

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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May 25 2021

SC Court of Appeals

Appeal from Horry County
Paul M. Burch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CALVIN D. FORD,

APPELLANT

APPELLATE CASE NO. 2019-001912

RECORD ON APPEAL

SUSAN B. HACKETT
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

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General
Post Office Box 11549
Columbia, SC 29211-1549

ATTORNEY FOR APPELLANT

Jimmy A. Richardson
Solicitor, 15th Judicial Circuit
P.O. Drawer 1276
Conway, South Carolina 29528
(843) 915-8608

ATTORNEYS FOR RESPONDENT

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

FROM TRANSCRIPT OF HEARING DATED MARCH 5, 2019: STATE’S EXHIBIT #1 (PICTURE OF WHITE ST. & WARREN ST.); STATE’S EXHIBIT #2 (PICTURE OF MS. HOLOMAN’S HOUSE); STATE’S EXHIBIT #5 (PICTURE OF CRIME SCENE); STATE’S EXHIBIT #6 (PICTURE OF EVIDENCE MARKERS); DEFENDANT’S EXHIBIT #1 (PHOTOGRAPH OF JAMAL); DEFENDANT’S EXHIBIT #2 (PHOTOGRAPH OF JAMAL).

FROM TRIAL TRANSCRIPT DATED NOVEMBER 4-8, 2019: STATE’S EXHIBIT #61 (INTERVIEW OF SHERIKA GORE).

STATE OF SOUTH CAROLINA	)	IN THE CIRCUIT COURT
COUNTY OF HORRY	)	2017-GS-26-2912 - 2915
State of South Carolina,	)	
Plaintiff,	)	
	)	
Vs	)	Transcript of Record
	)	
Calvin Ford,	)	March 5, 2019
	)	
Defendant.	)	
	)	

B E F O R E:

The Honorable Benjamin Culbertson
Horry County Courthouse
Conway, South Carolina

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

Mary Ellen Walter, Esquire
Joshua Holford, Esquire
Attorneys for State

Jonny McCoy, Esquire
Attorney for Defendant

J. Eric Fox, Esquire
Attorney for Co-Defendant, Aliga Campbell

Sallie Beth Todd
Circuit Court Reporter

1	<u>E X H I B I T S</u>				
2	<u>No.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE</u>
3	ST 1	Picture of White St. & Warren St.		X	37
4	ST 2	Picture of Ms. Holoman's house		X	37
5	ST 4	Defendant's NCIC	X		81
6	ST 5	Picture of crime scene		X	182
7	ST 6	Picture of evidence markers		X	186
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1 **THE COURT:** This is State versus Calvin Ford.

2 **MS. WALTER:** I can call it, Your Honor, if you'd like.

3 **THE COURT:** Okay.

4 **MS. WALTER:** Your Honor, he is charged in true billed
5 indictments 2017-GS-26-02912, a felon in possession of a
6 firearm; two counts of murder under indictments ending in
7 02913 and 2914, which obviously would be the most tramane(?)
8 to this motion and then also indictment ending 02915,
9 possession of a weapon during a violent crime. And we are
10 here on the Defendant's Stand Your Ground Motion and I'm just
11 waiting to get a copy of that from defense.

12 **THE COURT:** Alright, now possession of a weapon during
13 the commission of a violent crime and the violent crime being
14 the charges of murder?

15 **MS. WALTER:** Yes.

16 **THE COURT:** Okay. So, the Stand Your Ground then would
17 not apply to the possession of a firearm by a felon?

18 **MS. WALTER:** Correct.

19 **THE COURT:** Okay. So, the Stand Your Ground only applies
20 to the murder charges and then, I guess, collaterally the
21 possession of a weapon during the commission of a violent
22 crime.

23 **MS. WALTER:** Correct.

24 **THE COURT:** If it's Stand Your Ground then there's no
25 violent crime.

1 **THE COURT:** Not during this Stand Your Ground hearing?

2 **MS. WALTER:** Well, Your Honor, it's our position because
3 the testimony goes to the facts of the underlying criminal
4 case, that sequestration -- a violation of sequestration at
5 this point would also go towards the criminal trial.

6 **THE COURT:** I don't know if that's the case or not. Have
7 we got anything on point in that regard? I can't rule as a
8 matter of law that she cannot testify at a criminal trial if
9 this motion is denied.

10 **MS. WALTER:** I will bring it up if it comes to the point
11 where they are trying to call her at trial.

12 **THE COURT:** Okay, I'm going to leave that up to the trial
13 Judge but that's a risk you're running. By consent I granted
14 to the Motion to Sequester the witnesses in this hearing. So,
15 it's going to be up to the trial Judge as to whether or not
16 she can testify or not, okay.

17 **MR. MCCOY:** Thank you, Your Honor.

18 **THE COURT:** Alright, anything else preliminary before we
19 proceed?

20 **MS. WALTER:** I don't believe so, Your Honor.

21 **MR. MCCOY:** Nothing from the defendant, Your Honor.

22 **THE COURT:** Alright, this is a Motion for Immunity from
23 Prosecution pursuant to 16-11-450 South Carolina Code of Laws
24 in the case of State of South Carolina versus Calvin D. Ford.
25 The matter has come before the Court, the defendant in this

1 motion bears the burden of proving by the preponderance of the
2 evidence. Anything else preliminary?

3 **MS. WALTER:** May we approach?

4 **THE COURT:** Alright.

5 (Bench Conference)

6 **THE COURT:** Alright, Mr. McCoy, the defense bears the
7 burden of proving by preponderance of the evidence that the
8 defendant is immune from prosecution. So, the defendant can
9 call your first witness.

10 **MR. MCCOY:** Your Honor, at this time the defense will be
11 calling Ms. Emily Ford.

12 **THE COURT:** Alright.

13 **MS. FORD, HAVING BEEN FIRST**
14 **DULY SWORN, TESTIFIED AS FOLLOWS:**

15 **CLERK:** Please state your name and spell your name for
16 the Court.

17 **MS. FORD:** Emily E-M-I-L-Y Ford F-O-R-D.

18 **THE COURT:** Alright, now before we get started, the
19 attorneys know I allow direct examination, cross examination,
20 redirect only as to matters raised on cross that were not
21 addressed on direct, no recross. Okay?

22 **MR. MCCOY:** Yes, sir.

23 **THE COURT:** Alright, Mr. McCoy.

24 **MR. MCCOY:** Thank you, Your Honor. May it please the
25 Court?

1 **DIRECT EXAMINATION OF MS. FORD BY MR. MCCOY:**

2 Q: Ms. Ford, how are you doing today?

3 A: I'm doing fine. How are you?

4 Q: I'm good. Thank you for being here this morning. Where
5 do you reside right now, currently?

6 A: [REDACTED] White Street, Myrtle Beach.

7 Q: And what do you do for a living?

8 A: I'm a PCA.

9 Q: A PCA? And what is that?

10 A: I go and do personal care aid.

11 Q: So, it's home health care?

12 A: Yes.

13 Q: Okay. And do you know the Defendant, Mr. Calvin Ford?

14 A: Yes.

15 Q: How do you know Mr. Calvin Ford?

16 A: He's my son.

17 Q: And do you know why we're here today?

18 A: Yes.

19 Q: July 23rd, 2016, is that the date of the incident that you
20 recall?

21 A: Yes.

22 Q: Leading up to that date of the incident, July 23rd, 2016;
23 did you have a chance to see Calvin within 24 hours prior to
24 the incident?

25 A: Yes.

1 Q: And describe that. What were you doing?

2 A: Actually, we had just buried my nephew and we all were
3 with my sister at her house. And we were just trying to keep
4 her together.

5 Q: Okay, and where was this house located?

6 A: [REDACTED] Spivey Avenue.

7 Q: Okay, and what was your sister's -- or what is your
8 sister's name?

9 A: Carla Ford.

10 Q: Who all was at this house; if you can recall? Was Calvin
11 there?

12 A: Calvin was there.

13 Q: Was Damian there?

14 A: Yes.

15 Q: And Damian is one of the deceased in this case; correct?

16 A: Yes.

17 Q: And are Damian and Calvin good friends?

18 A: Yes.

19 Q: Are they related?

20 A: Yes. We are all -- my nephew was Damian's cousin.

21 Q: And was Aliga Campbell at that house?

22 A: Yes. We all -- I mean, people been back and forth. I
23 remember seeing him, but I don't know how long he stayed.

24 Q: And what were you guys doing? This was July 22nd?

25 A: Yes.

1 Q: The day before the incident?

2 A: Uh-huh. (Affirmative response).

3 Q: And what were you guys doing that day?

4 A: We just cooked seafood and we were all out in the yard
5 eating and talking with each other.

6 Q: Okay, and what was the mood like?

7 A: Everybody was happy. We just were taking care of my
8 sister to make sure she was okay.

9 Q: Okay. And did you happen to see Jamal Burgess that day?

10 A: Yes.

11 Q: Do you know Jamal Burgess?

12 A: Yes.

13 Q: Do you know what he looks like?

14 A: Yes.

15 Q: So, did you -- do you saw him on July 22nd?

16 A: Yes.

17 Q: And describe that. What did you see?

18 A: Well, actually I had left her house to go back home and he
19 was sitting in front of my house on a moped. And I was
20 wondering why because we were -- when I drove back up, he
21 pulled off and started driving back down the road. So, I
22 didn't really think anything of it because I was trying to get
23 everything I needed, go to Wal-Mart, and get back to my
24 sister.

25 Q: Okay. Did he seem like happy, sad, threatening in any

1 way?

2 A: I really didn't pay too much attention.

3 Q: But why did that stick out in your mind that you saw
4 Jamal?

5 A: I just remember seeing him because I knew he was locked up
6 and that was the first time I had seen him since he had been
7 locked up.

8 Q: Okay, and did you see him again on July 23rd or anytime
9 after the incident?

10 A: No.

11 Q: That was the last time you saw him was in front of your
12 house?

13 A: Yes.

14 Q: Okay, but you did see him in front of your house the day
15 before the incident sitting on a moped?

16 A: Yes.

17 Q: Did Calvin stay at your house?

18 A: Yes.

19 Q: Was Calvin known to stay at your house at that time?

20 A: Yes.

21 Q: Did you feel as though Jamal was looking for Calvin?

22 **MS. WALTER:** Objection.

23 **THE COURT:** Sustained.

24 **MR. MCCOY:** No further questions, Your Honor.

25 **THE COURT:** Alright. Cross examination?

1 **CROSS EXAMINATION OF MS. FORD BY MS. WALTER:**

2 Q: Ms. Ford, how is it that you know, or knew I should say,
3 Jamal Burgess?

4 A: I grew up around his family.

5 Q: How long would you say you knew him prior to his being
6 killed?

7 A: All his life.

8 Q: Now this day, July 22nd, 2016, when you went back to your
9 house, Calvin, the defendant, remained at your sister's house?

10 A: Yes.

11 Q: So, Calvin was not at the White Street home ---

12 A: No, he wasn't.

13 Q: --- when you saw Mr. Burgess?

14 A: No, he wasn't.

15 Q: You testified that Mr. Burgess was simply sitting in front
16 of your house on the moped; correct?

17 A: Yes.

18 Q: And he didn't approach you or say anything to you, didn't
19 go up to the house?

20 A: Actually, when I -- he pulled off as I was parking.

21 Q: He pulled off and then you never saw him again.

22 A: No.

23 Q: And I believe you testified that you didn't pay much
24 attention to him when you pulled up.

25 A: No, not really because I didn't really think much of it.

1 Q: Were you at the party the next day, July 23rd, 2016?

2 A: Yes.

3 Q: Okay, so let's go into that a little bit. What time did
4 you -- and by party, I mean, the party on Warren Street?

5 A: Oh no. I wasn't there.

6 Q: So, where were you the night of July 23rd?

7 A: I was at my home.

8 Q: Were you home all day?

9 A: I was back and forth because I was seeing about my sister,
10 helping her out, trying to get everything back together after
11 my nephew's funeral and all of that stuff.

12 Q: Alright. So, other than going to your sister's house on
13 occasion, were you essentially at home on White Street for the
14 evening?

15 A: Yes.

16 Q: And then directing your attention -- Court's indulgence --
17 was Calvin at home at times on the night of the 23rd?

18 A: Yes.

19 Q: He was on an electronic ankle monitor at the time;
20 correct?

21 A: Yes.

22 Q: Are you familiar with the times that Calvin was home that
23 day? Let's deal just between 7PM and 11PM. Was he home all
24 that time?

25 A: No.

1 Q: Okay. Can you tell me how long he was gone for?

2 A: I can't.

3 Q: Do you know -- do you know if Calvin went over to the
4 Warren Street party?

5 A: No. I didn't know at the time.

6 Q: Do you now know?

7 A: Yes.

8 Q: When -- so, on that day on the 23rd did you have any
9 conversations with Calvin about where he was going or what he
10 was doing?

11 A: No, because at the time I was actually getting my hair
12 done. I wasn't really, you know, sitting asking him
13 questions.

14 Q: Were you getting your hair done in your own home?

15 A: Yes.

16 Q: Do you know what time that started?

17 A: Not at the moment I don't.

18 Q: And how long did it take?

19 A: It took some hours.

20 Q: Do you know when it was finished?

21 A: Probably about 7 something.

22 Q: After your hair was finished did you see your son?

23 A: No.

24 Q: When was -- using that as sort of our reference point,
25 your hair was finished sometime around 7PM.

1 A: Yeah.

2 Q: When is the next time that you saw your son?

3 A: I don't think I saw him until after the incident?

4 Q: Okay, so did you see him later on that same night, the
5 23rd?

6 A: Yes.

7 Q: What time did you see him?

8 A: I don't remember.

9 Q: Do you remember what time you went to bed that day?

10 A: I really didn't because I found out what happened.

11 Q: Okay, so you didn't go to bed that night?

12 A: No.

13 Q: Okay. So, when you saw the defendant next, where did you
14 see him?

15 A: At home. I never left home.

16 Q: Can you describe --- strike that. While you were home
17 that evening, and again we'll use your hair being done at 7 as
18 sort of the frame of reference, was the defendant in and out
19 of your house several times?

20 A: Yeah.

21 Q: And you those times when he was in and out of the house
22 was there anyone with him?

23 A: He was with his girlfriend.

24 Q: What's his girlfriend's name?

25 A: Courtney Robinson.

1 Q: Was Courtney with him the entire evening or every time you
2 saw him?

3 A: Yeah, they had the baby.

4 Q: Was -- did you ever see anyone else with them?

5 A: No.

6 Q: Did the defendant ever go outside to speak with anyone
7 that you know of?

8 A: I'm not sure.

9 Q: Do you recall -- do you know who Damian Alston is?

10 A: Yes.

11 Q: And you said that you are related to him?

12 A: Yes.

13 Q: Did you see Damian Alston at your house at all that night?

14 A: No.

15 Q: So, you are not aware of Mr. Alston coming to your block
16 sometime around 7:24 to 7:32?

17 A: No.

18 **MS. WALTER:** Court's indulgence.

19 **THE COURT:** Alright.

20 **MS. WALTER:** Nothing further at this time.

21 **THE COURT:** Alright. Redirect?

22 **MR. MCCOY:** Thank you, Your Honor.

23 **REDIRECT EXAMINATION OF MS. FORD BY MR. MCCOY:**

24 Q: Ms. Ford.

25 A: Yes.

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19

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1 Q: Just a few more questions for you. You just said you saw
2 your son, Calvin, on the date of the incident; is that
3 correct?

