot tape to give you a sense
13 of distance. So that shows somewhat the pattern
14 that the brass was hitting the deck.

15 Q. Do you have a laser pointer up there?

16 A. Yes, sir, I do.

17 Q. Where were you standing when you fired the
18 shots?

19 A. Right here at the end of the tape.

20 Q. All right. All the placards there indicate
21 where the casings ended up?

22 A. Yes, sir.

23 Q. So the majority of those casings ended up, I
24 guess, behind the firing line, correct?

25 A. Yes, sir. Behind the firing line to the right,

1 because that's where the ejection port is and that's
2 where the brass extracts. A couple in front of the
3 firing line, but the majority to the rear.

4 Q. And, obviously, that's not where they're
5 ejecting out the firearm. They're hitting the
6 ground and bouncing and going whichever which way?

7 A. I guess the best analogy is if you drop a pill
8 on the floor, where does it go? Brass hits the
9 floor, it goes.

10 Q. All right. State's 75, what does this picture
11 show?

12 A. This is the location where I was firing and
13 this is the location of the brass after the
14 test-fire next to the wall.

15 Q. All right. And when you're firing those
16 rounds, the ejection port on the firearm would be
17 facing that wall?

18 A. Yes, sir.

19 Q. And the shells were hitting off the wall that
20 was beside you?

21 A. Yes, sir.

22 Q. And some of those shells were ending up behind
23 you?

24 A. Yes, sir.

25 Q. Now, if someone were standing, say, in the

1 kitchen, like has been testified to in this case,
2 and fired a round, is it likely or unlikely that the
3 round would end up exactly where they were standing?

4 A. Unlikely, given the test, sir.

5 Q. That's all the questions I have. Thank you.

6 CROSS-EXAMINATION

7 BY MR. DEIRIG:

8 Q. Was that Mr. Reher's weapon that you were
9 firing?

10 A. No, sir, it was not.

11 Q. Have you ever examined Josh's gun?

12 A. I have since.

13 Q. Have you shot Josh's gun?

14 A. No, sir, I have not.

15 Q. So isn't it fair to say that your test showed
16 that there's -- at least with that gun, there's not
17 really a pattern; they kind of go everywhere, right?

18 A. With the Smith & Wesson M&P 15-22, shooting
19 those types of ammunition, there is no pattern
20 except for it ejects to the right, brass hits the
21 ground, and goes where it goes.

22 Q. So it ejects to the right and then goes down,
23 and then bounces wherever it bounces?

24 A. Yes, sir.

25 Q. Unless it ejects to the right and hits a wall

1 and then goes somewhere?

2 A. Unless something else affects the round, like,
3 hits a wall or another object. Yes, sir.

4 Q. Did you ever have any brass eject to the right,
5 not hit anything, but then come over your head
6 towards your left?

7 A. No, sir.

8 Q. Okay. So do you know whether or not Josh's
9 rifle has the same type of unpredictability in terms
10 of where the shell casings land?

11 A. No, sir.

12 Q. Is the pattern or lack of pattern that you
13 found applicable to any other gun other than the one
14 that you fired?

15 A. The pattern was consistent. What I tried to do
16 was duplicate the same weapon, same ammunition, same
17 powder; tried to conduct the experiment with the
18 same type of equipment to get as close as possible.
19 So if I were doing it with a 223 or an AR-10, which
20 is a 308, or some other, naturally, you're going to
21 have a different result. So I was trying to get the
22 experiments as close as I could, given the equipment
23 used.

24 Q. But the only definitive that test showed is
25 that particular weapon you fired has no particular

1 pattern?

2 A. Other than extracting to the right from the
3 shooter, from the ejection port, hitting an object,
4 it can go to the front, side, rear, doesn't matter.
5 It just ejects to the right, sir.

6 Q. Okay.

7 MR. DEIRIG: That's all I have, Your Honor.
8 Thank you.

9 THE COURT: Any redirect?

10 REDIRECT EXAMINATION

11 BY MR. MCNAIR:

12 Q. You may not have shot the defendant's actual
13 gun, but have you shot other AR-style weapons in the
14 past?

15 A. Yes, sir.

16 Q. In different calibers?

17 A. Yes, sir.

18 Q. Do they all pretty much eject similarly in the
19 fact that in the sense that there really is no
20 pattern?

21 A. No, sir. Like I said before, it ejects to the
22 right. When the brass hits, whether it be grass,
23 sand, wall, concrete, once it deflects to the right,
24 the brass is going to go where it goes. The best
25 analogy I can give you is if you drop a pill in the

1 floor, where does it go? So this is from the rifle
2 to the right, and it's going to go.

3 Q. So is there any reason to think that the
4 defendant's weapon would eject any different than
5 this weapon?

6 A. No, sir. That's why I made sure it was the
7 same make, model. And I used the same ammo.

8 MR. MCNAIR: Thank you.

9 THE COURT: All right. You may step down.

10 MR. MCNAIR: Your Honor, at this time, the
11 State rests.

12 THE COURT: All right. Folks, I got a few
13 things to put on the record. It's a good time to
14 take a break. We've been in here about an hour. So
15 y'all step in the jury room. You can stretch your
16 legs. We'll have you back out here in a few
17 minutes. Don't discuss the case.

18 (The jury exits the courtroom at 11:00 AM.)

19 THE COURT: All right. Mr. Deirig, do you want
20 to make your motions right now?

21 MR. DEIRIG: Yes, sir. To kind of circle back
22 to our sidebar, I made an objection based on
23 Rule 404(b) to M.A. being able to testify
24 that Josh pointed a weapon, I think he said, in the
25 general area or general direction or in the

1 direction of Josh [sic]. I think that is a prior
2 bad act that has no exception to allow it to get in
3 here.

4 In fact, Josh was charged with pointing and
5 presenting against J.L.F. ; however, that charge has
6 not been -- is not what we're going forward on
7 today. And I think they were trying to backdoor-in
8 that charge without actually having to go forward on
9 it.

10 THE COURT: There was no testimony elicited
11 that -- it was mentioned at the sidebar with the
12 attorneys. There was no testimony elicited on the
13 record in front of the jury that there are any
14 charges arising from that act, was there?

15 MR. DEIRIG: No, sir.

16 THE COURT: I don't find any harm in that. I
17 mean, I think that's allowed because he's describing
18 his behavior that day. He's not on trial for that,
19 he's not accused of that, there is no mention of a
20 charge on that, so the record is protected. I
21 understand your objection.

22 MR. DERIEG: Thank you, Your Honor.

23 THE COURT: But under 403, that's not unduly
24 prejudicial.

25 All right. What else you got?

1 MR. DEIRIG: I'd also like to make a motion for
2 a directed verdict. The State has failed to meet
3 its burden of proving or providing at least some
4 scintilla of evidence as to every element of both
5 the offenses; I'd say particularly when it comes to
6 intent. I'll just leave it at that.

7 THE COURT: On directed verdict, the State
8 presented evidence the defendant was there, he was
9 in Lexington County, he had a weapon, he shot the
10 weapon. Some of it is circumstantial testimony, but
11 there is testimony also that the victim was hit with
12 a .22 caliber bullet, still part of the event.

13 There's certainly enough evidence to get past
14 the directed verdict motion. And the Court is
15 looking for evidence for the jury to weigh and not
16 just barely enough evidence to cast a mere
17 suspicion. And they will have that, in my opinion.

18 There's testimony for the jury to consider
19 whether he's committed the act of attempted murder.
20 The specific intent is a jury issue. They do have
21 to prove specific intent, and that goes to the
22 weight they've got to show. And the weapons charge,
23 of course they have enough facts to go past that on
24 directed verdict.

25 What else you got?

1 MR. DEIRIG: Just to circle back to yesterday
2 when the statement that Josh gave at the hospital
3 came into evidence, I believe I said without
4 objection. I meant to say subject to my previous
5 objection. I don't remember if that's how it went,
6 but that's how I remembered it last night.

7 THE COURT: That's how it went, because I heard
8 your thing. I think you're correct. You need to
9 preserve that objection from the Jackson-Denno
10 hearing, which you were overruled on. So we'll
11 allow you to make that amendment when it's a good
12 time to make it.

13 Whether it gets reviewed and it gets protected
14 now is not for me. But I'm going to allow you to
15 make your objection. Now it's on the record, for
16 whatever it's worth.

17 MR. DEIRIG: Thank you, Your Honor.

18 THE COURT: All right. Anything else?

19 MR. DEIRIG: No, sir.

20 THE COURT: All right. Do you want a few
21 minutes to decide what you're going to do?

22 MR. DEIRIG: I don't need a few minutes to
23 decide. I just -- based on conversations I've had
24 with the Solicitor's Office yesterday in terms of
25 scheduling when to have my witnesses here, they told

1 MR. DEIRIG: May it please the Court, Your
2 Honor? The defense calls SRO Scott Barber.

3 DARYL SCOTT BARBER

4 being first duly sworn, testified as follows:

5 THE WITNESS: I do.

6 THE CLERK: Have seat, sir. Once you're
7 seated, state your name, spelling your last.

8 THE WITNESS: Yes, ma'am. Full name is Daryl,
9 D-A-R-Y-L, Scott, Barber, B-A-R-B-E-R.

10 DIRECT EXAMINATION

11 BY MR. DEIRIG:

12 Q. Good afternoon, Deputy Barber.

13 A. Good afternoon, sir.

14 Q. Is it okay if I -- is it deputy? Investigator?
15 Sergeant?

16 A. Deputy is fine.

17 Q. Okay. I appreciate you being here on short
18 notice. Who do you work for?

19 A. I work for Lexington County Sheriff's
20 Department.

21 Q. Back in August of 2015, who did you work for?

22 A. Lexington County Sheriff's Department.

23 Q. And what were your duties then?

24 A. I was a patrol sergeant at the time.

25 Q. Tell the jury what that means.

1 A. I was a patrol supervisor. The shift that I
2 was responsible for usually had me working five to
3 six deputies under my control. I had a corporal
4 that was the next level supervisor directly below me
5 as well. And that -- during that time, I was
6 responsible for the north region of Lexington County
7 which covers Chapin, Irmo, and then the
8 unincorporated areas of Cayce, West Columbia,
9 Springdale and the east side of Lexington.

10 Q. What are you doing now?

11 A. I asked for a transfer to be a school resource
12 officer.

13 Q. Okay.

14 A. More family-friendly hours.

15 Q. I can understand that. But you're still in law
16 enforcement?

17 A. Yes, sir.

18 Q. Okay. I want to direct your attention to the
19 night of August 21st, 2015. That night where --
20 what did you do?

21 A. You mean, specifically to this incident or --

22 Q. In regards to this incident, the case that
23 we're talking about, what was your actions or
24 participation on the evening of August 21st, 2015?

25 A. Well, initially, a 911 call came into our

1 communication center, and they toned out the call.
2 A loud beeping tone basically comes across our radio
3 letting us know that it's a high priority call. And
4 they gave it out as, I believe, a shooting.

5 At that point, I instructed all the deputies on
6 my shift to respond to the call. I believe it was
7 at [REDACTED]. Once I got there, my
8 corporal Master Deputy Aaron Pool at the time had
9 already gotten on scene, as well as other deputies.
10 And Master Deputy Pool had established a control of
11 the scene, so to speak, so I just kind of sat back
12 and was there for his assistance if he needed
13 anything.

14 Q. And did you end up staying at [REDACTED]
15 [REDACTED]?

16 A. I was at that residence for a very short period
17 of time.

18 Q. Where did you go?

19 A. I believe it was Lieutenant Rodgers came over
20 to me and said that they had identified a potential
21 victim. At that time, they only knew him as Jersey,
22 his nickname. And then someone there said that they
23 had seen him leave in a white ladder truck of some
24 sort. Couldn't give us the address, but that
25 individual, I don't know who it was, said that they

1 could show us where the house was.

2 So I instructed Lieutenant Rodgers and another
3 deputy on my shift, Deputy Dan Prater, to go with
4 that witness to try and locate where the potential
5 victim was located at. I don't know how long they
6 were at the residence, but they made contact at the
7 residence. They found the truck at [REDACTED]
8 [REDACTED] and made contact with the homeowner,
9 Ms. Prentiss Meyers, I believe, and identified that
10 Jersey was, in fact, her husband, but said he wasn't
11 home and would not let them come inside or check the
12 residence. So when that -- when they communicated
13 that to me, I immediately went to [REDACTED].

14 Q. So that's what got you down there was
15 Ms. Meyers not cooperating with law enforcement?

16 A. Initially she would not let them go in to do,
17 basically, a protective sweep to make sure that
18 there were -- that Jersey or Mr. Meyers was not in
19 the residence. So myself and the watch commander
20 for that night, I believe, Lieutenant Eric Russell,
21 the both of us responded to [REDACTED] to try
22 and intercede.

23 Q. What happened first when you got to [REDACTED]
24 [REDACTED]?

25 A. She was still very uncooperative initially.

1 Didn't want to let us into the house. Said he
2 wasn't there. If I remember correctly, they had
3 some small children, and I guess her concern was,
4 potentially, us disrupting her children, because it
5 was probably 9:00, 10:00 at night by that point. So
6 her children were asleep. And, I guess, obviously
7 having four uniformed patrol officers standing at
8 her door, she probably didn't want to let us in.

9 Q. Did she tell you why?

10 A. She did not.

11 Q. And what did you tell her?

12 A. That basically if she didn't allow them to,
13 that I would forcefully enter because of the
14 circumstances of someone that may be inside that had
15 been shot and may need medical attention.

16 Q. And how did she reply to that?

17 A. She agreed to let us in at that point and
18 walked through the house with us. Again, she
19 expressed great concern about disrupting her
20 children.

21 Q. At some point did you come across Jersey?

22 A. Yeah. When we first entered the house, it kind
23 of opens up into a hallway, and then there's a -- I
24 guess, a living room or formal living room or dining
25 room immediately to your right. As you go past

1 that, there's a hallway to your left that leads to
2 all the bedrooms. So we checked the open formal
3 living room or dining room, whatever it was, and
4 then we checked the hallway down where all the
5 bedrooms were and didn't find him.

6 And then at the very back end of that hallway,
7 going back towards the front of the house, was like
8 a great room or den. There was, like, a door that
9 was closed. So we opened that and the room was
10 dark. And that was -- there was a couch, and that's
11 when I found a male that was naked, laying on the
12 couch asleep, or appeared to be asleep, that we
13 later identified as Jersey or Mr. Meyers.

14 Q. Did you wake up Mr. Meyers?

15 A. Yes. I initially tried to wake him up. He
16 was -- he appeared to be extremely intoxicated. At
17 one point I think he made the assertion that he was
18 drunk or he had been drinking a lot all day.

19 What was alarming to me initially was I noticed
20 a little bit of blood, I believe, on the pillow that
21 he was laying on. And also there was a blanket that
22 was behind him and there was a little bit of blood
23 there. So that kind of let me know that there was
24 possibly some type of injury that would correlate to
25 a gunshot wound.

1 Q. Initially when you were talking to him, was he
2 cooperative?

3 A. No. He consistently told me to get out of the
4 house unless I had a warrant.

5 Q. Did he eventually start answering some of the
6 questions you were asking?

7 A. Very brokenly. Again, while I was asking the
8 questions, I was trying to check him for injuries.
9 I eventually found a gunshot wound in his abdomen
10 area. I don't remember the exact area. But the
11 caliber that was used was very small, so I had a
12 very difficult time finding it. Plus, it wasn't
13 bleeding profusely. There was not really any blood
14 coming out, so it made it very difficult to find.

15 When I asked him what happened, initially he
16 said something about walking to the store to buy a
17 Black & Mild. And he said while going to the store,
18 he was jumped by some kids.

19 Q. Did he tell you anything else?

20 A. Let me refer to my notes one second.

21 When I asked him who jumped him, he didn't
22 answer that question. Then I asked him what he
23 meant by jumped, and he didn't really answer that.
24 Initially what he told me was, and I quote, some
25 kids were talking shit to him and then they jumped

1 him. And that was the quote that he said to me.
2 That was really all he said to me at that point.
3 And about that time was when fire and EMS showed up,
4 and I backed off to let them render further medical
5 assistance to --

6 Q. Did you have any further involvement in this
7 case?

8 A. Once he was transported, I instructed Deputy
9 Prater to follow the ambulance to the hospital. We
10 had already requested for major crimes investigators
11 to respond, so we requested for an investigator to
12 come there. And Detective Marthers is the
13 investigator that responded.

14 I believe when we were doing the protective
15 sweep of the house, we noticed clothing in the
16 bathroom. And I guess it was determined, through
17 the conversation with his wife, that he had possibly
18 taken a shower, so I communicated that to Detective
19 Marthers.

20 From there, the next concern was gathering the
21 evidence, photographing the house where he was at,
22 and collecting the clothing. I was there, but I
23 didn't really participate with Detective Marthers
24 handling most everything else from there. I just
25 kind of stood by for uniform presence.

1 Q. So essentially after EMS got there, your
2 involvement became just kind of a bystander?

3 A. Yes, sir. Once Detective Marthers arrived on
4 scene, I kind of turned the investigation over to
5 him.

6 MR. DEIRIG: I beg the Court's indulgence.

7 THE COURT: Uh-huh.

8 MR. DEIRIG: Your Honor, that's all I have.
9 Thank you.

10 CROSS-EXAMINATION

11 BY MR. MCNAIR:

12 Q. Just one question: Who told you where
13 Mr. Meyers was and where he lived?

14 A. Lieutenant Rodgers. Undoubtedly, he
15 communicated to me that a witness that was on scene
16 had told him that they knew where Jersey lived.

17 Q. Do you know who that witness was?

18 A. I do not.

19 Q. Was it the defendant?

20 A. I don't know. I never spoke with the
21 defendant, so I wouldn't know him in the crowd. So
22 I'm not really sure who that information came from.

23 MR. MCNAIR: All right. No further questions.

24 THE COURT: Defense?

25 MR. DEIRIG: No, Your Honor. Thank you for

1 being here. May he be excused?

2 THE COURT: Thank you so much.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: Free to go.

5 THE WITNESS: Thank you, sir.

6 MR. DEIRIG: The defense calls William Miller.

7 WILLIAM MILLER

8 being first duly sworn, testified as follows:

9 THE WITNESS: I do.

10 THE CLERK: Have a seat right up there, sir.
11 Once you're seated, state your full name, spelling
12 your last please.

13 THE WITNESS: Okay. William Robert Miller,
14 M-I-L-L-E-R.

15 DIRECT EXAMINATION

16 BY MR. DEIRIG:

17 Q. Good afternoon, Mr. Miller. Please introduce
18 yourself to the jury. Let them know where you're
19 from, where you live, what kind of work you do, if
20 you're married and have kids.

21 A. My name's William Miller. I live in Irmo. And
22 I work downtown at Lorick Office Products. And I
23 have two children.

24 Q. And where do you -- are you married?

25 A. Yes.

1 Q. And where you live in Irmo, what neighborhood
2 is that?

3 A. Coldstream.

4 Q. Coldstream. And directly -- or across the
5 street from you -- is [REDACTED] across the
6 street from you?

7 A. That is correct.

8 Q. And how long have you lived at your address?

9 A. Close to 30 years.

10 Q. Close to 30 years. So you were living there
11 August 21st, 2015?

12 A. Yes, sir.

13 Q. I want to direct your attention to that
14 afternoon, that evening. Does anything significant
15 stand out to you about that night?

16 A. No, sir, other than the altercation.

17 Q. That's what I'm asking you about.

18 A. I got you. Yeah.

19 Q. Can you tell the jury what you saw?

20 A. I just saw an altercation take place. And then
21 that's basically it.

22 Q. Well, tell the jury about the altercation. Who
23 was the altercation between?

24 A. I don't know the two individuals. I just
25 noticed there was a ruckus across the street, and

1 then I went inside to tell my wife. I said,
2 something is going on. And that's about it.

3 Q. And what of the ruckus did you see?

4 A. I saw two gentlemen have an altercation. And
5 that's it.

6 Q. Did you see when those two gentlemen arrived at
7 [REDACTED]?

8 A. I did.

9 Q. And were the two -- what vehicle were they
10 riding in?

11 A. They were in a pickup truck.

12 Q. They come together?

13 A. Yes.

14 Q. And what happened -- did you see anything
15 happen immediately upon arrival at [REDACTED]?

16 A. They pulled in the driveway. And that's -- I
17 got a glimpse of that. And that was about it. And
18 then I heard some commotion going on.

19 Q. Did you see -- did you see any kids or young
20 adults out in front of the house?

21 A. Yes. I saw a couple -- just like a couple high
22 school kids out in the front yard.

23 Q. Did anybody go talk to them?

24 A. When they pulled up, there was some type of
25 conversation. I really wasn't paying that much

1 attention to what was going on.

2 Q. Do you remember who was talking to them?

3 A. Not necessarily, no. I said I don't know any
4 of the individuals. I just --

5 Q. Well, do you remember whether the driver of the
6 pickup truck ever went and talked to those kids?

7 A. I believe so. I heard him having a
8 conversation or -- with them. And then two -- there
9 was a car in the front yard, and it took off. The
10 other two kids, they left. They were sitting in the
11 front yard.

12 Q. Right.

13 A. And then he had some conversation back and
14 forth and they took off running.

15 Q. Okay. And then what happened after the --
16 those kids took off?

17 A. That was about it other than, you know, like I
18 said, there was a little altercation over there.
19 And that's about all I can remember.

20 Q. Did you see the altercation?

21 A. I saw parts of it.

22 Q. What did you see?

23 A. The two gentlemen getting in an argument. And,
24 you know, there was a scuffle or whatever you want
25 to call it.

1 Q. Did you see who started it?

2 A. No.

3 Q. What did you see during the scuffle?

4 A. That the two gentlemen were having a fistfight.

5 Q. Did you ever see one of the two gentlemen on
6 top of the other?

7 A. No.

8 Q. You just saw -- were they standing up when you
9 saw them?

10 A. By that time, I'd gone back in the house.

11 Q. Okay. So you didn't stop and see very much of
12 the fight?

13 A. No. I told my wife there was a ruckus going on
14 across the street. And by the time I got back out
15 there, I couldn't see anything because they're at
16 least 100 yards away from where I was at. And
17 there's a row of bushes there too. So I couldn't
18 see that much.

19 Q. Okay. Has anybody from Lexington County
20 Sheriff's Department ever contacted you about
21 whether you saw anything that night?

22 A. Yes, sir. I've got a written statement right
23 here that I gave them.

24 Q. You gave them a statement?

25 A. Yes, sir. I've got a written statement right

1 here.

2 Q. What is the date on that statement?

3 A. The date on the statement is August 22nd, 2015.

4 Q. So roughly a year after the incident?

5 A. That is correct.

6 Q. Tell the -- who was it -- do you know who it
7 was from the Sheriff's Department that came and
8 talked to you?

9 A. I don't know him personally, but I got his name
10 here.

11 Q. And who is that?

12 A. Deputy B. Morantis, I believe.

13 Q. Could that be Marthers?

14 A. Marthers, yes, sir. I can't read his
15 handwriting.

16 Q. Will you tell the jury what you told Detective
17 Marthers?

18 A. I've got it right here in the written
19 statement. And that's basically all I can offer you
20 guys.

21 Q. Well, if you'd like to refer to your statement
22 to help you remember what you told Detective
23 Marthers, that would be fine.

24 MR. MCNAIR: Judge, he can ask questions. He
25 can't ask for a narrative response.

1 THE COURT: Okay. I agree with that. He can
2 tell what he remembers. If his memory is poor, he
3 can refer to his statement to refresh. Fair enough.

4 Rephrase your question.

5

6 BY MR. DEIRIG:

7 Q. Do you have a clear memory of what you told
8 Marthers?

9 A. I just reviewed the written statement I gave
10 him, you know, two and a half years ago.

11 Q. And my next question would be, would reviewing
12 your written statement help you refresh your
13 recollection as to what it is you told him?

14 A. I mean, I just went over it before I came in
15 the courtroom, to be honest with you. It's been on
16 file for over two and a half years.

17 Q. And will you tell the jury what you told
18 Detective Marthers?

19 MR. MCNAIR: Judge, he's not asking him about
20 any particular topic he's trying to refresh his
21 memory on.

22 THE COURT: Ask a specific question. Objection
23 is sustained.

24 BY MR. DEIRIG:

25 Q. What did you tell Detective Marthers that the

1 driver of the pickup truck did?

2 A. Told him he got in an altercation with the
3 other gentleman.

4 Q. Did you tell Detective Marthers that you or
5 anyone else called 911?

6 A. No.

7 Q. Did you tell Detective Marthers that you
8 instructed your wife to call 911?

9 A. Yes.

10 Q. Did you hear any gunshots that night?

11 A. What I thought to believe, yes.

12 Q. How many did you hear?

13 A. Just one.

14 Q. You just heard one gunshot?

15 A. I heard what I thought was gunfire, and I told
16 my wife to get back in the house and call 911. By
17 the time that took place, Lexington County Sheriff's
18 Department was already on the scene.

19 Q. Did you tell Detective Marthers that you saw
20 the male that lived at the house across the street
21 from you go back inside before the gunfire was
22 heard?

23 A. Yes.

24 Q. So the kid who lived across the street -- or
25 the man who lived across the street went back inside

1 before you ever heard a gunshot?

2 A. Yes.

3 Q. And that male that lived across the street from
4 you on August 21st, 2015, do you see him in the
5 courtroom today?

6 A. I believe so, but I'm not certain. It's been
7 so long and I didn't know the individual.

8 Q. Have you seen him since that night?

9 A. No.

10 Q. Does he live there anymore?

11 A. No.

12 Q. Who in the courtroom do you think lived across
13 the street from you on August 21st, 2015?

14 A. Those folks over there and maybe this gentleman
15 right here.

16 Q. Those folks over there and maybe somebody in
17 the jury box?

18 A. This is the jury? I don't see him then. All I
19 know is he had red hair.

20 Q. He had red hair? Do you see anybody in the
21 courtroom with red hair besides this gentleman?

22 A. No, just that gentleman.

23 Q. Do you see anybody else?

24 A. No.

25 MR. DEIRIG: I beg the Court's indulgence.

1 That's all I have, Your Honor. Thank you.

2 CROSS-EXAMINATION

3 BY MR. MCNAIR:

4 Q. Mr. Miller, I'm sorry you have to be here
5 today. I know what you're going through. How would
6 you describe this altercation you saw?

7 A. How would I describe it? As an altercation.

8 Q. As a skirmish, I believe, is what you said?

9 A. A skirmish, yes.

10 Q. Did it appear to be a deadly encounter to you?

11 A. No, sir.

12 Q. Did anybody's life appear to be in danger?

13 A. No, sir.

14 Q. So to you it appeared to be just a fistfight?

15 A. Yes, sir.

16 Q. Both guys were fighting?

17 A. Yes, sir.

18 Q. It wasn't just one taking a beating?

19 A. No, sir. Both of them were fighting, from what
20 I saw.

21 Q. All right. Now, how far do you live across the
22 street from the defendant?

23 A. Probably 100 yards.

24 Q. Maybe even less than that?

25 A. Maybe 75, 100 yards, something like that.

1 Q. Could you hear what was going on in his
2 driveway?

3 A. No, sir.

4 Q. Could you hear somebody was yelling?

5 A. No, sir.

6 Q. From your house right across the street, you
7 couldn't hear if somebody was yelling in his
8 driveway?

9 A. No, sir.

10 Q. I'm going to show you State's 77. Do you
11 recognize that?

12 A. Yeah. That's my house.

13 Q. Okay.

14 A. And that's the house across the street.

15 Q. All right. Is that how things appeared in
16 2015?

17 A. From my vantage point, I was over here.

18 Q. Yes, sir. But as far as how the houses were
19 situated.

20 A. Yes, sir.

21 MR. MCNAIR: Your Honor, we'd offer State's 77
22 into evidence at this time.

23 THE COURT: Any objection?

24 MR. DEIRIG: No, Your Honor.

25 THE COURT: State's 77 admitted without

1 objection.

2 (State's Exhibit No. 77 admitted into
3 evidence.)

4 BY MR. MCNAIR:

5 Q. All right. So this is your house?

6 A. Yes, sir.

7 Q. And this is where Mr. Reher lived, correct?

8 A. That's correct.

9 Q. And can you tell what this is right here? Is
10 this where your driveway is?

11 A. Yeah. That's my garbage can.

12 Q. So up this way would be your garage?

13 A. Yes, sir.

14 Q. All right. And where were you when you saw
15 this scuffle?

16 A. In my garage.

17 Q. Okay. And from your garage, can you see into
18 Mr. Reher's driveway?

19 A. Well, part of it, yes.

20 Q. All right. Can you see into his garage as
21 well?

22 A. No, sir.

23 Q. Can you see partways into his garage?

24 A. No, sir.

25 Q. All right.

1 A. Not from the vantage point I was sitting at.

2 Q. But that's not a very far distance at all, is
3 it?

4 A. No.

5 Q. Okay. So if someone is out here in his
6 driveway yelling, you could hear that from your
7 garage, could you not?

8 A. Yes, sir.

9 Q. All right. And did you hear anybody yelling
10 for somebody to call 911?

11 A. No, sir.

12 Q. And you said you heard a gunshot. You don't
13 know if it was multiple gunshots?

14 A. I heard what I believe was gunfire. Yes.

15 Q. All right. And gunfire, to me, would indicate
16 more than one.

17 A. Well, just one is all I heard.

18 Q. All right. And at that point you went back in
19 your house?

20 A. I did.

21 Q. And you told your wife to call 911?

22 A. To lock the door and call 911.

23 Q. All right. And did she ever actually call 911?

24 A. No.

25 Q. When law enforcement showed up at the house,

1 did you go over there and tell them what you had
2 seen or did you just stay in your house?

3 A. I just stayed across the street.

4 Q. All right. So law enforcement really -- they
5 didn't know you had information that night, did
6 they?

7 A. No.

8 Q. Now, you said you saw after -- you saw the
9 skirmish. And then you said you saw the homeowner
10 run back into his house?

11 A. He went back into the house.

12 Q. Okay. How did he get back into his house?

13 A. He walked through the carport.

14 Q. Okay. He went back through the garage?

15 A. Yes.

16 Q. Okay. All right. Thank you for being here.

17 A. Thank you.

18 THE COURT: Anything else?

19 MR. DEIRIG: Briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. DEIRIG:

22 Q. During that skirmish, where did you -- where
23 did that skirmish that you saw occur?

24 A. Out in the driveway of the neighbor's house.

25 Q. In the driveway?

1 A. Uh-huh.

2 Q. Did you ever see it spill into the grass?

3 A. No.

4 Q. They just stayed -- what you saw just --
5 happened just in the driveway?

6 A. Back end of the driveway. Uh-huh.

7 Q. Towards the garage?

8 A. Towards the fence in the back yard.

9 Q. Going back towards the fence?

10 A. Uh-huh.

11 Q. Okay. Did you ever -- at any point did you
12 ever see either one of the two males that were part
13 of the skirmish on the ground?

14 A. Yes, sir.

15 Q. Who did you see on the ground?

16 A. I couldn't distinguish between the two. They
17 were wrestling to the ground.

18 MR. DEIRIG: That's all I have, Your Honor.

19 Thank you.

20 THE COURT: You're free to go. Thank you.

21 MR. DEIRIG: May he be excused?

22 THE COURT: Sure.

23 MR. DERIEG: Defense calls Norman Agnew.

24 NORMAN AGNEW

25 being first duly sworn, testified as follows:

1 THE WITNESS: I do.

2 THE CLERK: Have a seat, sir. Once you're
3 seated, state your name, spelling your last.

4 THE WITNESS: Thank you. My name is Norman
5 Robert Agnew. Last name is spelled A-G-N-E-W.

6 DIRECT EXAMINATION

7 BY MR. DEIRIG:

8 Q. Good afternoon, Mr. Agnew.

9 A. Good afternoon, sir.

10 Q. Could you please introduce yourself to the jury
11 and let them know where you're from, where you live,
12 what kind of work you do, what kind of family you've
13 got.

14 A. I'm Norman Agnew. I live in Chapin, South
15 Carolina, and have for most of my life. I was born
16 in Columbia, South Carolina. And I run a dock
17 company on the lake. My dad started it in 1983, and
18 have been working there early on as volunteer
19 laborer; but then later in life, took the company
20 over about 15 years ago. Married, of course. I
21 have a son that's seven years old.

22 Q. Do you know Joshua Reher?

23 A. Absolutely.

24 Q. How do you know him?

25 A. He works for my company and has since 2004.

1 Q. Since 2004?

2 A. Uh-huh.

3 Q. So it would be fair to say in August of 2015,
4 he was working for you?

5 A. Yes, sir. That's correct.

6 Q. Do you know Joseph Meyers?

7 A. I do.

8 Q. How do you know him?

9 A. He also worked for my company for a period of
10 about 18 months starting in March of 2014.

11 Q. So what does that put him working with you
12 until about, what, September of 2015?

13 A. That's correct. Yes, sir.

14 Q. So, obviously, he doesn't still work for you,
15 right?

16 A. No, sir, he does not.

17 Q. Why is that?

18 A. We -- of course, this incident happened. And
19 both of the individuals in the courtroom had to take
20 a leave of absence due to that, and we came upon
21 some information that Mr. Meyers was working in the
22 same line of work but outside of what we were
23 bidding. In other words, he was, in essence,
24 competing against us while working for us, and we
25 couldn't have that.

1 Q. So it was while he was out on a leave of
2 absence that you discovered that?

3 A. That's correct.

4 Q. Turning your attention to August of 2015, at
5 any point was Mr. Meyers hospitalized?

6 A. Yes.

7 Q. And during that hospitalization, did you have
8 occasion to go and visit him?

9 A. I did.

10 Q. When you visited him, was it after the incident
11 between he and Josh occurred?

12 A. That is correct.

13 Q. And when you went to visit him, was he awake
14 and able to communicate with you?

15 A. He was awake and able to communicate, albeit
16 very medicated.

17 Q. Do you remember what day that was?

18 A. I believe that was either -- hmm. I believe
19 that was the Sunday after the incident. I'm not 100
20 percent sure.

21 Q. So do you know what day of the week the
22 incident happened on?

23 A. The incident was on Friday evening.

24 Q. So if it was Friday the 21st, you would have
25 gone to visit him Sunday the 23rd?

1 A. That sounds correct. Yes, sir.

2 Q. Okay. At any point in time did you ask --
3 well, do you ever call Mr. Meyers Jersey?

4 A. I never did, but a lot of people do.

5 Q. You know him that way?

6 A. Sure.

7 Q. So if I call him Jersey, you'll know who he is?

8 A. Absolutely.

9 Q. At any point in time, did you ask Jersey what
10 had happened between he and Josh?

11 A. I did. At that point was just trying to get
12 information for my own background, to understand
13 what had happened.

14 Q. They both worked for you, right?

15 A. Correct. And so I asked him what happened.
16 And he couldn't really tell me at that point, just
17 that he had been shot and blacked out and went home.
18 That was pretty much it.

19 Q. Have you ever spoken to Josh about the
20 incident?

21 A. I have.

22 Q. On more than one occasion?

23 A. Absolutely.

24 Q. Where did you talk to Josh about what happened?

25 A. I've talked to him a number of different times.

1 Q. Where was the first time you talked to him
2 about what happened?

3 A. The first time I was able to talk to Josh, I
4 went and visited him at the Lexington County
5 Sheriff's Department, the jail.

6 Q. At the jail?

7 A. Uh-huh.

8 Q. And did you have to use the video visitation?

9 A. I did.

10 Q. And on that video visitation, do they inform
11 you that those conversations are being recorded?

12 A. They do.

13 Q. Multiple times?

14 A. From my recollection, that's correct.

15 Q. How many times did you talk to Josh about what
16 happened at Lexington County Detention Center?

17 A. I only remember visiting him -- I don't believe
18 I visited him more than once.

19 Q. Did he ever call you from the detention center?

20 A. He did.

21 Q. And on those phone calls, do they remind you
22 that you're being recorded?

23 A. They do.

24 Q. And did Josh talk to you about what had
25 happened between he and Jersey on any of those phone

1 calls?

2 A. I want to say that he probably did, but I can't
3 a hundred percent remember.

4 Q. If you can't remember, you can't remember.

5 A. Yes, sir.

6 Q. But you do recall talking to Josh multiple
7 times about what had happened between he and Jersey?

8 A. Correct.

9 Q. And in any of those conversations, has Josh's
10 story to you ever changed?

11 A. No, sir.

12 Q. What did Josh tell you happened?

13 A. Josh told me that they had been out and were
14 back at his house and an altercation happened, and
15 that he went inside and was asking Jersey to leave,
16 but he didn't, and when Jersey tried to come in, he
17 shot him.

18 Q. And every time you've talked to Josh about what
19 happened, he's told you the same thing?

20 A. Correct.

21 Q. Have you ever talked to Jersey about what
22 happened other than that time you've already told us
23 about at the hospital?

24 A. I want to say that I did talk to him again
25 since then on a couple of occasions, and that, you

1 know, he, again, was fuzzy about things. But the
2 main communication that I got from him is that he
3 didn't want Josh to get in trouble.

4 Q. And shortly after this incident happened is
5 when Jersey was let go for competing against you?

6 A. Correct.

7 Q. Do you know how long that had been going on?

8 A. I do not know.

9 MR. DEIRIG: I beg the Court's indulgence.

10 THE COURT: Yes, sir.

11 MR. DEIRIG: That's all I have, Your Honor.

12 Thank you.

13 THE COURT: Anything, Mr. McNair?

14 MR. MCNAIR: Yes, sir. Hold on.

15 CROSS-EXAMINATION

16 BY MR. MCNAIR:

17 Q. How's it going, Norman?

18 A. Going well, sir. How about you?

19 Q. Good. Obviously, you've previously testified
20 regarding this matter in the pretrial hearing and
21 Mr. Deirig asked you what did Josh tell you. Do you
22 recall saying that he told me he felt like he was
23 defending himself and that Joe kept coming?

24 A. Uh-huh.

25 Q. And that was the extent of the details you

1 provided at that hearing?

2 A. That's correct.

3 Q. All right. Now, you've known Josh for a long
4 time, right?

5 A. I have.

6 Q. He worked for your company for a long time?

7 A. That's correct.

8 Q. He grew up beside your folks?

9 A. That's true.

10 Q. So you've known him since he was a kid?

11 A. Uh-huh.

12 Q. You knew Jersey for 18 months --

13 A. Uh-huh.

14 Q. -- prior to this incident?

15 A. Uh-huh.

16 Q. All right. So Josh is a family friend of
17 yours, correct?

18 A. That's correct.

19 Q. He's an asset to your company?

20 A. Absolutely.

21 Q. And you made a decision early on to -- after
22 this, to let Jersey go and keep Josh?

23 A. That's correct.

24 Q. In fact, I mean, I guess within days of this
25 incident happening, you started taking up money for

1 Josh at your work, didn't you?

2 A. We did.

3 Q. Did you help pay for his legal fees too?

4 A. No, sir.

5 Q. But you didn't know all the facts of that, did
6 you?

7 A. I didn't know all the facts. No, sir.

8 Q. You hadn't seen the police report or witness
9 statements, didn't know anything what the evidence
10 was?

11 A. No, sir.

12 Q. But you made a decision to start supporting
13 Josh early on, correct?

14 A. That's correct.

15 Q. And you helped him get in touch with attorneys?

16 A. I don't know that we ever facilitated getting
17 in touch with attorneys.

18 Q. You told him on a recorded phone call
19 conversation that you'd help get in touch with his
20 attorney. Do you recall that?

21 A. If you have it in the record, then that must be
22 the case.

23 Q. You went by his house and you got his personal
24 belongings for him while he was in the detention
25 center?

1 A. We did.

2 Q. And you talked to Josh regularly about the
3 case, didn't you?

4 A. Yes, sir.

5 Q. In fact, you talked to Helen Bradberry about
6 the case as well, who is Brooke's mother, right?

7 A. We have had conversations about the case. Yes,
8 sir.

9 Q. And she told you --

10 MR. DEIRIG: Objection.

11 BY MR. MCNAIR:

12 Q. You told Josh --

13 THE COURT: Sustained as hearsay, so keep this
14 question --

15 BY MR. MCNAIR:

16 Q. Well, you told Josh that Helen Bradberry was to
17 get Brooke and J.L-F. to change their statements,
18 didn't you?

19 A. She had communicated that she felt there were
20 falsehoods after discussions with them, false
21 statements in their statements that they should
22 change, so I communicated that to Josh.

23 Q. So August 25th, 2015, you told Josh that Brooke
24 and J.L-F. -- that Helen was going to get Brooke and
25 J.L-F. to change their statements?

1 A. That's what she communicated to me.

2 Q. You thought that would be a good thing if they
3 changed their statements?

4 A. If the truth -- if the truth hadn't been told
5 in the original statements, then the truth needed to
6 be told.

7 Q. How do you know whether the truth was in those
8 original statements?

9 A. I do not know that.

10 Q. And Helen Bradberry was not there that night
11 either to know, was she?

12 A. She was not onsite, to my understanding, during
13 the incident. No.

14 Q. But you thought that would be a good thing for
15 Josh if people would change their statements. And
16 Josh thought that would be a good thing too, didn't
17 he?

18 A. If -- the truth is the truth, and it needed to
19 be told.

20 Q. Right. But you didn't know what the truth was?

21 A. No, sir.

22 Q. Did you ever review those statements? Have you
23 ever read those statements before talking to Josh
24 that day?

25 A. No, sir.

1 Q. So you had no idea what was in there?

2 A. No, sir.

3 Q. So is it fair to say that you were hoping Josh
4 would get off these charges, right?

5 A. Absolutely.

6 Q. And you talked to him regularly, you worked
7 with him regularly, and the only details he gave you
8 is that he felt like he was acting in self-defense?

9 A. Yes, sir.

10 Q. He never told you about firing warning shots at
11 Jersey, has he?

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

13 Q. He's never told you about Jersey charging him
14 after he fired warning shots, correct?

15 A. I don't recall that, no.

16 Q. So he gave you a very general statement about
17 what happened? He didn't give you details, did he?
18 Well, you just testified to what he told you, and
19 that wasn't very many details.

20 A. That's correct.

21 Q. Do you know a fellow by the name of John
22 Jenkins?

23 A. Yes, sir.

24 Q. Who is he?

25 A. He also worked for my company for a long period

1 of time. I'm working off of memory, but we let him
2 go probably close to two years ago, maybe even
3 three.

4 Q. How long did he work for your company?

5 A. Oh, a long time. He had been there probably
6 close to 18 years at the time --

7 Q. Did his father work for your dad as well?

8 A. Did John Jenkins' father?

9 Q. Yes.

10 A. No, sir.

11 Q. Just John? So he worked for your company for
12 years?

13 A. That's correct.

14 Q. Okay. And he's friends with Josh?

15 A. Yes, sir.

16 Q. When you met with Joe Meyers in the hospital,
17 that was on the 23rd and he'd just gotten out of
18 surgery, right?

19 A. That's correct.

20 Q. Was he still, I guess, under the influence of
21 medication?

22 A. It appeared to me. Yes, sir.

23 Q. And did you know that he also met with law
24 enforcement that same day?

25 A. I want to say that he -- that law enforcement

1 had either just been there or they were on their
2 way. His brother was in the room with him, and
3 communicating a good bit.

4 Q. Would it surprise you to learn that he was able
5 to provide details to law enforcement on that same
6 day that you said you met with him?

7 A. It would surprise me somewhat, the clarity of
8 those details perhaps, with 100 percent clarity.

9 Q. That's understandable, just getting out of
10 surgery, having six to eight feet of your intestines
11 removed, right?

12 A. Yes.

13 Q. Do you recall telling him to be careful what he
14 told the police?

15 A. I did say that. Yes.

16 Q. Why did you say that?

17 A. Again, because of the amount of clarity that he
18 could have at that point.

19 Q. But you'd agree the truth is the truth?

20 A. I do agree with that. Yes, sir.

21 Q. That's all the questions I have. Thank you.

22 THE COURT: Any redirect?

23 MR. DEIRIG: Briefly.

24 REDIRECT EXAMINATION

25 BY MR. DEIRIG:

1 Q. You said the truth is the truth?

2 A. Yes, sir.

3 Q. Are you telling the truth today?

4 A. I am.

5 Q. Are you aware that it's a crime to lie on a
6 witness stand after being sworn?

7 A. I am very aware. Yes, sir.

8 Q. Would you commit that crime to try to save
9 Josh?

10 A. Absolutely not.

11 Q. In fact, are you committing a crime right now
12 to try and save Josh?

13 A. Putting my hand on that Bible right there means
14 more to me than anything I could do for the
15 defendant, even though I hold him in the highest
16 regard and highest esteem. I have great respect for
17 the victim in this case as well. I'm not here to do
18 anything but answer the questions y'all have given
19 me. And putting my hand on that Bible right there
20 means a lot.

21 Q. Thank you, sir.

22 MR. MCNAIR: Norman, I'm not accusing you of
23 committing a crime, for the record.

24 THE WITNESS: I didn't want to have to call
25 your mother. Thank you.

1 MR. DEIRIG: May he be excused?

2 THE COURT: He may be.

3 MR. DERIEG: The defense calls Helen Bradberry.

4

5

6 HELEN BRADBERRY

7 being first duly sworn, testified as follows:

8 THE WITNESS: I do.

9 THE CLERK: Once you're seated, state your
10 name, spelling your last, please.

11 THE WITNESS: Helen Bradberry,
12 B-R-A-D-B-E-R-R-Y.

13 DIRECT EXAMINATION

14 BY MR. DEIRIG:

15 Q. Afternoon, Helen.

16 A. Afternoon.

17 Q. Do you mind if I call you Helen?

18 A. That's fine.

19 Q. Please introduce yourself to the jury. Let
20 them know who you are, where you went to school,
21 what you do for a living, family, that kind of
22 thing.

23 A. Helen Bradberry. I live in Columbia, South
24 Carolina. I graduated from Bladensburg High School
25 in Maryland. I attended Northern Virginia Community

1 College and I have been a legal assistant for 40
2 years.

3 Q. You're a legal assistant?

4 A. I am.

5 Q. Where?

6 A. Collins & Lacy.

7 Q. Do you have any kids?

8 A. I do; three daughters.

9 Q. Three daughters?

10 A. Brandy is 43. And twins, Brooke and Breana,
11 they're 39.

12 Q. Are any of those children in the courtroom
13 today?

14 A. Brooke is.

15 Q. Could you point her out, please?

16 A. Right there in the black shirt.

17 Q. So do you know Joshua Reher?

18 A. I do.

19 Q. How do you know him?

20 A. He started dating my daughter probably five
21 years ago.

22 Q. Are they still dating?

23 A. No, they're not.

24 Q. I'm going to turn your attention to the night
25 of August 21st, 2015, the incident that we're here

1 about.

2 A. Okay.

3 Q. At any point, did you have occasion to go to
4 [REDACTED]?

5 A. I did.

6 Q. About what time did you get there?

7 A. I'm not really sure of the time. Maybe between
8 7:30 and 8:00. I received a phone call from my
9 daughter stating that I needed to be there.

10 Q. Which daughter?

11 A. Breana.

12 Q. Brooke's twin?

13 A. Her twin.

14 Q. Was Brooke there?

15 A. At the time, she was coming up the street. And
16 we kind of came in together at the same time.

17 Q. So you got there roughly about the same time?

18 A. Maybe a minute apart. Yeah.

19 Q. And while you were there, did you ever witness
20 Josh pointing a gun at anybody?

21 A. No, I did not.

22 Q. Did you ever even see Josh with a gun?

23 A. No, I did not.

24 Q. Did you see Josh that night?

25 A. I did.

1 Q. What was his appearance?

2 A. His face was bloody. He was sitting in the
3 garage with his hands cuffed, crying.

4 Q. Where was he bleeding from?

5 A. The left side of the temple. Had cuts on his
6 face. His face was kind of dirty on one side.

7 Q. You said he was crying?

8 A. He was. He was very upset.

9 Q. Was he saying anything?

10 A. Just he made me do it, he made me do it.

11 Q. Did you ever hear him ask for medical
12 attention?

13 A. I did.

14 Q. Were you present when Jo. F. was
15 questioned?

16 A. That night?

17 Q. Yes, ma'am.

18 A. I was.

19 Q. Do you remember about what time that was?

20 A. It was kind of late at night. Maybe -- it was
21 dark. The police officer wanted to question him.
22 My daughter Brooke was standing beside the police
23 officer. And I just told Brooke that somebody
24 needed to be in the car with him, either she could
25 be present or I would, because he was only 11 years

1 old and he was not going to go to the car by himself
2 to be questioned.

3 Q. I believe previously you've testified it was
4 about 3:00 in the morning. Does that sound right?

5 A. No, it wasn't 3:00 in the morning. No. I left
6 about 3:00 in the morning.

7 Q. Okay.

8 A. Yeah. It was dark. At that time, I'm not
9 really sure, thinking back.

10 Q. About how long had you been at the house --

11 A. Oh, gosh.

12 Q. -- when you saw Jo.F. getting questioned?

13 A. I'd say at least three or four hours.

14 Q. Okay. So if you got there around 8:00, we're
15 looking at --

16 A. About 12:00.

17 Q. About 12:00?

18 A. 11:30 or 12:00.

19 Q. Do you know if Jo.F. had had any sleep that
20 night?

21 A. He had not.

22 Q. What was he wearing?

23 A. A pair of shorts, no shoes, and a T-shirt.

24 Q. Was he inside or outside?

25 A. He was outside standing in the street.

1 Q. Do you know if he'd had anything to eat or
2 drink?

3 A. He had not.

4 Q. Had he asked for something?

5 A. He had asked for some water or something to
6 drink.

7 Q. And why wasn't he able to?

8 A. They said, no, he couldn't go in the house.

9 Q. When you say they --

10 A. The police officer said no one could enter the
11 house.

12 Q. Okay. Were you present when J.L-F. was
13 questioned?

14 A. I was standing there when they came to get
15 J.L-F. to question him.

16 Q. Okay. And did he get questioned more than one
17 time?

18 A. Three times from three different officers.

19 Q. Okay. So you weren't -- you weren't present
20 for the questioning --

21 A. No.

22 Q. You just saw him --

23 A. I saw each officer come up and tell him they
24 needed to talk to him as well.

25 Q. Okay. Where did they go to talk?

1 A. In the police car.

2 Q. Was J.L.F. by himself?

3 A. He was.

4 Q. Okay. And I think you mentioned it before, but
5 was Jo.F. in the police car by himself?

6 A. No. I think Brooke went -- she went in with
7 him.

8 Q. It was at your insistence that that happened,
9 right?

10 A. At my insistence, it did.

11 Q. Has Josh ever spoke to you about what happened?

12 A. When I went to visit Josh at the jail, I asked
13 him what happened. And he just relayed to me --

14 MR. MCNAIR: Your Honor, I mean, I've let all
15 kinds of hearsay in regarding that. But it's time
16 for that to stop. Object.

17 THE COURT: Sustained. Take your questions
18 somewhere else.

19 MR. DEIRIG: Your Honor, I'm not asking what
20 Josh said. I'm just asking if she talked to him.

21 THE COURT: Her response was to that end, so
22 rephrase your question so she knows not to repeat
23 whatever he said.

24 BY MR. DEIRIG:

25 Q. Without telling me what Josh said, have you

1 spoken to Josh about what happened?

2 A. I did.

3 Q. Where did you speak to him about it?

4 A. The jail over the telephone.

5 Q. At Lexington County Detention Center?

6 A. Lexington County.

7 Q. Was it video visitation?

8 A. It was.

9 Q. And on that video visitation, do they inform
10 you that those conversations are being recorded?

11 A. They did.

12 Q. Have you ever -- have you spoken to Josh about
13 what happened more than once?

14 A. Every time I went to visit him.

15 Q. How often was that?

16 A. I would try to go see him twice a week.

17 Q. So every time you went to go see him twice a
18 week -- for how long?

19 A. Three months.

20 Q. Okay. So twice a week for three months. And
21 y'all talked about what happened on August 21st,
22 2015 every time?

23 A. Not every time. No.

24 Q. More than once?

25 A. More than once.

1 Q. And every one of those conversations was
2 recorded?

3 A. It was.

4 Q. And did Josh's story to you ever change?

5 A. No.

6 MR. MCNAIR: Objection.

7 THE COURT: I'll overrule that one.

8 BY MR. DEIRIG:

9 Q. Do you know Joseph Meyers?

10 A. I've met him three times.

11 Q. What is he known by?

12 A. Jersey.

13 Q. Jersey?

14 A. Uh-huh.

15 Q. After the incident on August 21st, 2015
16 happened, did you ever have occasion to be in
17 contact with Jersey again?

18 A. I did.

19 Q. How was that?

20 A. I picked him up from the hospital with my
21 daughter.

22 Q. Do you remember what day that was?

23 A. Maybe [REDACTED]. It was my birthday and I
24 remember being off that day. I don't remember if it
25 was exactly the [REDACTED], but I had taken off on my

1 birthday.

2 Q. So --

3 A. Friday -- I'd say maybe Friday.

4 Q. So several days after the --

5 A. Uh-huh.

6 Q. -- incident?

7 A. It was.

8 Q. And you said your daughter was with you?

9 A. She was.

10 Q. Which daughter was that?

11 A. Brooke.

12 Q. Okay. And did you talk to Jersey about what
13 happened?

14 A. He got in the car and I asked him how he was
15 doing and he said he was fine. He then said to
16 Brooke, what the H happened? And I turned around
17 and said, you don't remember what happened? And he
18 went on to explain to me what he did remember.

19 Q. What did he remember?

20 A. He said he remembered driving home, turning a
21 corner, hitting a boulder in someone else's yard,
22 parking his car, went in the house, took a bath,
23 laid on the sofa, and hears knocking at the door;
24 his wife answered the door and it was police
25 officers and they wanted to know if he was in there.

1 He thought maybe they were coming for a DUI or he'd
2 been drinking or something to that effect. And his
3 wife let them in because they had told -- the police
4 officers told his wife he had been shot. Next thing
5 you know --

6 MR. MCNAIR: Your Honor, she's testifying about
7 all kinds of stuff she doesn't have personal
8 knowledge of.

9 MR. DEIRIG: She's testifying what Mr. Meyers
10 told her. And --

11 THE COURT: She's --

12 MR. MCNAIR: Are you testifying today what --

13 THE COURT: No, no, no. That's not a good
14 question. Re-ask the questions so she doesn't, you
15 know, give a long narrative. Ask specific
16 questions.

17 MR. DEIRIG: Yes, sir.

18 BY MR. DEIRIG:

19 Q. Did Jersey tell you that he remembered getting
20 shot?

21 A. No.

22 Q. Did he -- did he tell you -- did he give you
23 any details about what happened before the police
24 showed up at his house other than hitting the
25 boulder on the way home?

1 A. He just told me that he remembered going to
2 Josh's and Brooke's house and they had gotten into
3 an altercation.

4 Q. Okay. Now, have you ever offered to write an
5 affidavit for M.A. ?

6 A. No. I offered to type one if he would
7 handwrite it. That's it.

8 Q. So you never offered to supply the answers to
9 an affidavit --

10 A. No.

11 Q. -- for M.A. ?

12 A. I did not.

13 Q. Please wait until I finish my question before
14 you answer so our court reporter can get us both
15 down.

16 Did you ever tell Norman Agnew that you wanted
17 to get Brooke and J.L-F. to change their statements?

18 A. I don't think it was that exact words.

19 Q. Well, what did you tell him?

20 A. We had -- from what I can remember, we had a
21 conversation. And I told him that I had told Brooke
22 that she needed to reread her statement when her
23 mind was clear the next day, and if there were any
24 inaccuracies in that statement, she needed to amend
25 it, because we were talking about someone's life.

1 Q. Did you tell J.L.F. the same thing?

2 A. I did.

3 Q. Were you trying to get them to lie?

4 A. No.

5 Q. What did you ask them to do?

6 A. To reread what they had told the police
7 officer, because I know a lot of times when
8 something like that happens, your blood is rushing
9 high, you're not really in your right state of mind,
10 you have a tendency to go on and on about things,
11 and they just needed to reread it and make sure it
12 was accurate -- an accurate statement they'd given
13 the police officer.