4 A: Yes.

5 Q: In and out all day, right?

6 A: Yes.

7 Q: And you testified just a moment ago that he had his baby
8 with him all day; is that right?

9 A: Yes.

10 Q: And that he was with Courtney Robinson all day, right?

11 A: Yes.

12 Q: So, he was -- was he doing natural father things all day?

13 A: Yeah. They actually brought the baby to see me. He was
14 maybe about 2 months at the time.

15 Q: The baby was two months years old?

16 A: Yeah.

17 Q: And he was with his father the whole day?

18 A: Yes.

19 Q: The child was?

20 A: Yes.

21 Q: Up until what time was the last time that you saw Calvin
22 with his son and his -- the mother of his child?

23 A: It was after dark, but I don't remember what time.

24 Q: And did you see Calvin at all look like he was
25 intoxicated, drinking or smell alcohol on him?

1 A: No.

2 Q: You didn't?

3 A: Uh-uh. (Negative response).

4 Q: Did Calvin look like he had a plan to kill somebody or
5 talk to you about a plan to kill somebody at all that day?

6 **MS. WALTER:** Objection, Your Honor.

7 **THE COURT:** Okay, I sustain the objection as to what he
8 looked like, but I'll allow it on whether or not he talked to
9 her.

10 **BY MR. MCCOY:**

11 Q: Did Calvin tell you that he had a plan to go to that party
12 and hurt somebody?

13 A: No.

14 **MR. MCCOY:** No further questions.

15 **THE COURT:** Alright, you may step down.

16 Alright, defendant can call your next witness.

17 **MR. MCCOY:** Thank you, Your Honor. Defense calls Mr.
18 Everett Ford.

19 **MR. EVERETT FORD, HAVING BEEN FIRST**
20 **DULY SWORN, TESTIFIED AS FOLLOWS:**

21 **CLERK:** If you will state your name and spell it for the
22 Court.

23 **MR. EVERETT FORD:** Everett Ford. E-V-E-R-E-T-T F-O-R-D

24 **DIRECT EXAMINATION OF MR. FORD BY MR. MCCOY:**

25 Q: Mr. Ford, thank you for coming here today. I have some

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21

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1 questions for you regarding Mr. Calvin Ford and an incident on
2 July 23rd. Do you know Mr. Calvin Ford, the defendant in this
3 case?

4 A: Yes, sir.

5 Q: How do you know him?

6 A: He is my cousin.

7 Q: He's your cousin.

8 A: Yes, sir.

9 Q: And have you guys known each other all of your lives, in
10 and out, describe the relationship.

11 A: All my life.

12 Q: All your life?

13 A: All my life, yes.

14 Q: And do you know any of the other parties in this case?
15 The deceased, Jamal Burgess?

16 A: Yes, sir.

17 Q: How long have you known Jamal?

18 A: All my life.

19 Q: And do you know Damian Alston?

20 A: All my life.

21 Q: And did you know, or do you know, Aliga Campbell?

22 A: All my life.

23 Q: Alright, and do you recall an incident that took place on
24 July 23rd, 2016?

25 A: Yes, sir.

1 Q: I believe it was on -- do you remember the street name?

2 A: Warren Street.

3 Q: Warrant Street. What do they call that street, the
4 nickname? Dudley Street?

5 A: Dudley Road, yeah.

6 Q: What was going on on July 23rd on that street? Just the
7 morning of, just paint me a picture of what was going on on
8 that day. Were you there?

9 A: Yes, sir.

10 Q: What was going on that day?

11 A: Earlier that day just people was out and about. People
12 was out and about getting ready for my cousin birthday party.

13 Q: Okay, let's talk about that. Which cousin?

14 A: Rasheed.

15 Q: Rasheed. And what's his last name?

16 A: McKnight.

17 Q: Rasheed McKnight. Are you related to Rasheed?

18 A: Yes, sir.

19 Q: Okay, and to the best of your knowledge is Calvin related
20 to Rasheed

21 A: Yes, sir.

22 Q: And you guys all hang out together?

23 A: Yes, sir.

24 Q: Okay, and what was the plan for the birthday party that
25 day?

1 A: Just basically get together on Warren Street cause it was
2 my other partner birthday too.

3 Q: Who is your other partner?

4 A: Damian.

5 Q: Damian, the deceased, it was also his birthday?

6 A: Yes, sir. Yes, sir.

7 Q: Okay, so just for clarification it was both ---

8 A: Rasheed and Damian birthday.

9 Q: Okay.

10 A: So, they planned to do something together.

11 Q: At that specific house?

12 A: Yes. I think, yes.

13 Q: Or in that specific area.

14 A: The area basically. It's a little small street, little
15 dead-end street.

16 Q: Okay, and do you know what house -- what house was
17 everybody congregating at? What house was everybody kind of
18 hanging out near?

19 A: Ms. Dudley house.

20 Q: Ms. Dudley house. Is that normal?

21 A: Yes.

22 Q: Now, have you ever seen Calvin hang out there before?

23 A: Yes.

24 Q: And has Ms. Dudley ever told Calvin he couldn't hang out
25 there?

1 A: No. All of us like family right there.

2 Q: So, you can all hang out there whenever you want?

3 A: Yes, sir.

4 Q: Okay, and is there a basketball court there? Is there a

5 basketball court there?

6 A: Yes, sir. In the driveway.

7 Q: Have you ever played basketball there?

8 A: All the time coming up.

9 Q: Have you ever played with Calvin at that court?

10 A: Yeah, all the time.

11 Q: Okay, I'm not going to ask you who won. What -- that

12 whole weekend were you guys all together as a family? What

13 happened the day before?

14 A: The day before?

15 Q: Right. Were you together the day before?

16 A: Yeah, always. We always together.

17 Q: And what was going on the day before?

18 A: Where at, on Warren, on Dudley Road?

19 Q: Wherever. Was there a blue crab boil or something like

20 that? Were you guys all together the day before on the 22nd?

21 A: Oh, yeah, yeah, yeah, yeah. Yeah, that's my granddaddy

22 house.

23 Q: Okay, and what took place that night?

24 A: Everybody, me and my family was out there just chilling,

25 eating crabs.

1 Q: Okay, nothing too much out of the ordinary?

2 A: No. Old boy came down there that day.

3 Q: Who's old boy?

4 A: Jamal.

5 Q: Jamal came by to the crab boil. What did you notice about
6 that?

7 A: He never don't come on the street at all.

8 Q: Why not? Why do you believe he doesn't?

9 A: I don't know. Because of previous incidents.

10 Q: Because of previous incidents that you've witnessed?

11 A: No, but I know of, everybody know of.

12 Q: Okay. Do you yourself fear Jamal, or did you?

13 **MS. WALTER:** Objection.

14 **THE COURT:** I'll allow it as to whether or not he fears
15 Jamal, but not anyone else.

16 **BY MR. MCCOY:**

17 Q: Did you fear Jamal or that Jamal may have a gun on him at
18 times?

19 A: He always had a gun now.

20 Q: Okay. Now, let's skip forward to the day of the actual --
21 the actual incident, July 23rd. What time did you arrive at
22 the gathering?

23 A: I was coming from behind Carver Apartments, the back
24 street, the back end.

25 Q: Yeah.

1 A: It just got really dark. I don't recall the time, but I
2 know it wasn't too late. It was between -- it was summertime
3 -- between 8 and 9:30 to 10. It wasn't too late.

4 Q: So, when you got there had Calvin arrived yet? Was Calvin
5 at the party before you or did he get there ---

6 A: When I was coming down the back street, he was basically
7 coming, basically.

8 Q: Okay. So, what did you see as you were at the party; or
9 what did you see as you were coming up to the party as far as
10 Calvin was concerned? Did you see him arrive? Did you see
11 him already there?

12 A: I seen him. I was basically coming up the back street. I
13 basically seen Jamal call him, like somebody see hand motions.
14 I was walking and I seen hand motions and him calling him,
15 Calvin.

16 Q: So, you saw -- was Calvin already at the party or did you
17 see Calvin ---

18 A: Walking up, there's a street, basically everybody's
19 walking up. He just crossed the street and Jamal was
20 basically like signal for him to come here.

21 Q: And did Calvin approach Jamal or did Jamal approach
22 Calvin?

23 A: It was walking like you got to cross the 10th Avenue, you
24 got to cross the road to get on the street.

25 Q: Right.

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1 A: So, basically he is walking towards like towards y'all
2 cause the house is on the right hand side and Jamal was
3 calling him like, you come let me talk to you for a minute.
4 Q: Alright, and then what happened when Jamal encountered
5 Calvin?
6 A: He basically put his arm like let me talk to you type junk
7 and Calvin be like, man get your arm from round me man.
8 Q: What does that mean, put his arm around him?
9 A: Put your arm around somebody?
10 Q: Yeah, in a friendly way or aggressive?
11 A: Nah, bully really, you feel me. Aggressive.
12 Q: So, what did -- were you within ear shot of them or you
13 just know ---
14 A: I was walking up on them. I was walking up on them.
15 Q: Did you hear what was being said?
16 A: Yeah, yeah. In and out because everything, you feel me.
17 Q: Was it a harassing conversation, a threatening
18 conversation, a normal conversation?
19 A: I would say on one end it was aggressive, on Jamal end,
20 cause what he said.
21 Q: What did he say.
22 A: He basically on some junk like, why you telling people you
23 saved me. Attitude.
24 Q: I'm sorry, let's clarify. Why are you telling people you
25 what?

1 A: Saved me, basically.

2 Q: Saved me.

3 A: Yeah.

4 Q: Okay, so it was a disrespect thing?

5 A: Yeah, basically he had an attitude. Mad about something.

6 Q: Okay, and how did Calvin respond to that?

7 A: He was like, man what you talking about? I ain't told
8 nobody nothing like that.

9 Q: Okay. And did Jamal have his arm around Calvin the whole
10 time?

11 A: No. Calvin moved his arm cause, you know, he had knocked
12 his teeth out like that before the same way. He'll put his
13 arm around you and hit you with the gun. He known for doing
14 that.

15 Q: So, he's known for what?

16 A: Knocking you -- he'll hit you with his gun.

17 Q: Jamal will hit you with his gun?

18 A: Yeah.

19 **MS. WALTER:** Objection, Your Honor. Proper foundation
20 hasn't been laid for that testimony.

21 **MR. MCCOY:** He just said it, Your Honor.

22 **THE COURT:** Okay, overruled. I'll allow it. Go ahead.

23 **BY MR. MCCOY:**

24 Q: So, say that again a little bit slower.

25 A: Basically, he was known to do it, he did it to multiple

1 people, not just him.

2 Q: Did you witness any of this stuff or ---

3 A: Yeah, he knocked one of my home boy's teeth out too.

4 Q: Were you there?

5 A: No. But I was next door when it happened.

6 Q: Okay.

7 A: It happened at Futrell Park and my mother live beside it.

8 So, when incident happened, he came over there to my mother

9 house.

10 Q: Okay.

11 A: Mouth bleeding.

12 Q: But when you were observing the situation, you at that
13 time in your mind thought to yourself -- and correct me if I'm
14 wrong because I'm trying to clarify what you're saying. You
15 said, this is all normal that he's about to get his teeth
16 knocked out; is that correct?

17 A: Basically, yeah. You know, something wasn't right because
18 his demeanor was an aggressive demeanor.

19 Q: And were you there the night that Jamal knocked Calvin's
20 teeth out with the gun?

21 A: No, I wasn't there that night.

22 Q: Were you there afterwards, when he was in the hospital?

23 A: No.

24 Q: Okay. Did you see him afterwards with stitches or
25 anything?

1 A: Yeah, at a visit. He fractured his face and knocked his
2 teeth out and stuff.

3 Q: Okay, and how long ago was that?

4 A: I think that was like 2014.

5 Q: So, a couple of years ago?

6 A: Yeah, 2014.

7 Q: Okay, and to the best of your knowledge you or Calvin's
8 brother, you never retaliated for that; did you?

9 A: No.

10 Q: And you were never with Calvin -- and Calvin never
11 retaliated for that; did he?

12 A: No.

13 Q: Not to the best of your knowledge, right?

14 A: No.

15 Q: Okay. Now, let's talk about ---

16 A: We used to see him all the time.

17 Q: That's right.

18 **MS. WALTER:** I'm sorry. I didn't hear what he said.

19 **MR. MCCOY:** He said, I used to see him all the time.

20 **BY MR. MCCOY:**

21 Q: Now, let's talk about what happened when they were in the
22 struggle, as you say. Walk us through exactly what took
23 place. I'm gone let you just narrate the whole thing. We'll
24 start with when Jamal and Calvin encountered each other. What
25 exactly did you see?

1 A: Basically, they were kind to each other. Jamal put his
2 arms around him and been like, yo let me talk to you. Just
3 like that. Calvin moved his arm and be like, yo you can talk
4 to me without putting your arms around me. He be like, you be
5 telling people such, and such, and such, you saved me, this
6 that, this that, this that. And Calvin was on some junk like,
7 man I didn't tell nobody nothing like that, you feel me. I
8 didn't tell nobody like that. Cause the reason he said that
9 cause an incident had happened at a club ---

10 **MS. WALTER:** Objection, Your Honor, as to basis of
11 knowledge for this, saying the reason he said anything.

12 **THE COURT:** Okay. I sustain that.

13 **BY MR. MCCOY:**

14 Q: Okay, go ahead, just don't describe, you know, what Jamal
15 had done --- ---

16 A: Alright, so basically that happened. After that he been
17 like, what you saying that for; and he been like, I ain't tell
18 people nothing like that. And he be like, man ---

19 Q: Who is he? Who is he?

20 A: Jamal. He been like -- Jamal been like, you telling
21 people you saved me, this, that, to the third; and Calvin been
22 on some junk like, man I ain't told people nothing like that.
23 After that, Jamal been like, yeah you is, my people been
24 coming and telling me this that, this that, this that.
25 Aggressive, yelling, you feel me? Out of character basically.

1 After that ---

2 Q: Let me stop you right there. Did you see Calvin reaching
3 for -- Jamal reaching for a gun at any of ---

4 A: Yeah. I'm bought to get to that.

5 Q: Okay, go ahead. I'm sorry.

6 A: And my other partner Damian Alston came, he been like, man
7 what's going on type junk. Trying to diffuse the situation
8 and been like telling Jamal like, chill man what's going on.
9 He got between them or whatever. After that, when all this
10 was going on -- it happened fast -- when all this was going on
11 the whole time you get in front of somebody, in the middle of
12 somebody, the whole time Jamal was basically reaching for his
13 gun. He eased his gun out, whatever like that. He eased his
14 gun out and messed around and after that Damian been like,
15 chill man what you doing, like chill what you doing. He was
16 like in between the two. He been like chill what you doing,
17 chill what you doing. After that, you know like a few other
18 people came and tried to like chill, chill. It happened real
19 fast and Damian dropped his gun.

20 Q: Damian had a gun?

21 A: Yeah, he had a gun too.

22 Q: Okay, and then what happened?

23 A: Damian dropped his gun, whatever. And in the whole
24 process of this right here he just -- Jamal came up and he
25 fired.

1 Q: He fired?

2 A: Yeah, he fired.

3 Q: Did he hit anybody to the best of your knowledge?

4 A: Not that I know of. Not that I know of.

5 Q: And then what happened next?

6 A: He pulled out -- after that I just seen Calvin reach down,
7 pick the -- it happened real fast, everybody bundled up. He
8 picked the gun up and start running. He fired. And then J-
9 Money fired a couple times. Jamal just kept firing and firing
10 and firing and Calvin ran off. It happened fast.

11 Q: Did you run away at that point?

12 A: Yeah. Everybody got on through.

13 Q: Okay. So, did you have a good angle at the entire
14 struggle?

15 A: Yeah.

16 Q: Okay. What made Damian drop his gun?

17 A: Because he was trying to diffuse the situation. Like just
18 grab somebody like man chill, chill, chill. Somehow it fell
19 from bumping each other.