14 Q. And do you know whether either one of them ever
15 amended their statement?

16 A. I think Brooke did.

17 Q. But you're not sure?

18 A. I'm not positive.

19 MR. DEIRIG: Okay. I beg the Court's
20 indulgence.

21 THE COURT: Yes, sir.

22 MR. DEIRIG: Thank you, Ms. Bradberry. That's
23 all I have.

24 THE WITNESS: Okay.

25 CROSS-EXAMINATION

1 BY MR. MCNAIR:

2 Q. How are you doing, Ms. Bradberry?

3 A. Hey.

4 Q. You've previously testified regarding this
5 matter as well, correct?

6 A. Correct.

7 Q. Do you recall me asking you if you told
8 Mr. Agnew that you were going to get Brooke and
9 J.L-F. to change their statements?

10 A. That's not exactly what I meant by that. I
11 told Norman, like I had told Brooke, to reread the
12 statement, and if there were any inaccuracies in it,
13 they needed to amend that statement.

14 Q. Okay. But when I asked you that before, you
15 said, I did, quote.

16 A. I don't remember that.

17 Q. But you did tell Norman that you were going to
18 get Brooke and J.L-F. to change their answers?

19 A. No. I don't remember saying that.

20 Q. Okay. Do you want to see the transcript and
21 read it?

22 A. I'll see it, but I won't remember it.

23 Q. All right. I want to direct your attention to
24 page 308, lines 11 through 14. If you'll just read
25 that for us.

1 A. Do you remember telling Mr. Agnew that you were
2 going to get Brooke and J.L-F. to change their
3 statements?

4 I did.

5 Q. Stop right there. Your answer was I did,
6 correct?

7 A. Uh-huh.

8 Q. That's what I just asked you. All right.
9 Thank you.

10 Why did you tell Mr. Agnew that you would get
11 Brooke and J.L-F. to change their statements?

12 A. Maybe you misunderstood me. But that's not
13 what I meant by the state- -- if I did say that
14 statement. What I meant was, just like I had said,
15 she needed to reread her statement the next day; if
16 there were any inaccuracies in that statement, which
17 I felt there were because I was standing there when
18 she was giving the police officer what was going on.

19 Q. All right. Let's stop right there. You
20 weren't there during any of this?

21 A. I was there when the police officer questioned
22 her.

23 Q. You pulled up on the scene after the shooting
24 had occurred.

25 A. When the police officer came and questioned

1 her, I was standing in front of him.

2 Q. But you didn't see anything that happened at
3 the house. You pulled up after the shooting had
4 happened.

5 A. That's right.

6 Q. Correct?

7 A. Correct.

8 Q. Right. You weren't a witness to anything that
9 happened at the house that day?

10 A. Correct.

11 Q. All right. So how would you know what would be
12 wrong in somebody's statement?

13 A. I was listening to what she was telling him.
14 She was telling him things that did not happen that
15 night.

16 Q. Such as?

17 A. He was writing it down.

18 Q. Ma'am?

19 A. He was writing it down.

20 Q. Which is good police work, right? You write
21 down what witnesses say.

22 A. For things that didn't happen that night, I
23 don't think so.

24 Q. So what are you saying? They weren't true or
25 they just did not happen that night?

1 A. It did not happen that night. It happened a
2 year and a half ago at a different county, a
3 different address.

4 Q. Okay. Okay. So the things she put in her
5 statement about that night were true, you're just
6 saying --

7 A. But she was saying other things not pertaining
8 to that night.

9 Q. Okay. So you had a problem with that?

10 A. Right.

11 Q. It just didn't pertain to that night?

12 A. Right.

13 Q. But the rest of the --

14 A. The things she was talking to him about that
15 night, I had no problems with. But she was going on
16 about other incidents that had happened a year and a
17 half ago or two years ago in a different county at a
18 different location.

19 Q. All right. And you didn't want the police to
20 know that?

21 A. No, I did not want him to know about that. I
22 wanted her to make sure he did not put that in his
23 statement. That's why I told her to --

24 Q. You realize she wrote a statement, the police
25 officer didn't write a statement?

1 A. He was writing the notes down. I don't know if
2 she wrote a statement or not. But he was taking
3 notes as she was talking about it.

4 Q. Is there anything wrong with that? I don't
5 understand. That's a police officer doing a good
6 job.

7 A. Pertaining to that issue, I felt like he had
8 every right to question her what happened that
9 night. But she volunteered information about
10 something that happened a year and a half ago, and I
11 don't feel like he had the right to write that into
12 a report or include it in a report.

13 Q. So he detailed everything a witness said?

14 A. Excuse me?

15 Q. So he detailed everything a witness said?
16 That's good police work. You're not here faulting
17 the police for what they did, are you?

18 A. No.

19 Q. You don't think the police did anything wrong,
20 do you?

21 A. No. I think she --

22 Q. You've heard the 911 call in this case, right?

23 A. Do what?

24 Q. You've heard the 911 call --

25 A. No, I did not.

1 Q. I've asked you that before and you said you
2 have. You said that was your daughter on the 911,
3 remember?

4 A. My daughter called me at my house on my cell
5 phone.

6 MR. MCNAIR: I beg the Court's indulgence.

7 BY MR. MCNAIR:

8 Q. You recall me asking, do you recognize her
9 voice on the phone, and you answering, I do, in
10 reference to the 911 call?

11 A. I don't think I understand what you're asking
12 me.

13 Q. Have you heard the 911 call? It's a very
14 simple question.

15 A. Oh. I thought you said that I received the 911
16 call.

17 Q. No, no, no, no.

18 A. I have heard the 911 call. Yes.

19 Q. Okay. And that's your daughter who called 911?

20 A. That was my daughter, right.

21 Q. And she sounded terrified, didn't she?

22 A. She did.

23 Q. All right. And she wanted the police to get
24 there quick, didn't she?

25 A. She did.

1 Q. All right. So you're not faulting the police
2 for getting there quick and doing a good, thorough
3 investigation, are you?

4 A. No.

5 Q. All right. And you don't think they did wrong
6 by questioning Jo.F. , do you?

7 A. No.

8 Q. Because he was -- he was in the house too. So
9 you have to talk to him as well, right?

10 A. Exactly.

11 Q. So you're not blaming the police --

12 A. No.

13 Q. -- for talking to Jo.F. or J.L-F. or anything
14 like that, are you?

15 A. No.

16 Q. Tell me about -- tell me about J.L-F. 's
17 statement. Why did you feel like J.L-F. 's statement
18 needed to change?

19 A. I didn't feel like it -- I don't even know what
20 J.L-F. 's statement said or what he put in that
21 statement.

22 Q. Why did you --

23 A. I didn't say --

24 Q. Why did you tell Norman that you would get
25 J.L-F. to change his statement?

1 A. I don't think I told Norman that. Or maybe he
2 misunderstood what I was saying.

3 Q. All right. Well, we just read your
4 testimony --

5 A. I understand and I saw what I said. But I
6 don't -- maybe that day got me flustered. But
7 that's not exactly what I meant. I would never tell
8 anyone to change a statement. I would, however,
9 tell people, if you read that statement and it is
10 not accurate, you need to amend that statement.
11 Because I know how people get at the time like that
12 when they're frustrated and their blood pressure is
13 high, they haven't eaten, they haven't slept.
14 People have a tendency to babble on about things.
15 That's what I was trying to get across to Brooke and
16 J.L.F. .

17 Q. Well, had you seen their statements?

18 A. I have never seen their statements.

19 Q. Well, you have -- you have seen their
20 statements.

21 A. Oh, no, I have not seen their statements.

22 Q. Do you remember previously testifying that the
23 only statement you had seen was Brooke's and that
24 was --

25 A. I have never really seen Brooke's statement

1 word for word. She called me the next day and told
2 me.

3 Q. Why did you testify that you had seen her
4 statement?

5 A. Maybe I was flustered that day. I don't know.
6 I mean, the questioning does come across a little
7 harsh sometimes.

8 Q. I'm trying not to be harsh. I'm just trying to
9 get to the --

10 A. Well, that day you were.

11 Q. I'm trying to get the truth.

12 A. And I'm trying --

13 Q. I'm asking direct questions to get to the
14 truth.

15 A. And I'm answering you truthfully.

16 Q. Now, not only did you say that you told Norman
17 that you wanted them to change their statements, but
18 you also said they needed to redact their
19 statements. Do you recall testifying to that?

20 A. Redact and amend is the same way.

21 Q. No. Redact is to take away, to erase --

22 A. And amend to take away statement --

23 Q. Amend is to change.

24 A. Well, to me, it's the same thing. I'm sorry.

25 Maybe I should use the word redact.

1 Q. And what I'm trying to get at is how do you
2 know what needed to be changed or redacted when you
3 weren't even there?

4 A. I wanted to make sure neither one of them were
5 saying things they weren't one hundred percent sure
6 of. We were talking about a guy's life here. If
7 I'm going to give a statement to somebody, I would
8 hope it would be truthful. That's why -- I don't
9 understand why people even take statements right
10 after an incident happens. They need to give them
11 time to gather their thoughts, get their mind clear,
12 and be more a little more at ease with what they're
13 saying.

14 Q. Or sometimes you just get the unvarnished truth
15 before you have time to think about it, don't you,
16 because you don't know how it impacts everything.

17 A. Sometimes you have a tendency to babble on
18 about things that does not pertain to that incident
19 and, therefore, it's put into a statement.

20 Q. So who contacted you about M.A.
21 wanting to -- or you typing an affidavit --

22 A. M.A. did from my house with my grandson
23 J.L-F. .

24 Q. M.A. told you --

25 A. He was at my house and they called me at my job

1 and asked me if I would be willing to type an
2 affidavit for him.

3 Q. About what?

4 A. I don't know for what. I said if he handwrites
5 an affidavit, I will type it for him, but he'll have
6 to take it to someone else to get it notarized. I
7 would not do that.

8 Q. All right. So, I mean, you wanted Brooke to
9 change her statement, you wanted J.L-F. to change his
10 statement, and you'll type an affidavit for M.A.

11 ?

12 A. No. I didn't volunteer. They asked me if I'd
13 type one because he did not want to write an
14 affidavit with his handwriting. He told me his
15 handwriting was messy.

16 Q. And did you -- did you drive these kids up to
17 the defense attorney's office to meet with him as
18 well?

19 A. No, I didn't.

20 Q. You drove Jo.F. up there, didn't you?

21 A. No, I did not.

22 Q. You don't recall testifying to that before?

23 A. No, I did not.

24 Q. Okay. All right. Read page 307. You can read
25 the first three lines there.

1 A. Did you drive Jo.F. to the defense attorney's
2 office?

3 Q. What was your answer?

4 A. When?

5 Q. What was your answer?

6 A. Last Friday. When?

7 Q. So you did drive Jo.F. to the defense
8 attorney's --

9 A. No.

10 Q. -- office?

11 A. I did not. I met him there with his mother.

12 Q. Ms. Bradberry, I'm having a hard time keeping
13 up with this.

14 A. Me too.

15 Q. All right. So you met Jo.F. at the defense
16 attorney's office with Brooke?

17 A. I did.

18 Q. All right. Who else was present?

19 A. I think Josh may have been.

20 Q. Who else?

21 A. I'm not 100 percent sure. And J.L-F. was there.

22 Q. So the whole family?

23 A. Whole family.

24 Q. At the defense attorney's office with Josh in
25 the same room?

1 A. I think Josh was there. I'm not 100 percent
2 sure. But I was there.

3 Q. Well, you testified previously Josh was there.
4 Do you want me to point it out to you?

5 A. No. I remember seeing Josh, but I don't know
6 if he sat in the meeting the entire time.

7 Q. So all the witnesses who had given written
8 statements are now in the defense attorney's office
9 all together with the defendant, and you felt their
10 statements needed to be changed or redacted, even
11 though you weren't at the house that day?

12 A. I did.

13 Q. Okay.

14 A. If they lied in the statements.

15 Q. But you wouldn't know whether they did or not
16 because you didn't see anything yourself?

17 A. That's right. I've never seen those
18 statements. So, obviously, they felt that some
19 things were in the statements that shouldn't be in
20 it. That's why they changed them. I don't even
21 know --

22 Q. Because those statements were pretty damning to
23 Josh, weren't they?

24 A. Do what?

25 Q. They were pretty damning to Josh?

1 A. I've never seen the statements.

2 Q. Well, did you talk to Jo.F. about what he saw?

3 A. I did. I asked him what he saw.

4 Q. You did that prior to driving him up to the
5 defense attorney's office?

6 A. No, I did not. I did not drive him to the
7 defense attorney's office.

8 Q. Prior to him going to the defense attorney's
9 office, however he got there, had you ever talked to
10 Jo.F. about this case, about what he saw?

11 A. I just asked him what he saw.

12 Q. Prior to going to the defense attorney's
13 office?

14 A. Prior to going to the defense attorney's
15 office.

16 Q. All right. And when I asked you that
17 previously, you said you hadn't talked to Jo.F.
18 prior to going to the defense attorney's office. Do
19 you remember that?

20 A. No.

21 Q. Are you admitting that you denied that or do
22 you want to see it in the transcript?

23 A. I'll take your word for it.

24 Q. Okay. Now, after this happened -- let's start
25 with Brooke. Brooke never has really worked, right?

1 A. She's worked.

2 Q. All right. She didn't have a job at this time?

3 A. No.

4 Q. Josh was paying all the bills?

5 A. He was.

6 Q. And he was supporting your grandkids, her kids?

7 A. And I would help them out occasionally.

8 Q. Okay. And after he got arrested, they all had
9 to move in with you, right?

10 A. They did. They didn't have to; it was my
11 suggestion because of the financial situation.

12 Q. Well, she -- I mean, if she didn't work, she
13 really didn't have a way to provide for herself.

14 So --

15 A. She was going to go back to work. I felt it
16 would be best if they moved back to the house.

17 Q. As soon as, I guess, Josh made bond, they were
18 able to move back in with him?

19 A. They really weren't, no. It was not a good
20 idea for them to do that.

21 Q. But they did eventually move back in together,
22 right?

23 A. They did.

24 Q. Okay. By the time they meet with the defense
25 attorney, they're all back in the same house living

1 together?

2 A. No. A lot of times Brooke would be at the
3 house with her kids by herself, and other times Josh
4 would stay at her twin's house with her and her
5 husband at the time. I tried to make sure that they
6 weren't together, like, 24/7.

7 Q. All right. And are you saying that she -- did
8 you talk to M.A. ?

9 A. I have never talked to M.A. . If he
10 walked in the courtroom today, I couldn't tell you
11 who he was.

12 Q. Okay. Do you recall that you questioned M.A.
13 and you also questioned J.L-F. and Jo.F. ?

14 A. I've never questioned M.A. , I don't think. And
15 I've really never questioned J.L-F. or Jo.F. . I
16 asked them what happened, is what I did. You know,
17 as a grandmother --

18 Q. If you asked them what happened, you talked to
19 them.

20 A. I talked to them. As a grandmother, I'm
21 concerned.

22 Q. And you talked to M.A. ?

23 A. I've never talked to him.

24 Q. All right. If you said -- if you previously
25 testified that you questioned M.A. --

1 A. I've never questioned M.A. .

2 Q. Have you talked to M.A. ? I'm not playing --

3 A. Hi, how are you doing?

4 Q. -- words here.

5 A. Okay. Hi, how are you doing? That's probably
6 the extent.

7 Q. You can just read lines 14 and 15 on page 311.
8 You want me to read them for you?

9 A. No. I was just reading above it first. It
10 says: I questioned M.A. and I also questioned J.L.B.
11 and Jo.F. .

12 Q. That's exactly what I just asked you, isn't it?

13 A. I don't think I questioned them. I asked how
14 they were doing.

15 Q. You talked about you met -- you talked to
16 Joseph Meyers after he got out of the hospital,
17 right?

18 A. I did.

19 Q. You said he couldn't remember anything other
20 than hitting a boulder on the way to trying to get
21 home that night.

22 A. Right.

23 Q. Well, you previously testified that he told you
24 that he did remember he and Josh drinking. Remember
25 that?

1 A. He told me that.

2 Q. All right. He remembers Josh got mad because
3 the boys were out front?

4 A. He told me that. He didn't really -- he told
5 Brooke that in the car with us. Right.

6 Q. You heard that?

7 A. I heard that.

8 Q. He said that they got into a fight. Remember
9 that?

10 A. I remember him saying that.

11 Q. Okay. And he said he told the police officers
12 the story about the four guys because he didn't want
13 Josh to get in trouble. Do you remember that?

14 A. I heard him say that.

15 Q. In fact, he said he made up that story to
16 protect Josh?

17 A. I heard him say that.

18 Q. All right. He thought of Josh like a brother?

19 A. He did.

20 Q. Now, you previously testified that you didn't
21 really have any involvement in this case other than
22 the night of the incident except for visiting Josh
23 in jail and then you went to a bond hearing. Do you
24 remember saying that?

25 A. I did.

1 Q. But that's not true, is it? You talked to --

2 A. Can you be more explicit?

3 Q. You talked to them about their statements?

4 A. I talked to Josh about their statements?

5 Q. You drove up to the defense attorney's office
6 with all of them to meet about the case. So you
7 were very involved in this case?

8 A. I guess I was then.

9 Q. All right. But you really don't know anything
10 about it because you weren't there?

11 A. No. Hearsay.

12 Q. That's all the questions I have.

13 THE COURT: Redirect?

14 MR. DEIRIG: Yes, Your Honor. Thank you.

15 REDIRECT EXAMINATION

16 BY MR. DEIRIG:

17 Q. Was anybody brought to my office against their
18 will?

19 A. No, they were not.

20 Q. Did you ever ask anybody in this case to lie?

21 A. I did not.

22 Q. Are you here lying?

23 A. No, I am not.

24 Q. And Mr. McNair asked you if Jersey had told you
25 that he told a story about getting jumped by kids to

1 protect Josh, right?

2 A. He did.

3 Q. What did he tell you that he remembered about
4 what actually happened?

5 A. Said he and Josh had been at Hemingway's
6 drinking, and when he came home, he saw the boys --
7 I guess the boys on the car at the house -- at
8 Joshua's house. Brooke had asked Josh for some
9 money. She was going to the store, and that's when
10 him and Josh got into the altercation.

11 He also said he couldn't find his keys after
12 everything had happened. J.L-F. found the keys, gave
13 him the keys, he drove himself home. He didn't
14 realize he had been shot. That's when he turned on
15 the street, hit the boulder, went up the driveway,
16 and the rest is when the police officer showed up at
17 his house. My grandson, J.L-F. , took the police
18 officers to his house.

19 Q. And what was the first thing that Jersey asked
20 of you and Brooke when he got in the car?

21 A. What the hell happened?

22 Q. Was it your intent to try and help out Josh
23 when you were asking Brooke and J.L-F. to review
24 their statement?

25 A. It wasn't my intent to help Josh. I wanted to

1 make sure what Brooke was saying and J.L-F. was
2 saying was actual facts that happened that night.
3 Like I said, I have not read their -- I've never
4 read J.L-F. 's statement, ever. And I knew how Brooke
5 has a tendency to get loose mouth about other
6 issues. And I wanted to make sure those were not in
7 there, other issues that did not pertain to that
8 case that could harm Josh and his future. That was
9 my concern about it.

10 Q. You work for a law firm, right?

11 A. I do.

12 Q. Do you know what perjury is?

13 A. I do.

14 Q. Do you know it's a crime?

15 A. I do.

16 Q. Are you in here committing a crime today to
17 help out your daughter's ex-boyfriend?

18 A. No.

19 MR. DEIRIG: That's all I have. Thank you,
20 Your Honor.

21 THE COURT: You may step down.

22 THE WITNESS: Okay.

23 MR. DEIRIG: May Ms. Bradberry be excused?

24 THE COURT: Sure.

25 MR. DERIEG: May we approach, Your Honor?

1 THE COURT: Yeah, but it would probably be a
2 good time to take a break, isn't it?

3 MR. DEIRIG: That's what I was coming to talk
4 to you about.

5 THE COURT: Okay. Let's take a break. Step
6 back to your jury room. Don't talk about the case.
7 We'll take a few minutes and get back in here.

8 (The jury exits the courtroom at 2:24 PM.)

9 THE COURT: Are we ready to continue on?

10 MR. DEIRIG: The defense is ready.

11 (The jury enters the courtroom at 2:35 PM.)

12 THE COURT: Call your witness.

13 MR. DEIRIG: The defense calls Jo.F. .

14 Jo.F.

15 being first duly sworn, testified as follows:

16 THE WITNESS: Yes, ma'am.

17 THE CLERK: Once you're seated, speak up loud
18 and clear, state your full name, spelling your last.

19 THE WITNESS: Yes, ma'am.

20 THE COURT: We'll get his money later. \$25
21 donation paid to charity for your phone going off in
22 court. That is what I normally do. It works well.
23 I've got a lawyer up in Greenwood eight or ten
24 times.

25 Go ahead.

1 DIRECT EXAMINATION

2 BY MR. DEIRIG:

3 Q. Good afternoon, Jo.F. . How are you doing?

4 A. Good. How are you?

5 Q. Is it okay if I call you Jo.F. instead of
6 Jo.F. ?

7 A. Yes, sir.

8 Q. Do you still go by Jo.F. ?

9 A. Yes, sir.

10 Q. Okay. Please try and speak up into the
11 microphone so the jury and the court reporter can
12 hear everything you have to say.

13 A. Yes, sir.

14 Q. How old are you, Jo.F. ?

15 A. 14.

16 Q. And who is your mother?

17 A. Brooke Floyd.

18 Q. Is she in the courtroom today?

19 A. Yes, sir.

20 Q. What is she wearing?

21 A. A black shirt with sparkles.

22 Q. Sitting over there behind Josh?

23 A. Sir?

24 Q. Sitting over there behind Josh?

25 A. Yes, sir.

1 Q. On the bench behind where our table is?

2 A. Yes, sir.

3 Q. Okay. What grade are you in?

4 A. 8th.

5 Q. 8th grade?

6 A. Yes, sir.

7 Q. Where do you go to school?

8 A. Irmo Middle School.

9 Q. All right. Do you remember the night back in
10 2015 that Josh and Jersey got into a fight?

11 A. Yes, sir.

12 Q. Had you ever met Jersey before that night?

13 A. Yes, sir.

14 Q. And do you know what Jersey's real name is?

15 A. No, sir.

16 Q. Okay. You just know him as Jersey?

17 A. Yes, sir.

18 Q. Okay. How many times had you seen Jersey
19 before that night?

20 A. Four or five.

21 Q. Okay. And where had you seen him?

22 A. I saw him at Jersey's work. And he used to
23 come by our house to hang out with Josh sometimes.

24 Q. Was he picking up and dropping off Josh?

25 A. Yes, sir, to go to work when Josh didn't have a

1 car.

2 Q. So you'd seen him several times?

3 A. Yes, sir.

4 Q. Okay. So when Josh and Jersey had their
5 altercation, where did it happen initially? Where
6 did it start?

7 A. Well, it started when Jersey came into the
8 house when my mother was cooking spaghetti --

9 Q. When did -- when did Jersey come into the
10 house? Was it right after --

11 A. When they got there, like ten minutes after
12 they got there.

13 Q. When Josh and Jersey got to your house?

14 A. Yes, sir.

15 Q. And Jersey came inside?

16 A. Yes, sir.

17 Q. And what did he do when he came inside your
18 house?

19 A. Started screaming at my mother, calling her a
20 stupid B for letting the kids hang out at our house.

21 Q. I'm sorry. Would you say that again a little
22 bit slower and louder?

23 A. He went in the house and called my mother a
24 stupid B for letting the kids in our house.

25 Q. Your mother sitting right there?

1 A. Yes, sir.

2 Q. So what happened next -- well, let me ask you
3 this: Where were you?

4 A. I was in the living room with M.A. watching a
5 show on TV.

6 Q. Where in the living room were you?

7 A. I was sitting on the couch on the far right
8 side.

9 Q. On the far right side?

10 A. Yes, sir.

11 Q. Okay. So after Jersey came in and called your
12 mom a stupid B, what happened?

13 A. Well, she started to cry really bad. And then
14 Josh came in after all that happened and she told
15 him what happened. And he went there and started
16 talking to Jersey, why did you call my girl a stupid
17 B?

18 Q. What happened next?

19 A. Started to get into an altercation physically.

20 Q. Did -- at any point, did your mother leave?

21 A. Yeah. Josh gave her \$20 to go to the gas
22 station to get some cigarettes.

23 Q. And did she leave before the altercation
24 started?

25 A. Yes, sir.

1 Q. And how long after she left did that
2 altercation start?

3 A. Ten minutes after, I believe.

4 Q. Approximately?

5 A. Yes, sir.

6 Q. You weren't timing it?

7 A. No, sir.

8 Q. Okay. So what do you know about the
9 altercation?

10 A. That first I heard screaming outside, and then
11 all of a sudden I heard Josh scream somebody help
12 me; M.A. , call the cops.

13 Q. So you had heard Josh ask for help?

14 A. Yes, sir. And I looked out the window. It's a
15 little square thing by -- in front of the
16 dishwasher -- I mean, not the dishwasher, the dryer.

17 Q. And where did you say that you saw them?

18 A. He was on the floor. And Jersey was on top of
19 him hitting him in the face.

20 Q. Where were you?

21 A. I was inside the living room looking out the
22 window.

23 Q. Inside the living room looking out the window?

24 A. Yes, sir.

25 Q. Okay. Where was Josh and Jersey?

1 A. They were by a brick square box, and he was in
2 the corner.

3 Q. Let me show you what's been marked as
4 State's --

5 A. That square box by the bush.

6 Q. Square box right here?

7 A. Yes, sir.

8 Q. Or over here?

9 A. The first one.

10 Q. Okay. And can you see which window you were
11 at -- does this picture show the window that you
12 were at to see that?

13 A. No, sir.

14 Q. Okay. And so you said that they were by the
15 box, right?

16 A. Yes, sir.

17 Q. Were they right here or were they out there?
18 Or where -- where by the box were they?

19 A. On the far right side where the elephant ears
20 are.

21 Q. There?

22 A. Yes, sir.

23 Q. So, like, right around in this area?

24 A. Yes, sir. And then the window is by -- right
25 by that chimney.

1 Q. Okay. And so they were almost directly below
2 that window?

3 A. Yes, sir.

4 Q. So you could see it pretty clearly?

5 A. Yes, sir.

6 Q. Could you hear clearly?

7 A. Yes, sir.

8 Q. You heard Josh call out for help and to call
9 911?

10 A. Yes, sir.

11 Q. Okay. At any point did you ever hear Josh tell
12 Jersey to leave?

13 A. Yes, sir.

14 Q. You got to answer --

15 A. Yes, sir.

16 Q. What did you hear Josh say?

17 A. Get up, please get away from me, stop hurting
18 me.

19 Q. Did you ever hear Josh tell Jersey to go home?

20 A. Yes, sir.

21 Q. And when did you hear that?

22 A. When Josh was -- Josh got up and pushed him
23 away.

24 Q. And they were still outside?

25 A. Yes, sir.

1 Q. Okay. When you saw Josh and Jersey fighting,
2 who was on top?

3 A. Jersey was on top. He was on -- Josh was on
4 the bottom.

5 Q. And what was Jersey doing?

6 A. Repeatedly hitting him in the face.

7 Q. When you say hit him in the face, who do you
8 mean?

9 A. Jersey was hitting Josh in the face repeatedly.

10 Q. Do you know how many times Jersey hit Josh in
11 the face?

12 A. No, sir. I was shocked and didn't want to keep
13 count.

14 Q. I'm sorry? Say that again.

15 A. I didn't want to keep count of how many times.

16 Q. Would you say it was more than once?

17 A. It was more than ten times, I have to say that.

18 Q. Okay. And what was Josh doing?

19 A. Screaming.

20 Q. What was he screaming?

21 A. Please get off of me. He was screaming, help;

22 M.A. , call the cops.

23 Q. Was Josh punching Jersey back?

24 A. No. He was trying to push him away.

25 Q. How was he trying to push him away?

1 A. Well, first he was grabbing Jersey by the hair
2 and trying to drag him forward like this. And then
3 he would push him on the chest.

4 Q. Just trying to get him off him?

5 A. Yes, sir.

6 Q. How long did this go on? How long did you see
7 Jersey on top of Josh?

8 A. Like seven minutes, eight.

9 Q. Feel like it was a long time?

10 A. Yes, sir.

11 Q. And what were you doing while this was
12 happening?

13 A. I was screaming, M.A. , call my mom, call the
14 cops.

15 Q. Where was M.A. ?

16 A. He was standing there looking out the window.

17 Q. Was he looking out the same window as you?

18 A. Yes, sir.

19 Q. Did M.A. ever go to the kitchen window?

20 A. I think. Yes, sir, I think.

21 Q. Did you ever go to the kitchen window?

22 A. No, sir.

23 Q. Okay. So you just stayed in the living room?

24 A. Yes, sir. The only time I went in the kitchen
25 is when I heard Josh close the door and slam the

1 door and say please get away, please get away.

2 Q. Okay. When did that happen?

3 A. It happened when Josh finally got free of
4 Jersey. And he ran in the back --

5 Q. He came in the back door of the house?

6 A. Yeah, he ran through the gate. That gate right
7 there.

8 Q. Ran through this gate and come around the --

9 A. Yes, sir.

10 Q. -- back of the house?

11 A. In the white door, locked that one. And then
12 he ran -- he got his gun, and he ran forward to the
13 door. I don't think that door locks, so he just had
14 to keep it shut.

15 Q. What door are you talking about?

16 A. That door right there with the screen in the
17 garage.

18 Q. This one?

19 A. Yes, sir.

20 Q. So you said Josh got his gun and ran to that
21 door?

22 A. Yes, sir.

23 Q. And then what happened?

24 A. He told Jersey to go away and Jersey kept
25 pounding on the door trying to get in. And,

1 finally, he stopped pounding on the door. And then
2 one last time he pushed it and he got through, and
3 that's when Josh shot off three rounds to say get
4 away from me right now. He shot three outside and
5 then the fourth one he -- that's when Jersey was
6 running back. And the fourth one is when he shot
7 Jersey.

8 Q. Was -- those three warning shots you were
9 talking about, was Jersey still outside when Josh
10 shot those warning shots?

11 A. Yes, sir. He was -- he was by the stairs right
12 there.

13 Q. Okay. And where did Josh shoot?

14 A. He shot -- he opened the screen door and shot
15 out, like, above them. Like, he shot the wall.

16 Q. Okay. And how did you see this?

17 A. I was by the door. If you have a picture of
18 the inside of the house, I was by the door frame
19 where the kitchen is.

20 Q. What's been marked as State's 24?

21 A. Right where y'all took that picture. That door
22 frame, I was -- my feet -- I was sitting on the
23 couch and I propped that thing up to lay my feet on.
24 I was trying to take a nap, then all that stuff
25 happened.

1 Q. So this is where you were sitting?

2 A. Yes, sir.

3 Q. Where was M.A. ?

4 A. He was either, like, on the left side or he
5 was, like, on the cushion next to the other side.
6 He was on that crack, I think.

7 Q. He was either -- when you say left side, you
8 mean right here?

9 A. Yes, sir.

10 Q. Or he was where?

11 A. He was right there.

12 Q. Right here?

13 A. Yes, sir. Right there.

14 Q. Right there? So he was on the same couch with
15 you?

16 A. Yes, sir.

17 Q. Okay. And that door frame, essentially, is
18 where you were standing, but facing the opposite
19 direction towards --

20 A. Yes, sir.

21 Q. -- that door?

22 What did you see next?

23 A. I seen Josh -- I seen Josh slam the door, lay
24 on the ground, like, having a panic attack. So I
25 asked him if he wanted some water. And he said,

1 yes, please. So I got him some water. And I went
2 to go grab the gun and pull it away, and he said
3 don't touch that.

4 Q. Let me back you up. You said you heard three
5 warning shots?

6 A. Yes, sir.

7 Q. And then what happened after the warning shots?

8 A. I heard one more shot.

9 Q. Did you see any of the shots?

10 A. All I saw was Josh out the door. And he was
11 shooting -- I saw Jersey on the bottom step, then I
12 saw the gun above shooting at the wall.

13 Q. The last shot that you heard, where was Josh?

14 A. He was in the same place. That's when Jersey
15 jumped up and started to try to attack him again.

16 Q. So this was basically at the entrance to the
17 kitchen?

18 A. Yes, sir. Well, yeah. Entrance to the kitchen
19 from the garage.

20 Q. Right. So you saw Jersey and Josh essentially
21 in this doorway when you heard the last shot?

22 A. Yes, sir.

23 Q. Prior to Jersey coming in -- how did Jersey get
24 that door open?

25 A. Well, the door doesn't have a lock on it, I

1 don't think, so he kept pushing it, trying to force
2 his way in.

3 Q. Was Josh trying to prevent him from coming in?

4 A. Yes, sir. He was trying -- yes, sir.

5 Q. What was he doing?

6 A. He was pushing the door with all his might.

7 Q. Did anybody help Josh try to hold that door
8 shut?

9 A. No, sir.

10 Q. And while the shots were happening or when you
11 hear the shots, was M.A. still on that couch?
12 Where was he?

13 A. He -- he was -- he went to wake up J.L-F. .

14 Q. So while the shooting was happening, he got up
15 and went to go wake up J.L-F. ?

16 A. Yes, sir.

17 Q. Okay. So you see Jersey and Josh at the
18 entrance of the kitchen. What happened next?

19 A. Well, the final shot, he -- he hit Jersey. And
20 that's when Jersey -- that's when J.L-F. went outside
21 to help Jersey find his keys. And then Jersey found
22 his keys, finally, and went home.

23 Q. What happened -- when Josh shot Jersey, what
24 happened immediately?

25 A. Josh slammed the door and laid on the floor

1 having a panic attack.

2 Q. Describe that for the jury.

3 A. He was laying on the floor like -- like this,
4 all spread out. And then the gun was, like, way
5 behind his head. He put it over there. So I went
6 to get some water -- to ask him, and then he said
7 yes, so I got him water. Like, I wanted to go touch
8 the gun, to pull it away. And he said, don't touch
9 that.

10 Q. Was Josh breathing quickly?

11 A. Yes, sir. He sounded like he was having a
12 heart attack.

13 Q. Was he bleeding?

14 A. Yes; on the face.

15 Q. Was he crying?

16 A. Yes.

17 Q. Did he say anything?

18 A. He couldn't say much. I think he was shocked.

19 Q. So then, you said, after that, J.L-F. went and
20 helped Jersey find his keys?

21 A. Yes, sir.

22 Q. Do you know where the keys were found?

23 A. In the -- on the right, in those little bushes,
24 in the grass over there.

25 Q. So over by the elephant ears?

1 A. On the right. So --

2 Q. Over here?

3 A. Yes, sir. A little bit further on the right,
4 up -- right there.

5 Q. Right there?

6 A. Yes, sir.

7 Q. Okay. What happened after -- what happened
8 after J.L-F. helped Jersey find his keys?

9 A. He went back inside. And M.A. called my aunt,
10 Breana, and Breana called Nana, and Nana called my
11 mom.

12 Q. And what did Jersey do?

13 A. He went home.

14 Q. He left?

15 A. Yes, sir.

16 Q. Okay. And at some point did law enforcement
17 arrive?

18 A. Yes, sir. After -- like, while my mother was
19 pulling in, that's when we heard sirens.

20 Q. I'm sorry. Say that again.

21 A. When my mother was pulling in, that's when we
22 heard sirens. Then Nana got there after, like, 30
23 minutes.

24 Q. Gotcha. So what happened after the cops got
25 there?

1 A. They told us to get out the house and they came
2 in. And it looked like a SWAT team. But it was so
3 dark, I didn't know. I asked them if I could get
4 some pants on. Since I was about to go to bed, I
5 had just boxers and a shirt on. And they said, no,
6 get out of the house.

7 Q. So you were just in your underwear and a
8 T-shirt --

9 A. Yes, sir.

10 Q. -- and you tried to put some pants on, but
11 weren't allowed to?

12 A. Yes, sir.

13 Q. Okay. When Jersey came through that door, did
14 you hear Josh say anything to him?

15 A. Yes, sir.

16 Q. What did he say?

17 A. Get out.

18 Q. Told him to get out?

19 A. Yes, sir.

20 Q. And you heard Josh asking someone to call 911?

21 A. Yes, sir.

22 Q. How many times did you hear that?

23 A. Six, seven times.

24 Q. Several times?

25 A. Yes, sir.

1 Q. Did M.A. ever call 911?

2 A. No, sir.

3 Q. Did you think he did?

4 A. Yes, sir. I thought he did, but he was on the
5 phone with my aunt.

6 Q. Okay. So how soon after Josh asked somebody to
7 call 911 did you see -- did you see him on the
8 phone -- did you see M.A. on the phone?

9 A. Twenty minutes after.

10 Q. When Josh was firing those warning shots that
11 you talked about, was the gun aimed towards Jersey?

12 A. No, sir. It was above him. He was on the
13 bottom step, so this is him, and the gun was like
14 this. And he shot towards the wall just to make him
15 get scared.

16 Q. Was Josh saying anything while he was firing
17 the warning shots?

18 A. If you don't leave, I'm going to shoot you.

19 Q. So what's going on with you and M.A. while all
20 this is happening? Are y'all just standing there in
21 the doorway?

22 A. He went to go wake up J.L-F. .

23 Q. That's right. He was down the hallway going to
24 J.L-F. and you're standing in the doorway?

25 A. Yeah. And he ran. And after all that

1 happened, he picked me up, took me to the back room,
2 and told me to stay there. But, of course, me, I
3 don't listen, so I went back in there.

4 Q. So was M.A. in the kitchen or living room when
5 any of the shots were fired?

6 A. He was in the living room. But then after,
7 like, 30 seconds after he heard one, he ran back
8 there as fast as he could to get J.L-F. up. He
9 couldn't believe it.

10 Q. So after he heard the first shot, he ran to go
11 wake up J.L-F. ?

12 A. Yes, sir.

13 Q. What did Josh look like when the cops got
14 there?

15 A. Sweaty, bloody, bruised up.

16 Q. Did he have black eyes?

17 A. Yes. He was pale.

18 Q. He was pale?

19 A. Yes, sir.

20 MR. DERIEG: I beg the Court's indulgence.

21 Thank you. That's all I have.

22 CROSS-EXAMINATION

23 BY MR. POGUE:

24 Q. Good afternoon, Jo.F. .

25 A. Good afternoon. How are you?

1 Q. Pretty good. And you?

2 A. Pretty good.

3 Q. Good. I want to kind of just slow you down a
4 little bit so I can understand what it is exactly
5 that you're testifying to today. All right?

6 A. Yes, sir.

7 Q. Are you aware that a large portion of the
8 testimony that you've given today is inconsistent
9 with the testimony that you've given previously in
10 this case?

11 A. No, sir. I didn't know that.

12 Q. All right. Do you know Helen Bradberry?

13 A. Yes, sir.

14 Q. Who is Helen Bradberry?

15 A. My grandmother.

16 Q. Okay. And have you ever talked or spoken with
17 Helen Bradberry about this case?

18 A. No, sir.

19 Q. You have not?

20 A. No, sir.

21 Q. She's never asked you what happened?

22 A. No, sir.

23 Q. Have you ever spoken to anyone about the case?

24 A. No, sir, because every time I talk about it, I
25 burst into tears.

1 Q. I apologize. I couldn't hear you. What did
2 you say?

3 A. Every time I talk about it, I'm in tears. I
4 didn't talk to anybody about it, so I just kept my
5 mouth shut.

6 Q. Okay. You remember talking to the defense
7 attorney at his office about the case?

8 A. Yes. I talked to him. That's the only person.

9 Q. Okay. And who else was there at the defense
10 attorney's office when you were talking about the
11 case when he asked you about the case?

12 A. My mother, my grandma, and Josh. That's all.

13 Q. Helen Bradberry wasn't there?

14 A. My grandma.

15 Q. Okay. And did she drive you? She drove you
16 that day --

17 A. Yes, sir.

18 Q. -- didn't she?

19 She drove you there?

20 A. Yes, sir.

21 Q. And you're sure that you never talked with her
22 about this case or she never asked you about this
23 case?

24 A. Yes, sir.

25 Q. You care about Josh, don't you?

1 A. Yes. I love him with all my heart.

2 Q. Do you remember speaking to Detective Booth
3 about this case?

4 A. Yes, sir. I was sitting in his car that night.

5 Q. Okay. And do you remember telling Detective
6 Booth that evening that Josh -- excuse me, that
7 Jersey never came into the house after Josh came in,
8 grabbed the gun, or never attempted to come in the
9 house?

10 A. He did attempt. He kept beating on the door.

11 Q. Let me rephrase my question.

12 Do you not remember telling Detective Booth
13 that evening, right after it happened, that Jersey
14 never came into the house after Josh grabbed the
15 gun? Do you remember telling him that?

16 A. No, sir.

17 Q. Okay. Do you remember speaking with Detective
18 Booth?

19 A. Yes, sir.

20 Q. Let me ask you this: You were how old when
21 this incident happened?

22 A. I was 11.

23 Q. And you're how old now?

24 A. Fourteen.

25 Q. Okay. So this was three years ago and you were

1 11. All right.

2 Was anybody else in the car with you when you
3 were giving that statement to Detective Booth?

4 A. No, sir. He didn't let anybody in the car
5 except me.

6 Q. So your mother wasn't in the car with you?

7 A. No, sir.

8 MR. POGUE: I beg the Court's indulgence.

9 BY MR. POGUE:

10 Q. Do you remember previously testifying that your
11 mother was with you in the back of the car when you
12 were giving your statement to Detective Booth?

13 A. No, sir. I don't remember that.

14 Q. Here's where I asked the question. If you
15 don't mind, read your question there and then your
16 answer to that question.

17 A. What question?

18 Q. Starting here.

19 A. Uh-huh. And read all the way down?

20 Q. Uh-huh.

21 A. Okay.

22 Q. Just read this question and this answer here.
23 Stop here.

24 A. Do you remember giving Detective Booth --

25 Q. Speak up so they can hear you.

1 A. Do you remember giving Detective Booth, who is
2 sitting in here in the courtroom, a statement that
3 evening?

4 Yes, sir. I was sitting in the car with my
5 mom.

6 Q. So now do you remember your mom being in the
7 car with you?

8 A. Yes. Yes. Yes, sir.

9 Q. Okay. It's okay. It's okay. I just want to
10 make sure we understand what it is that happened.
11 Okay?

12 A. Uh-huh.

13 Q. Just to clarify, you don't remember telling
14 Detective Booth that Jersey did not attempt to come
15 into the house after Josh grabbed the gun?

16 A. I don't remember.

17 Q. Let me ask you this: How many shots is it that
18 you remember hearing Jersey -- or, excuse me, Josh
19 shoot at Jersey?

20 A. Four.

21 Q. Four?

22 A. Yes, sir.

23 Q. Okay. So was it four all at one time? Where
24 was he standing when he shot?

25 A. Josh was in the doorway and then Jersey was at

1 the stairs at the bottom. And then I heard three.

2 And then, like, 20 seconds after, I heard Josh:

3 Leave or I'm going to shoot you. Then I heard one

4 last shot and then I heard pounding on the door.

5 Q. I apologize. I'm having a hard time hearing

6 you. If you would please speak into the microphone,

7 if you don't mind, so everybody can hear what it is

8 that you're testifying to.

9 I'm just going to -- we're going to start at

10 the beginning and go real slowly. Okay? You tell

11 me what happened. All right? Where -- were you in

12 the living room when this fight first started?

13 A. Yes, sir.

14 Q. Okay. And how do you know that the fight

15 started? Did you hear it? You heard it, right?

16 A. Yes, sir.

17 Q. Okay. You could hear them yelling at each

18 other out in the driveway?

19 A. Yes, sir.

20 Q. Okay. And show me in this picture -- Jo.F. ,

21 is there a laser pointer sitting up here with you?

22 Just take it really slowly, Jo.F. . Where were you

23 sitting when you first heard them fighting?

24 A. (Indicating.)

25 Q. You're sitting there? Are you sure you were

1 sitting there? Are you sure that M.A. wasn't
2 sitting there?

3 A. I was sitting there. M.A. wasn't sitting
4 there.

5 Q. Where was M.A. sitting?

6 A. Right here.

7 Q. On the other side of the couch?

8 A. Uh-huh.

9 Q. Okay. So you're sitting on the couch and you
10 hear them fighting. What do you do next after that?

11 A. I get up and go look out the window. And I see
12 Josh and Jersey on the floor.

13 Q. On the ground outside that window?

14 A. Yes, sir.

15 Q. Okay. All right. So you go to the window and
16 you see them fighting. What happens immediately
17 after that?

18 A. I heard Josh scream, somebody call 911.

19 Q. When you're at that window, do you ever see
20 Josh get up or Jersey let Josh up?

21 A. No, sir.

22 Q. Okay. All right. So did you stand at that
23 window the entire time and watch the fight until it
24 completed? Or what happened?

25 A. No, sir. I didn't stand at the window until

1 the fight stopped.

2 Q. So you were at the window when the fight
3 stopped?

4 A. No.

5 Q. So you walked back and got back onto the couch?
6 Is that what you did?

7 A. No, sir.

8 Q. So you're standing at the window and you're
9 saying that you can see them fighting?

10 A. Yes, sir.

11 Q. Did you see them stop fighting? Did you stand
12 at that window until you couldn't see what happened?

13 A. They were fighting. And then all of a sudden,
14 I heard Josh scream, call 911. And then M.A. ran --
15 M.A. grabbed me for some reason and took me
16 somewhere and then told me to stay there. So I
17 stayed there. And then I didn't hear them fighting
18 anymore. So then I heard that door slam right
19 there. And then --

20 Q. Let -- let's take it slow. I just want to hear
21 one thing at a time. That way -- so the jury can
22 understand what it is that your testimony is. Okay?

23 So you're at that window and you see them
24 fighting. Did you leave the window before the fight
25 ends?

1 A. Yes, sir.

2 Q. Okay. So you do go sit back down on the couch
3 while they're still fighting?

4 A. No.

5 Q. Okay. Where did you go after they stopped
6 fighting?

7 A. M.A. took me to the hallway.

8 Q. So when M.A. took you to the hallway -- were
9 they still fighting out the window when he took you
10 to the hallway?

11 A. I guess. I mean, I don't know if they were
12 still fighting. I was in the hallway.

13 Q. You were looking out the window. You saw them
14 fighting?

15 A. Yes, sir.

16 Q. When M.A. pulled you away, they hadn't
17 stopped fighting at that point; is that right?

18 A. Yes, sir, it is.

19 Q. Yes, sir, they had stopped fighting or they had
20 not stopped fighting?

21 A. They hadn't stopped.

22 Q. All right. So they were still fighting when
23 you say that M.A. pulled you away?

24 A. Yes, sir.

25 Q. Okay. Where did he pull you to?

1 A. Where Scott's old room was to the very back.

2 Q. So he pulled you all the way to a back bedroom?

3 A. Yes, sir.

4 Q. Okay. So what happened after he pulled you all
5 the way to the back bedroom? What happened next
6 after that?

7 A. He told me to stay there. And I stayed there
8 for a little while, and then I finally got up. Then
9 I heard the back door. When I got up, I heard the
10 back door slam and heard someone run into there.
11 And then --

12 Q. Hold on. Stop. Stop. So you were in the back
13 room and you hear the back door -- you're in one of
14 the back bedrooms and you hear the back door open.
15 The door that we're looking at here?

16 A. Slam.

17 Q. You hear it slam?

18 A. Yeah.

19 Q. You hear it slam shut? Okay. Where was

20 M.A. at this point?

21 A. He was somewhere -- somewhere in here.

22 Q. Well, if you were in the back bedroom, how
23 would you know where he is in the living room?

24 A. Exactly? That's why I said he was probably
25 somewhere in here.

1 Q. But he was not in the bedroom with you?

2 M.A. wasn't?

3 A. No.

4 Q. Okay. So you hear the back door slam shut and
5 you're in the back bedroom. What happens next?

6 A. I got up and I ran through the hallway to see
7 what was going on. And then I heard pounding on the
8 door and Josh saying, go away, go away.

9 Q. Let's back up again. When you run from the
10 bedroom into the hallway, who was in the living
11 room, if anybody, at that point?

12 A. M.A. was.

13 Q. M.A. was there? Where was Josh? Was he in the
14 house?

15 A. Yes. He was by the door.

16 Q. Which door?

17 A. The --

18 Q. Just tell me, so I know which picture.

19 A. The garage.

20 Q. The garage door? Okay.

21 A. Right where you walk into the kitchen.

22 Q. Okay. All right. So this is State's 10. So
23 when you come back from the back bedroom that M.A.
24 pulled you to, you're saying that M.A. was in the
25 living room and Josh was -- was at that door?

1 A. Yes, sir.

2 Q. Okay. Was the door open or closed?

3 A. That white door was closed. He slammed it and
4 he was like this against it. And he kept coming up
5 on it like this because Jersey was pounding on it.
6 Finally, Jersey stopped.

7 Q. Okay. So the wooden door was closed?

8 A. Yes, sir.

9 Q. And Josh was at that door?

10 A. Yes, sir.

11 Q. Did he have his gun with him at that time?

12 A. Yes, sir.

13 Q. He did?

14 A. Yes, sir.

15 Q. So you saw Josh -- obviously you didn't see
16 Josh grab the gun if you come back from the hallway
17 after you hear the door slam and you walk and you
18 see Josh standing at the door with a gun. You
19 didn't see him get the gun, did you?

20 A. No, sir.

21 Q. Okay. And do you remember testifying on direct
22 just a couple of minutes ago that this door -- you
23 said the door doesn't have a lock on it?

24 A. The lock was broken. I didn't say it didn't
25 have a lock on it, I said it was broken.

1 Q. Okay. Which part of that lock is broken?

2 A. That one.

3 Q. The deadbolt is broken?

4 A. Yes, sir.

5 Q. Okay.

6 A. You couldn't twist the lock. The mechanism or
7 something was broken. That wasn't broken.

8 Q. So you're 11 years old three years ago, you
9 remember that deadbolt wasn't working?

10 A. Yes, sir.

11 Q. All right. So Josh -- you come back from the
12 bedroom. So you don't know how the fight ended,
13 correct?

14 A. No, sir -- yes, sir.

15 Q. You do know how the fight ended?

16 A. No, sir.

17 Q. Okay. You do not know how the fight ended.
18 You come back out. Josh is standing at the kitchen
19 door, this door here in State's 10?

20 A. Yes, sir.

21 Q. And you say that Jersey is trying to push the
22 door open?

23 A. Yes, sir.

24 Q. Okay. So the door wasn't closed all the way, I
25 guess?

1 A. When Josh closed it, he didn't have enough time
2 to lock it. So Jersey was there and --

3 Q. You just -- I apologize. Go ahead and finish.

4 A. He was there holding the door. Josh didn't
5 have enough time to lock it, so Jersey kept pounding
6 on the door and kept opening it a little bit. Like,
7 it was closed and cracked -- it kept doing this.

8 Q. You just said he didn't have time to lock it.
9 But you just testified just a second ago that the
10 lock didn't work.

11 A. All right. That -- that lock didn't work.
12 That lock works. Jersey was at that, and he didn't
13 have enough time to close it.

14 Q. Let's back up. On direct testimony you
15 testified that that door did not have a lock on it.
16 Then you corrected it to say that it did have a
17 lock, but that it was broken. So is there a lock on
18 that door that you say -- that you claim, back in
19 2015 -- August of 2015, worked?

20 A. Why would I have told you that lock worked when
21 I was worried about my -- my stepfather going to
22 jail?

23 Q. I'm just asking you if there was a lock that
24 worked on that door, to your knowledge, when all of
25 this -- when this incident happened in August of

1 2015.

2 A. Can you say the question again, please?

3 Q. Was there a lock on the door that leads from
4 the kitchen to the garage? Either one of these two
5 locks, did they work in August of 2015?

6 A. That one didn't, but that one did.

7 Q. Okay. So there was a lock on that door, even
8 though you testified previously that there was not a
9 lock on that door that worked? Is that correct?

10 A. Yes, sir.

11 Q. So why are you changing your statement? Do you
12 not recall -- it's okay to say you don't recall. If
13 you don't know something, just say -- you can say I
14 don't know. Do you know?

15 A. I wouldn't care about the door or the locks.
16 Like I said, I care about him. I don't care.

17 Q. I didn't hear your answer.

18 A. I don't care about the door. I care about him.

19 Q. And I know you care about him. Nobody here
20 faults you for caring about him. Okay? Do you need
21 to take a break for a minute? Just let me know if
22 you need to take a break. Okay? All right?

23 Josh, I'm going to ask you a question, and I
24 want to answer me honestly. Okay? I mean, Jo. F. ,
25 I'm going to ask you a question, and I'd like for

1 you to answer honestly. Okay?

2 A. Yes, sir.

3 Q. Your mother and your grandmother and your
4 family have been putting a lot of pressure on you to
5 lie for Josh in this case, haven't they?

6 A. No.

7 Q. All right. Are you sure you don't need a
8 break?

9 A. No, I don't need a break. But I'm getting
10 really pissed right now.

11 Q. Why are you angry?

12 A. Because of you.

13 Q. What am I doing that's making you angry?

14 A. Saying my family is putting pressure on me.

15 Q. I was asking you. That was a question.

16 So Josh is at this door. This lock works. He
17 has his gun with him when he comes back out. What
18 happens next?

19 A. What happens next is that Jersey is beating on
20 the door. And Josh had the gun beside him, leave or
21 I'm going to shoot you. And then Jersey finally
22 backed up. And then I heard three shots and then
23 again I heard the door -- door slam again. And then
24 I heard it -- another like that, a really loud --
25 and then after that, I heard one more shot, and then

1 I stopped hearing it.

2 Q. So Josh is -- Jersey is trying to get in the
3 door when he fires three warning shots over the top
4 of Jersey? That's right?

5 A. Yes, sir.

6 Q. Okay. Do you recall previously testifying that
7 Josh went to the door, opened the door, and fired
8 four warning shots into the tool chest? Do you
9 recall previously testifying to that?

10 A. No, sir.

11 Q. About a year ago?

12 A. No, sir.

13 Q. Do I need to show you the transcript or do you
14 take my word for it?

15 A. You can do what you want. I mean, I'll take
16 your word for it.

17 Q. Okay. So why has your story changed?

18 A. Because I don't want to -- I don't want to
19 remember it and relive what happened.

20 Q. It was a traumatic event for you, wasn't it?
21 Have you ever seen Jersey and Josh get in a fight
22 before?

23 A. No, sir.

24 Q. You never even really seen them get mad at each
25 other before, have you?

1 A. No, sir.

2 Q. So he fires three warning shots over the top of
3 Josh -- or over Jersey. There's a lot of Js:
4 Jersey, Jo.F. , J.L-F. , Josh. I apologize.

5 He fires three warning shots over the top of
6 Jersey, the defendant, Josh. What happens after
7 that?

8 A. I heard the door slam again and then I heard
9 another loud one of those. And then I heard one
10 more shot. And then Josh said leave me -- leave me
11 the hell alone.

12 And then all of a sudden, M.A. went back to get
13 Jake, but J.L-F. was up. He helped Jersey get his
14 keys. And then Jersey left.

15 Q. Let's slow down. Let's back up. Is that the
16 door he fires three warning shots over the top of --
17 first of all, let me clarify that. How does he fire
18 three warning shots over the top of Josh -- over
19 Jersey when the door is open and Josh -- and Jersey
20 is trying to come through the door?

21 A. Jersey backed up to get --

22 Q. So he pushed the door open and then backed up?

23 A. No, he didn't push the door open. I guess
24 Josh -- I guess Jersey knew that Josh had a gun.
25 And then, I guess, Jersey was trying to back up not

1 to get shot. And then Josh opened the door just to
2 a little crack and shot three bullets out.

3 Q. Okay. Was the storm door open or closed when
4 that happened?

5 A. The what door?

6 Q. The storm door, the second door?

7 A. That was open.

8 Q. Who was holding that door open?

9 A. It doesn't slam open. It stays open. It's not
10 like -- I guess the hinges were open on it. It
11 stays open; it doesn't close.