20 Q: Okay, and at what point did you notice Jamal had a gun or
21 did you just notice him reaching?

22 A: I kind of figured he had a gun, but I seen him reaching
23 and come up firing.

24 Q: And did you -- did you try to break up the fight?

25 A: No.

1 Q: Okay.

2 A: I been on some junk like y'all calm down, like y'all
3 chill. That's the only thing I did. I ain't put no hands on
4 nobody.

5 Q: So, how many guns do you think were used total?

6 A: I don't know. I just heard shots. I heard multiple
7 shots, multiple shots basically.

8 Q: Multiple guns?

9 A: It had to be because how it sound. One might be loud, one
10 might be low. There were multiple gun shots, a lot of them.

11 Q: So, how long -- so you were just walking up to the party,
12 so were you there earlier in the day?

13 A: Yeah, earlier in the day I been there.

14 Q: You were there?

15 A: I came through earlier in the day too because my little
16 brother been over there too.

17 Q: Okay. Did you see Jamal earlier in the day?

18 A: Yes, I did.

19 Q: Did you see Jamal drinking earlier in the day?

20 A: Yes.

21 Q: Okay. Do you know what Jamal was drinking earlier in the
22 day?

23 A: Hennessy.

24 Q: Hennessy. How are you so positive about that?

25 A: Big bottles. You know how we do it. Big bottle of

1 Hennessy is always in his hand.

2 Q: Alright. And did you see Calvin drinking earlier in the
3 day?

4 A: No.

5 Q: Did you see Calvin with his baby earlier in the day?

6 A: At my granddaddy house.

7 **MR. MCCOY:** Court's indulgence, Your Honor.

8 **BY MR. MCCOY:**

9 Q: Do you think Calvin shot Jamal?

10 A: I mean, it's a group of people. So, like I said, you feel
11 me, I seen him pick up a gun and run so they ain't no telling.

12 Q: As far as the direction goes where Damian was, do you
13 think Calvin could have shot Damian?

14 A: No. I don't think it's possible.

15 **MR. MCCOY:** No further questions, Your Honor.

16 **MR. EVERETT FORD:** I don't think it's possible he shot
17 Damian.

18 **THE COURT:** Alright, cross examination.

19 **CROSS EXAMINATION OF MR. FORD BY MR. HOLFORD:**

20 Q: Mr. Ford, you have a little bit of a criminal history,
21 don't you?

22 A: Yes, I do.

23 Q: You spent some time in SCDC for ABWIK.

24 A: Yes, I did.

25 Q: Assault and battery with intent to kill.

1 A: Yes, I did.

2 Q: Possession of a stolen vehicle.

3 A: No, I ain't spent time for that. No, I didn't.

4 Q: Okay. Did you get probation for that?

5 A: Yeah, I think so.

6 Q: You were convicted of possession of a stolen vehicle?

7 A: I think so. Yeah, probation.

8 Q: When did you get out for that assault and battery with
9 intent to kill?

10 A: 2015.

11 Q: So, pretty soon before this, right?

12 A: Yeah.

13 Q: I have a couple of screenshots of that area so we can know
14 -- you're familiar with Warren Street, White Street, that
15 whole area, right?

16 A: Yeah. Born and raised in that same area.

17 Q: Okay. So, if I showed you an overview of that area, you'd
18 be able to identify where the houses are and everything?

19 A: Yeah.

20 **MR. HOLFORD:** Your Honor, may I approach?

21 **THE COURT:** Alright.

22 **BY MR. HOLFORD:**

23 Q: I'm going to hand you what's been marked as State's 1
24 first. Can you just identify what's this area show? What's
25 that a picture of?

1 A: My neighborhood.

2 Q: Okay. Does it have streets on it?

3 A: Yes, White and Warren Streets on there.

4 Q: Okay, so White and Warren Street and all that. Is
5 Calvin's house located on there?

6 A: Yes.

7 Q: And is the house that this party was at on the 23rd on
8 there?

9 A: Yes.

10 Q: Okay. And you're familiar with that area?

11 A: Uh-huh. (Affirmative response).

12 Q: I'm going to hand you State's 2. What's that appear to be
13 a picture of?

14 A: Warren Street and Ms. Dudley house.

15 Q: Okay. So, that's a picture -- that's a close up of Ms.
16 Dudley's house. So, that's the area we've been talking about,
17 right?

18 A: Yes, sir.

19 **MR. HOLFORD:** Your Honor, State would seek to admit 1 and
20 2 for purposes of this hearing.

21 **THE COURT:** Any objection?

22 **MR. MCCOY:** No, Your Honor.

23 **THE COURT:** Alright, State's exhibit 1 and State's
24 Exhibit 2 admitted into evidence without objection.

25 **(STATE'S EXHIBIT NUMBER ONE AND TWO)**

1 **ARE ADMITTED INTO EVIDENCE.)**

2 **BY MR. HOLFORD:**

3 Q: Alright, now when you're looking at State's 2, we've got
4 this house, right? Let's point it so you're looking from
5 Warren Street. Warren Street's across, right?

6 A: Yeah.

7 Q: And then -- so, if you're looking at the house, the
8 driveway is on the right?

9 A: Yes, coming from White Street?

10 Q: Yeah, yeah.

11 A: Yeah, it's to the right.

12 Q: Okay. So, what direction did Calvin come from?

13 A: From White ---

14 Q: When he came up to the party?

15 A: From White Street.

16 Q: Okay. So, if we're looking at State's 2, he came from the
17 right if the driveway's on the right of the house?

18 A: He came from across 10th Ave.

19 Q: Okay, so across 10th Avenue. Is that Joe White?

20 A: That's Joe White.

21 Q: Okay. So, he's coming from basically down near his house
22 somewhere, right? You don't know where he was before, do you?

23 A: Yeah, at my granddaddy house.

24 Q: Okay. He was at your granddad's house. Okay. He comes
25 across 10th onto Warren, so he's coming from across Joe White

1 onto Warren. What -- how long had you been at this party
2 before Calvin showed up?
3 A: We was basically arriving around the same time basically.
4 Q: Okay ---
5 A: I was on the street a little bit before him because I come
6 around the back way.
7 Q: So, you came around from the back way?
8 A: Yeah, the back way coming down this street right here.
9 Q: Because that Futrell Park is kind of behind it, right?
10 Those apartments?
11 A: It's Carver Apartments.
12 Q: Carver Apartments.
13 A: Yeah. It's behind it, dead end. Come around the back
14 way.
15 Q: And this little pond on State's 1, that's the park area;
16 is that right?
17 A: Yeah. Let me see where you at. Yeah. Futrell Park right
18 beside the fire department. That's it.
19 Q: So, how long had Jamal been there at that party before
20 Calvin showed up?
21 A: I don't even know.
22 Q: Okay. Did you see Jamal at the party?
23 A: Yes, sir.
24 Q: Because he was there when Calvin showed up, right?
25 A: Yes, sir.

1 Q: Okay. Was Damian there at the party?

2 A: Damian was there.

3 Q: How long had he been there before Calvin showed up?

4 A: I don't know but know that him and Rasheed, it was both of
5 them party together. They had a birthday on the same day so
6 they had ---

7 Q: Okay, so they could have been there for a while, right?

8 A: I don't know.

9 Q: But no question Jamal is at this party. Did he punch
10 anyone before Calvin showed up?

11 A: He -- my other homeboy, he been aggressive with him. Made
12 him take his grill out his mouth and stuff like that.

13 Q: Did he shot anybody at this party before Calvin showed up?

14 A: Not before this incident.

15 Q: Did you see him flashing a gun around or anything?

16 A: He keep a gun with him.

17 Q: He does? You saw him with a gun?

18 A: Everybody probably seen him. I seen him with a gun around
19 my apartment.

20 Q: But did you see him with a gun on this night on the 23rd,
21 2016?

22 A: With the gun, yeah.

23 Q: What kind of gun was it?

24 A: I don't know what type gun it was. It was a big gun
25 though.

1 Q: You're familiar with guns; aren't you?

2 A: Nah, not really. Not that familiar with it to know the
3 name of one.

4 Q: You haven't guns before?

5 A: Yes, I did.

6 **MR. MCCOY:** Objection, Your Honor ---

7 **MR. EVERETT FORD:** That's irrelevant though.

8 **MR. MCCOY:** --- asking if he's carried guns before is two
9 different things.

10 **MR. EVERETT FORD:** Right.

11 **THE COURT:** Overruled. Go ahead.

12 **MR. HOLFORD:**

13 Q: So, would you know the difference between a revolver and a
14 semi-automatic?

15 A: Yeah. A revolver, yeah I know the difference.

16 Q: Okay, so what kind of gun was Jamal holding?

17 A: He was holding a -- it wasn't a revolver.

18 Q: A semi-automatic.

19 A: Yeah.

20 Q: Was it black? Was it silver?

21 A: I think it was probably silver.

22 Q: Silver.

23 A: Silver, black, something.

24 Q: Small frame, big frame?

25 A: Big gun. Sounded like a -- sounded like a 9 or something

1 like that. 45 something big.

2 Q: Okay, 9 or 45 something big, semi-automatic.

3 A: Yeah. It was big.

4 Q: And when Calvin came up did you see him with a gun?

5 A: Nah.

6 Q: Okay. What kind of gun does he carry?

7 A: He don't have a gun.

8 Q: He never carries a gun?

9 A: No. At the time, no he just came home so it's
10 stipulations like nah, he ain't had no gun.

11 Q: Okay. So, you're saying Calvin didn't have a gun when he
12 came up to Jamal?

13 A: Nah. He couldn't have one. I seen him pick it off the
14 ground.

15 Q: Okay. So, he comes up. You saw him pick it up off the
16 ground?

17 A: A gun, yeah. I ain't never seen him with no gun prior to
18 that.

19 Q: Okay. So, Calvin comes up to Jamal. Jamal puts his arm
20 around him like he's a friend.

21 A: Yes, sir.

22 Q: Okay.

23 A: Basically, on some like son type junk, when somebody grab
24 you like aggressive.

25 Q: Now, did you ever talk to police when they were out there?

1 A: No.

2 Q: Were you still out there when the police showed up?

3 A: No.

4 Q: Did you ever give a statement to police?

5 A: No.

6 Q: Did you ever come tell them that Jamal had aggressively
7 attached Calvin?

8 A: No.

9 Q: Okay. You did give a written statement -- well, it looks
10 like a typed statement to somebody August 4th, right? 2016?

11 A: Yes.

12 Q: Do you remember doing that?

13 A: Yes, sir.

14 Q: Did you type this up?

15 A: No, I didn't type it up.

16 Q: Who typed it?

17 A: I guess the investigator.

18 Q: You don't know who typed it for you?

19 A: No.

20 Q: Did you read it?

21 A: Yes, I read it.

22 Q: So, someone typed up a statement for you and then you
23 signed your name to it?

24 A: I read it. I read it. I wrote the statement and then I
25 read it again and then I signed it.

1 Q: Do you remember in that statement saying that Jamal put
2 his arm around Calvin like they were friends?

3 A: Like they was friends?

4 Q: Yeah.

5 A: Yeah, but we know they not.

6 Q: Okay. But, that's what you said in your statement, right?
7 Like they were friends.

8 **MR. MCCOY:** Objection. Asked and answered, Your Honor.

9 **THE COURT:** Overruled. Go ahead.

10 **BY MR. HOLFORD:**

11 Q: Is that what you said back then, August 2016, he put his
12 arm around him like they were friends?

13 A: Like, yeah, but aggressive like. Like I put my arm around
14 you but you don't know me.

15 Q: But now today it's aggressive?

16 A: It been aggressive before that cause they been ain't see
17 eye to eye cause of the previous situation.

18 Q: Right cause Calvin and Jamal didn't get along, did they?

19 A: Well, I don't know what Jamal problem, you feel me. He
20 knocked his teeth out so I wouldn't get along with anybody
21 knocked my teeth out but they ain't never had no -- we seen
22 him. We seen him and there never was nothing before that.
23 Nothing ever happened before that.

24 Q: I mean, except for the fact that Jamal knocked his teeth
25 out. That's something, right?

1 A: After that happened, we still see him after that.

2 Q: Okay. So, there's this history of bad blood between
3 Calvin and Jamal?

4 A: I ain't gone say no history -- I ain't gone say no history
5 of bad blood cause personally I don't think he felt no type
6 way towards him.

7 Q: Now, when you gave this statement or someone typed this
8 statement and you signed it back in August of 2016, you never
9 said anything about Damian dropping a gun, did you?

10 A: I don't know if I did or not on that. I don't recall.

11 Q: I'm just going to show you what's been marked as State's 3
12 to refresh your recollection. This is a copy of that
13 statement you signed. Do you see in there where you say
14 anything about Damian dropping a gun?

15 A: Nah.

16 Q: You don't see anything where you said Calvin picks up a
17 gun that Damian dropped, do you?

18 A: Nah, but I stated when Jamal pushed Damian, you feel me.

19 **THE COURT:** Excuse me, sir. You're leaning against the
20 microphone. You need to speak into the microphone.

21 **MR. HOLFORD:** You can pull that down.

22 **THE COURT:** Alright.

23 **BY MR. HOLFORD:**

24 A: Nah, I don't see that on there.

25 Q: Okay. You do state in there that Calvin shot, right? And

1 you said that today, right? Calvin picks up a gun and he's
2 shooting?

3 A: Yeah.

4 Q: Did Calvin shoot Jamal? Did Calvin shoot Jamal?

5 A: I mean, it was at a distance, they was close to each
6 other.

7 Q: Okay, they were pretty close to each other?

8 A: Yeah.

9 Q: On State's 2, after Calvin is shooting, which direction
10 does he run? Is he running back towards White Street?

11 A: It happened fast. We ran separate ways, but nah he didn't
12 I don't think.

13 Q: Okay. So, Calvin ---

14 A: I think he ran between the building right there.

15 Q: Calvin ---

16 A: Then ran back off.

17 Q: He runs off to ---

18 A: Between the houses.

19 Q: If we're facing the house, he's going to the right?

20 A: He ran between the houses, yeah.

21 Q: Okay. Did you see Aliga Campbell out there?

22 A: Yeah. He was out there.

23 Q: He was out there. Did Aliga actually call Calvin right
24 before Calvin showed up?

25 A: Tried to. Attempted to.

1 Q: Okay. So, he tried to call him and then Calvin showed up?

2 A: Yeah, basically.

3 Q: Now, where did Jamal end up on this -- was he in the
4 driveway? Did you see where he fell after he got shot?

5 A: He was still standing when I ran.

6 Q: Okay. He got shot and he's still standing.

7 A: Yeah. He's firing still. Everybody was dispersing.
8 Multiple times, yeah.

9 Q: Jamal's firing multiple times ---

10 A: Yeah.

11 Q: --- from that driveway?

12 A: He was firing standing in the area, in the street area
13 right there.

14 Q: Okay. What about Damian? Did Damian fire any shots?

15 A: No. He was trying to diffuse the situation.

16 Q: Did Calvin shoot Damian trying to hit Jamal?

17 A: I don't think it's possible.

18 Q: Who shot Damian then?

19 A: Ain't no telling. I don't know.

20 Q: Could have been Aliga?

21 A: I don't know. I ain't seen him with no gun either.

22 Q: Could have been Calvin?

23 A: I don't know. I know multiple people shooting I think by
24 hearing the sound of gun shots. I don't know who all was
25 shooting but I know when the gun shots erupted I dispersed. I

1 ran.

2 Q: How many guns were shooting at that time?

3 A: It's more than one.

4 Q: Two?

5 A: Two or three probably.

6 Q: Could have been three.

7 A: Could have. Ain't no telling.

8 Q: Where are you standing? I'm going to come here. If we're

9 at Warren Street right here and so the house is where Mr.

10 McCoy and Mr. Ford are ---

11 A: Yeah.

12 Q: --- and right here is kind of the driveway. Is that kind

13 of like that picture, like this is the driveway?

14 A: Be on the right-hand side.

15 Q: On this side?

16 A: Yeah. Be on the right-hand side.

17 Q: Okay. Where are you? Are you in the driveway?

18 A: Nah. I was ---

19 Q: You're up over here?

20 A: Yeah.

21 Q: Okay.

22 A: On the backside right here.

23 Q: Okay. Alright, so you're looking at the situation like

24 this, right?

25 A: The whole situation, yeah.

1 Q: And so after the shots you run out that way?

2 A: Yeah, I ran.

3 Q: Out around the house. Now, Calvin's over about where the
4 podium is? I mean, I know it's not to scale but ---

5 A: Yeah, yeah, basically.

6 Q: He's on the other side. And Jamal's somewhere in the
7 driveway area?

8 A: Yeah, basically a few people was right there.

9 Q: Okay, there are a number of people right there. So, he
10 could have hit anybody. He could have hit multiple people.

11 A: Who could have?

12 **MR. MCCOY:** Objection, Your Honor, calls for speculation.

13 **THE COURT:** Overruled. I'll allow that.

14 **BY MR. HOLFORD:**

15 Q: If there are multiple people standing here where Jamal is,
16 Calvin could have hit multiple people while he's shooting.

17 A: If he would have fired multiple times, but it wasn't ---

18 Q: He only fired once?

19 A: I heard about two, about two times that I heard.

20 Q: So, you think that Calvin only fired twice and then ran
21 away?

22 A: Yeah, that's what -- yeah from hearing, just listening to
23 sounds. Two times.

24 Q: What -- and then -- sorry I got distracted. So, if this
25 is the driveway and Calvin's over here, Jamal's in the

1 driveway, you're over there, where is Aliga at?

2 A: Aliga was on this side.

3 Q: So, he's kind of over with Calvin.

4 A: Yeah, but over like the side.

5 Q: Okay, he's kind of at that yard beside the driveway?

6 A: Yeah. Everybody together though. Everything close

7 together.

8 Q: You know where Calvin ran after he -- after he fired those

9 shots?

10 A: He ran between the houses.

11 Q: Do you know what he did with that gun?

12 A: No. I ran a whole different way.

13 Q: Did you meet back up with him at any point?

14 A: Did I see him again?

15 Q: Yeah. Later that night?

16 A: I went to my granddaddy house.

17 Q: Did he have the gun there with him at that time?

18 A: No, I ain't see no gun.

19 Q: Okay. Did you see anyone else with a gun that night?

20 You've said you saw Jamal with a gun.

21 A: Yeah.

22 Q: And you said you saw Damian with a gun.

23 A: Yeah.

24 Q: Did you see anyone else with a gun that night?

25 A: Everybody be having guns really, man, so we ---

1 Q: I mean, I know a lot of people carry guns but did you see
2 anyone with a gun that night?

3 A: There was a few people had guns.

4 Q: Who else had a gun?

5 A: I don't know their names. I don't recall.

6 Q: You can't recall their names?

7 A: I can't recall the people, but I know I seen guns out
8 there.

9 Q: Alright. Were other people shooting that night?

10 A: I don't know. When the gunshots erupted I ran but I heard
11 multiple gunshots. I be leaving running and hear gunshots
12 going off.

13 MR. HOLFORD: No further questions.

14 THE COURT: Alright. Redirect.

15 MR. MCCOY: Thank you, Your Honor.

16 **REDIRECT EXAMINATION OF MR. EVERETT FORD BY MR. MCCOY:**

17 Q: Mr. Ford, I'm going to ask you a couple of questions on
18 redirect. Mr. Holford talked to you about the State's Exhibit
19 3, the ---

20 MR. MCCOY: Your Honor, may I approach?

21 THE COURT: Yes.

22 **BY MR. MCCOY:**

23 Q: The State asked you if you -- a couple of questions about
24 this statement; do you remember that? They asked you if you
25 wrote it and if you read it and if you signed it. Do you

1 remember that?

2 A: Yeah.

3 Q: Okay. And they asked you a couple more questions about it
4 and they said, well you didn't mention on there that Calvin
5 picked up a gun off the ground. Do you remember them asking
6 you that?

7 A: Uh-huh. (Affirmative response).

8 Q: Is that a yes?

9 A: Yes, sir.

10 Q: And they said, you didn't mention, you know, that Damian
11 dropped a gun.

12 A: Yes, sir.

13 Q: You remember them saying that?

14 A: Yes, sir.

15 Q: Did you mention anywhere in that statement that Calvin
16 pulled a gun out of his waistband?

17 A: No, sir.

18 Q: You didn't. Did you mention anywhere out of that
19 statement that Calvin had a gun on him at all that night?

20 A: No, sir.

21 Q: And this was approximately two weeks after the incident?
22 About that time is when you gave that statement, correct?

23 A: Yes, sir.

24 Q: And two weeks after this statement, you never said Calvin
25 pulled a gun, correct?

1 A: Yes, sir.

2 Q: You never said Calvin had a gun on him, correct?

3 A: Yes, sir.

4 Q: And that's the same two things you said here today,
5 correct?

6 A: Yes, sir.

7 Q: And also the prosecutor asked you what -- about being
8 friends and all this, that and the other.

9 A: Yes, sir.

10 Q: And he talked about how he put his arm around him in a
11 friendly way and you said, no it's aggressive.

12 A: Yes, sir.

13 Q: If you could go to where he was talking about.

14 **MR. MCCOY:** Your Honor, may I approach for a second?

15 **THE COURT:** Yes.

16 **BY MR. MCCOY:**

17 Q: Go to where he was talking about on this statement and
18 read that -- read the line starting with Calvin asked.

19 A: Calvin asked Jamal was he going to shoot him and told him
20 they could just fight.

21 Q: Slow down, please. Again.

22 A: Calvin asked Jamal if he was going to shoot him and told
23 him they could just fight and to put the gun down.

24 Q: Okay. Two weeks after the incident you signed a sworn
25 statement -- I will submit that my private investigator is the

1 one, Jay Stevens, if you recall he was in here earlier. --
2 You signed a sworn statement and you said -- correct me if I'm
3 wrong -- Calvin asked Jamal if he was going to shoot him and
4 told him they could just fight and to put the gun down. Is
5 that correct?

6 A: Yes, sir.

7 Q: Is that still your sworn statement here today?

8 A: Yes, sir, that's what happened.

9 Q: And did Jamal stop grabbing at a gun?

10 A: No.

11 Q: And did Calvin reach for a gun?

12 A: No.

13 Q: And did Calvin pull a gun?

14 A: No.

15 Q: Did Calvin reach to the ground and pick up a gun off the
16 ground?

17 A: Yes, he did that.

18 Q: And why did he do that?

19 **MS. WALTER:** Objection, Your Honor.

20 **MR. EVERETT FORD:** To survive.

21 **THE COURT:** Sustained.

22 **MR. EVERETT FORD:** To protect his self.

23 **THE COURT:** No. Sustained.

24 **BY MR. MCCOY:**

25 Q: Alright, now I want to talk to you about one more thing

1 that Mr. Holford brought up. He said, did you see Jamal
2 earlier in the day acting aggressively or, I believe his words
3 were threatening or shooting anyone earlier in the day. Did
4 you see -- but you started to answer -- well, you did answer,
5 and you said something about a grill. One of your homeboy's
6 grill. Go on and elaborate on that.

7 A: Yeah, basically Aliga Campbell -- he saw Aliga and just
8 called Aliga to the side, approached him, asked him questions
9 about Calvin.

10 Q: What did he say?

11 A: Basically said, where your big homie at? He out here
12 doing this and that. Where your big homie at? Call that
13 nigga, this that, this that, stuff like that.

14 Q: Was he being aggressing towards Aliga?

15 A: Yeah. He made him take his grill out his mouth.

16 Q: Take his grill out?

17 A: Yeah. Let me see that.

18 Q: Take his teeth out of his mouth?

19 A: Yes, sir.

20 Q: And did you, in your mind, view that whole conversation as
21 Jamal was being aggressive?

22 A: Yeah, he was.

23 Q: And this was earlier in the day?

24 A: Yes, sir. He also been aggressive to my little brother
25 that day too.

1 Q: Who's your little brother?

2 A: Dayquan Ford.

3 Q: And how so?

4 A: Saying little slick comments. Basically just saying
5 little slick comments to him. But my little brother just
6 ignored him.

7 Q: So, it was like a full day's worth of agitation you would
8 see.

9 A: Basically, but my little brother never called me. He
10 never called me because he didn't want me to reach no certain
11 type crazy way so he just dealt with it. He left.

12 Q: Okay. Now, the grill incident, two weeks after the
13 incident during your sworn statement did you talk about that?

14 A: In this right here?

15 Q: In that right there.

16 A: It's stated in this one right here.

17 Q: Go ahead and read the sentence where you talk about the
18 grill, please.

19 A: It said, so I start to move a little closer. Let me see.
20 You want me to read the whole little paragraph?

21 Q: Just the part where -- just the part where Mr. Holford was
22 asking you if somebody was being aggressive and then you just
23 talked about how he walked up on somebody and asked them to
24 take their grill out. I just want to make it clear that you
25 talked about that two, almost three years ago on your sworn

1 statement. Let me see. I don't find it either, but I know
2 it's in there.

3 A: I've got to read the whole little ---

4 **MR. MCCOY:** Your Honor, may I approach?

5 **THE COURT:** Yes.

6 **MR. MCCOY:** Thank you, Your Honor.

7 **BY MR. MCCOY:**

8 Q: Why don't you take your attention to mid-way through the
9 last paragraph. Start right there. Start with I already did.
10 You got it?

11 A: I'm looking for it now. I started moving a little closer
12 to protect Aliga Campbell.

13 Q: Hold on. Slow down.

14 A: I started to move a little closer to protect Aliga
15 Campbell.

16 Q: Stop right there. To protect Aliga Campbell from what?

17 A: Anything going down. Anything crazy transpiring because
18 he was being aggressive.

19 Q: Earlier in the day you moved closer to Jamal and Aliga to
20 protect Aliga from Jamal?

21 A: Yes, sir,

22 Q: Continue, please. You can read.

23 A: To protect Aliga Campbell if it was needed. Jamal made
24 Aliga Campbell take out his little grill and gave it to him.

25 Jamal held the little grill and was making fun of it and

1 making fun of Aliga Campbell in front of everyone. Jamal was
2 showing dominance and power over the younger boy. I heard ---

3 Q: Alright. Okay, you can go ahead.

4 A: I heard Jamal tell Aliga Campbell to call Calvin and tell
5 him to come to the party. I saw Aliga Campbell try to call
6 Calvin, but he didn't answer. About the same time, I looked
7 and saw Calvin already across the street.

8 Q: Alright, that was your statement two weeks after the
9 incident, correct? Sworn statement given to my investigator.
10 Yes or no?

11 A: Yes, sir.

12 Q: Is that still your sworn testimony here today under oath
13 to this Court?

14 A: Yes, sir.

15 **MR. MCCOY:** Nothing further, Your Honor.

16 **THE COURT:** Alright.

17 You may step down.

18 Defendant can call your next witness.

19 **MR. MCCOY:** Alright, Your Honor, at this time the defense
20 calls Mr. Calvin Ford to the stand.

21 **THE COURT:** Alright, before we do this, let me -- well
22 let's go ahead and bring him to the stand and put him under
23 oath.

24 **MR. FORD, HAVING BEEN FIRST**

25 **DULY SWORN, TESTIFIED AS FOLLOWS:**

1 **THE CLERK:** Please state your name and spell it for the
2 Court.

3 **MR. FORD:** Calvin Ford. C-A-L-V-I-N F-O-R-D.

4 **THE COURT:** Alright, Mr. Ford, you've been called as a
5 witness to testify in this case. This is not a trial to
6 determine your guilt or innocence of the charges pending
7 against you. This is a motion hearing to determine whether or
8 not you're immune from prosecution for the charges pending
9 against you. Even though this is not the criminal trial to
10 determine your guilt or innocence, I advise you that anything
11 you say in this motion hearing, including the testimony you
12 are about to give, can be used as evidence against you in your
13 criminal trial should your motion for immunity from
14 prosecution be denied. I now advise you that as a witness you
15 have the right to invoke the protections given to you by the
16 Fifth Amendment to the Constitution of the United States.
17 This amendment provides in part that no person shall be
18 compelled in any criminal case to be a witness against
19 himself. This provision means that you cannot be required to
20 be a witness against yourself. This is a personal right which
21 can only be claimed by you. You have the right to refuse to
22 answer any question asked of you which you think gives you
23 reasonable cause to believe that the answer to the question,
24 if given, might tend to incriminate you. If you wish to
25 exercise this right when a question is asked you must assert

1 your right to remain silent. You should state that you refuse
2 to answer the question because the answer may tend to
3 incriminate you. Now, do you understand that?

4 **MR. FORD:** Yes, sir.

5 **THE COURT:** Alright. Do you have any questions about
6 that?

7 **MR. FORD:** No, sir.

8 **THE COURT:** Alright.

9 Alright, Mr. McCoy, your direct examination.

10 **MR. MCCOY:** Thank you, Your Honor.

11 **MR. HOLFORD:** Your Honor?

12 **THE COURT:** Yes.

13 **MR. HOLFORD:** Would you like a copy of his NCIC? Do you
14 think that's necessary?

15 **THE COURT:** I mean, you can ask the questions. I've just
16 told him that he can assert his right and say that he refused
17 to answer on the grounds that it might incriminate him. I
18 don't know that we need the NCIC at this juncture.

19 **MR. HOLFORD:** Your Honor, is it the Court's ruling that
20 he's allowed to answer what he wants to and then assert his
21 right to not answer if he doesn't want to?

22 **THE COURT:** He can assert his right since anything he
23 says can be used against him and this is a motion hearing. I
24 do allow him to assert that right, yeah.

25 Alright, go ahead, Mr. McCoy.

1 **MR. MCCOY:** Thank you, Your Honor.

2 **MR. HOLFORD:** Your Honor, the State would just make an
3 objection for the record that I don't believe a defendant can
4 waive his Fifth Amendment right to the answers he wants to
5 give and then assert it to answers he doesn't.

6 **THE COURT:** I agree with you if this was the trial, but
7 this is just a motion hearing to determine whether or not he's
8 immune from prosecution. He bears the burden of proving his
9 immunity by preponderance of the evidence. The State doesn't
10 have to put anything up. So, I'll allow him to assert his
11 right unless you've got some appellate decision that says
12 something to the contrary. I'm not aware that that applies in
13 a motion hearing. So, I'll allow him to assert his right and
14 that's just the way I've handled it in the past and I've never
15 seen anything that basically said that was the wrong ruling.

16 **MR. HOLFORD:** Yes, sir.

17 **THE COURT:** Okay.

18 Alright, Mr. McCoy.

19 **MR. MCCOY:** Thank you, Your Honor. If it pleases the
20 Court.