12 Q. So it's not spring-loaded and automatically
13 closes?

14 A. No, sir.

15 Q. Are you sure?

16 A. Yes, sir. We used to leave that door open
17 during summer. Me and my friend used to go in and
18 out.

19 Q. Do you see this right here?

20 A. That white speck?

21 MR. POGUE: Permission to approach, Your Honor?

22 THE COURT: Yes, sir.

23 BY MR. POGUE:

24 Q. Do you see this pump right here?

25 A. Yeah.

1 Q. Okay. That -- do you know what that is?

2 A. Yeah. It's a spring thing. It was broken.

3 Q. It was broken?

4 A. Yeah, y'all can go back to the house and check.
5 It's broken.

6 Q. Okay. So the door didn't automatically close?

7 A. No, sir.

8 Q. All right. So he backs up after he pushes. So
9 Josh pushes -- Jersey pushes the kitchen door open,
10 the storm door open, and then backs up, and Josh
11 shoots three warning shots over the top of Jersey?

12 A. Yes, sir.

13 Q. Okay. Are you aware of where the projectile
14 fragments and bullet holes were found in the garage?

15 A. No, sir. All I know is that when I walked out,
16 I saw one in the wall. That's all I seen.

17 Q. Do you recall previously testifying that
18 when -- you said that when Josh fired warning shots,
19 that Jersey was sitting at the back of his truck.

20 A. No. I don't remember that.

21 Q. Okay. Okay. Read this question and this
22 answer.

23 A. Where was Jersey when Josh fired these warning
24 shots?

25 At his truck.

1 Q. Okay. So was he at his truck or was he there
2 at the door trying to push it open?

3 A. He was outside on the -- by the stairs.

4 Q. What stairs?

5 A. They're outside of there. But they're right
6 here.

7 Q. You're talking about the wooden stoop there?

8 A. Yes, sir.

9 Q. Okay. So he was not at the truck?

10 A. No, sir.

11 Q. So why did you previously testify that he was
12 at the truck?

13 A. Because I was a traumatized little 11-year-old
14 boy.

15 Q. So it's safe to say you don't really remember
16 what happened?

17 A. I remember what happened.

18 Q. You don't?

19 A. I do.

20 Q. Well, then why did you previously testify that
21 he was at the back of the truck when he fired those
22 warning shots?

23 A. Because I was an 11-year-old boy and I was
24 traumatized, that's why.

25 Q. You weren't 11 when you testified to that.

1 That was a year ago. You were, what, 13?

2 A. I was 11 when I was traumatized. And I don't
3 want to relive the moment, so that's why I said
4 that.

5 Q. That's why we didn't call you to the stand,
6 because we didn't want you to relive it either. Did
7 you know that?

8 A. No, I did not know that.

9 Q. But this is now the second time you've
10 testified. Once was in a pretrial hearing in this
11 case, right?

12 A. Yes, sir.

13 Q. Okay. And why, at that previous hearing, did
14 you testify that he shot the warning shots when
15 Jersey was at the back of the truck? Are you
16 confused about where he was or are you just lying?

17 A. Yes, sir. I'm confused where he was. I don't
18 remember where he was. It shouldn't have happened.

19 Q. Jo. F. , would it be safe to say that you really
20 don't recall what happened that night because you
21 didn't probably see it and/or don't remember a lot
22 of the details?

23 A. I remember a lot. That's the only thing I
24 don't remember.

25 Q. That's the only thing you don't remember?

1 A. Yes, sir.

2 Q. What about your mother being in the back of the
3 car? You didn't remember that either.

4 A. I don't remember that.

5 Q. Okay. So I'll ask you again. It's possible
6 that you just don't remember a lot of details about
7 that night because you were 11 years old?

8 A. Somewhat.

9 Q. Just be honest.

10 A. I remember some. I remember that I looked out
11 the window and I saw them on the floor; I remember
12 J.L-F. helped him find his keys; I remember the
13 warning shots. I remember a lot.

14 Q. I guess I'm trying to understand what your
15 testimony is today. Are you testifying that Jersey
16 came into the house at all?

17 A. He didn't come in the house. He was beating on
18 the wall -- I mean, the door.

19 Q. So he never came into the kitchen?

20 A. No, sir. Almost, but that's when Josh shot
21 him.

22 Q. So Jersey was outside that door --

23 A. Yes, sir.

24 Q. -- when he shot him?

25 A. He had -- he almost walked in the kitchen. He

1 was on that front step. Then when Josh shot him, he
2 sunk down on top of Josh.

3 Q. He fell down on top of Josh?

4 A. Yes, sir.

5 Q. Where were they when they fell down?

6 A. They were right there.

7 Q. So you're saying that he shot him and then fell
8 on top of him? This was after the warning shots?

9 A. Yes, sir.

10 Q. What happened after that?

11 A. Josh pushed Jersey off of him and Jersey got
12 up. And then --

13 Q. One thing at a time. So Josh pushed Jersey off
14 of him?

15 A. Yes, sir.

16 Q. Jersey is laying on top of Josh and he pushes
17 him off of him?

18 A. Yes, sir.

19 Q. What happened next?

20 A. Jersey, I guess, gained consciousness again and
21 got up. And that's when J.L.F. ran out and helped
22 Jersey find his keys, and he left.

23 Q. Tell me again what type of injuries you
24 remember Josh having.

25 A. He had, like, bruises and cuts on his face and

1 he was bleeding from his face and, like, one black
2 eye, I think.

3 Q. So he didn't have two black eyes?

4 A. I don't know. I wasn't concentrating on his
5 eyes.

6 Q. Okay.

7 A. I was worrying about if I was ever going to see
8 him again.

9 Q. I'm handing you what's been marked as
10 Defendant's Exhibit 1. Do those look like
11 life-threatening injuries to you?

12 MR. DEIRIG: I'm going to object to that, Your
13 Honor.

14 MR. POGUE: I'll rephrase, Your Honor.

15 THE COURT: Sustained objection. Rephrase.

16 BY MR. POGUE:

17 Q. Do those injuries look consistent with what you
18 just testified to?

19 A. (Nonverbal response.)

20 Q. They don't? So is it possible that you don't
21 really remember that particular detail either?

22 A. (Nonverbal response.)

23 Q. I need you to verbally answer.

24 A. Yes.

25 Q. I want to let you know, Jo. F. , it's okay to

1 say you don't remember. Okay? Nobody is here
2 trying to get you in trouble in any way. Okay? We
3 want to know what happened. That's all.

4 MR. POGUE: No further questions, Your Honor.

5 THE COURT: Redirect?

6 MR. DEIRIG: Yes, Your Honor.

7 THE COURT: Go ahead.

8 REDIRECT EXAMINATION

9 BY MR. DEIRIG:

10 Q. Jo. F. , do you need a minute? Do you need some
11 water and tissues?

12 A. Huh-uh.

13 Q. Okay. Mr. Pogue was just asking you about some
14 inconsistent statements with you saying that Jersey
15 came into the kitchen and then saying Jersey didn't
16 come in the kitchen. Is that right?

17 A. Yes, sir.

18 Q. And so what you're saying here today, to make
19 sure that I'm clear, is that Jersey was -- never
20 came fully into the kitchen, but was in the doorway,
21 essentially?

22 A. Yes, sir.

23 Q. Did he make it in as far as his --

24 A. One foot.

25 Q. One foot?

1 A. Uh-huh.

2 Q. Would that have put him right by the cabinets?

3 A. He had one foot in.

4 Q. He had one foot in?

5 MR. POGUE: Your Honor, I've let him get away
6 with leading, but he's going to have to tell the
7 story himself. He's not going to put words in his
8 mouth.

9 THE COURT: Sustained.

10 BY MR. DEIRIG:

11 Q. So how far did Jersey make it into the kitchen?

12 A. He only had one foot in the doorway.

13 Q. Why did that -- that door that's open in that
14 picture right now, how did that door get opened that
15 night?

16 A. Jersey forced almost his way in. That's when
17 Josh shot him.

18 Q. Any question in your mind?

19 A. Any questions?

20 Q. Is there any doubt in your mind that that's
21 what happened?

22 A. No, sir.

23 Q. Are there some other details that you're having
24 trouble remembering?

25 A. Just, like, two.

1 Q. But is there any question in your mind that
2 Jersey got a foot inside that house and then got
3 shot?

4 A. No, sir.

5 Q. Has Helen Bradberry or your mother or anyone
6 else in your family told you what to say?

7 A. No, sir.

8 Q. Have they put pressure on you in any way?

9 A. No, sir.

10 Q. Are you here testifying against your will?

11 A. No, sir.

12 Q. Are you telling the truth?

13 A. What does against your will mean?

14 Q. Are you -- did anybody force you to come here?

15 A. No, sir.

16 Q. Are you telling the truth?

17 A. Yes, sir.

18 Q. And so where -- where exactly were you when
19 Jersey was coming in, a foot into the kitchen?

20 A. The doorway entering the living room.

21 Q. The doorway --

22 MR. POGUE: Your Honor, I'm going to object to
23 his characterization of his testimony. He didn't
24 say he came into the kitchen. He said he was
25 outside that door.

1 THE COURT: He said one foot inside that door
2 frame.

3 Rephrase your question. Where was he when he
4 observed that?

5

6 BY MR. DEIRIG:

7 Q. Jo. F. , where were you when you observed Jersey
8 step into the kitchen?

9 A. The doorway entering the living room.

10 Q. The doorway entering the living room?

11 A. Yes, sir.

12 Q. Where were you standing when Josh fired the
13 warning shots?

14 A. I was standing in the doorway where the living
15 room is.

16 Q. Okay. And would that have put Josh in the
17 doorway when he was firing the warning shots?

18 A. In the doorway of the back door?

19 Q. Right; right there.

20 A. Yes, sir.

21 Q. So when Josh was firing the warning shots, he
22 would have been standing in this doorway right here,
23 right?

24 A. (Nonverbal response.)

25 Q. I need you to answer.

1 A. Yes, sir.

2 Q. Thank you. Would Josh standing in that doorway
3 obstruct your ability to see exactly where Jersey
4 was during those warning shots?

5 A. No, sir.

6 Q. You could see him?

7 A. Yes, sir.

8 Q. Okay.

9 A. Because he's a little bit taller than Josh.

10 Q. And is it true -- about a year ago, did you
11 also testify that Jersey made it just inside the
12 doorway of the kitchen?

13 A. Yes, sir.

14 Q. Is there any doubt in your mind that that's
15 what happened?

16 A. No doubt. No doubt.

17 Q. Thank you. That's all I have.

18 MR. POGUE: No questions.

19 THE COURT: You may step down.

20 MR. DEIRIG: May we approach, Your Honor?

21 THE COURT: Sure.

22 (Sidebar conference.)

23 MR. DERIEG: Defense calls J.L-F. --

24 Excuse me, J.L-F. .

25 J.L-F.

1 being first duly sworn, testified as follows:

2 THE WITNESS: Yes, ma'am.

3 THE CLERK: Have a seat, please, sir. Once
4 you're seated, state your full name, spelling your
5 last.

6 THE WITNESS: My name is J.L-F.

7

8 DIRECT-EXAMINATION

9 BY MR. DEIRIG:

10 Q. Your last name is --

11 A. J.L-F. .

12 Q. -- J.L-F. ?

13 A. Yes, sir. Hyphenated.

14 Q. Sorry. I get that mixed up.

15 Please introduce yourself to the jury. Tell
16 them how old you are, where you live, how far you've
17 gone in school, if you work. Just kind of let them
18 know who you are.

19 A. My name is J.L-F. . I'm 20 years old. My
20 birthday is [REDACTED]. I just recently moved out of
21 my grandma's house and I moved in with my friends.
22 I work at a restaurant as a chef and dishwasher.

23 Q. Where do you work?

24 A. DW Fuscus. It's pretty new.

25 Q. And how old are you?

1 A. 20.

2 Q. 20. So at the time of this incident, how old
3 were you?

4 A. 15, 16.

5 Q. So if this happened in August of 2015, how old
6 would you have been?

7 A. It's 2018 now. I would have been 17.

8 Q. Okay. And how do you -- do you know Josh
9 Reher?

10 A. Yes, sir.

11 Q. How do you know him?

12 A. He was my mom's boyfriend.

13 Q. Are they still together?

14 A. No, sir.

15 Q. Do you know Joseph Meyers?

16 A. Yes, sir.

17 Q. Do you know him by another name besides Joseph?

18 A. Yes, sir.

19 Q. What is it?

20 A. Jersey.

21 Q. How do you know him?

22 A. He used to work with Josh and I used to help
23 him with jobs and stuff.

24 Q. Had he been by the house a lot?

25 A. Yes, sir.

1 Q. Did you live at [REDACTED] at this point
2 in time in August of 2015?

3 A. Yes, sir.

4 Q. All right. So you had seen Jersey several
5 times, correct?

6 A. Yes, sir.

7 Q. Okay. And do you remember the time period in
8 August of 2015 when Josh and Jersey had an incident?

9 A. Yes, sir, faintly.

10 Q. And who all was living there at that time?

11 A. It was me, my mom, my little brother, Josh, and
12 Josh's mom, Mary.

13 Q. And your little brother is?

14 A. Jo. F. .

15 Q. Jo. F. . Okay. What do you remember about that
16 night first?

17 A. Well, I came home from helping my friend
18 working on his car --

19 Q. About what time?

20 A. 6:30, 7:00 maybe. I'm not positively sure.

21 Q. Okay.

22 A. And I wasn't feeling too good, so that's why I
23 told him to bring me home. I went home and laid
24 down, and I was woken up to that.

25 Q. Woken up to what?

1 A. M.A. telling me that Josh shot Jersey.

2 Q. Okay. What happened after that?

3 A. I remember everybody running around just -- not
4 running around, but just acting all flabbergasted
5 that it just happened. I remember going outside and
6 seeing Jersey in his truck, holding his stomach,
7 asking me to find his keys for him.

8 Q. Did you?

9 A. Yes, sir.

10 Q. And then what happened?

11 A. He drove off.

12 Q. Did you ever see Josh that night?

13 A. Yes, sir.

14 Q. What did he look like?

15 A. Bloody and sweaty.

16 Q. Do you remember where the blood was?

17 A. All on his face and head.

18 Q. Did he have a -- did he have any swelling on
19 his face?

20 A. I honestly can't remember.

21 Q. Okay. So where did you see Josh?

22 A. In the kitchen.

23 Q. And when you went out and saw him, what did you
24 do next?

25 A. When I went out and saw Josh or Jersey?

1 Q. When you went out in the kitchen and saw Josh,
2 what did you do next?

3 A. Asked him what was going on, and he had told
4 me.

5 Q. And then what happened? Is that -- strike
6 that.

7 Is that when you went to go find the keys,
8 after that?

9 A. Yes, sir.

10 Q. Okay. Where were they?

11 A. They were in the monkey grass next to the
12 rosebush.

13 Q. Is there a laser pointer up here by you?

14 A. Yes, sir.

15 Q. Okay. If you'll use that to show the jury
16 where you found Jersey's keys.

17 A. They were about right over here, lined up with
18 monkey grass on the side.

19 Q. Okay. And after you found the keys, what
20 happened?

21 A. Jersey got in his truck and left -- or he was
22 in his truck, and he started it and left.

23 Q. He was already in the truck?

24 A. Yes, sir. He was holding his stomach like
25 this. (Demonstrating)

1 Q. Okay. And what happened after he left?

2 A. Five minutes later, the cops show up and they
3 arrest Josh.

4 Q. And what involvement with the police did you
5 have that night?

6 A. They questioned me.

7 Q. How many times?

8 A. I think it was three or four different
9 officers, one after another.

10 Q. And let me back up. Before -- before you got
11 questioned, did you ever leave your house?

12 A. Did I, like, leave, like, the whole house?

13 Q. Was there a period of time that you physically
14 left the whole house?

15 A. No, sir.

16 Q. Did you go with law enforcement to Jersey's
17 house?

18 A. Yes, I did. Yes, sir.

19 Q. Tell the jury about that.

20 A. They didn't know where Jersey lived at the
21 time, and I did, from recently working with him. So
22 they asked me to drive them there -- or show them
23 where he was. And we went there and Jersey's wife
24 told the cops that he wasn't there. And I told them
25 they needed to feel the heat on the truck, that he

1 was there, he had just left my house.

2 Q. Okay. Did anybody tell you to go tell the cops
3 where Jersey lived or anything?

4 A. No, sir.

5 Q. You did that on your own?

6 A. Yes, sir.

7 Q. Josh didn't tell you to do that?

8 A. No, sir.

9 Q. And so after -- at what point did you come back
10 to your house?

11 A. Right after that. One cop took me back to the
12 house, and that's really it. It was --

13 Q. And then what happened?

14 A. Honestly, I really can't remember.

15 Q. When you got back to your house, is that when
16 you got questioned by three or four different cops?

17 A. Yes, sir.

18 Q. Do you remember what you told them?

19 A. I told them a lot of stuff that wasn't true at
20 that time from being so overwhelmed and
21 flabbergasted with what just happened. I do know
22 that.

23 Q. You told them a bunch of stuff that wasn't
24 true?

25 A. Yes, sir; blew it out of proportion.

1 Q. Do you remember what it was that you told them?

2 A. I know one thing was that I told them that Josh
3 said he was going to shoot me. And Josh would never
4 try to hurt me or my mom or any of us.

5 Q. Did Josh point a gun at you?

6 A. It wasn't at me. But when I walked past him,
7 it was in my direction. But it wasn't at me, no,
8 sir. That's another thing I wrote in my statement
9 too.

10 Q. So Josh didn't threaten to shoot you?

11 A. No, sir.

12 Q. Did Josh try to prevent you from going to help
13 Jersey find his keys?

14 A. No, sir, not at all.

15 MR. DEIRIG: I beg the Court's indulgence, Your
16 Honor.

17 BY MR. DEIRIG:

18 Q. Are you telling the truth, J.L-F. ?

19 A. Yes, sir.

20 Q. Has anybody in your family tried to tell you
21 what to say?

22 A. No, sir.

23 Q. Has anybody in your family put pressure on you
24 to testify the way that you are today?

25 A. No, sir. I'm a man. Nobody tells me what to

1 say or do.

2 Q. Are you lying to help Josh?

3 A. No, sir. I would never lie for anybody, not
4 even if it was my own mom.

5 MR. DERIEG: Thank you, Your Honor. That's all
6 I have.

7 CROSS-EXAMINATION

8 BY MR. POGUE:

9 Q. Good afternoon, Jake.

10 A. How are you doing?

11 Q. Doing okay?

12 A. Yes, sir. How are you doing?

13 Q. Pretty good.

14 Back in August of 2015, where did you live?

15 A. [REDACTED].

16 Q. Who lived there with you?

17 A. Josh, my little brother Jo.F. , Mary, and my
18 mom.

19 Q. Mary?

20 A. Josh's mom.

21 Q. Josh's mom lived at that house at that time?

22 A. Yes, sir.

23 Q. Okay. You considered Josh as a step-dad,
24 right?

25 A. Yes, sir.

1 Q. You care about him, right?

2 A. Yes, sir.

3 Q. Even hooked you up with a job, didn't he?

4 A. Yes, sir.

5 Q. And after this incident happened, you talked
6 with your grandma, Helen Bradberry, who testified a
7 little bit ago, and Josh about this case all the
8 time, didn't you?

9 A. No. You're not supposed to speak about the
10 case when it's out of court.

11 Q. Do you recall previously testifying about a
12 year ago when asked that you talked to Josh and your
13 grandmother Helen Bradberry about the case that you
14 testified to talking with them about it all the
15 time?

16 A. I don't recall that.

17 Q. Do you remember previously testifying regarding
18 this case?

19 A. Yes, sir.

20 Q. Do you remember sitting in that chair
21 testifying?

22 A. Yes, sir.

23 Q. Okay. If you wouldn't mind, could you please
24 read lines 2, which is starting with the question
25 that I asked, through line 8.

1 MR. DEIRIG: What page?

2 MR. POGUE: Page 114.

3 THE WITNESS: Who -- have you ever talked to
4 anybody at your house about the situation --
5 incident?

6 Yes, sir.

7 Who have you talked to? My grandma and Josh.

8 Okay.

9 Whenever I would see them.

10 Has anybody told you what to say?

11 No, sir.

12 BY MR. POGUE:

13 Q. When asked who have you talked to about this
14 incident, you said, quote, my grandma and Josh,
15 right? And then you said, whenever I would see
16 them.

17 A. Whenever I would see them. But that was
18 literally rarely.

19 Q. So you did talk to them whenever you would see
20 them all the time --

21 A. Not about the case, no.

22 Q. I asked you who did you talk to about this
23 incident. You said, my grandma and Josh, whenever I
24 would see them.

25 A. Yeah.

1 Q. So you talked with them about this incident?

2 A. Yeah, I guess I did. So, yeah, if I said it, I
3 did.

4 Q. Okay. So did you or did you not talk to Josh
5 and your grandma about this case all the time?

6 A. I did. Not all the time, but I did.

7 Q. Okay. So why would you just previously testify
8 that you --

9 A. Because I don't recall it. I don't have a
10 great memory.

11 Q. Didn't you previously testify at the last
12 hearing that you have a photographic memory?

13 A. Apparently you have a good memory, because I
14 do.

15 Q. Did you testify -- do you recall testifying
16 that you have a photographic memory the last
17 hearing --

18 A. Yeah. It's different.

19 Q. So you do have a good memory or you don't have
20 a good memory?

21 A. I have a photographic memory. It's different.

22 Q. Okay. Do you remember talking with your
23 grandma and Josh all the time, yes or no?

24 A. Yes.

25 Q. Okay. Why did you just previously testify,

1 just a minute ago --

2 A. Because it wasn't all the time. You're mixing
3 your words.

4 Q. I apologize -- quote, whenever I would see
5 them?

6 A. Yes.

7 Q. How often did you see them?

8 A. Not a lot.

9 Q. You lived with them but you didn't see them a
10 lot?

11 A. Josh moved out after that. He was in jail.
12 And I saw my grandma every day after 6:00, and she'd
13 be doing her own thing.

14 Q. Just so I use your words, you would talk to
15 them about this case whenever you would see your
16 grandmother --

17 A. Yes, sir.

18 Q. -- and see Josh?

19 A. Yes, sir.

20 Q. You refused to talk to us -- come in and talk
21 to us about this case previously, didn't you?

22 A. When?

23 Q. To our office or law enforcement. You
24 refused -- after the incident, you refused to come
25 in and talk with us about it.

1 A. Yeah, because I can.

2 Q. That's correct, you can. But you did, right?

3 A. Yeah.

4 Q. Okay. You testified that Josh was angry that
5 evening, didn't you, previously?

6 A. I would be too. Wouldn't you, if you got your
7 ass beat? Excuse my language.

8 Q. So he was angry?

9 A. Yes, sir. I was angry. Everybody was angry.

10 Q. Why were you angry?

11 A. Because I was woken up. I was sick. I was
12 woken up to literally nothing, all this crap.

13 Q. So just to clarify, you didn't see anything
14 that happened in regard to the shooting, correct?

15 A. No, I didn't see nothing.

16 Q. But do you recall giving a statement to the
17 police that night that you wrote?

18 A. Yeah, three or four other ones. Yes.

19 Q. Do you recall writing out your own statement on
20 a statement form --

21 A. Yes, sir.

22 Q. -- that you gave to Lieutenant Rodgers?

23 A. Uh-huh.

24 Q. Do you call that?

25 A. Uh-huh.

1 Q. Do you recall what you wrote in that statement?

2 A. No, sir, I don't.

3 Q. You don't?

4 A. No, sir. Like I said, it was a flabbergasting
5 time.

6 Q. Do you recall -- let me ask you this: When you
7 walked into the hallway, Josh pointed the gun at you
8 and told you that if you walked outside to try to
9 help Jersey, that he was going to blow you, quote,
10 the fuck away.

11 A. I do recall saying that. But Josh, he never
12 said that. I was just mad at the time.

13 Q. So why would you lie about what happened?
14 Because you were mad?

15 A. I was mad. I was extremely mad. But --

16 Q. You were mad because he pointed a gun at you
17 and told you not --

18 A. No. I was mad because I was woken up to Josh
19 drinking, doing all this.

20 Q. So this --

21 A. All this happening.

22 Q. So this was an inconvenience to you?

23 A. Yeah.

24 Q. So did Josh point a gun at you?

25 A. No, he certainly did not.

1 (State's Exhibit No. 78 marked for
2 identification.)

3 BY MR. POGUE:

4 Q. I'm handing you what's marked as State's
5 Exhibit 78. Do you recognize that?

6 A. Uh-huh.

7 Q. What is that?

8 A. My statement.

9 Q. Your what?

10 A. My statement.

11 Q. Okay. Whose handwriting is that in?

12 A. Mine.

13 Q. Okay. Why don't you take a minute to read
14 through your statement.

15 A. (Witness complied.)

16 Q. So do you admit or deny telling the police in a
17 written statement in your own handwriting that,
18 quote, Josh was waving the AR-15 .22 around, saying
19 if Jersey walks through that door, he's blowing him
20 the F away?

21 A. Yeah. He's trying to break in our house. I
22 would too.

23 Q. Okay. And did you or did you not, when asked
24 in the statement, did Josh point a gun at you, and
25 you answered yes?

1 A. At that time, yes. I thought -- at that --
2 when I walked past him, the gun was being held up.
3 And it looked like it was at me, but it was not at
4 me.

5 Q. So you're saying he pointed it at you, just not
6 in --

7 A. It was pointing -- it was pointing up.

8 Q. Okay. Do you recall, in your written
9 statement, when they asked why did Josh point the
10 gun at you, you stated, quote, I was going to see if
11 Joe was okay because I was told he was shot four
12 times, so right before I walked outside, Josh said,
13 if you go outside, I'll shoot you just like him,
14 instead in the head, in your handwriting?

15 A. I don't recall saying that.

16 Q. But --

17 A. If it's in my handwriting.

18 Q. But you agree that's in your handwriting?

19 A. Yes, sir, I do. That was my handwriting.

20 Q. Do you recall giving that statement?

21 A. I recall giving four statements. Yes, sir.

22 Q. Okay. So now you're trying to testify that
23 that's not true?

24 A. I probably most likely blew it out of
25 proportion. But Josh wouldn't hurt us.

1 Q. I just want to understand what your testimony
2 is as to what happened. He did or did not point the
3 gun at you and say that?

4 A. He did not point the gun at me, did not.

5 Q. So did he say that if you walked outside to
6 help Jersey, he was going to --

7 A. No.

8 Q. -- shoot you?

9 A. No.

10 Q. Why did you -- why did you write in your
11 handwriting that he did say that?

12 A. I was mad. I didn't know nothing like this
13 would happen.

14 Q. Is it possible that he did say that, but yet
15 you've been influenced to say something different
16 now?

17 A. No. Like I said, I say and do my own thing.
18 I'm my own man.

19 Q. Do you recall what you answered in regard to
20 their question as to whether -- the police asked you
21 if you believed that he was acting in self-defense.
22 Do you recall what your answer to that question was?

23 A. No, sir.

24 Q. So do you admit or do you deny making these
25 statements?

1 A. I admit making those.

2 Q. You admit making them?

3 A. False statements, yes, sir.

4 Q. Do you admit telling the police that night that
5 Joe, quote, wouldn't hurt anything, wouldn't harm
6 Josh?

7 A. I didn't think he would. They were best
8 friends.

9 Q. But you, again, wrote in your own handwriting,
10 quote, Joe wouldn't do anything to hurt or harm
11 Josh.

12 A. Yes. But I didn't know him at that time.
13 Every time I saw him, he was always nice to me and
14 always nice to Josh, always buying me drinks or
15 whatever. And he'd do the same for Josh.

16 Q. So just so I understand, you talked with Josh
17 and Helen Bradberry about this case all the time,
18 correct?

19 A. Not all the time. But we talked, yes, sir.

20 Q. I'm sorry. Whenever you'd see them, correct?

21 A. Yes, sir.

22 Q. Okay. And you're testifying to something
23 different as opposed to what the statements were
24 that you gave the police that night after having
25 spoken to them every time you'd see them, correct?

1 A. Repeat.

2 Q. The question is, you're now testifying to
3 something completely different as to what happened
4 that evening than what you gave in your written
5 statements after talking with both Josh and your
6 grandmother every time you'd see them. Correct?