21 **DIRECT EXAMINATION OF MR. FORD BY MR. MCCOY:**

22 Q: Mr. Ford, as you know my name is Jonny McCoy and I'm your
23 attorney. How are you doing today?

24 A: I'm alright.

25 Q: Okay. Do you need a tissue or anything?

1 A: I'm alright, man.

2 Q: What is your date of birth?

3 A: [REDACTED].

4 Q: What is -- how many children do you have?

5 A: I have one, but my girlfriend has an older son, so I have
6 two.

7 Q: Okay. And where are you living currently?

8 A: [REDACTED] Timrod Road.

9 Q: And are you currently or before you were -- are you
10 currently incarcerated?

11 A: Yes, sir.

12 Q: And leading up to your incarceration were you on a GPS
13 monitor?

14 A: No, sir.

15 Q: What was going on with your bond conditions at that time,
16 leading up to your incarceration?

17 A: I had a curfew. I had to be -- I could come out at 6AM to
18 7:30PM.

19 Q: Okay. And then prior to that, what was your bond
20 conditions?

21 A: I had a home detention ankle monitor.

22 Q: And when did that cease?

23 A: I want to say October 21st, 2018.

24 Q: Okay. And how long has it been since you've been allowed
25 to carry a gun?

1 A: Maybe nine years.

2 Q: Nine years. Alright, and did that make you concerned?

3 A: Yes.

4 Q: Of what? Or who, should I say?

5 A: My safety from past incident from Jamal.

6 Q: What does that mean? Why don't you expand a little bit?

7 Alright, if somebody asks you if you're scared, what are you
8 going to say?

9 A: If I'm scared of a person, yes. I'm gone say yes.

10 Q: Why?

11 A: Because they got to be a threatening person or, you know,
12 did something that makes me fearful.

13 Q: Okay. So, what did Jamal do that makes you afraid for
14 your safety?

15 A: He knocked my teeth out.

16 Q: Go ahead and -- we've heard a couple of people testify
17 about that. Go ahead and tell us about that incident.

18 A: My older cousin, her name is Ann Chestnut, she was getting
19 into it with somebody one night and her daughter called me
20 because the guy that she was getting into it with was my
21 partner. So, she was like, hey can you come over here and
22 calm them down? I said, yeah I'm about to walk down the road
23 right now and come to calm them down. So, I start walking
24 down the road and when I got to the same house on Dudley Road,
25 I was walking through because my cousin lived in Carver

1 Apartments at that time. So, I start walking through there
2 and that's when Jamal saw me and he approached me and said,
3 why was I telling people that I kept some guys off of his ass.
4 And I told him -- well, no that's the wrong incident. That
5 night I walked down there, and this young guy actually came up
6 on a moped and Jamal punched him in the mouth as I was walking
7 up and I saw that. So, the young guy ran off. And when he
8 ran off, he went to get some other young guys. Then the other
9 young guys came back through the woods at the back of Carver
10 Apartments. When they came, I looked down the road and Jamal
11 put his arm around my shoulders. When he put his arm around
12 my shoulders I was still looking straight up the road and
13 that's when he took the gun and hit me in my face with it.
14 And I fall on the ground and spit out my teeth and blood came
15 out my mouth. And he walked over me and said, move, move,
16 mother I'll shoot you. And I jumped up and grabbed him. And
17 there was some other guys there and I was -- I asked one of
18 the guys, I was like man grab him, man grab him so he wouldn't
19 shoot me. And the other guy grabbed him and I ran and I ran
20 to my cousin house.

21 Q: And about what time was this incident? When was this
22 incident?

23 A: Maybe 9 something, 10 something that night.

24 Q: What, as in how many years ago?

25 A: About five years ago now.

1 Q: Okay. And what happened as a result of this incident?
2 Did you just get up and go about your business or did you need
3 emergency treatment?

4 A: I had to go to the -- I had to go to the emergency room
5 and from there they sent me to a surgeon. I had to go to a
6 surgeon over there on International Highway, I want to say.

7 Q: So, let me get this straight. So, five years ago the
8 person who you are claiming stand your ground defense on in
9 this case, put his arm around you and knocked your teeth out
10 with a gun. Is that what you're saying?

11 A: Yes, sir.

12 Q: And you went to the hospital over that. Is that what you
13 just testified to?

14 A: Yes, sir.

15 Q: What exactly -- what work was done to your face?

16 A: Well, they had to remove the rest of my teeth because my
17 teeth had chipped when he hit me with the gun. My two front
18 teeth chipped way down to my gums and one of my side tooth was
19 broken. And basically they sent me to the emergency room and
20 then they sent me to the surgeon because the surgeon had to
21 remove the little pieces of teeth that was down in the gums
22 that the hospital couldn't get to. And I had to get my gums
23 stitched together.

24 Q: And did you talk to Jamal after this incident?

25 A: No.

1 Q: Did you talk to him ever about this incident?

2 A: No.

3 Q: Did you ever plan retribution?

4 A: No.

5 Q: So, you were never going to get him back for this
6 incident? You were just going to let this go?

7 A: Yeah, cause I just came home from prison actually two
8 months before the incident and I didn't want to go back to
9 jail behind it.

10 Q: So, for five years you just kept piece?

11 A: Yeah, I just stayed away, tried to not be around him.

12 Q: Now, let's fast forward five years later to the summer of
13 2016. Do you remember the summer of 2016?

14 A: Yes, sir.

15 Q: Do you remember what you were doing in the summer of 2016?

16 A: Yes, sir.

17 Q: Do you remember where you were living in the summer of
18 2016?

19 A: Yes, sir.

20 Q: Where were you living?

21 A: I was living at [REDACTED] White Street, my grandfather's house.

22 Q: Okay. And were you on a GPS monitor at that time?

23 A: Yes, sir.

24 Q: And at that time what were the restrictions for you of
25 that GPS monitor?

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1 A: I had -- at that time I had a curfew on GPS. I could come
2 out at 6AM til 10PM at night.

3 Q: 6AM to 10PM; is that what you said?

4 A: Yes, sir.

5 Q: And were there any restrictions on where you could go or
6 couldn't go?

7 A: Yeah, it was but they was like North Myrtle Beach city
8 limits, a few places in North Myrtle Beach.

9 Q: But not Dudley Road?

10 A: No, sir.

11 Q: Alright. Did you -- did you see Jamal, let's say a month
12 before the incident?

13 A: No, sir.

14 Q: Did you -- were you afraid of him a month before the
15 incident?

16 A: Yeah. Yes, sir.

17 Q: I'm mean, why are you laughing? Go ahead and explain why.

18 A: Well, because I got my teeth knocked out. That's
19 something you gone be fearful of a person taking a gun and
20 hitting you in your face.

21 Q: What about leading up to the incident? Were you afraid of
22 him leading up to the incident?

23 A: Yes, sir.

24 Q: Why?

25 A: He knocked my teeth out.

1 Q: Had you heard anything else about Jamal?

2 A: Yeah. He always shooting people and shooting at people.

3 **MR. HOLFORD:** Objection.

4 **MR. MCCOY:** State of mind, Your Honor.

5 **THE COURT:** Overruled.

6 **BY MR. MCCOY:**

7 Q: Had you heard anything about Jamal a couple days before
8 the incident?

9 A: Yes, sir.

10 Q: What did you hear?

11 A: He was actually ---

12 **MR. HOLFORD:** Your Honor ---

13 **MR. MCCOY:** State of mind, Your Honor.

14 **THE COURT:** Wait, wait, wait.

15 **MR. HOLFORD:** He's saying what he heard.

16 **THE COURT:** What was the question?

17 **MR. MCCOY:** Did he hear anything that would make him feel
18 threatened about Jamal a couple of days before the incident?

19 **THE COURT:** Okay. Overruled. I'll allow that. Go
20 ahead.

21 **BY MR. MCCOY:**

22 Q: Specifically to you, what did you hear threatening about
23 Jamal a couple of days before the incident?

24 A: Well, he was actually in jail. He was actually locked up
25 and he was getting ready to come home and they were just

1 saying he was coming home to kill three people.

2 Q: And were you one of those three people?

3 A: My name was brought up in the conversation. Yes, sir.

4 Q: Did you believe that he was going to come home and kill
5 you?

6 A: I didn't know. I didn't know. With him you -- he take
7 his threats out so I could have believed it, yeah.

8 Q: Did -- when did he get out of jail? Did that make you
9 fearful when he got out of jail?

10 A: Yeah. And I just had a son, so I don't like to have my
11 family around certain things.

12 Q: When did he get out of jail?

13 A: Like maybe two days prior to the incident?

14 Q: So, 48 hours prior to this incident he got out of jail?

15 A: Yes, sir.

16 Q: Okay. Did that make you fearful?

17 A: Yes, sir.

18 Q: So, leading up to this incident, just so we're on the same
19 page, he knocked your teeth out and he had told people while
20 he was in jail he was going to get out and kill three people
21 and you were one of the three. Am I right about that?

22 A: Yes, sir.

23 Q: So, then he gets out and 48 hours later is the date of the
24 incident. Is that right?

25 A: Yes, sir.

1 Q: What about the day prior to the incident? Did you see
2 Jamal? Hear anything about Jamal the day prior to the
3 incident that would make you fearful?

4 A: Well, I didn't see him myself but people were saying that
5 he was riding up and down my road in front of my grandfather's
6 house on a moped, a dirt bike.

7 Q: What's fearful about that?

8 A: Well, he don't come over there. He don't usually come
9 over there. I guess dealing with our past events he stayed
10 where he be at and I just stay where I be at, at my house.

11 Q: Did you think that he had a gun on him after he got out of
12 jail?

13 A: He always has a gun, of course I'm gone think that.

14 Q: Did anybody tell you he did?

15 A: No. But I know that he has a gun.

16 Q: Okay. So, let's talk about the blue crab night, if you
17 will, July 22nd. Did you see him on that night?

18 A: No, sir.

19 Q: Okay. Did you hear anything about him on that night?

20 A: That's the night that he was supposedly over there by my
21 house.

22 Q: Okay. And then, so this was 24 hours after he got out of
23 jail he was over there at your house?

24 A: Yes, sir.

25 Q: According to what you heard.

1 A: Yes, sir.

2 A: Yes, sir.

3 Q: Alright. And then what about July 23rd, the date of the
4 incident. Let me stop and let's go through, you wake up.
5 Walk me through the day.

6 A: I wake up. My girlfriend, she called me. She actually
7 had to go to work earlier that day in the earlier part of the
8 day and I had to watch my kids. So, I got my kids that
9 morning. I'm watching the kids and I -- my little cousin just
10 came from college. His name Dayquan Ford. And basically, he
11 wanted some shoes that was coming out at the mall. So, I went
12 to the mall, did a little shopping, got my kids some stuff
13 from the mall and stuff and I came right back home. And I was
14 home with the kids and Courtney got off. We was home at my
15 grandfather's house all that day.

16 Q: But, as you've heard through testimony you were at home
17 all day but you also saw your mother; is that right?

18 A: Yes, sir.

19 Q: Okay. And what was your -- what was your plans that day?

20 A: Well, the night before we had a crab boil at my aunt's
21 house because my little cousin just died. He died on July 4th
22 and we buried him on July 12th. And basically, we was just
23 trying to be there for my aunt because she just lost her
24 youngest son. And she was grieving real bad so we was trying
25 to be there for her. So, we had a crab boil and invited all

1 our family and friends over so everybody could just be around
2 her at her time of grief. And we were just eating that night
3 and Damian and Rasheed was over there with us. And both of
4 their birthday was the next day. And they both was like, hey
5 we having a party over at Ms. Dudley's house tomorrow. We
6 want everybody to come. And they wanted me to come and stuff.
7 Well, Rasheed goes with Ms. Dudley's granddaughter and
8 basically that's why they -- I guess that's why they chose to
9 have the party over there. So, they was like, he we want you
10 to come over there. We want everybody to come and I said okay
11 I'll stop by tomorrow. And basically, that's how I ended up
12 going over there.

13 Q: Okay. And so, whose birthday was it?

14 A: It was my brother Rasheed McKnight's and Damian Alston's.

15 Q: And at whose house was the main congregation?

16 A: Ms. Dudley's.

17 Q: And were you invited over to Ms. Dudley's house?

18 A: Yes, sir.

19 Q: Had you been to Ms. Dudley's before?

20 A: Yes, sir.

21 Q: Had you played basketball at Ms. Dudley's?

22 A: Yes, sir. I grew up there.

23 Q: Have you ever been asked to leave Ms. Dudley's?

24 A: No, sir.

25 Q: Any of the houses around there?

1 A: No, sir.

2 Q: Were you drinking at all on that day?

3 A: No, sir.

4 Q: Were you using drugs at all on that day?

5 A: No, sir.

6 Q: And you had left your family at some point that day; is
7 that correct?

8 A: Yes, sir.

9 Q: What time was that?

10 A: It was maybe about 7 something, 7:30, 7:40ish.

11 Q: Is that PM?

12 A: Yes, sir.

13 Q: Okay. And what time did you arrive at the birthday party
14 for your brother and your cousin on Dudley Road?

15 A: Like right before 8.

16 Q: Right before 8.

17 A: Yes, sir.

18 Q: Okay. And let's walk through how you got there, what
19 happened when you got there, and I'll tell you to stop when
20 it's time. Go ahead.

21 A: Well basically, I had my baby at that time right before I
22 left the house and I gave my baby to my girlfriend and gave
23 all of them kisses and said, hey I'm bought to walk down to
24 Ms. Dudley's house for Rasheed and Damian's birthday because I
25 was on a curfew. I had to be home at 10. So, I was like, hey

1 I'm gone go over there with them for a little while before I
2 have to be in. And she was like, okay or whatever. And I
3 walked down the road. I walked down the road going to Ms.
4 Dudley's house, cross the street. I was coming across the
5 street and then I walked up to the house, like right at the
6 yard. And then that's when everybody was like, hey Jamal
7 looking for you. And as they said that, he, he, he looked
8 right at me and started telling me, he let me holler at you,
9 let me holler at you. And, I mean ---

10 Q: Stop right there. How'd you feel right at that moment?

11 A: I felt dread. I felt scared kind of.

12 Q: Okay. Continue, please.

13 A: And well, he walked up to me and I was like, I was like
14 what you want. And he was like, man I want to holler at you.
15 And he put his arm around me aggressively like hey why you
16 telling people that you saved me from these guys in Popular.
17 And I was like, man I'm not telling people that. I don't know
18 what you talking about. And he was like, yes the F you is. I
19 was like man I didn't come over here for that. I'm not
20 telling nobody nothing. I'm not saying nothing about you. He
21 was like, yes the F you is. My partner's coming telling me
22 you saying this and you saying that. And I was like man,
23 listen man, I didn't come over here for that. I ain't telling
24 nobody nothing. And he was like, yes the F you did, I should
25 shoot you. And that's when I was like, man why you gone shoot

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1 me for, we can fight. We can fight. That's when Damian walk
2 up and he was like, he walk straight to Jamal and he was like,
3 hey man y'all chill. And I was like, man we could fight, you
4 don't got to shoot me. And he was like, man -- he said, he
5 said I ain't doing no fighting. And I was like because you
6 know I'll beat you up. And that's when he grabbed his gun.
7 He grabbed his gun and Damian and him start tussling a little
8 bit and Damian was like, chill man, chill. And he was telling
9 Damian move, move. And that's when like -- when they was
10 tussling Damian's gun dropped. I pick up the gun. He pushed
11 Damian and turned his gun, pointed at me and fired and I fired
12 back. But I run like firing. And he's shooting at me and I
13 run. I have to run between some cars because there was a car
14 behind me. So, I have to run between some cars and I run
15 through Ms. Dudley's front yard and jump the fence into the
16 next yard and then I run off like behind the house.

17 Q: Alright. So, let's slow down and take it back a second,
18 okay. So, you said that when you got to the party you saw
19 Jamal and he walks up to you, approaches you and then puts his
20 arm around you; is that correct?

21 A: Yes, sir.

22 Q: And is this -- a minute ago you just testified he put his
23 arm around you the night he knocked your teeth out; is that
24 right?

25 A: Yes, sir.

1 Q: Was that the same feeling that you had?

2 A: Yes, sir.

3 Q: And the night that he knocked your teeth out, he put his
4 arm around you was he saying the same similar things or
5 anything to that nature?

6 A: No, sir.

7 Q: Was the incident similar?

8 A: Yes, sir.

9 Q: How so?

10 A: Because he put his arm around me like real tight.

11 Q: To control you?

12 A: Yeah, kind of like controlling.

13 Q: Okay. So, when he put his arm around you and was
14 controlling you, what did you notice about Jamal? Did you
15 notice anything about his demeanor?

16 A: The night of the incident or ---

17 Q: The night of the incident.

18 A: Yeah. The night of the incident he was drunk because when
19 he was -- like when we were talking he was spitting in my face
20 and I could look in his face and tell he was under the
21 influence of something.

22 Q: Okay. And did you see a gun on him?

23 A: Yes, sir.

24 Q: Where was the gun?

25 A: On his waist.

1 Q: Where on his waist?

2 A: I want to say on his right side, the right side of his
3 waist or the left. I can't remember which side of the waist
4 it was on, but it was there.

5 Q: Okay. Did you see him reach for a gun?

6 A: Yes, sir.

7 Q: A second ago you said that he reached a pulled for a gun,
8 when did he do that?

9 A: When I told him that we could fight, that I'd beat him up.

10 Q: Okay. So, you said this in response to him reaching for a
11 gun?

12 A: No. I said it in response to him telling me he should
13 shoot me. And I was telling him man why you got to shoot me.

14 Q: Okay. So, at what point did you fear I'm going to get
15 shot or did you?

16 A: Yeah. When he started reaching for the gun. Well, when
17 he told me that he should shoot me I was scared that he was
18 going to shoot me.

19 Q: Okay. And did -- at that point in time did you fear for
20 your life?

21 A: Yes, sir.

22 Q: And did all of your encounters with your mom come into
23 your head and lead you to believe I may die right here and
24 now?

25 A: Yes, sir. It wasn't no question that he would hurt me.

1 He hurt me before and he hurt a lot of people. So, I know
2 that he would hurt me.

3 Q: And by hurting you, do you mean a little bit or cause you
4 great bodily injury or death?

5 A: Cause me great bodily injury or death.

6 Q: Okay. Did you have any plans to hurt Jamal that day?

7 A: No, sir.

8 Q: Did you have any plans ever to hurt Jamal?

9 A: No, sir.

10 Q: Did you and Aliga talk about hurting Jamal ever?

11 A: No, sir.

12 Q: There's been talk about Aliga calling you to come to the
13 party. Did Aliga call you to come to the party to hurt
14 somebody?

15 A: I didn't get his call. I didn't get his call. I was
16 walking up the road. They said that he tried to call me, but
17 I never answered the phone or talked to him.

18 Q: Did you talk to him throughout that day at all?

19 A: Maybe earlier that morning.

20 Q: Were y'all close?

21 A: Well, my grandfather is his grandmother's landlord. She
22 lives right next door to us.

23 Q: So, y'all talk regularly?

24 A: Yes, sir.

25 Q: Alright. And why did you fire the gun that you picked up?

1 A: Because Jamal was shooting at me. I did it out of defense
2 for myself.

3 Q: Do you think that you hit Damian?

4 A: No, sir.

5 Q: Why do you say that?

6 A: Because Damian was like he got pushed and he was under the
7 influence too, he was drinking, and he stumbled back where he
8 got pushed.

9 Q: Okay. And do you remember what kind of gun that you had
10 on -- or what kind of gun it was that you picked up?

11 A: Yes, sir.

12 Q: What kind of gun was it?

13 A: It was a 9-millimeter.

14 Q: Okay. And would you have had a gun on you at any point in
15 time had you not thought that you were about to be killed?

16 A: No, sir.

17 Q: Did you have a gun on you at all that day?

18 A: No, sir?

19 Q: Did you bring a gun on you to that party?

20 A: No, sir.

21 Q: How did you know Damian?

22 A: I grew up with him all my life.

23 Q: Were you and Damian close?

24 A: Yeah. We was good friends.

25 Q: Were you hanging out the night before?

1 A: Yes, sir.

2 Q: Who do you think shot Damian?

3 A: I don't know because at the time when we was like in the
4 heat of the moment. I had to run for my life, so I didn't see
5 like who all was shooting. I just heard a bunch of shots even
6 as I was running away. So, I can't say who shot him.

7 **MR. MCCOY:** Court's indulgence just one second, Your
8 Honor.

9 **THE COURT:** Alright.

10 **BY MR. MCCOY:**

11 Q: If you hadn't of picked up that gun and fired at Jamal,
12 what do you think would have happened to you?

13 A: I would have probably got shot. I'd probably be dead.

14 **MR. MCCOY:** No further questions, Your Honor.

15 **THE COURT:** Alright. Cross examination.

16 **MS. WALTER:** Thank you, Your Honor.

17 **CROSS EXAMINATION OF MR. FORD BY MS. WALTER:**

18 Q: Alright, let's just start and get your criminal history
19 out of the way. So, to say that you've had a few brushes with
20 the law, that would be accurate; correct?

21 A: Yes, ma'am.

22 **MR. MCCOY:** Your Honor, on the advice of counsel, I'm
23 going to tell my client to plead the Fifth Amendment to any
24 questions that may incriminate him.

25 **THE COURT:** Okay. Well, that's just his prior criminal

1 record.

2 **MR. MCCOY:** I understand that.

3 **THE COURT:** Overruled. Go ahead.

4 **MS. WALTER:** Thank you.

5 **BY MS. WALTER:**

6 Q: And some of those convictions involve what we would say is
7 dishonesty; correct? For instance, and I'll give you an
8 example. In 2008 were you convicted of fraud for obtaining a
9 license?

10 A: No, ma'am.

11 **MS. WALTER:** Court's indulgence.

12 **THE COURT:** Alright.

13 **MS. WALTER:** May I approach the witness, Your Honor?

14 **THE COURT:** Yes.

15 **MS. WALTER:** And I'll just ask that this be marked for ID
16 only at this point.

17 **THE COURT:** How are we marking it?

18 **MS. WALTER:** It is going to be State's 4.

19 **THE COURT:** Alright.

20 **MS. WALTER:** And just so that the record is complete,
21 it's a copy of the defendant's NCIC.

22 **THE COURT:** Alright.

23 **(STATE'S EXHIBIT NUMBER FOUR**
24 **IS MARKED FOR IDENTIFICATION.)**

25 **BY MS. WALTER:**

1 Q: Are you -- have you ever seen a criminal history print out
2 before?

3 A: Yes, ma'am.

4 Q: Alright. And just make sure you're speaking into the
5 microphone.

6 A: Yes, ma'am.

7 Q: Alright. And this is your name, right, Calvin Darrell
8 Ford?

9 A: Yes, ma'am.

10 Q: Your alias is Smoo.

11 A: Yes, ma'am.

12 Q: And is that your date of birth, [REDACTED] [REDACTED] [REDACTED]?

13 A: Yes, ma'am.

14 Q: Alright. So, now I'm directing your attention to this
15 charge here with a conviction date of October 27th, 2008,
16 unlawful use of fraud in the application for a license. Do
17 you see that there?

18 A: Yes, ma'am.

19 Q: Do you remember that conviction?

20 A: I don't remember it, but if it's there then I was charged
21 with it.

22 Q: Okay. And convicted of it, correct?

23 A: Yes, ma'am. Would that be a blue ticket charge? Cause I
24 only have two felonies that I been convicted of.

25 Q: Okay. Right now were just dealing with you've been

1 convicted of fraud at that point. And then in 2010 you were
2 convicted of petit larceny; correct?

3 A: Yes, ma'am.

4 Q: And then again also in 2010 you were convicted of two
5 counts of burglary in the 2nd degree, violent offenses;
6 correct?

7 A: Yes, ma'am.

8 Q: So, Jamal Burgess isn't the only person who has a violent
9 history in this case; correct?

10 A: Yes, ma'am.

11 Q: Now, you talked about some incident in 2014 where Jamal
12 Burgess allegedly knocked out your teeth.

13 A: Yes, ma'am.

14 Q: Did you file a police report on that?

15 **MR. MCCOY:** Objection, Your Honor. At this time, I'd
16 like to advise my client to plead the Fifth Amendment against
17 his right of self-incrimination. I mean, we're talking about
18 filing police reports, she may say at this point in time that
19 he is committing some sort of crime in the fact of false
20 allegations, failure to file a proper police report. I mean,
21 she'd digging for things that are essentially inconsistencies
22 which could turn out to be crimes. All of this falls under
23 the Fifth Amendment, Your Honor.

24 **THE COURT:** Alright. Overruled. I'll allow the
25 question, go ahead.

1 **MS. WALTER:** Thank you.

2 **BY MS. WALTER:**

3 Q: After you claim that Jamal Burgess knocked your teeth out,
4 did you file any kind of police report?

5 A: No, ma'am.

6 Q: Why not?

7 A: Because if I would have told on him he probably would have
8 came back and retaliated.

9 Q: But you don't know that because you didn't file a police
10 report; correct?

11 A: Yes, ma'am.

12 Q: Now, you said that you tried not to be around him after
13 that incident; right?

14 A: Yes, ma'am.

15 Q: So, you never went to his house or his girlfriend's house
16 at any point?

17 A: No, ma'am.

18 Q: Never socialized with -- never socialized with Jamal
19 Burgess other than seeing him the night of the shooting?

20 A: Yes, ma'am.

21 Q: Never had any sort of friendly encounter with him?

22 A: No, ma'am.

23 Q: Never went to Martina Harriett's house to see him?

24 A: No, ma'am.

25 Q: And anyone -- strike that, Your Honor. Now, you said that

1 in the summer of 2016 you were on a GPS ankle monitor. Why
2 were you on a GPS ankle monitor?

3 A: For a charge that I caught in 2015, July 2015.

4 **MR. MCCOY:** Objection, Your Honor. I'm currently
5 representing him on that charge. I know that she just asked
6 him about it, but she's prosecuting him for that charge and we
7 got that out of the way. Let's ---

8 **MS. WALTER:** This is simply facts about why he's on a GPS
9 monitor, nothing about the underlying. It's not asking him
10 for any sort of admission on that case.

11 **THE COURT:** Alright. Go forward with your question.

12 **BY MS. WALTER:**

13 Q: I'm sorry. So, you were on GPS monitoring for what?

14 A: For a charge that I caught in 2015.

15 Q: And what were those charges?

16 A: Attempted murder and unlawful carrying I want to say.

17 Q: So, those charges involved the use of a firearm?

18 A: Yes, ma'am.

19 Q: And you've testified at length about how you were afraid
20 of Jamal Burgess.

21 A: Yes, ma'am.

22 Q: And you were here when you heard your cousin, Everett Ford
23 "Bill Bill", talk about how many people at this party had
24 guns. Lots of people had guns, everybody has a gun he said,
25 right?

1 A: Yes, ma'am.

2 Q: So, if you were so afraid of Jamal Burgess when he called
3 you over, why did you go?

4 A: Who called me over?

5 Q: Jamal Burgess. You said he called you over, right?

6 A: I was in ---

7 Q: Like hollering.

8 A: --- I was in the yard. He was right there in front of me.
9 What was I supposed to do?

10 Q: Walk away.

11 A: Yeah. But, I'd think it was nothing aggressive.

12 Q: Okay. So, when you first saw Jamal Burgess you weren't
13 afraid, and you said that it wasn't aggressive.

14 A: I mean, when he start calling me, I know he don't talk to
15 me. So, of course in my mind I'm thinking like what's going
16 on, you know.

17 Q: Now, I'm actually confused because just a second ago you
18 said, I didn't think anything of -- I'm paraphrasing. I
19 didn't think anything of it because it wasn't aggressive.

20 A: I didn't think he -- I mean, I was home all that day. I
21 didn't do anything to him. So, of course I'm not gone think
22 it's aggressive.

23 Q: Right. So, when you first saw him you weren't afraid of
24 him.

25 A: I was always afraid of him.

1 Q: Even though you didn't do anything aggressive about him.

2 A: Yeah. I got my teeth knocked out by him.

3 Q: Okay.

4 **MS. WALTER:** Your Honor, I'd ask that he respond to the
5 question.

6 **THE COURT:** Okay. I think you made your point. GO ahead
7 and move on.

8 **BY MS. WALTER:**

9 Q: Now, you testified that Jamal had gotten out of custody
10 just a couple of days before you killed him, right?

11 **MR. MCCOY:** Objection, Your Honor. Before he killed him?

12 **MS. WALTER:** Is there a dispute that Jamal ---

13 **THE COURT:** What's your objection?

14 **MR. MCCOY:** Objection, Your Honor, I advise my client not
15 to answer the question on the grounds of the Fifth Amendment
16 self-incrimination. At this point, the only testimony so far
17 has been ---

18 **THE COURT:** Well, his claim is he killed him in self-
19 defense.

20 **MR. MCCOY:** Or transferred intent at this point.

21 **THE COURT:** Alright. I recognize that. Alright.
22 Overruled. Go ahead.

23 **MS. WALTER:** Thank you.

24 **BY MS. WALTER:**

25 Q: So, you testified that Jamal Burgess got out of custody a

1 couple days before you killed him, correct?

2 A: Yes, ma'am.

3 Q: And you said that you heard that he was coming home to
4 kill three people.

5 A: Yes, ma'am.

6 Q: Alright. Who told you that? Who did you hear that from?

7 A: From one of his baby mother's.

8 Q: Who?

9 A: Monique Brown.

10 Q: Monique?

11 A: Brown.

12 Q: Brown?

13 A: Yes, ma'am.

14 Q: When did she tell you that?

15 A: Like the same week that he came home.

16 Q: Tell me that conversation.

17 A: Well, basically she was going with this other guy named
18 Ash. And basically, she just -- she just know her baby daddy
19 like always doing stuff to people and stuff. So, she
20 basically was giving me a heads up that he said he was coming
21 home to hurt Ash and Kendrick Green, which him and Kendrick
22 had gotten into a shootout at Jimmagan's Bar and Kendrick
23 supposedly had told on him. And that he was coming home to
24 hurt those two and me.

25 Q: Alright. Where did this conversation take place?

1 A: Phone call.

2 Q: Was anyone present with you during the phone call?

3 A: No, ma'am.

4 Q: Now, so this was a threat by someone who you say had

5 assaulted you before, right?

6 A: Yes, ma'am.

7 Q: So, did you call the police to tell them I'm being

8 threatened by someone who had just gotten out of prison?

9 A: No, ma'am.

10 Q: Did you take any other steps to report the fact that you

11 had been told he was going to kill you?

12 A: No, ma'am.

13 Q: Was Monique Brown the only person that supposedly told you

14 about this threat?

15 A: Yes, ma'am.

16 Q: Now, you also said that the night of the crab boil you

17 heard that Jamal Burgess was at your house.

18 A: Yes, ma'am.

19 Q: Who told you that?

20 A: My mother and other people that was on that road because a

21 lot of people be outside over there.

22 Q: Who else?

23 A: Some of the people from next door. They sit outside all

24 the time.

25 Q: What are their names?

1 A: John Campbell, Ms. Peach, Ms. Phyllis Bar, and some of
2 Aliga's cousins that live right next door.

3 Q: And you were here when your mother testified, right?

4 A: Yes, ma'am.

5 Q: She paid no attention to Jamal Burgess being there.

6 A: Yes, ma'am.

7 Q: So it -- strike that. You said that these people told
8 you simply that Jamal Burgess was on your block?

9 A: That he was in front of my house. Yes, ma'am.

10 Q: It's a public street, correct?

11 A: Yes, ma'am.

12 Q: You're not the only person that lives on that block,
13 right?

14 A: I mean, yeah there's different houses there.

15 Q: Now, we've already discussed that you were on a GPS
16 monitor that day, correct?

17 A: Yes, ma'am.

18 Q: And do you know whether Damian Alston was also on an ankle
19 monitor that day?

20 A: I don't know for sure, but I know he had just came home
21 like a month or so prior to the incident.

22 Q: Do you know when you first went to Warren Street that day?

23 A: Yes, ma'am. It was about 7:40ish, right before 8 or so.

24 Q: You're aware of the fact that the GPS records track where
25 you are, right? That's the purpose of an ankle monitor.