7 A. I'm still confused.

8 Q. I'll break it down for you.

9 A. Go right ahead.

10 Q. You talked with your grandmother and Josh about
11 this case whenever you'd see them, correct?

12 A. Yes, sir.

13 Q. Okay. Prior to that, talking to them about the
14 case, you gave a statement to police that you're now
15 claiming is wrong, incorrect, after having spoke
16 with them every time you'd see them; isn't that
17 true?

18 A. What statement is that?

19 Q. Pretty much every statement that you're saying.
20 Isn't that correct? I mean, every time --

21 A. I guess so. I guess so. If I'm saying it,
22 yeah. Yes.

23 Q. Everything that you were asked about in your
24 handwritten statement, you're admitting that you
25 wrote, but you're saying is now not true, correct?

1 A. Because I was flabbergasted. I was pissed off.

2 MR. POGUE: No further questions, Your Honor.

3 THE COURT: Any redirect?

4 MR. DEIRIG: Yes, Your Honor. May I approach
5 the witness?

6 THE COURT: Sure.

7

8

9 REDIRECT EXAMINATION

10 BY MR. DEIRIG:

11 Q. Mr. Pogue just asked you to read from page 114
12 lines --

13 A. 1 and 8.

14 Q. Excuse me? What?

15 A. 1 and 8.

16 Q. Wasn't it 2 through 8?

17 A. Yes, sir.

18 Q. Page 114, it was lines 2 through 8 that you
19 just read for the jury, right?

20 A. Yes, sir.

21 Q. Would you read lines 9 and 10?

22 MR. POGUE: Your Honor, I'm going to object.

23 If he's got a question he wants to ask, he can ask a
24 question.

25 THE COURT: That's correct. You can use this

1 to impeach him or refresh his recollection.

2 BY MR. DEIRIG:

3 Q. A year ago at the hearing that we're talking
4 about that that's the transcript of, were you asked
5 if anybody has told you what to say?

6 A. Yes, sir.

7 Q. And what was your answer?

8 A. No, sir.

9 Q. Is that still true today?

10 A. Yes, sir.

11 Q. You said you didn't get -- especially in
12 regards to Josh, that you didn't get to see him very
13 often after this incident, right?

14 A. Yes, sir. It was probably one or two times
15 after those few months.

16 Q. Did you ever see him while he was in jail?

17 A. One time.

18 Q. And did you guys talk about what happened when
19 you went to see him in jail?

20 A. No, sir.

21 Q. Okay. So that was the time that you saw Josh
22 that you didn't talk about this?

23 A. Yes, sir. That's jail time. I just wanted to
24 see how he was doing.

25 Q. Has Josh ever asked you to help him?

1 A. No, sir.

2 Q. Has Josh ever told you what to say?

3 A. No, sir.

4 Q. Has your mother ever told you to help Josh?

5 A. No, sir.

6 Q. And I believe -- I think the last answer, one
7 of your last answers, was you wouldn't even lie for
8 your own mom.

9 A. No, sir.

10 Q. Are you here lying for your mom's ex-boyfriend?

11 A. No, sir. I wouldn't lie for nobody, not
12 myself.

13 Q. That statement you got to take a look at, your
14 own handwritten statement, which one of the three or
15 four cops that questioned you did you write that
16 statement for?

17 A. I have no clue.

18 Q. Did you write more than one statement that
19 night?

20 A. I think it was three or four, yes, sir.

21 Q. Did you write a statement for every one of the
22 officers?

23 A. Pretty sure.

24 Q. And you're only being asked about one?

25 A. Yes, sir.

1 MR. DEIRIG: I beg the Court's indulgence.

2 THE COURT: All right.

3 MR. DERIEG: That's all I have, Your Honor.

4 THE COURT: All right. You may step down.

5 MR. POGUE: Just so I understand what your
6 testimony is, you say that you gave three or four --

7 THE COURT: Whoa.

8 MR. POGUE: I apologize, Your Honor.

9 THE COURT: I didn't ask you, Mr. Pogue. I'm
10 sorry.

11 You can sit right there and answer one last
12 question on re-cross.

13 THE WITNESS: Yes, sir.

14 MR. POGUE: I just wanted to know -- that was
15 some new information that --

16 THE COURT: Yeah. I'm sorry. I really didn't
17 look up. Go ahead.

18 RE CROSS-EXAMINATION

19 BY MR. POGUE:

20 Q. Just so I understand what your testimony is, is
21 that you gave three or four handwritten statements
22 that night?

23 A. Yes, sir.

24 Q. Not just this one here?

25 A. Three or four statements, yes, sir. There was

1 three or four different cops.

2 Q. So did they give you copies of those
3 handwritten statements?

4 A. I don't think so. No, sir.

5 Q. Okay. Did they give you a copy of this
6 handwritten statement?

7 A. I don't have it. I don't think so. I don't
8 have one.

9 Q. So you don't have any copies of any handwritten
10 statements --

11 A. No, sir.

12 Q. -- that you gave that night at all?

13 A. No, sir.

14 MR. POGUE: That's it, Your Honor. Thank you.

15 No further questions.

16 THE COURT: Okay. Now you may step down.

17 MR. DEIRIG: May he be excused, Your Honor?

18 THE COURT: Sure.

19 MR. DEIRIG: Thank you.

20 THE COURT: All right. Y'all come up here for
21 a minute.

22 (Sidebar conference.)

23 THE COURT: Folks, we're at a stopping point
24 for today. Is 9:00 too early for y'all in the
25 morning? That okay? All right. If y'all can be

1 last for the record.

2 THE DEFENDANT: My name is Joshua Reher,
3 R-E-H-E-R.

4 DIRECT EXAMINATION

5 BY MR. DEIRIG:

6 Q. Good morning, Josh.

7 A. Good morning, Mr. Lir.

8 Q. Let's start off by introducing you to the jury.
9 How old are you, Josh?

10 A. I'm 33.

11 Q. 33. And where do you work?

12 A. I work for Agnew Lake Service.

13 Q. You work for Norman Agnew --

14 A. Yes, sir.

15 Q. -- who testified yesterday?

16 A. Yes, sir.

17 Q. How long have you worked for him?

18 A. Since 2003; the end of 2003, beginning of 2004.

19 Q. Okay. And where do you live?

20 A. I live at -- I used to live at [REDACTED].

21 But now I stay right down Shadow Wood, right there
22 in Irmo.

23 Q. Okay. And how far did you go in school?

24 A. I graduated, sir. I graduated high school.

25 Q. What year was that?

1 A. 2003.

2 Q. And you've been working ever since?

3 A. Yes, sir.

4 Q. Okay. Well, let's focus on the events of the
5 day of August the 21st of 2015. Let's start off in
6 the morning. What did you do the morning of August
7 21st, 2015?

8 A. We started out at work, and around lunchtime we
9 had a company meeting that day.

10 Q. And what happened at that company meeting?

11 A. We go over the events over the past couple of
12 months and talk about our production and what can we
13 do to improve our production and just collaborate
14 amongst each other and what can we do to better the
15 company.

16 Q. At those meetings, do you guys eat together?

17 A. Yes, sir, we eat. And there's drinks and
18 alcohol in the coolers. Yes, sir.

19 Q. What kind of alcohol?

20 A. Just beer.

21 Q. Okay. And this meeting was at what time?

22 A. Around 12:00.

23 Q. Around 12:00?

24 A. Yes, sir.

25 Q. So this was a -- was this a Friday?

1 A. It was a Friday.

2 Q. And do these meetings happen every Friday?

3 A. No, sir.

4 Q. How often do they happen?

5 A. Maybe once a month, once every two months.

6 Q. Okay. So just occasionally, you guys will get
7 together and have lunch and have a couple of beers
8 and talk about what's going on with the company?

9 A. Yes, sir.

10 Q. All right. Was -- well, how do you know Joe
11 Meyers?

12 A. I met Joe Meyers through work when he got hired
13 on. I was there to instruct him on how to weld and
14 the ways we build things at Agnew, just basically
15 teaching him how to do everything.

16 Q. So you met -- do you know Joseph Meyers as
17 anything other than that?

18 A. Jersey Joe. That's what he told us to call
19 him.

20 Q. Did he frequently just go by Jersey?

21 A. Yes, sir.

22 Q. Did Jersey work with you at Agnew?

23 A. Yes, sir.

24 Q. And is that how you met him?

25 A. Yes, sir.

1 Q. Okay. You didn't know him beforehand?

2 A. No, sir.

3 Q. Gotcha. And was Jersey at this company
4 meeting?

5 A. Yes, sir, he was there.

6 Q. And so you said that there was alcohol at the
7 meeting, right?

8 A. Yes, sir.

9 Q. And did you consume any alcohol at this
10 meeting?

11 A. I probably had three beers at the meeting.
12 Yes, sir.

13 Q. Three beers?

14 A. Yes, sir.

15 Q. Was Mr. Meyers drinking?

16 A. Yes, sir.

17 Q. Do you know how much he had to drink?

18 A. I wasn't really following him around and
19 watching how much he really drank. But I knew he
20 was drinking.

21 Q. Okay. And so what did you do after this
22 meeting was over?

23 A. After the meeting was over, I sat around the
24 shop and was talking to the guys. And then Joe, he
25 left to go bid on this job, and he was going to come

1 back and pick me up.

2 Q. Well, how long did the meeting last?

3 A. The meeting probably lasted until about 3:00.

4 And then we all sat around and talked amongst each
5 other.

6 Q. About how long did you sit there -- well,
7 eventually, did Joe end up coming back and picking
8 you up?

9 A. Yes, sir. He came back around 4:00.

10 Q. Okay. Does that mean he was gone for about an
11 hour?

12 A. Yes, sir.

13 Q. Do you know what he -- what he did during that
14 hour?

15 A. He told me he was going to go check on a job we
16 were supposed to go do and he was gong to come back
17 and pick me up, and when he came back, we was going
18 to go do it.

19 Q. Okay. Do you know if he was drinking at all
20 during that hour?

21 A. I wasn't with him, but I can imagine. He has a
22 cooler in the back of his truck.

23 MR. MCNAIR: Speculation, Your Honor.

24 BY MR. DEIRIG:

25 Q. Did Joe have a cooler in the back of his truck

1 that day?

2 A. Yes, sir.

3 Q. Anything in it?

4 A. Yes, sir. There was Miller Lites in the
5 cooler.

6 Q. And did he have his truck with him while he was
7 gone for that hour?

8 A. Yes, sir.

9 Q. Okay. Do you know whether or not he drank
10 anything during that hour?

11 A. I wasn't with him, but I can only assume that
12 he would.

13 THE COURT: That's speculation.

14 BY MR. DEIRIG:

15 Q. You don't -- you don't know?

16 A. I do not know.

17 Q. Okay. So after that hour, he -- and he came
18 and picked you up, did you guys go directly to your
19 house?

20 A. No, sir. We stopped by Hemingway's.

21 Q. Where is Hemingway's?

22 A. Hemingway's is located in the Kroger shopping
23 center right off Lake Murray Boulevard and
24 St. Andrews.

25 Q. What happened at Hemingway's?

1 A. We was at Hemingway's. We played a couple of
2 games of pool. I drank a couple of mixed drinks
3 when I was there. And then we went back to the
4 house.

5 Q. About how long were you there for?

6 A. Maybe an hour, hour and 15 minutes, somewhere
7 around there.

8 Q. Was Joe drinking there?

9 A. Yes, sir.

10 Q. Do you know how much he had to drink?

11 A. Like I said before, I wasn't really keeping
12 count on how many he had to drink, but I know he had
13 drinks while we was playing pool.

14 Q. Okay. And what was he drinking?

15 A. He was still drinking beer. And I want to say
16 he maybe even had a shot of Jack or two while we was
17 there.

18 Q. Are you for sure on that?

19 A. I'm almost pretty positive, because he offered
20 me one.

21 Q. Okay. And when the two of y'all left
22 Hemingway's, were you drunk?

23 A. No, sir. I wouldn't say I was drunk, but I did
24 drink a couple mixed drinks while I was there.

25 Q. Okay. So you said you had about, what, three

1 beers from noon to 3:00?

2 A. Yeah; at the company meeting.

3 Q. Right. And you said you had a couple of mixed
4 drinks at Hemingway's?

5 A. Yes, sir.

6 Q. Okay. And did you -- did you take that shot
7 that Jersey offered you?

8 A. I'm not really a Jack man. No, sir, I didn't.

9 Q. Okay. What -- about what time did you guys
10 leave Hemingway's?

11 A. I'd say it was probably roughly about 7:00,
12 7:30. Somewhere around there, we was leaving
13 Hemingway's.

14 Q. Okay. And so what happened after you guys left
15 Hemingway's?

16 A. We pulled up at my -- at my driveway by my
17 mailbox. And that's when we seen the kids on top of
18 the car.

19 Q. Let me -- let me back up for just a second.

20 When the two of y'all left Hemingway's, was
21 Jersey drunk?

22 A. I believe so.

23 Q. Had you been around him when he was drunk
24 before?

25 A. Yes, sir.

1 Q. Did you know what it looked like for him to be
2 drunk?

3 A. Yes, sir.

4 Q. Had you seen him be drunk and see how he acted
5 when he was drunk before?

6 A. Yes, sir.

7 Q. Okay. And typically what's -- what's Jersey
8 like when he's drunk?

9 A. He does get kind of cocky. He gets cocky.

10 Q. Okay. I think you said you guys went directly
11 from Hemingway's to your house. Right?

12 A. Yes, sir.

13 Q. And what happened when you got to your house?

14 A. That's when we seen the kids sitting on top of
15 the car and I was telling him I didn't like those
16 kids being there. And we got out and we both told
17 the kids to get lost.

18 Q. So -- so I'm clear, as you guys are driving up
19 to the house, you're telling Jersey that you didn't
20 like those kids being there?

21 A. Yes, sir.

22 Q. Had you guys ever talked about that before?

23 A. I have talked to him about the kids being there
24 before.

25 Q. Had you guys ever argued about that before?

1 A. We had some words about it before, about how it
2 seems I let it happen. And I don't.

3 Q. Okay. So something that you guys had
4 frequently talked about, right?

5 A. Yes, sir.

6 Q. And did you say that when y'all pulled up to
7 the house, that both of you got out and had words
8 with the kids?

9 A. Yes, sir. I told them to get lost and so did
10 he.

11 Q. Okay. And then what happened?

12 A. After that, I went into the garage. And I was
13 in there, and that's when Joe went inside the house
14 to go tell Brooke -- ask Brooke why the kids were in
15 there -- why the kids were there. And I could hear
16 him in there yelling at Brooke and I.K. .

17 Q. Could you hear what he was saying?

18 A. Kind of, vaguely. I could hear him just in
19 there yelling.

20 Q. Who is Brooke?

21 A. Brooke is my girlfriend at the time.

22 Q. Are you guys still together?

23 A. No, sir.

24 Q. Was that her here -- well, in the courtroom
25 upstairs yesterday?

1 A. Yes, sir.

2 Q. Okay. And who -- does she have any children?

3 A. She has two kids.

4 Q. Who are they?

5 A. Jo.F. and J.L-F. .

6 Q. So the two kids that testified last yesterday
7 were her kids?

8 A. Yes, sir.

9 Q. Okay. And who else was staying in the house
10 yesterday?

11 A. I.K. was staying there on and off. And M.A. was
12 also there, but M.A. was not staying there.

13 Q. M.A. was there, but he was not living there?

14 A. Yes, sir.

15 Q. Did Jo.F. and J.L-F. live with y'all?

16 A. Yes, sir.

17 Q. Okay. So you said you're in the garage, you
18 heard Joe go in and argue with Brooke. What
19 happened after that?

20 A. That's when Brooke and I.K. come out, and Joe
21 followed them outside. And that's when Brooke went
22 and got into the car. And she was sitting there
23 crying. And that's when I walk over to the car and
24 she asked me for money to go to the gas station
25 because she was wanting to get cigarettes.

1 Q. Did you give it to her?

2 A. Yes, sir, I did.

3 Q. Then what happened?

4 A. That's when I.K. pops his head out the car and
5 tells me that I let it happen and it's my fault.

6 And that's when Joe turns at me and insinuates that
7 it's my fault that I let the kids be there and that
8 I give Brooke money to go get pills. So he sits
9 there and he says that I'm an enabler.

10 Q. So did -- you said I.K. stuck his head out of
11 the car. Does that mean he got in the car with
12 Brooke?

13 A. Yes, sir.

14 Q. Okay. And then you said he shouted you're the
15 one that's been letting it happen?

16 A. Yes, sir.

17 Q. And then Jersey turned to you and got mad about
18 it?

19 A. Yes, sir.

20 Q. And then you said he got mad about you giving
21 Brooke money?

22 A. Yes, sir, I did.

23 Q. And why was he mad about you giving Brooke
24 money?

25 A. I tell him about it. And I can only imagine

1 that he probably thinks I'm an enabler. He probably
2 gets frustrated with it.

3 Q. You told him about what?

4 A. About -- about Brooke asking me for money and
5 about how the kids are always over there all the
6 time.

7 Q. Okay. And what was it that he was mad about
8 concerning you giving her money?

9 A. I can only imagine that he's -- just got upset,
10 that he's frustrated with it.

11 Q. Didn't you testify to something about him being
12 upset about pills?

13 A. Yes, sir.

14 MR. MCNAIR: Judge, he's putting words -- he's
15 leading him.

16 THE COURT: I agree. Sustained. Don't lead.

17 BY MR. DEIRIG:

18 Q. He's mad about money?

19 MR. MCNAIR: Leading.

20 THE WITNESS: Me giving her money, probably
21 because he's insinuating she's going to go buy pills
22 with it.

23 BY MR. DEIRIG:

24 Q. So what happened next?

25 A. After that, Brooke and I.K. leaves the driveway,

1 they back out the driveway. And that's when Joe
2 turns to me and starts telling me that it's my
3 fault, that I gave her money.

4 Q. Was he mad at you?

5 A. Yes, sir. He looked at me in a way that I
6 could tell that he was up upset and he was charging
7 at me.

8 Q. So -- so is he charging at you as Brooke is
9 leaving?

10 A. Brooke is already out of the driveway, pulling
11 up -- pulling up to the stop sign when he's coming
12 at me.

13 Q. Did you want to fight Joe?

14 A. No, sir. I had no intentions of fighting Joe.

15 Q. Was he a friend of yours?

16 A. At the time, yes, sir.

17 Q. Was he a good friend of yours?

18 A. I can -- I can almost say that. We spent a
19 good bit of time together.

20 Q. How long had you guys known each other at the
21 time?

22 A. Roughly eight months to a year. I'd have to
23 guess.

24 Q. Had you guys ever been in a physical fight
25 before?

1 A. Not that I can remember right off the top of my
2 head.

3 Q. Had you guys ever argued before?

4 A. We had exchanged words a time or two.

5 Q. And in the past, I believe -- have you ever --
6 have you ever testified before that you and Joe have
7 never argued?

8 A. Yes, I have.

9 Q. Is that accurate?

10 A. No, sir, it's not.

11 Q. And why are you saying -- why are you telling
12 this jury today that you and Joe argued before?

13 A. Because when I was giving that statement to
14 Detective Marthers, I wasn't thinking about the time
15 that we did have arguments. I was just -- I just
16 said no, sir, just to -- I wasn't in my right state
17 of mind when I gave my statement. I would have
18 wrote that down.

19 Q. So your testimony today is that you guys have
20 argued in the past?

21 A. Yes, sir. We've exchanged words.

22 Q. Have y'all ever had a similar argument to the
23 one that you guys had on the night of August 21st,
24 2015?

25 A. Yes, sir, we have.

1 Q. Was it about Brooke and the kids?

2 A. Yes, sir.

3 Q. And so you -- did you say -- did you just
4 testify that Joe was coming at you as Brooke pulled
5 up to the stop sign?

6 A. Yes, sir. As Brooke was leaving the
7 neighborhood, Joe was coming at me.

8 Q. And what was his demeanor like?

9 A. I could tell he was being aggressive because he
10 was coming up and he was raising his hands and he
11 was yelling at me.

12 Q. And what was he saying?

13 A. He was saying that it was my fault, that I let
14 it happen.

15 Q. When you said raising his hands, what do you
16 mean?

17 A. I mean he was raising his hands up like he was
18 getting ready to hit me.

19 Q. Were you scared?

20 A. Yes, sir.

21 Q. What did you do when he came at you?

22 A. That's when I put my hands up to defend myself.
23 And I put my hands on his shoulders, and the next
24 thing I knew, he hit me in the face and we're
25 rolling around on the ground out there by the

1 carport.

2 That's when I put my hand on his chin and I
3 pushed his head up so he can't hit me in the face.
4 And he puts his hands around my throat and starts
5 choking me. Then I grabbed his hair and I pulled
6 his hair out to get him off the top of me.

7 Q. Had anything like this ever happened between
8 you and Joe before?

9 A. Never got physical. No, sir.

10 Q. So what happened after he came at you?

11 A. After he came at me, that's when he hit me. He
12 come and hit me in the face.

13 Q. How many times?

14 A. I got hit in the face multiple times. I
15 couldn't tell you after the first three or four. I
16 wasn't counting.

17 Q. Okay. Were you guys standing up when he hit
18 you in the face?

19 A. No, sir. I was on my back and he was on top of
20 me.

21 Q. How did you end up -- how did you end up on the
22 ground?

23 A. Because when he come to hit me the first time
24 is when I put my hands up. And next thing I knew,
25 we was close quarters, and then he took me to the

1 ground.

2 Q. Okay. And who was on top?

3 A. Joe was.

4 Q. Those punches to the face that you just
5 testified about, did they make you bleed?

6 A. Yes, sir. I had cuts on my face, I had scrapes
7 above my eyebrows and stuff. My cheeks were red and
8 swole. Yes, sir, it made me bleed.

9 Q. And, ultimately, what did those punches -- how
10 did those punches end up affecting you over the
11 course of the next couple days?

12 A. My face was swollen. I ended up with black
13 eyes. I had a knot on the back of my head from
14 where my head was hitting the pavement of the
15 driveway. It affected me pretty good.

16 Q. So did your black eyes show up that night?

17 A. No, sir. My black eye did not show up until
18 that next morning in jail.

19 Q. And did the swelling increase while you were in
20 jail?

21 A. Yes, sir, it did.

22 Q. How long -- how long was your face swollen?

23 A. My face was swole for about a week, week and a
24 half, when I was in jail.

25 Q. Did you -- once the swelling went down, did you

1 look the same as you had looked when you got
2 arrested?

3 A. No, sir, I didn't. The CO wanted to take a new
4 picture of me because my face didn't match the book
5 picture.

6 Q. When you say CO...

7 A. That is the lady that sits inside the jail that
8 watches the little cubicle thing. She comes around
9 and checks your door --

10 Q. Yes.

11 A. -- every morning. That person.

12 Q. So what did she want to do about a new picture?

13 A. She wanted me to go take a new mugshot picture
14 because my face didn't match the one she had on file
15 for me.

16 Q. And how long was it before this happened?

17 A. It was probably about two weeks.

18 Q. Two weeks. Did you ever hit Joe back?

19 A. No, sir.

20 Q. Why not?

21 A. Because I didn't want to fight him. All I
22 wanted him to do was get off the top of me and quit.

23 Q. So what were you doing while he was on top of
24 you punching you?

25 A. Pushing his chin up in the air trying to get

1 him off the top of me. I went as far as pulling his
2 hair and just pulling him off the top of me.

3 Q. Where was this?

4 A. In the garage at this time.

5 Q. Did any of his hair come out when you pulled
6 it?

7 A. Yes, sir.

8 Q. Were you ultimately able to get away from him?

9 A. At that time I was -- after I pulled his hair,
10 and pulled him off the top of me, I was able to roll
11 out from underneath him, and I stepped outside by
12 the front of his truck in the driveway.

13 Q. And so were you able to get away from him and
14 get outside of the garage?

15 A. Yes, sir, at that time.

16 Q. And was his truck in the driveway outside of
17 your garage?

18 A. Yes, sir.

19 Q. And so you get outside of the garage. What
20 happens then?

21 A. That's when he stands up and he comes at me
22 again out there by the front of his truck. And we
23 end up by the rosebushes by the window fighting
24 again.

25 Q. So what happened in the rosebushes by the

1 window?

2 A. That's when he basically tackled me into the
3 corner and we rolled right there. And he got back
4 on top of me and started hitting me again in the
5 face.

6 Q. Okay.

7 MR. DERIEG: And I beg the Court's indulgence,
8 Your Honor.

9 BY MR. DEIRIG:

10 Q. Looking at State's Exhibit No. 8, can you tell
11 the jury where it is that you were just referring to
12 that y'all were rolling around?

13 A. Yes, sir. Just right on the other side of that
14 little brick corner. That's where we keep our trash
15 at.

16 Q. Are you talking about right here?

17 A. Yeah. Just on -- right back around there.
18 Because I was standing right there, right about
19 where the bricks start, when he tackled me.

20 Q. Okay. And what happened in that area?

21 A. That's when he basically tackled me into the
22 corner. And then he got back on top of me and
23 started hitting me in the face again.

24 Q. Okay. And are there any windows on the house
25 near where you just testified you guys were?

1 A. Yes, sir, there's one window right there. You
2 can see it from the kitchen.

3 Q. Did you see anybody in the window?

4 A. Yes, sir. I did see M.A. in the window.

5 Q. Did you ever see Jo.F. in the window?

6 A. I did see Jo.F. peek through the window.

7 Q. And what were they doing?

8 A. They were looking at what was going on. They
9 were watching me.

10 Q. Did you say anything?

11 A. I yelled for help. I yelled for them to come
12 help me.

13 Q. Did you ever ask them to call 911?

14 A. I yelled it a couple times. I said for someone
15 to call 911. I never specifically said his name,
16 but I yelled for someone to call 911.

17 Q. And where was he punching you the second time
18 that he's on top of you?

19 A. In my face, because he pretty much had me
20 straddled.

21 Q. And, the second time, did you ever punch him
22 back?

23 A. No, sir. I couldn't. All I could do was pull
24 his arms and hold his arms to get him off of me.

25 Q. And were you able to -- were you ever able to

1 get him off of you?

2 A. Yes, sir. Eventually I got him off of the top
3 of me.

4 Q. And what did you do when you got him off of
5 you?

6 A. That's when I ran and I kicked my gate open
7 through the back and I went through the back porch.

8 Q. All right. When you say kicked open your gate,
9 what are you talking about?

10 A. That gate right there where that one rug is,
11 far to the left, there's a little access gate right
12 there.

13 Q. Are you talking about this rug?

14 A. Yes, sir. I went over there and I kind of,
15 like, jumped it and kicked it.

16 Q. So you kicked the gate open. And then what do
17 you do?

18 A. I go inside my house. And that's when I see

19 M.A. in the kitchen.

20 Q. And so what do you do when you go in the house?

21 A. I asked M.A. how come he didn't help me, how
22 come -- how come you didn't come outside to help me
23 and how come you didn't call the cops when I asked
24 for somebody to call the cops?

25 Q. And then what happened?

1 A. He was on the phone with somebody at that time.
2 He kind of, basically, ignored me.

3 Q. And then what?

4 A. That's when I noticed Joe was still outside by
5 his truck, digging in his cooler, getting beer,
6 and --

7 Q. Did you see -- did you see Jo.F. at this
8 point?

9 A. Jo.F. was in the living room by this time when
10 I came back through.

11 Q. Okay. And so tell the jury what you said you
12 noticed.

13 A. I noticed that Joe was out there by his truck
14 digging in his cooler to get him another beer and
15 was out there just ranting and raving, basically
16 just not leaving, basically taunting me in a way.

17 Q. At this point, had you ever told him to leave?

18 A. Yes, sir, multiple times.

19 Q. When was that?

20 A. During the altercation of the fights, I was
21 telling him to go home, I don't want to fight you,
22 leave my property. I told him multiple times.

23 Q. All right. What happened next?

24 A. After I see him digging in his cooler and not
25 getting his beer, that's when I go in the living

1 room by the love seat and grab my gun.

2 Q. And do you typically keep your gun in the
3 living room?

4 A. No, sir. I had it there because maybe a week
5 ago one, of my dogs got bit by a copperhead and we
6 just took him to the vet. And whenever my dog would
7 bark, I'd go outside and look for that snake,
8 because I was pretty sure it was underneath the
9 house.

10 Q. And so what happened after you got your gun?

11 A. That's when I went to the kitchen door and I
12 propped it open and I shot in my toolbox. I told
13 him to leave my property. I meant what I said when
14 I said it.

15 Q. So did you yell that before -- well, in
16 relation to the shots you just talked about shooting
17 into your toolbox, when were you yelling those
18 things to Joe?

19 A. As I was shooting, I was telling him to leave.

20 Q. Okay. How many times did you shoot?

21 A. Four times into my toolbox.

22 Q. And what's been marked as State's 33, do you
23 see the toolbox that you just testified you shot
24 into?

25 A. Yes, sir.

1 Q. Where is it?

2 A. Straight across from you about --

3 Q. Is that it?

4 A. Yes, sir.

5 Q. Okay. And in relation to this picture, where
6 was Joe's truck?

7 A. Out the driveway, out that way.

8 Q. How far out of the driveway was it?

9 A. His front of his nose of his truck was almost
10 about to the front, and the back of his truck was
11 just a little bit past that white column.

12 Q. So if this picture had been taken during the
13 time Joe was there on the 21st, would you have been
14 able to see the front of his truck right here?

15 A. I wouldn't have been able to see the front of
16 his truck, no, sir, not with the door view like
17 that.

18 Q. Okay. So --

19 A. But the front of his truck was up ahead a
20 little bit more into the garage.

21 Q. Okay. And when you fired those four shots into
22 the toolbox, where was Joe?

23 A. Joe was in the back of his truck.

24 Q. In the back of his truck?

25 A. Yeah. He was still digging in there trying to

1 get a beer.

2 Q. So if we look at State's No. 5, could you point
3 out roughly on the -- on this picture where the back
4 of Joe's truck would have been?

5 A. Yes, sir. It's almost right about -- you see
6 where the grass -- that little white thing in the
7 middle of where the flower bed is?

8 Q. This?

9 A. No.

10 Q. Oh, this?

11 A. That right there.

12 Q. Okay.

13 A. The back of his truck was almost -- almost kind
14 of level with that, probably up a little bit. But
15 that's right at the corner of the house.

16 Q. So you're saying that the back of Joe's truck
17 would have been right around here?

18 A. Yes, sir.

19 Q. So is that where he was standing when you shot
20 those four times?

21 A. Yes, sir.

22 Q. Okay. What happened after that?

23 A. That's when Joe yells at me and he says, oh,
24 you're going to shoot at me? And then he runs and
25 charges up to my door.

1 Q. Back up just a second. When you were -- when
2 you shot those four shots into the toolbox that you
3 just testified about, were you shooting at Joe?

4 A. No, sir, I wasn't. I shot in my toolbox.

5 Q. What direction would you have had to point to
6 shoot at Joe?

7 A. To shoot at Joe, I would have to almost aim
8 towards 10:00, 9:00 to shoot.

9 Q. What direction is that?

10 A. Extremely to my left. I'd have to aim to my
11 left.

12 Q. And after those four shots, what did you say
13 happened?

14 A. That's when Joe yelled. He says, oh, you want
15 to shoot at me? And he charges at my door, he
16 charges at me.

17 Q. What was his demeanor like?

18 A. He was definitely angry. I could tell that he
19 was angry. He was coming for me again.

20 Q. So after you fired four shots, instead of
21 leaving, are you testifying that Jersey came at you?

22 A. Yes, sir.

23 Q. What did you do?

24 A. That's when I backed up and I tried to shut the
25 wooden door. But by the time I got the wooden door

1 closed, he was pushing on it, and it was a tussle
2 between the door. And I had my hand on the knob to
3 try to hold the door with my foot on the bottom of
4 it, and he was pushing it through.

5 Q. Was it easy to lock that door?

6 A. No, sir, it wasn't.

7 Q. Why is that?

8 A. Because the deadbolt is messed up.

9 Q. So when he rushes the door and you close the
10 door, what happens?

11 A. That's when he pushes on it for probably maybe
12 a minute or two. And then the pushing stops. And
13 that's when I cracked the door open to see if he's
14 still there, and that's when he turns around and
15 pushes the door through. He was still standing on
16 the step.

17 Q. So why did you crack the door?

18 A. Because the pushing stopped and I wanted to see
19 if he left.

20 Q. And so what happens when you open it?

21 A. That's when he turns around and comes through
22 the door.

23 Q. And what did you do?

24 A. I started taking my steps back. And I raised
25 my hand to stop him from connecting to me, and

1 that's when I raised my gun and I shoot one time
2 into Joe's stomach.

3 Q. Was he saying anything?

4 A. Not at that time. He was just coming straight
5 ahead at me.

6 Q. And did you just testify that you put your hand
7 up and told him to stop?

8 A. I put my hand up in a stopping motion for him
9 not to come at me. Yes, sir.

10 Q. Did you ever make contact with him?

11 A. Yes, sir. My hand hit his shoulder.

12 Q. So y'all were that close?

13 A. Yes, sir, we was close.

14 Q. Would he have been able to touch the gun?

15 A. Yes, sir.

16 Q. Was he trying to?

17 A. Yes, sir.

18 Q. How far into the kitchen did this happen?

19 A. Maybe a step or two before I made contact with
20 him and I fired.

21 Q. So not very far in the kitchen?

22 A. Not very far at all.

23 Q. And after you fired, what happened?

24 A. That's when the gun drops and Joe falls on top
25 of me and we kind of have a tussle right there.

1 Eventually, I get him off of me and he gets up and
2 he goes towards the door. And that's when I pushed
3 him out the door and he goes to his truck.

4 Q. And then what did he do when he went outside?

5 A. After that, that's when I kind of don't see him
6 no more. I kind of lose contact with him. At that
7 point, that's when M.A. went and woke J.L-F. up and
8 J.L-F. went outside to give him water and, I guess,
9 to find his keys, I reckon.

10 Q. You've heard, through the course of testimony,
11 both J.L-F. and Jersey testified that J.L-F. got the
12 keys?

13 A. Yes, sir.

14 Q. Did you see Jersey again after he walked
15 outside?

16 A. No, sir, I didn't.

17 Q. So after he walked outside, what did you do?

18 A. That's when I laid on the floor basically
19 hyperventilating.

20 Q. At some point did Jersey leave your property?

21 A. Yes, sir, I believe so.

22 Q. Did you actually see it happen?

23 A. No, sir, I didn't.

24 Q. Okay. So you said you were laying on the
25 kitchen floor hyperventilating?

1 A. Yes, sir.

2 Q. Where was the gun?

3 A. It was laying next to me.

4 Q. Have you ever said that you laid on the floor
5 next to the gun in any other room in the house?

6 A. No, sir, just the kitchen.

7 Q. Have you ever said that you laid on the floor
8 next to the gun in the living room?

9 A. If I did, I didn't mean it. The kitchen is
10 where it happened.

11 Q. Okay. So what happened while you're laying on
12 the ground hyperventilating?

13 A. That's when Jo.F. comes up and gives me a
14 glass of water and checks on me. I seen him poking
15 at the gun and I tell him don't mess with it. And
16 that's when M.A. picks him up and takes him to the
17 back room and carries him away.

18 Q. What did you do with the weapon?

19 A. Eventually I discharged -- I cleared the weapon
20 and I put it back up. But before I do all that,
21 Brooke pulls up into the driveway.

22 Q. When you said you cleared the weapon, what does
23 that mean?

24 A. That means I took the live shell out the
25 chamber and I disassembled my magazine and I put it

1 back in the case.

2 Q. What happened to the live shell that was in the
3 chamber?

4 A. I couldn't -- it probably fell out in the
5 kitchen when I cleared it.

6 Q. Did you ever pick it up and put it in the bag?

7 A. Not the cleared shell, no, sir.

8 Q. Okay. Where was M.A. while Joe was trying to
9 come through the door?

10 A. M.A. was in the kitchen.

11 Q. Where in the kitchen?

12 A. By the cabinet.

13 Q. Where was Jo.F. ?

14 A. Jo.F. was in the living room on the couch.

15 Q. And could he see the kitchen from the couch?

16 A. Yes, sir. He can lay his head back and see
17 into the kitchen. And I think that's why he got up
18 and stood by the doorway.

19 Q. Where was J.L-F. ?

20 A. J.L-F. was in his room sleeping.

21 Q. Do you know if J.L-F. saw anything that happened
22 between you and Jersey?

23 A. J.L-F. didn't see anything that happened that
24 happened between us. He was in his room sleeping.

25 Q. So after Brooke comes home, what happens?

1 A. After Brooke comes home, I hear the car pull up
2 into the driveway and I open the door. And then I
3 see Brooke and I.K. in the car. And I shut the door
4 and I just -- I don't do nothing.

5 Q. Did law enforcement ever arrive?

6 A. Yes, sir, they did.

7 Q. Did they arrive before or after Brooke?

8 A. They arrived after Brooke did.

9 Q. How much longer after Brooke?

10 A. Maybe five minutes. Not long at all.

11 Q. What happened when the cops got there?

12 A. They asked me to come outside. And I stuck my
13 hands out the door first and I walked outside and I
14 laid on the garage floor. And that's when they put
15 me in handcuffs.

16 Q. So when you said you walked outside, did you go
17 out the front door?

18 A. I went out the same kitchen door. Yes, sir.

19 Q. So you went out the kitchen door into the
20 garage?

21 A. Yes, sir.

22 Q. Okay. And what did they order you to do?

23 A. They ordered me to lay down, put my hands above
24 my head, and to get on the ground.

25 Q. What was the very first thing that you said to

1 police?

2 A. That I had to do it, that he made me do it,
3 that I had no choice. It's not something that I
4 wanted to do. No, sir. I felt like I was forced to
5 do it.

6 Q. And how do the police find out who had gotten
7 shot?

8 A. Because I told them I shot Joseph Meyers when
9 they came up. I told them I shot him.

10 Q. So what happened after you told them that you
11 had shot Joseph Meyers?

12 A. That's when they put me in handcuffs. And I
13 request medical treatment, and they called me an
14 ambulance.

15 Q. Do you know if law enforcement ever went to go
16 check on Joseph Meyers?

17 A. That, they did. They grabbed J.L-F. up and
18 J.L-F. took them over there.

19 Q. Why did they grab -- why did they grab J.L-F.
20 and take him?

21 A. Because J.L-F. --

22 MR. MCNAIR: Objection.

23 THE COURT: Sustained.

24 BY MR. DEIRIG:

25 Q. Do you know if anyone told them to grab J.L-F. ?

1 A. Yes, sir. I heard it going around that they
2 said J.L-F. knew where he lived. And they wouldn't
3 let me show them where he lived. I was still
4 supposed to be in custody right there at the time.

5 Q. Do you know who told law enforcement that J.L-F.
6 knew where he lived?

7 A. I couldn't tell you at the time.

8 Q. Okay. And did you testify it was at this point
9 that you requested medical attention?

10 A. Yes, sir.

11 Q. And then what happened?

12 A. That's when the ambulance showed up and they
13 put me in the ambulance.

14 Q. Were you in handcuffs in the ambulance?

15 A. Yes, sir.

16 Q. Were handcuffs ever removed from you before you
17 got to the hospital?

18 A. Not until once I got into the room.

19 Q. Okay. So once the ambulance gets you to the
20 hospital, what happens?

21 A. That's when I was wheeled into my room and I
22 meet Detective Marthers.

23 Q. When you got to your hospital room, were there
24 any officers outside of your room?

25 A. Yes, sir, because I stayed in the hallway for a

1 good 45 minutes, 30 minutes, waiting on Detective
2 Marthers to get there.

3 Q. Okay. So --

4 A. The whole time I was in the hallway, I think
5 Officer Senn was right there with me.

6 Q. So instead of going into the -- directly into
7 the hospital room, is it your testimony that you
8 were out in the hallway for a period of time?

9 A. Yes, sir.

10 Q. Okay. And did you just testify that Marthers
11 was in your hospital room when you entered it?

12 A. Yes, sir, he was. He was sitting right there
13 on that chair.

14 Q. Then what happened?

15 A. We conducted our interview.

16 Q. How much medical treatment had you had at this
17 point?

18 A. I've only seen one nurse. And she was supposed
19 to come back to address my wounds, and she never got
20 a chance to.

21 Q. So who took -- were you ever taken out of
22 handcuffs while you were at the hospital?

23 A. To -- initially to write my statement, I was.

24 Q. Who took the handcuffs off?

25 A. Detective Marthers did.

1 Q. And what happened after that?

2 A. After I conducted my interview with Detective
3 Marthers, he informed me that I was under arrest for
4 attempted murder. And they walked me into the
5 hallway and put the handcuffs back on me. And
6 that's when I asked about can I get my face cleaned.
7 And that's when the nurse walked me to the bathroom
8 door and I washed my face in that bathroom in the
9 hospital.

10 Q. So it was in the hospital room that you wrote
11 that statement?

12 A. Yes, sir.

13 Q. Tell the jury about how you were feeling at
14 this point.

15 A. I was scared and I was in a state of shock. I
16 was still crying the whole time. It's a very
17 traumatic moment for me. I was definitely in a
18 state of shock.

19 Q. Had you ever been through anything like this
20 before?

21 A. No, sir, I haven't.

22 Q. Have you had a chance to read the statement
23 that you wrote that night?

24 A. I didn't get a chance to read it until maybe
25 two weeks when I was in jail.

1 Q. So after that two weeks when you got a chance
2 to reread the statement that you had written to
3 Marthers, what did you think?

4 A. That there's a whole lot that got left out and
5 that some things got mixed up and intertwined
6 together.

7 Q. What do you mean by mixed up and intertwined?

8 A. Like, it says that I shot Joe three to four
9 times. And I shot my toolbox three to four times
10 and I shot Joe once. That's not the way it
11 happened. Things got mixed up and jumbled in there.
12 I probably could have done better if I wasn't
13 panicking and in a state of shock.

14 Q. Did anybody from the Sheriff's Department ever
15 come and re-interview you after Marthers took your
16 statement in the hospital?

17 A. No, sir.

18 Q. And how long was it after the statement that
19 you realized there were some things wrong with it?

20 A. Right after I read it, I realized that it was
21 not a correct statement that was given.

22 Q. And how long was it before you were able to
23 read it?

24 A. It was probably about two weeks.

25 Q. Okay. And how long after you were arrested did

1 I get hired?

2 A. It probably wasn't three months. It was -- I
3 was in court a good while because I even talked
4 to -- what do they call the free lawyers that you
5 get appointed to?

6 Q. Public defender?

7 A. Public defender, yeah. I talked to one of them
8 before I even talked to you.

9 Q. Okay.

10 A. It was -- it's at least been three months, two
11 months.

12 Q. Is the sequence of events or order of events
13 that you've testified to today the same as you
14 testified to a year ago?

15 A. Yes, sir.

16 Q. Is it the same order and sequence of events
17 that you wrote in your statement to Detective
18 Marthers?

19 A. It's the same sequence, but not the same
20 details.

21 Q. There are some details that are different?

22 A. Yes, sir.

23 Q. But is the order generally the same?

24 MR. MCNAIR: Judge, that's an improper
25 question, asking him if what he said previously is

1 consistent with what he's saying today. I mean,
2 that's for the jury to decide.

3 THE COURT: I agree with you. But it's not an
4 improper question, so I'll allow him to answer it.

5 BY MR. DEIRIG:

6 Q. Is the order and sequence of events that you
7 testified to today the same as the order and
8 sequence of events as you wrote in your statement to
9 Detective Marthers?

10 A. Yes, sir.

11 Q. From the beginning of the incident to the time
12 that Joe left, were you ever in fear?

13 A. Yes, sir. I was definitely scared, especially
14 after he was choking me. I felt -- I felt my life
15 was in danger.

16 Q. Did you feel like that when he came through
17 that door?

18 A. Yes, sir. He was going to do it again.

19 Q. Why did you shoot Joe?

20 A. Because he assaulted me, not once, but twice,
21 and then he tried to enter my home to assault me
22 again for the third time.

23 Q. Where did the first assault occur?

24 A. In the garage.

25 Q. Where did the second assault occur?

1 A. By the rosebushes.

2 Q. And where was he trying to assault you for a
3 third time?

4 A. In my kitchen when he tried to come through the
5 door.

6 Q. Is that when you shot him?

7 A. Yes, sir.

8 Q. Did you want to shoot him?

9 A. No, sir, I did not.

10 MR. DEIRIG: I beg the Court's indulgence.

11 Your Honor. That's all I have.

12 Please answer any questions that Mr. McNair has
13 for you.

14 THE DEFENDANT: Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. MCNAIR:

17 Q. Josh, would you agree with me that if something
18 is the truth, it should not change?

19 A. Yeah.

20 Q. Okay. The truth should be consistent,
21 shouldn't it?

22 A. With what you remember, yeah.

23 Q. You never told Detective Marthers anything
24 about firing warning shots, did you?

25 A. I was in a state of shock. But I did fire

1 those warning shots.

2 Q. Were you in a state of shock when you pointed
3 the gun at J.L-F. and said if Jersey walks through
4 that door, I'm blowing him away?

5 A. I never said that.

6 Q. Were you in a state of shock when you said if
7 you go outside, I'll shoot you too, just like him,
8 but in the head?

9 A. I never said that either.

10 Q. Okay. Now, you told Detective Marthers all the
11 shots were fired in your kitchen, did you not?

12 A. From the threshold of my door, that is
13 considered my kitchen.

14 Q. You told him you were standing by the island in
15 your kitchen when all shots were fired, did you not?
16 Yes or no?

17 A. I was standing in my kitchen when I fired the
18 shots.

19 Q. You were standing in your kitchen when you
20 fired the first shot, correct?

21 A. When I fired the four warning shots into my
22 toolbox, yes, sir.

23 Q. We'll read your written statement. When you
24 were asked where were you when you shot, read your
25 answer right there.

1 A. Island in the kitchen towards the door backing
2 up.

3 Q. Island in the kitchen backing up.

4 A. Is that question when I shot Joe or when I shot
5 what? What did I shoot?

6 Q. When you shot.

7 A. When I shot Joe.

8 Q. Where was Joe?

9 A. In my house in the kitchen.

10 Q. Through the door by the cabinets?

11 A. Yes, sir. That's where he was when he got
12 shot.

13 Q. You didn't mention anything about warning
14 shots, did you?

15 A. That's the three or four times I shot. I said
16 at Joe, but it's supposed to be at my toolbox.
17 That's what I'm telling you. My statement isn't
18 exactly descriptive to those details.

19 Q. You left out -- how could you possibly leave
20 out the fact that you fired warning shots?

21 A. I was in a state of shock. I was panicky. He
22 was asking me questions. The nurse probably just
23 came in the door.

24 Q. So you were in a state of shock?

25 A. Yes, sir, I was.

1 Q. You told Detective Marthers you shot three to
2 four times.

3 A. Yes, sir.

4 Q. You said that twice.

5 A. Into my toolbox.

6 Q. That's not correct, is it?

7 A. What does it say?

8 Q. Your written statement says you shot three to
9 four times at Joe after he barged into your kitchen.

10 A. That's -- that's not correct. That
11 statement --

12 Q. But you said it twice in your written
13 statement.

14 MR. DERIEG: Your Honor, I'd ask that he ask a
15 question.

16 THE COURT: I'll allow him to ask the question
17 and allow Mr. Reher to answer the question also.

18 BY MR. MCNAIR:

19 Q. And, in fact, didn't you tell Detective
20 Marthers that you waited for 10 to 20 minutes, and
21 then you opened the door and he came through the
22 door to come at me again, and that is when I shot
23 three to four times?

24 A. That's not true. I didn't wait 10 to 20
25 minutes.

1 Q. Do you understand what that statement means;
2 that once he came through the door, then you say you
3 shot three to four times? Do you understand that?
4 That's what your written statement says.

5 A. Yeah, I understand it. But I -- it's not --
6 not exactly correct.

7 Q. It's false, isn't it?

8 A. It's not correct, sir.

9 Q. In your written statement, you said he was in
10 your kitchen when you shot three to four times. Yes
11 or no?

12 A. He was. He was in my kitchen when I shot one
13 time by the island. He was out by his truck when I
14 shot four --

15 Q. In your written --

16 A. -- times in my toolbox.

17 Q. -- statement, you said you shot three to four
18 times in your kitchen. Yes or no? Are you denying
19 that's in your written statement?

20 A. I'm never denying it. But I'm saying what's in
21 my written statement isn't to its fullest details.
22 It could have been better.

23 Q. So you're sitting here in front of this jury
24 denying that that's what you put in your written
25 statement?

1 A. I never once denied it.

2 Q. Then admit it. Admit that you told Detective
3 Marthers that all shots were fired in your kitchen,
4 because that's what that says.

5 A. I did. I said it could have been better.

6 MR. DEIRIG: Your Honor, I'd ask, again, that
7 he ask a question.

8 THE COURT: It's cross-examination. You can
9 ask questions and the defendant can answer.

10 BY MR. MCNAIR:

11 Q. So are you admitting now that you did say that,
12 that all shots were fired in your kitchen?

13 A. That's not correct.

14 Q. I understand you're saying that's not correct
15 now, as you're sitting on the stand. What I'm
16 asking you is, you did tell Detective Marthers that,
17 correct?

18 A. That's what got written down. Yes, sir.

19 Q. By you?

20 A. Yes, sir.

21 Q. And that's a lie?

22 A. It's not correct.

23 Q. How could you -- that's not a minor detail, is
24 it?

25 A. Well, for somebody that's in a state of shock

1 and had never done -- never had to do anything like
2 this before, I -- I was scared.

3 Q. So that prevents you from remembering where you
4 even shot somebody?

5 A. Well, I did have a traumatic head injury. I
6 just had my face beat in and my head bounced on the
7 floor.

8 Q. Oh, you had a traumatic head injury?

9 A. Yes, sir, I did.

10 Q. Oh, okay. When have you ever said that before?

11 A. That's why I requested medical treatment.

12 Q. What kind of traumatic head injury did you
13 have?

14 A. I just got my face hit multiple times against
15 the concrete.

16 Q. Oh, that's new now too.

17 A. Oh, so --

18 Q. You just testified. You never mentioned
19 anything about getting your head banged on the
20 concrete.

21 A. Well, I said when he punched me, my head was
22 hitting the pavement and the concrete.

23 Q. You did not say that.

24 A. I did not?

25 Q. It's getting worse and worse as it goes.

1 A. No, sir, it's not.

2 Q. First of all, in your written statement, it's a
3 wrestling match where a few punches are thrown,
4 correct? I'll make you keep reading your written
5 statement if you deny it. That's what you said.

6 MR. DERIEG: Objection, Your Honor.

7 THE COURT: What's your objection?

8 MR. DEIRIG: Again, he's not asking questions.

9 THE COURT: I thought he did. If you want me
10 to continue reading the statement to you. Give him
11 a chance to answer the question.

12 BY MR. MCNAIR:

13 Q. I'll rephrase it. In your written statement,
14 did you not tell Detective Marthers, we started
15 wrestling, I tell him to stop, he hits me, we
16 wrestled some more?

17 A. I used the word wrestling, but it was really
18 fighting. There was no wrestling in it.

19 Q. I'm asking you if that's what you told
20 Detective Marthers.

21 A. That is what I've written down. Yes, sir.

22 Q. Yes, sir. Okay. And then today you say you
23 got choked, right?

24 A. He was choking me.

25 Q. And the first time you ever said you got choked

1 was actually the last hearing we had on this case
2 when I was asking you questions on cross, correct?

3 A. Yes, sir.

4 Q. Okay. You didn't say that in response to any
5 questions your defense attorney asked you. You said
6 that after I asked you and you alleged you've been
7 choked.

8 A. Yes, sir. I have been choked.

9 Q. And then today, now you're alleging your head
10 was banged on the concrete?

11 A. Yes, sir.

12 Q. And you had a traumatic brain injury?

13 A. I could have.

14 Q. Now, you requested to be transported to the
15 hospital that night, correct?

16 A. Yes, sir.

17 Q. And what did the nurse tell you to do?

18 A. Wash my face.

19 Q. She told you to wash your own face, didn't she?

20 A. Yeah.

21 Q. You didn't have a CT Scan?

22 A. They never come back in. They didn't even
23 offer me a chance. I got put in handcuffs and
24 walked out. I met the nurse in the hallway.

25 Q. You got discharged that night within hours,

1 didn't you?

2 A. I never got my discharge papers. I didn't know
3 I was discharged.

4 Q. You didn't get stitches?

5 A. I didn't get no stitches.

6 Q. You didn't have a broken nose?

7 A. No, sir.

8 Q. You didn't have any gashes on your head?

9 A. I had abrasions and scratches on my forehead.
10 I was bleeding.

11 Q. My kids get abrasions and scratches.

12 MR. DEIRIG: Objection.

13 THE COURT: If you've got a question -- I'll
14 sustain that one.

15 BY MR. MCNAIR:

16 Q. Now, when you gave your first written
17 statement, you weren't aware of what the other
18 witnesses were saying, were you?

19 A. I was taken away from the house.

20 Q. Just please answer my question. You weren't
21 aware of what the other witnesses were saying?

22 A. I don't see how I could have been.

23 Q. So no is your answer?

24 A. Yes, sir.

25 Q. You weren't aware of where the evidence was on

1 scene, correct?

2 A. I knew where I shot my gun at. Yes, sir.

3 Q. You didn't know that there were four shell
4 casings in the garage, did you?

5 A. I knew that that's where they would be.

6 Q. You didn't know there were four bullet holes in
7 the garage?

8 A. I knew they'd be in my toolbox because that's
9 where I shot.

10 Q. All right. Do you remember me asking you
11 before -- under oath, on the witness stand, I asked
12 you, you didn't know that there were four shell
13 casings in the garage, did you? And do you recall
14 saying, I did not know that's where they was, no,
15 sir?

16 A. I also said that's probably where they'd end
17 up.

18 Q. You said you didn't know.

19 A. I said that's probably where they'd end up.

20 Q. All right. Show me, point out to me where you
21 said that. And start at line 10, is where I asked
22 you that question.

23 A. Start at line 10?

24 MR. DEIRIG: What page are you on?

25 MR. MCNAIR: 33.

1 THE WITNESS: Right here on line 17 through 20:
2 All right. You are now aware of the casings being
3 in the garage, right?

4 Well, I could only imagine that is where they
5 fell. Once I shot out my door, that's where they
6 would go.

7 BY MR. MCNAIR:

8 Q. Okay. And you realize now that the statement
9 that you gave to Detective Marthers is inconsistent
10 with what the other witnesses said?

11 A. I realized that about two weeks when I was in
12 jail once -- the first time I seen my statement,
13 yes, sir.

14 Q. All right. And you were informed of what the
15 other witnesses were saying at that point as well,
16 weren't you?

17 A. No, sir, I was not.

18 Q. You didn't talk to Brooke regularly on the
19 phone?

20 A. No, sir, not at that time. No, sir, I didn't.

21 Q. Did you talk to your mom regularly on the
22 phone?

23 A. I talked to my mom. She called me.

24 Q. And she was informing you of stuff that was
25 going on, wasn't she?

1 A. No, sir. She didn't tell me where no bullet
2 casings were or none of that stuff.

3 Q. She was talking to Brooke, wasn't she?

4 A. I couldn't tell you who she was talking to.

5 Q. You had conversations about that, didn't you?

6 A. I talked to my mom.

7 Q. You had conversations -- and she was talking to
8 Brooke and y'all were having conversations about
9 what people were saying, right?

10 A. Well, she was telling me what they said.

11 Q. Okay. So you were aware of what they were
12 saying?

13 A. Not at the time.

14 Q. You just said that she was telling you what
15 they were saying.

16 A. She did. She told me what people were saying.

17 Q. You also told Detective Marthers that after you
18 shot Joe in your kitchen, that y'all continued to
19 fight out in the garage.

20 A. It wasn't in the garage. He fell on top of me
21 in the kitchen and we had a tussle. And then that's
22 when he got up and I pushed him out into the garage.

23 Q. Just answer my question. You told Detective
24 Marthers twice that after you shot him, y'all
25 continued to fight out in the garage?

1 A. I wrote it down in my statement. Yes, sir, I
2 did.

3 Q. All right. That's not correct?

4 A. No, sir, it's not.

5 Q. So that was a lie too?

6 A. It's not a lie.

7 Q. Your new testimony today is after you shot him,
8 he fell on top of you in your kitchen?

9 A. Yes, sir. He did.

10 Q. All right. But then you also testified that --
11 excuse me. You testified that he fell on top of you
12 and then he got up and ran out, correct?