1 A: Yes, ma'am.

2 Q: So, if I told you that your GPS records have you on Warren
3 Street as early as 7:00; does that sound about right?

4 A: Yeah. I did go over there earlier. Yes, ma'am.

5 Q: How long were you there for?

6 A: Maybe like 10 minutes, 15 minutes. I can't remember.

7 Q: And where did you go after that 10 to 15 minutes?

8 A: Probably back to my house.

9 Q: Who -- let's start with that first 10 to 15-minute period.
10 Did you go there with anyone else?

11 A: No, ma'am.

12 Q: Who did you see -- and when I say Warren Street, I mean
13 Dudley Road, right?

14 A: Yes, ma'am.

15 Q: Who did you see there when you got there for that 10 or 15
16 minutes?

17 A: Everybody who lived over there. It was a bunch of people
18 out there.

19 Q: Was Damian Alston there?

20 A: I want to say he pulled up in a car. Yes, ma'am.

21 Q: Was Aliga Campbell there?

22 A: No, ma'am. Not that I recall.

23 Q: Was Everett Ford there?

24 A: Not that I recall. No, ma'am.

25 Q: What about Mario Randall?

1 A: I can't recall at this time.

2 Q: Ashley Randall?

3 A: I think he was there. I think he was home. I don't know
4 because I didn't go inside their home. So, they could be in
5 the house.

6 Q: But there were a lot of people just hanging outside,
7 correct?

8 A: Yes, ma'am.

9 Q: What about any females? Do you remember any females being
10 there?

11 A: It was a couple females out there.

12 Q: Like who?

13 A: I want to say that Sherika Gore was out there. And this
14 girl name Che.

15 Q: Criche Nelson. C-R-I-C-H-E. Criche Nelson.

16 A: I don't know her name. I just know they call her Che.

17 Q: What other women were there?

18 A: That's the only two that I recall.

19 Q: Alright. And so, after that 10 to 15-minutes you went
20 back to your house. How long did you stay at your house?

21 A: Probably like until I went back to Dudley Road the next
22 time.

23 Q: When did you go back to Dudley Road the next time?

24 A: It was like right before 8.

25 Q: How about it was at 8:50; does that sound about right?

1 A: Yeah, right before 9. Yes, ma'am. That's like when the
2 incident happened.

3 Q: While you were at your home did anyone that you had seen
4 at the party come to your house?

5 A: No, ma'am.

6 Q: So, Damian Alston never came to your house?

7 A: No, ma'am. Not that day.

8 Q: Okay. His -- when you went home were you inside or
9 outside of your home?

10 A: Inside. I had my kids that day.

11 Q: Well, it was the middle of the summer so it wouldn't be
12 unusual to be outside, right?

13 A: No, ma'am.

14 Q: So, if I told you that GPS records show that Damian Alston
15 was, in fact, on your block from 7:24 to 7:32 that night; are
16 you saying you didn't see him at all?

17 A: I mean, no. Not that I recall, but I was probably in the
18 house at that time.

19 Q: So, you don't recall seeing him or you remember that you
20 did not see him.

21 A: I didn't see him.

22 Q: Why did you leave Warren Street the first time after you'd
23 been there for 10 to 15-minutes?

24 A: Because I was watching my kids that day and I left them at
25 the house with my mom.

1 Q: Where was your girlfriend?

2 A: She had just got off or yeah, she was either -- she was
3 either there or she was either on the way there from
4 somewhere.

5 Q: You don't remember?

6 A: No, ma'am.

7 Q: Alright. So, you went home, and you were home until just
8 before 9. What made you go back to the Warren Street to
9 Dudley Road?

10 A: Because it was my brother and Damian's birthday and I was
11 on a curfew. I had to be home at 10PM. And I told them I was
12 coming back over there before like the curfew -- before my
13 curfew time was up.

14 Q: So, you were there at 7, approximately, correct?

15 A: Yes, ma'am.

16 Q: Well before your curfew.

17 A: Yes, ma'am.

18 Q: Until 7:24, right, about? And you say your cousin and
19 your brother, where they there when you were there that first
20 time?

21 A: My brother was, but not my cousin.

22 Q: And when you say your cousin are you talking about
23 Rasheed?

24 A: I'm talking about Everett, Everett Ford.

25 Q: Okay. It wasn't Everett's birthday though. It was Damian

1 Alston's birthday and Rasheed's birthday, correct?

2 A: Yes, ma'am.

3 Q: Okay. How did you know -- if you were going back to see

4 Everett, how did you know that Everett was there?

5 A: I never said I was going back to see Everett.

6 Q: Why did you go back a second time?

7 A: My brother is Rasheed.

8 Q: Okay.

9 A: And Damian.

10 Q: How did you know Rasheed was there?

11 A: It was his and Damian's birthday gathering.

12 Q: Okay. I just must not be asking this very clearly. So,

13 you show up at the Warren Street location, a party. And

14 you're there for approximately 15 minutes.

15 A: Yes, ma'am.

16 Q: Damian Alston is there?

17 A: He pulled up in a car at that time with someone.

18 Q: And what about Rasheed?

19 A: Rasheed was over there. That's his girlfriend's house.

20 Q: Okay. So, while you're there for that initial 10 to 15

21 minutes ---

22 A: Yes, ma'am.

23 Q: --- you see Alston and you see Rasheed?

24 A: I don't know if I saw Rasheed at that time, but I saw

25 Damian. Yes, ma'am.

1 Q: So, when you went back the second time who were you going
2 back to see?

3 A: My brother and Damian.

4 Q: Your brother being?

5 A: Rasheed.

6 Q: And you had already seen him when you were there that
7 first 15 minutes? He was there.

8 A: I just said I don't recall, but that's where he usually is
9 because that's his girlfriend's house.

10 Q: How did you -- if you're saying that you didn't know
11 whether or not he was there that first 15 minutes you were
12 there. How did you know he would be there when you went back?

13 A: Because that's where he always is. That's his
14 girlfriend's house.

15 Q: Right. But if he was there the first 10 to ---

16 **MR. MCCOY:** Your Honor.

17 A: He could have been in the house. I said I didn't see him.

18 **THE COURT:** Alright. Hold for a second.

19 **MR. MCCOY:** Your Honor, I'm going to object. This is
20 asked and answered at least five times.

21 **THE COURT:** Alright. Overruled. Go ahead.

22 **BY MS. WALTER:**

23 Q: How did you know he would be there when you went back?

24 A: Because that's where he usually is.

25 Q: Did you -- when you were there that initial 10 to 15

1 minutes, did you knock on the door and say, hey is my brother
2 here?

3 A: No, ma'am.

4 Q: Did you ask anyone, hey is Rasheed here? I'd like to see
5 him.

6 A: No, ma'am. Everybody was outside, but that's my brother.
7 I saw him at the house that day so ---

8 Q: You saw him at what house?

9 A: My grandfather house.

10 Q: So, you had seen Rasheed earlier in the day?

11 A: Yes, ma'am. We live together. We lived at that house
12 together at that time.

13 Q: But you went back to the Warren Street location
14 specifically to see your brother?

15 A: Him and Damian. Yes, ma'am.

16 Q: Do you know how long you were at Warren Street before you
17 killed Jamal Burgess?

18 A: Maybe 5, 10 minutes before the incident took place.

19 Q: About 5 minutes, right?

20 A: Yes, ma'am.

21 Q: Now, you said that you picked up a 9-millimeter.

22 A: Yes, ma'am.

23 Q: Tell me a little bit more about how you came to pick that
24 up.

25 A: Well, Damian was trying to break up the altercation. And

1 him and Jamal start tussling because he saw Jamal trying to
2 pull his gun out, so they start tussling over the gun or
3 whatever and Damian's gun fell.

4 Q: They were tussling over what gun?

5 A: Of Jamal's.

6 Q: So, they were tussling over Jamal's gun but then this
7 other gun magically falls to the floor?

8 A: It falls. Yes, ma'am.

9 **MR. MCCOY:** Objection, Your Honor. Magically. I mean,
10 can we keep this professional?

11 **THE COURT:** Overruled. Go ahead.

12 **BY MS. WALTER:**

13 Q: And that was a 9-millimeter. How did you recognize it to
14 be a 9-millimeter?

15 A: Well, at the time I didn't recognize it but when I ran off
16 with the gun that's when I saw what kind of gun it was.

17 Q: Okay. So, you carried the gun away. When you ran from
18 the scene you carried the gun with you?

19 A: Somebody was shooting at me. I didn't have time to put
20 the gun up.

21 Q: You could have thrown it to the ground, right?

22 A: I mean, when you in fear for your life you're not thinking
23 about putting a gun up. You're thinking about getting out of
24 there.

25 Q: Okay. Let me try and ask the question again. Was there

1 anything preventing you from throwing the gun to the ground as
2 you ran from the scene?

3 A: Yes, ma'am.

4 Q: What prevented you from throwing the gun to the ground?

5 A: I was being shot at.

6 Q: Was there anything hold the gun in your hand to prevent
7 you from getting rid of it?

8 A: Yes, ma'am.

9 Q: What was holding the gun in your hand?

10 A: Fear.

11 Q: Okay. Now, you said as you're running with the gun you
12 recognize it to be a 9-millimeter.

13 A: No. I said after the fact I recognized it to be a 9-
14 millimeter.

15 Q: At what point after the fact?

16 A: After I got away from danger.

17 Q: Alright, so once you got away from danger then you were
18 free to put the gun down, right?

19 A: Well, the gun had jammed so that's what really made me
20 look at the gun.

21 Q: How did you know just by looking at the gun that it was a
22 9-millimeter?

23 A: I mean, I've saw guns before. My uncles, my grandfather
24 they're hunters.

25 Q: They hunt with 9-millimeters?

1 A: I don't know what kind of guns they hunt with, but they're
2 hunters. Yeah.

3 Q: Okay. So, you didn't recognize it as a 9-millimeter
4 because it something that they use for hunting?

5 A: No, ma'am.

6 Q: So, my question is how do you know it was a 9-millimeter?
7 Is it because you're familiar with guns?

8 A: Well, people have guns. Yes, ma'am.

9 Q: Are you familiar with guns?

10 A: I mean, I know what types of guns there are in the world.
11 Yes, ma'am.

12 Q: Correct. So, you are familiar enough with the gun to know
13 that this was a 9-millimeter.

14 A: Yes, ma'am.

15 Q: You were familiar enough with guns to know or tell us that
16 this gun jammed.

17 A: Yes, ma'am.

18 Q: Now, by your own testimony you had just fired in self-
19 defense.

20 A: Yes, ma'am.

21 Q: What did you do with the gun?

22 **MR. MCCOY:** Objection, Your Honor. My client ---

23 **THE COURT:** Okay. I sustain that. Go ahead.

24 **BY MS. WALTER:**

25 Q: Where did you run when you left the scene?

1 A: I ran between the houses and went down behind Carver
2 Apartments and then I ran over by the duck pond and ran to my
3 aunt's house.

4 Q: What did you do at the duck pond?

5 A: Threw the gun.

6 Q: Where?

7 A: In the pond.

8 Q: Why?

9 A: Because, I mean, I didn't -- I would have probably threw
10 it before that if I wasn't getting shot at.

11 Q: And this was a gun that you're testifying belonged to your
12 friend Damian Alston?

13 A: Yes, ma'am.

14 Q: And after you threw the gun in the duck pond; where did
15 you go?

16 A: I went to my aunt's house.

17 Q: Why did you choose to go to your aunt's house?

18 A: Because, well, in order for me to get back home I had to
19 go back close by Dudley house because her house sits like
20 right on the other -- it's just a fire station sitting between
21 her house and the sidewalk. So, I would have had to go back
22 that way to get home.

23 Q: Okay. Well, ---

24 **MS. WALTER:** May I approach, Your Honor?

25 **THE COURT:** Alright.

1 **MS. WALTER:** I'm showing him State's 1, Jonny.

2 **BY MS. WALTER:**

3 Q: This is State's Exhibit 1.

4 A: Yes, ma'am.

5 Q: Alright. So, [REDACTED] Warren Street, that's Ms. Dudley's
6 house, right?

7 A: Yes, ma'am.

8 Q: And [REDACTED] White Street was where you were living, correct?

9 A: Yes, ma'am.

10 Q: And so, you're testifying -- now, the shooting occurred on
11 Warren Street in front of [REDACTED] Warren Street, correct?

12 A: Yes, ma'am.

13 Q: Would it not be the shortest distance to just run down
14 Warren Street, across Joe White and onto White Street?

15 A: Yes, ma'am, it would.

16 Q: And instead you're saying that you ran between the houses
17 and then are you saying you ran around?

18 A: It was two houses.

19 Q: Okay. So, Ms. Dudley's house and the one ---

20 A: And her neighbor's house.

21 Q: And her neighbor's house that would be further away from
22 Joe White Avenue?

23 A: Yes, ma'am.

24 Q: And behind the firehouse?

25 A: Well, not -- I had to go kind of down the side then behind

1 the firehouse.

2 Q: Okay. So, certainly a longer route than just running down
3 Warren Street to your home.

4 A: Yes, ma'am. But it was something preventing me from going
5 that way.

6 Q: How long did it take you to get back home?

7 A: Well, maybe about 10 - 15 minutes, maybe 20. I don't know
8 exactly. I was at my aunt's house and, you know, everything
9 had just happened so my nerves was rattled, and I was just
10 trying to calm down.

11 **MS. WALTER:** I'm going to approach again, Your Honor.

12 **THE COURT:** Alright.

13 **BY MS. WALTER:**

14 Q: Does State's 1 show your aunt's house?

15 A: No, ma'am.

16 Q: So, where does your aunt live in relation to Ms. Dudley or
17 your own, whichever is easiest?

18 A: She lives right on the other side of the duck pond. She
19 lives at Futrell Park.

20 Q: Okay. So, you ran between Ms. Dudley's house and her
21 neighbor's house farther away from Joe White, around the
22 firehouse, and to Futrell Park?

23 A: Yes, ma'am.

24 Q: And stopped at your aunt's house?

25 A: Yes, ma'am.

1 Q: Why did you stop at your aunt's house versus going
2 straight home?

3 A: Well, like I said, the incident had just taken place and
4 if I would have ran back towards 10th I had to come back by Ms.
5 Dudley's house. So, I didn't -- I didn't know what happened
6 at the time so I didn't want to go back that way. My aunt
7 house was right there beside the duck pond.

8 Q: You're saying 10th. That's also Mr. Joe White Avenue,
9 right?

10 A: Yes, ma'am.

11 Q: So, would you agree with me that if you run around Futrell
12 Park, you can cross Joe White Avenue well away from Warren
13 Street, right?

14 A: Yes, ma'am.

15 Q: And once you cross Mr. Joe White Avenue, you could get to
16 your home, right?

17 A: Yes, ma'am.

18 Q: And your mother -- was your mother at home at that time?

19 A: When I got home?

20 Q: Yes.

21 A: Yes, ma'am.

22 Q: Your girlfriend was there?

23 A: Yes, ma'am.

24 Q: Your children were there?

25 A: Yes, ma'am.

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1 Q: And yet you went to your aunt's house and waited there for
2 15 minutes or so?

3 A: Yes, ma'am. Somebody was shooting at me so, I mean, I was
4 ---

5 Q: That whole 15 minutes?

6 A: No. Like during the incident, I'm in the heat of the
7 moment so I'm not thinking of where to run. I'm just thinking
8 of trying to get away.

9 Q: Right. But I think -- can you agree with me that once
10 Jamal Burgess is dead, he's not firing at you anymore, right?

11 A: He wasn't dead when I ran.

12 Q: But once he did die, he couldn't be shooting at you
13 anymore?

14 A: I ran away from the area, so I didn't know if he was dead
15 or not. When I was running, he was still standing shooting at
16 me.

17 Q: And during that 15 to 20 minutes that you were at your
18 aunt's house which is there near Futrell Park, which is just
19 barely a block from the crime scene, did you hear a fairly
20 large police response to this location? Sirens? Blue lights?