13 A. He went to go outside the door. Yes, sir.

14 Q. All right. But then you later testified that
15 you pushed him out the door.

16 A. I did push him.

17 Q. So which one was it? Did he get up and run out
18 or did you push him out?

19 A. The only time when I pushed him is when he went
20 to go try to scoop and pick that gun up off the
21 floor, is when I pushed him.

22 Q. You've never testified to that before.

23 A. Well, you never quite asked me like you just
24 did right there, did you?

25 Q. You've been questioned twice by your attorney

1 and you've never said that before in your life until
2 just now.

3 A. But he did try to pick that gun up off the
4 floor.

5 Q. Does this story just keep evolving?

6 A. No, sir, it doesn't.

7 Q. Just trying to make something fit?

8 A. No, sir.

9 Q. Why does it keep changing? You just told me
10 the truth shouldn't change.

11 A. It doesn't.

12 Q. You've had so much time to think about it.

13 A. Just because I never told you that -- you never
14 asked me that -- it doesn't mean it didn't happen.

15 Q. So you just keep remembering more and more
16 details as we go?

17 A. I do not keep remembering any more details.

18 Q. Your initial story was that after the fight
19 ended, you waited for 10 to 20 minutes inside your
20 house, right?

21 A. That's what I wrote down. But that ain't
22 correct. It was more like the lines of three to
23 five.

24 Q. Three to five. And you told Detective Marthers
25 that you didn't know Joe was still outside when you

1 went to the door, and that's why you went to the
2 door to check and see if Joe was outside, right?

3 A. To see if he was still on my step. Yes, sir.

4 Q. All right. But your new testimony is you
5 waited three to five, and you knew he wasn't gone,
6 because you saw him sitting on the back of his
7 tailgate drinking a beer?

8 A. You'll have to rephrase that, because what do
9 you mean exactly?

10 Q. Your testimony today is you waited in your
11 house three to five minutes, and you knew Joe wasn't
12 leaving because you could see him sitting on the
13 back of his truck, right?

14 A. Yes, sir, that's right.

15 Q. All right. So you lied to Detective Marthers
16 about that or either you're lying today about that,
17 right? Because those are two totally different
18 things.

19 A. It happened about three to five minutes,
20 because when I came through the living room, that's
21 when I seen M.A. in the kitchen.

22 Q. So you told Detective Marthers you didn't know
23 Joe was still there when you opened the door. And
24 that was a lie.

25 A. I did know Joe was there before I opened the

1 door and shot in my toolbox because I seen him.

2 MR. MCNAIR: Judge, would you please direct him
3 just to answer my questions?

4 THE COURT: You ask the question --

5 THE DEFENDANT: I said -- I said --

6 THE COURT: You have to answer it and then you
7 can give an explanation. Let's move forward.

8

9 BY MR. MCNAIR:

10 Q. You told Detective Marthers that Joe never
11 yelled at anybody else or had an argument with
12 anybody else at the house that day.

13 A. But yet he did. He argued with Brooke. He
14 yelled at the kids on top of the car. He even
15 yelled at me.

16 Q. Okay. So that's either a lie to Detective
17 Marthers or that's a lie today?

18 A. Well, it's just -- I told you what things got
19 put on my statement weren't exactly to the fullest
20 details they could have been. And I was probably in
21 a hurry when I was writing that, trying to get my
22 treatment.

23 Q. You had already been discharged by the time
24 Detective Marthers got there.

25 A. How come I never got my discharge papers?

1 Q. What kind of treatment did you want, Josh?

2 A. I wanted to get scanned. My head was -- my
3 face was swollen. My head just hit the pavement. I
4 didn't call for an ambulance to take me to the
5 hospital just not to seek no treatment.

6 Q. You just want to make it seem worse than it
7 was, don't you?

8 Now, you testified today that you heard Joe in
9 the house yelling at Brooke.

10 A. Yes, sir, kind of vaguely.

11 Q. Do you remember previously testifying you
12 didn't know what he was doing in there? You said he
13 may -- probably was yelling, but you didn't know?

14 A. Yes, sir.

15 Q. All right. You did testify to that previously,
16 right? That he probably --

17 A. That he probably was in there yelling.

18 Q. But now you're sitting here testifying today
19 like you know for a fact that he was yelling.

20 A. She came out crying. I can only imagine what
21 he said. So he probably was yelling.

22 Q. Okay. But you don't know whether he was
23 yelling or not. So what you're saying today, that's
24 a lie.

25 Now, you told Detective Marthers you didn't

1 call 911 because you didn't have a phone. Do you
2 remember that?

3 A. Yes, sir.

4 Q. You never said that you asked anybody else to
5 call 911. But you screamed for somebody to call
6 911?

7 A. I did.

8 Q. And you were screaming for someone to call 911
9 out in your driveway?

10 A. When I was in my garage -- when I was in my
11 garage and when I was out by the rosebushes.

12 Q. And your house is right across the street from
13 Mr. Miller's house, right?

14 A. Yeah. He said probably 100 yards.

15 Q. So if you were yelling, he should have heard
16 you, shouldn't he?

17 A. Yeah. From 100 yards that's inside of a
18 garage, it might have been a little muffled.

19 Q. Well, you said you were yelling out in your
20 driveway too.

21 A. Yes, sir.

22 Q. And your driveway is right across from his
23 house.

24 A. I was in a corner as well too.

25 Q. But if somebody is yelling in your driveway --

1 if Mr. Miller was yelling in his driveway, you could
2 hear him, right?

3 A. I would probably say I could.

4 Q. Okay. Now, your relationship with Joe, you
5 told Norman Agnew y'all were best friends, right?

6 A. We were acquaintances. We were friends.

7 Q. Best friends is what you told Norman Agnew,
8 right?

9 A. Well...

10 Q. On a recorded phone conversation?

11 A. Yeah.

12 Q. You're not denying that?

13 A. I'm not denying that he was my friend.

14 Q. Y'all worked together every day?

15 A. We didn't work together every single day.

16 Q. Most days?

17 A. Yeah.

18 Q. He picked you up?

19 A. He picked me up when he could.

20 Q. Most days?

21 A. When he could.

22 Q. Take you home?

23 A. When he could.

24 Q. Most days?

25 A. Yes, sir, when he could.

1 Q. How else did you get to work? You don't have a
2 driver's license.

3 A. Well, sometimes Brooke had to take me.
4 Sometimes he couldn't pick me up because he had to
5 drop his kid off. He would call to tell me in the
6 morning.

7 Q. All right. And you would ride with him to drop
8 his daughter off?

9 A. Sometimes, yeah.

10 Q. And y'all have hung out together in the past?

11 A. Yes.

12 Q. Y'all have had drinks together in the past?

13 A. Yes, sir.

14 Q. Y'all have been to each other's houses?

15 A. Yes, sir.

16 Q. And today you're talking about -- you're
17 testifying that you've had arguments with him in the
18 past. But you remember me asking you that before,
19 under oath, on the witness stand, and you said
20 you've never had an argument with Joe?

21 A. Yes, sir. But, yet, we have.

22 Q. So are you lying then or are you lying now?

23 A. I'm not lying now.

24 Q. So you lied then, under oath, on the same
25 witness stand?

1 A. I'm not -- I didn't lie.

2 Q. If I asked you directly have you ever had an
3 argument with Joe and you said, no, sir, is that a
4 lie or is that the truth?

5 A. So if me saying, no, sir would be a lie, then
6 me saying yes, sir would be the truth.

7 Q. So you have a history of lying on the witness
8 stand?

9 A. No, sir, I do not.

10 Q. You just admitted you've lied on the witness
11 stand.

12 A. The truth -- you just didn't get the truth when
13 I wrote down that -- when you asked me that, I said,
14 no, and I wasn't thinking right.

15 Q. How do we determine when you're telling the
16 truth, Josh? Help us. Because it changes all the
17 time.

18 A. The only thing that's changing is you telling
19 me that me and Joe had an argument and I said that
20 we have had arguments before.

21 Q. Every time you talk about this case, does it
22 not get worse and worse?

23 A. No, sir.

24 Q. You just add more and more details. The story
25 just keeps winding and changing, doesn't it?

1 A. No, sir.

2 Q. In fact, I asked you if you had any issues with
3 Joe in the past, and you said, no, sir.

4 A. No. We've never had any fights.

5 Q. And you invited him to your house on this
6 occasion, right?

7 A. No. He never once got invited. He dropped me
8 off, but I never once opened my door with open arms
9 and told him to come in.

10 Q. You invited him to hang out after he dropped
11 you off, right?

12 A. No, sir, I didn't. He got out of the car and
13 started yelled at those kids and went up in the
14 house and started yelling at Brooke.

15 Q. Well, you just testified y'all both yelled at
16 the kids.

17 A. Yes, we did. But I never once told him to
18 stay. I never said, come on in and stay.

19 Q. When he first pulled up, you didn't say, Joe,
20 go ahead and leave now, did you?

21 A. No. He got out of his car and started yelling
22 at the kids.

23 Q. With you --

24 A. Yes, sir.

25 Q. -- helping his buddy get rid of kids that you

1 didn't like at your house?

2 A. Yes, sir.

3 Q. Okay. So he was a good friend, right? He
4 knows you don't like kids being there, right,
5 because you talked about that a lot?

6 A. Yes, sir.

7 Q. So he pulls up with you and sees kids at your
8 house and helps you get rid of the kids?

9 A. Yes, sir.

10 Q. He's a good friend, isn't he? He's got your
11 back?

12 A. Well, at the time, when he's assaulting me, I
13 don't feel like he has my back or he's my good
14 friend. What kind of good friend does that?

15 Q. Let's talk about -- do you drink very much?

16 A. No, I don't drink too often, sir. No, sir.

17 Q. What do you usually drink when you do drink?
18 Beer?

19 A. Mixed drinks and beer. Yes, sir.

20 Q. All right. On this day, you had three beers
21 and two liquor drinks? Is that your testimony?

22 A. Yes, sir.

23 Q. And you previously testified you started
24 drinking around 4:00 p.m. that day, right?

25 A. I drank three beers when I was at the shop.

1 Yes, sir.

2 Q. You were at the shop around lunchtime?

3 A. Lunchtime.

4 Q. So when I asked you before if you started
5 drinking -- you said you started drinking around

6 4:00 p.m. Which one is it?

7 A. That's when we made it around Hemingway's, was
8 around 5:00. And that's when I had my two liquor
9 drinks, was at Hemingway's.

10 Q. No. I asked when you started drinking. You
11 previously testified around 4:00 p.m. So now you're
12 saying it's even before that?

13 A. I started drinking -- I drank the three beers
14 at the shop while we was at the meeting.

15 Q. So you've lied about when you started drinking
16 before then as well?

17 A. No, sir. I started drinking at Hemingway's
18 around 4:30 to 7:00.

19 Q. I asked you if you had three beers and two
20 liquor drinks. And you said, yes, sir.

21 A. Yes, sir.

22 Q. And I said, and you started drinking around
23 4:00 p.m.? And you said, yes, sir.

24 A. Yes, sir, at Hemingway's.

25 Q. So you had three beers at the shop and then

1 three beers and two liquor drinks at Hemingway's?

2 A. Not three beers and two liquor drinks; just two
3 liquor drinks at Hemingway's, three beers at the
4 shop.

5 Q. All right. Just -- do you agree with me that
6 you started drinking around 4:00 p.m. that day?

7 A. At Hemingway's, yes, sir.

8 Q. Okay. And you stopped around 7:30, is what
9 you've previously testified.

10 A. Yes, sir. That's when we was on the way home.

11 Q. Okay. So you had two liquor drinks and three
12 beers in a three-and-a-half hour period, right?

13 A. From 12:00, yes, sir.

14 Q. Answer my question.

15 A. I did.

16 Q. I've asked you before when you started
17 drinking, and you said you started drinking at
18 4:00 p.m.? Yes or no?

19 A. At Hemingway's, yes, sir.

20 Q. I asked you when you started drinking three
21 beers and two liquor drinks. And you said at
22 4:00 p.m. Yes or no?

23 A. At Hemingway's, yes, sir, I started drinking.

24 THE COURT: He's answered your question. He
25 had beers at lunch at the meeting and drinks at

1 Hemingway's starting at 4:00. He said three times.

2 MR. MCNAIR: Okay. So if I --

3 THE COURT: Two separate starts of drinking
4 times. You keep going back to the 4:00 p.m.

5 starting at Hemingway's or starting the day, and
6 he's consistently said that.

7 BY MR. MCNAIR:

8 Q. Have you previously testified that you started
9 drinking everything, beer or liquor, at 4:00 p.m.
10 that day?

11 A. I believe you asked me what I had to drink.
12 And I think I told you three beers and two mixed
13 drinks. That's what I told you.

14 Q. Right. And I asked you when you started
15 drinking that day.

16 A. At the company meeting.

17 Q. Okay. So that's inconsistent with what you've
18 previously testified to, correct?

19 A. I mean, if you're saying that, then, yeah.

20 Q. You want me to point it out or will you just
21 agree with me that you started drinking at 4:00 p.m.
22 that day?

23 A. I started drinking at 12:00.

24 Q. Okay. This is page 36. Read lines 19 through
25 24.

1 A. You started drinking around 4:00 p.m. that day,
2 correct? Is that what you told Detective Marthers?

3 Yes, sir.

4 You drank from 4:00 p.m. to 7:00. Do you
5 recall saying that?

6 Yes, because I think I got home at 7:30.

7 So you had two liquor drinks and three beers in
8 three and a half hours?

9 Yes, sir.

10 All right. But do you think very much --

11 Q. You can stop right there.

12 A. Do you think very much?

13 No, sir.

14 That's all you want them to know?

15 Yes, sir.

16 Q. That's what you said, right? You had three --
17 you had three beers and two liquor drinks in a
18 three-and-a-half-hour period?

19 A. That's what I said right there. But that's not
20 how it went down.

21 Q. So, once again, you have lied under oath on the
22 witness stand.

23 A. If you keep reading that, eventually I tell you
24 it don't make sense to me about all that. And it's
25 in there because I started drinking those three

1 beers at the shop, and the two liquor drinks at
2 Hemingway's.

3 THE COURT: Let's take a break real quick.
4 Don't discuss the case.

5 All right. Let's stand at ease for a few
6 minutes.

7 (The jury leaves the courtroom at 10:17 AM.)

8 (Brief recess.)

9 THE COURT: If they're ready, bring them.

10 (The jury enters the courtroom at 10:27 AM.)

11 THE COURT: Just so the lawyers remember, I had
12 one juror who has an issue to attend to here in the
13 courthouse about 12:30. So we're going to break at
14 12:15 just so -- it's 10:30 now, so we'll stop at
15 12:15. It is unrelated to this. If y'all remember,
16 I told him I would have him there.

17 CONTINUED CROSS-EXAMINATION

18 BY MR. MCNAIR:

19 Q. I'll finish up the questions about the
20 drinking. I know everybody's tired of that, but you
21 did -- you did state that Joe had about six beers
22 and he started drinking around lunchtime, correct?

23 A. That's what I stated. But I wasn't following
24 Joe around, counting how many beers he drank that
25 day.

1 Q. All right. You previously testified that he
2 wasn't even slurring his speech, correct?

3 A. No. But he wasn't drunken; he had red eyes.
4 He was drunk, if you ask my opinion.

5 Q. All right. But he wasn't slurring his speech?

6 A. No, not then he wasn't. No, sir.

7 Q. Now, you had dated Brooke for five years prior
8 to this incident?

9 A. Yes, sir.

10 Q. And she lived at [REDACTED] there with her two
11 kids?

12 A. Yes, sir.

13 Q. All right. And those two kids looked at you as
14 like a father figure?

15 A. Yes, sir.

16 Q. And you paid all of the bills in that
17 household?

18 A. Yes, sir.

19 Q. Brooke never worked, did she?

20 A. She did have a job.

21 Q. Not while y'all were living there, did she?

22 A. She worked at Cheatham Animal Clinic, but she
23 had recently got laid off.

24 Q. At the time of this incident though, she was
25 not working?

1 A. No, she was not working. No, sir.

2 Q. And she would allow kids to come over to your
3 house and drink alcohol, would she not?

4 A. Without me knowing, yes, sir.

5 Q. Okay. And that upset you, right?

6 A. It would upset anybody, wouldn't it?

7 Q. I'm asking if it upset you.

8 A. Yes, sir.

9 Q. It made you mad that she let kids hang out over
10 there and drink and eat?

11 A. Yes.

12 Q. When you showed up that day, there was kids
13 there. There was even more kids. There was two
14 kids, you said, out by your mailbox, right?

15 A. Yeah. There was three on top of the car.

16 Q. Three? Okay. And they were drinking as well?

17 A. Yes, sir.

18 Q. And you yelled at them to leave?

19 A. Told them to leave.

20 Q. You got mad at Brooke for having those kids up
21 there that night?

22 A. I wasn't necessarily mad. But I was upset with
23 Brooke, yeah.

24 Q. So you were upset with Brooke that night?

25 A. Yes, sir.

1 Q. But you're denying you said anything to Brooke
2 about that?

3 A. I didn't really say too much to Brooke that
4 day. I went inside.

5 Q. You didn't say anything to her about the kids
6 being there?

7 A. No.

8 Q. But you were mad about it, right?

9 A. Yes, sir.

10 Q. And then shortly after you got there, you gave
11 Brooke money, right?

12 A. To go to the gas station to get cigs, yes.

13 Q. But then she left with I.K. ?

14 A. Yes, sir.

15 Q. And I.K. is her pill supplier, right?

16 A. She always leaves with I.K. .

17 Q. I.K. is her pill supplier, right?

18 A. I mean, I guess you could say that. I'm not
19 one hundred percent sure, but yeah.

20 Q. Brooke uses pills, correct?

21 A. I've seen her do it from time to time.

22 Q. And I.K. provides her with pills, correct?

23 A. I heard that he did.

24 Q. Well, you've said that he did.

25 A. I never seen it. I said I heard it. I might

1 have said yeah because I heard it.

2 Q. So you had just given her money and then she
3 left with I.K. , who is her pill supplier?

4 A. To go to the gas station, yes, sir.

5 Q. Didn't you tell your mother on August 29th of
6 2015 that I.K. uses her and she uses I.K. for pills?

7 A. That, they do.

8 Q. All right. So you said that, correct?

9 A. Yes.

10 Q. And you told your mother that's half your
11 problem with Brooke?

12 A. Yeah.

13 Q. So that makes you mad -- her relationship with
14 I.K. upsets you as well, right?

15 A. I can care less. I.K. is 17 years old. I
16 don't --

17 Q. You don't care that she uses pills?

18 A. I do care that she uses pills.

19 Q. All right. And that makes you mad that she
20 uses pills, right?

21 A. It makes me upset and disappointed at her.
22 Yes, sir.

23 Q. And then after she left with I.K. with money you
24 had just given her, Joe says something to you about
25 that, didn't he?

1 A. Yes, sir, he did.

2 Q. He says something to you about using your money
3 to go buy pills, didn't he?

4 A. He said something along those lines.

5 Q. And that made you mad, didn't it?

6 A. I think it made Joe more mad than it made me.

7 Q. It made Joe mad that your girlfriend --

8 A. Yeah.

9 Q. -- left with her pill supplier?

10 A. I think he even testified that he even once got
11 frustrated over the fact that I gave Brooke money.

12 Q. You talked to Joe a lot about that, didn't you?

13 A. Yes, I did.

14 Q. And as any good friend would, he listened to
15 you and tried to give you advice about that, didn't
16 he?

17 A. Yes.

18 Q. Why would Joe get mad?

19 A. I couldn't tell you. You got to ask him.

20 Q. That's what you want the jury to believe: That
21 Joe got mad about your girlfriend leaving --

22 A. Yes, sir.

23 Q. -- with her pill supplier?

24 A. Well, he got frustrated about it.

25 Q. Okay. You're denying that made you mad?

1 A. Made me upset. But I wasn't angry.

2 Q. What's the difference?

3 A. Upset, but I was not angry. I couldn't tell
4 you the difference. I don't have a thesaurus.

5 Q. You told Detective Marthers you never have an
6 explanation about what started this fight, didn't
7 you?

8 A. At the moment when I was giving my statement to
9 Detective Marthers, I couldn't phantom [sic] one up.
10 But now, over time, I can see how he can be upset.
11 And I can give multiple causes as to why Joe would
12 be upset and mad.

13 Q. You couldn't fathom one up?

14 A. No. I couldn't think of one. I was in a state
15 of shock, giving a statement, trying to get
16 treatment in the hospital.

17 Q. There's really no explanation that makes sense
18 other than what I just said, is there?

19 A. That Joe got mad --

20 Q. That you got mad because your girlfriend left
21 with her pill supplier?

22 A. No. I didn't get mad. Why would I get mad at
23 Joe because of that?

24 Q. Because he said something to you about it.

25 A. But wouldn't Joe get mad at me for giving

1 Brooke money if I'm enabling her and he's getting
2 frustrated? Wouldn't he get upset?

3 Q. You've never said that, have you? That's your
4 explanation today?

5 A. I'm pretty sure he said it yesterday that he
6 got frustrated.

7 Q. There's a difference in getting frustrated
8 hearing somebody talk about something over and over,
9 and then getting mad because your girlfriend leaves
10 with her pill supplier.

11 A. That pill part don't make me upset. I did not
12 get mad about that.

13 Q. But you told your mother that's half your
14 problem with Brooke?

15 A. That's half my problem with Brooke. That's why
16 we're not together. Yes, sir.

17 Q. All right. Now, after this scuffle that y'all
18 had, you did make it safely inside your house,
19 right?

20 A. I made it into my house.

21 Q. All right. And Joe didn't run after you or try
22 to follow you into your house at that time, did he?

23 A. No. But he was outside threatening me at the
24 time, yeah.

25 Q. Well, you've never testified to that before,

1 have you?

2 A. He was back by his cooler, sitting there, not
3 leaving.

4 Q. And you've never testified to him threatening
5 you on the back of his truck before, have you?

6 A. No. But he said some words to me.

7 Q. So that's new information that you have today?

8 A. Yes, sir.

9 Q. Okay. So the lies keep growing?

10 A. I wouldn't call them lies.

11 Q. You were in your house behind locked doors,
12 correct?

13 A. Wasn't no door locked. But, yes, sir.

14 Q. You had a gun in your house?

15 A. Yes, sir.

16 Q. You had multiple phones in your house?

17 A. No, sir. There was only one phone; it was

18 M.A. 's. And J.L-F. was sleeping.

19 Q. J.L-F. had a phone, right?

20 A. He was sleeping.

21 Q. M.A. had a phone?

22 A. M.A. had a phone.

23 Q. Once inside your house, you could have used
24 their phone or told them to call the police?

25 A. I told M.A. to call the police and then he got

1 on the phone. And I think the person he called was
2 Breana. He called Brooke's sister and then Brooke's
3 sister called Brooke's mom and then Brooke's mom
4 called Brooke and then Brooke called the cops. I
5 never once had a phone. I did tell somebody to call
6 the cops.

7 Q. So you knew -- it was your understanding
8 somebody had called the cops --

9 A. That somebody was on the phone. Yes, sir.

10 Q. You got to wait for me to ask the question.
11 Okay?

12 It was your understanding that once you got
13 back into your house, that somebody had already
14 called the cops?

15 A. I believe that's what his motions -- when I
16 told M.A. to call the cops, he got on the phone.

17 Q. So why didn't you just wait in your house until
18 the police arrived if you were that scared?

19 A. Because I seen Joe outside drinking and not
20 leaving. And he was sitting there, he was
21 threatening me.

22 Q. You previously testified that he was sitting on
23 the back of his truck drinking a beer, correct?

24 A. I said he was going through his cooler.

25 Q. How is that threatening you?

1 A. I felt like he was taunting me and threatening
2 me.

3 Q. You never testified before that he ever
4 threatened you or taunted you while he was sitting
5 on the back of his truck.

6 A. I told you he was definitely getting a beer
7 out, going to drink another beer.

8 Q. Is that threatening you?

9 A. Yeah. He's out there parading and doing his
10 little victory lap.

11 Q. What is a victory lap?

12 A. I don't know. You got to ask him. He was the
13 one drinking, going in his truck to get another beer
14 out of his cooler.

15 Q. Will you demonstrate for me what a victory lap
16 is? Was it a dance?

17 A. No, sir, it wasn't a dance or nothing.

18 Q. So you thought somebody called the cops. But
19 you decided not to wait inside your house, correct?

20 A. I never once left my house once I got inside of
21 it.

22 Q. All right. But you thought somebody called the
23 cops, but you didn't -- you decided not to wait on
24 them to arrive?

25 A. Yes, sir.

1 Q. All right. You decided to take matters in your
2 own hands?

3 A. I shot into my toolbox and told him to leave.

4 Q. You decided to arm yourself and go back outside
5 and re-engage, right?

6 A. I shot in my toolbox.

7 Q. All right. He wasn't banging on your door when
8 you went back to the door. You never testified
9 before today that he was threatening you when he was
10 on the back of his truck. Would you agree with me
11 on that?

12 A. He was threatening me, yes, sir.

13 Q. You're saying that today for the first time.
14 You've never said that before.

15 A. I've never said that before until today, yes,
16 sir.

17 Q. All right. You've testified previously -- or
18 you testified today that Jo.F. came to bring you
19 water while you were on the floor hyperventilating,
20 right?

21 A. Yes, sir, he did.

22 Q. But you said, initially, you didn't even know
23 if Jo.F. or J.L.F. were in the house, didn't you?

24 A. I knew they were both in the house, because I
25 seen Jo.F. through the window when he was looking

1 at M.A. .

2 Q. We'll get to that. We'll get to that.

3 But in your written statement, you said you
4 didn't know if Jo.F. or J.L.F. were in the house,
5 right?

6 A. I can't recall that.

7 Q. Okay. But you're not denying that's in your
8 written statement?

9 A. I can't recall it.

10 Q. Okay. Well, the jury will be able to read your
11 written statement.

12 Later you told your mom that, if anything,
13 Jo.F. must have been in the back room. Do you
14 remember that?

15 A. Well, I remember saying that M.A. took Jo.F.
16 to the back room after Jo.F. was trying to touch
17 the gun.

18 Q. You were talking to your mom about when the
19 shooting happened. And you said, if anything,
20 Jo.F. must have been in the back room. Do you
21 remember saying that on a recorded phone
22 conversation?

23 A. I don't remember saying that he was in the back
24 room while the shooting was happening. He was
25 probably in the kitchen while the shooting was

1 happening.

2 Q. Are you denying that you said that on a
3 recorded phone conversation to your mom on August --

4 A. I'm not denying it. But I'm saying that -- I
5 probably didn't say that he was in the back room.
6 He was probably in the kitchen when the shooting was
7 happening. And after the shooting, M.A. took Jo.F.
8 to the back room.

9 Q. So you're not admitting that you said that
10 then, right?

11 A. I can't recall it.

12 Q. Okay. But you said M.A. saw everything,
13 right?

14 A. He should have saw everything. He was standing
15 right by the cabinet. But, yet, he ain't putting
16 himself there.

17 Q. And you previously testified you saw M.A. in
18 the window looking at you when you were wrestling
19 around with Joe?

20 A. I did.

21 Q. But you didn't say you saw Jo.F. , did you?

22 A. But Jo.F. was there.

23 Q. But you never testified --

24 A. I never said I seen Jo.F. , no, sir. I didn't
25 write that down in my statement.

1 Q. And you never testified to that before today,
2 have you?

3 A. No, sir.

4 Q. All right. So that's more new details that
5 you're adding today?

6 A. I feel they're important.

7 Q. You didn't think they were important when we
8 had -- did all this last time and your attorney
9 asked you all those questions and I asked you the
10 questions. Was that not important back then?

11 A. Yes, sir, it was.

12 Q. Because Jo.F. testified at that hearing too,
13 didn't he?

14 A. I believe so.

15 Q. All right. But you never testified before
16 today that you saw Jo.F. in that window, correct?

17 A. No, sir.

18 Q. All right. Now, after all this happened, you
19 would regularly talk to Brooke on the phone there at
20 the detention center, correct?

21 A. Probably for the last month of my
22 incarceration, yeah.

23 Q. You were hoping nobody would testify in this
24 case, weren't you?

25 A. I don't know what you mean.