21 A: Yes, ma'am. Yes, ma'am. That's when I decided to walk
22 home.

23 Q: And, in fact, this location is not far from Myrtle Beach
24 Police headquarters, correct?

25 A: Yes, ma'am.

1 Q: So, when you heard all of this large police response, you
2 left your aunt's house and walked to your house?

3 A: Yes, ma'am.

4 Q: And didn't stop or talk to anyone in between?

5 A: No, ma'am.

6 Q: Alright. So, we've established already that you are
7 familiar with guns because you knew that the gun that you
8 picked up was a 9-millimeter. What kind of gun did -- are you
9 saying Jamal had?

10 A: I don't know. I can't say what kind of gun that he had at
11 the time of the incident because it was like I was trying to
12 get away.

13 Q: Well, correct me if I'm wrong. I thought you testified
14 that you saw him reaching for the gun that's why you feared
15 for your life.

16 A: Yes, ma'am.

17 Q: So, when you saw him reaching for the gun, what kind of
18 gun did you see him reaching for?

19 A: I can't say what kind of gun he had.

20 Q: And you said that even before he said -- let me see if I
21 can get the right words here. You testified that you saw the
22 gun on his waist.

23 A: Yes, ma'am.

24 Q: And this was even before he reached for his gun.

25 A: No. That was when he reached for it.

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1 Q: Okay. Well, if I recall correctly you said he was drunk.
2 You saw a gun on his waist.

3 A: Yes, ma'am.

4 Q: You couldn't remember which side it was on, and then he
5 reached for a gun.

6 A: Yes, ma'am.

7 Q: So, in that period of time -- because when he first called
8 you over, right, and he said let me holler at you. Did you
9 see the gun in his waistband at that point?

10 A: Well, I wasn't looking for a gun at that time.

11 Q: This was a man, who by your own admission, you're scared
12 of.

13 A: Yes, ma'am.

14 Q: Feared for your life.

15 A: Yes, ma'am.

16 Q: Known to be violent.

17 A: Yes, ma'am.

18 Q: Known to be armed.

19 A: Yes, ma'am.

20 Q: And you didn't look for a gun when he called you over?

21 A: No, ma'am.

22 Q: Because you weren't scared at that point.

23 A: I said I didn't think it was nothing serious. I didn't do
24 nothing to him.

25 Q: So, you weren't scared at that point?

1 A: You asked me this question like a thousand times, ma'am.

2 Q: Well, I'm just trying to get an answer.

3 A: Yes. I was.

4 Q: You were scared?

5 A: When he first called me, I didn't think I did anything to
6 him to make him angry with me because I didn't talk to him or
7 nothing that day. So, I'm not thinking this nothing serious
8 because I didn't do anything to him. I mean, I know he'll
9 hurt people but at this time I'm not thinking he got no
10 aggression towards me.

11 Q: So, when you approached you did not think he was being
12 aggressive towards you?

13 A: Not at first. No, ma'am.

14 **MS. WALTER:** Court's indulgence.

15 **THE COURT:** Alright.

16 **MS. WALTER:** I apologize, Your Honor.

17 **THE COURT:** Alright.

18 **MS. WALTER:** I'm sorry. I should be very brief, Your
19 Honor.

20 **THE COURT:** Okay.

21 **BY MS. WALTER:**

22 Q: I'm showing you again State's Exhibit 1. You said that
23 you threw the gun into a pond. Is that the pond that's on
24 this picture?

25 A: Yes, ma'am.

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1 Q: So, that's the pond in Futrell Park?

2 A: Yes, ma'am.

3 Q: And then let me just go back very briefly to the first
4 time you went over to the Warren Street party. Was Jamal
5 Burgess there that first time when you were there for 10 to 15
6 minutes?

7 A: I didn't see him at that time.

8 MS. WALTER: Nothing further, Your Honor.

9 THE COURT: Alright. Redirect.

10 MR. MCCOY: Thank you, Your Honor. Just briefly.

11 **REDIRECT EXAMINATION OF MR. FORD BY MR. MCCOY:**

12 Q: Calvin, let me ask you a couple of questions just to kind
13 of slow some things down here for you. The entire time that I
14 questioned you and you testified, you said that when you
15 arrived Jamal approached you. Is that still your testimony?

16 A: Yes, sir.

17 Q: So, you didn't approach Jamal; is that right?

18 A: No, sir.

19 Q: So, this whole time that the prosecutor can lead on the
20 other side, when she says that you approached him is that
21 accurate?

22 A: No, sir.

23 Q: Did he approach you?

24 A: Yes, sir.

25 Q: And what about the night he knocked your teeth out? Who

1 approached who?

2 A: He approached me.

3 Q: And what about the night of the incident? Did he put his
4 arm around you?

5 A: Yes, sir.

6 Q: And what about the night he knocked your teeth out?

7 A: He put his arm around me.

8 Q: Okay. And now, I mean, we spent a minute on you being
9 scared but you didn't run away. So, I think I'm gone ask you
10 a couple questions about being scared in general. Are you
11 scared of any insects or anything like that? Bugs?
12 Pitbull's?

13 **MS. WALTER:** Objection, Your Honor.

14 A: Not really you know but ---

15 **THE COURT:** Alright. Hold, we've got an objection.
16 Alright. Go ahead.

17 **MS. WALTER:** Relevance of whether he's scared of insects
18 or Pitbull's?

19 **THE COURT:** What's the relevance?

20 **MR. MCCOY:** Your Honor, she's stating that if he's scared
21 of someone or something, he could never go around it. He'll
22 run away every time.

23 **THE COURT:** Sustained. That's not relevant. Go ahead,
24 move on.

25 **BY MR. MCCOY:**

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1 Q: Can you still be in the same area as something or someone
2 that you're scared of and not run away.

3 **MS. WALTER:** Objection, Your Honor. We're dealing
4 specifically with his fear of the victim in this case.

5 **THE COURT:** Sustained.

6 **BY MR. MCCOY:**

7 Q: As far as Jamal is concerned, you are afraid of Jamal ever
8 since he knocked your teeth out; is that correct?

9 A: Yes, sir.

10 Q: So, when you saw Jamal at the party when he was waiving at
11 you or whatever it was he was doing when he was approaching
12 you. Were you scared of Jamal?

13 A: Well, I mean, I didn't think I did anything to make him
14 angry with me so.

15 Q: Did your -- that's not the question. Were you -- did your
16 fear from the time he knocked your teeth out ---

17 A: I mean, I mean, I was scared because I didn't know why he
18 wanted to talk to me because he didn't talk to me. I mean, if
19 that's what you're asking. I didn't know like why he would
20 want to talk to me.

21 Q: I guess what my question is, is did at any point from the
22 time that you got your teeth knocked out all the way up until
23 the time that he approached you, did you ever stop thinking
24 this guy is not dangerous?

25 A: No. I never stopped thinking that.

1 **MR. MCCOY:** Nothing further, Your Honor.

2 **THE COURT:** Alright. You may step down.

3 Alright, it's 12:20 let's go ahead and break for lunch. I'll
4 be at the bench at 2:00.

5 Anything from the State before we recess?

6 **MS. WALTER:** No, Your Honor.

7 **THE COURT:** Anything from the defense?

8 **MR. MCCOY:** Nothing, Your Honor.

9 **MS. WALTER:** May I just ask, how many more witnesses do
10 you have?

11 **MR. MCCOY:** We have one, possibly two. The one is
12 supposed to be on the transport list. I just want to make
13 sure he'll be here for the 2:00.

14 **THE COURT:** Alright. Make sure they know who it is so we
15 can get him transported here.

16 **MR. MCCOY:** Yes, sir, Your Honor.

17 **THE COURT:** Alright. Anything from the defense before we
18 recess?

19 **MR. MCCOY:** Nothing, Your Honor.

20 **THE COURT:** Alright. We'll be at recess until 2:00.

21 **(RECESS)**

22 **THE COURT:** Alright, Mr. McCoy, you can call your next
23 witness.

24 **MR. MCCOY:** At this time the defense calls Mr. Aliga
25 Campbell, Your Honor.

1 **THE COURT:** Alright.

2 **MR. MCCOY:** He's in lockup.

3 **THE COURT:** Alright.

4 **MR. FOX:** Your Honor, if I may while we're we waiting for
5 Mr. Campbell to come up.

6 **THE COURT:** Alright.

7 **MR. FOX:** I just want to give you a heads up. I
8 represent Mr. Campbell. He is co-defendant in this case.

9 **THE COURT:** Okay.

10 **MR. FOX:** I'll let Mr. McCoy why he's being called, but I
11 would alert Your Honor that I certainly have advised and would
12 advise Mr. Campbell again to invoke his rights under the Fifth
13 Amendment not to give any testimony at all. He is still
14 indicted in a double homicide that is still pending.

15 **MS. WALTER:** That's correct, Your Honor.

16 **THE COURT:** Alright. Well, I don't know that I can -- I
17 mean, this isn't his trial. I can't compel him to testify.
18 If his attorney objects to you calling him as a witness.

19 **MR. MCCOY:** I don't think he objects to me calling, Your
20 Honor. It's a procedural matter.

21 **THE COURT:** Well, I mean, do you object to him
22 testifying? I thought you said you objected to your client
23 testifying in any way.

24 **MR. FOX:** I do, Your Honor.

25 **MR. MCCOY:** So, the issue is, Your Honor, his client gave

1 a statement. His client wasn't arrested until what was it a
2 year later?

3 **MR. FOX:** A year later.

4 **MR. MCCOY:** A year later, so my client was arrested.
5 They thought that my client, you know, did all this stuff and
6 they found out some other information that led them to believe
7 that somebody else did it. So, they arrested his client a
8 year later. And during that time period Mr. Campbell gave my
9 private investigator a sworn statement and a written affidavit
10 which he signed two weeks after the incident when my
11 investigator was going through everything and Mr. Campbell
12 wrote -- or signed a two page statement that he verbally gave
13 and also went through with the private investigator. Now, it
14 is our intention to call Mr. Campbell. If you wish to plead
15 the Fifth Amendment, that's fine for record sake. And then we
16 wish to call the private investigator under the hearsay rules.

17 **THE COURT:** Okay. Well, the fact of the matter is, is
18 Mr. Campbell's attorney is invoking his right ---

19 **MR. MCCOY:** In understand.

20 **THE COURT:** --- in this hearing. So, I can't allow you
21 to call him.

22 **MR. MCCOY:** So, then we would bring in the private
23 investigator to testify about the contents of the affidavit
24 that Mr. Campbell gave under two specific rules under the
25 hearsay, as well as the caselaw.

1 **THE COURT:** Well, I don't know about that. The question
2 is whether or not you can call Mr. Campbell as a witness over
3 his attorney's objection.

4 **MR. MCCOY:** Yes, sir, Your Honor. I was just trying to
5 make it a clean transition for the record.

6 **THE COURT:** So, you want to call him to the stand, have
7 him assert his Fifth Amendment right and then have him step
8 down; and you're saying that creates an exception to the
9 hearsay rule?

10 **MR. MCCOY:** Right.

11 **MS. WALTER:** And the State objects to that and does not
12 believe that it creates an exception to the hearsay rule.

13 **THE COURT:** Well, I'll be honest. I don't know whether
14 it does or it doesn't. That's a different decision at a
15 different time. My question is do I let Mr. Campbell take the
16 stand to assert his Fifth Amendment right when his attorney
17 says, no I'm invoking it now, he doesn't take the stand. I
18 mean, this isn't a criminal trial. This is a motion hearing.

19 **MR. MCCOY:** Right, Your Honor.

20 **MS. WALTER:** I actually don't think it's proper to call
21 someone just to invoke their Fifth Amendment.

22 **MR. MCCOY:** Well, Your Honor, I'm not calling him just to
23 invoke -- my client was up there and I said Calvin Ford you
24 should plead the Fifth Amendment on everything you've got to
25 say and Your Honor advised me that we were just going over his

1 name and his record and things like that. I just want to ask
2 him did you do a statement, I plead the Fifth Amendment, that
3 would be the end of it.

4 **THE COURT:** Yeah. But Mr. Fox is saying you're not going
5 to call my client because he's got charges pending against
6 him. I'm not going to allow him to take the stand.

7 **MR. MCCOY:** Alright.

8 **THE COURT:** Because I've got his rights to protect as
9 well.

10 **MR. MCCOY:** I understand, Your Honor.

11 **THE COURT:** Alright. Alright, so we can move on to the
12 next issue as to whether or not your investigator can testify
13 the way you want. What is the hearsay exception?

14 **MR. MCCOY:** Well, there is two hearsay exceptions. One -
15 --

16 **THE COURT:** Oh, I see what you're saying where it's an
17 unavailable witness.

18 **MR. MCCOY:** Right.

19 **THE COURT:** Because they have invoked their right.

20 **MR. MCCOY:** That's right.

21 **THE COURT:** Well, I think we can recognize that he is
22 invoking his right.

23 **MR. MCCOY:** Yes, sir, Your Honor. So, we would ask now
24 that my private investigator be allowed to testify as to the
25 contents of the affidavit to which he was a witness to and to

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1 which Mr. ---

2 **THE COURT:** I see what -- I hear your argument now. Let
3 me ---

4 **MS. WALTER:** May I just ask what exceptions he's ---

5 **THE COURT:** That's what I -- I had this come up the other
6 week. It's -- and I need to reread the rule. What rule is
7 that?

8 **MR. MCCOY:** It's 803(6), Your Honor; as well as 804(3).
9 But 8036 is what you're speaking of.

10 **THE COURT:** Alright, hold for a minute. Let me pull this
11 up.

12 **MR. MCCOY:** 8043 would be the exception. And the case
13 would be State v. Goode.

14 **THE COURT:** Alright, hold for a second.
15 Alright. Hearsay exceptions declaring unavailable.
16 Unavailability as a witness include any situation which the
17 declarant -- let's see -- persists and refusing to testify
18 concerning the subject matter of the declarant's statement
19 despite an order to do so. I do remember that unavailable is
20 someone who asserts their right. Alright, so which exception
21 is it?

22 **MR. MCCOY:** 804 and then in this case he is unavailable
23 and in this case we'd be using a statement against interest.

24 **THE COURT:** But it's not a statement against his
25 interest.

1 **MR. MCCOY:** We would be coming in through the fact that
2 he is -- the statements that our investigator would be
3 testifying to would be statements given to him through an
4 unavailable declarant. And those statements were sworn
5 statements given to our investigator during the normal course
6 and procedures of his duties and investigation which he did --
7 -

8 **THE COURT:** But it's not statements against the
9 declarant's interest.

10 **MR. MCCOY:** Well, first of all there's two ways to look
11 at this. First of all is the business records and regular
12 conducted activity of a private investigators business.

13 **THE COURT:** No. I'm denying your motion on that.

14 **MR. MCCOY:** Well, I agree with that in part. But
15 secondly, State v. Goode addressed the exact instance in which
16 I'm talking about with the statement being a co-defendant.
17 This is a co-defendant ---

18 **THE COURT:** Alright. Let me see.

19 **MR. MCCOY:** Technically he is a defendant ---

20 **MS. WALTER:** Do you have a copy for the State?

21 **MR. MCCOY:** Yes, I do.

22 So, technically he is defendant in this case.

23 **THE COURT:** Alright, let me take a look at this case.

24 **MR. MCCOY:** I point Your Honor to the second paragraph on
25 page two.

1 **THE COURT:** Well, let me see. Alright, what they ruled
2 here was this was a prior inconsistent statement.

3 **MR. MCCOY:** Correct, and ---

4 **THE COURT:** But this was in his trial. This was in the
5 declarant's trial. The declarant ---

6 **MR. MCCOY:** What I perceive the Court to have said is
7 that out of court admission of a criminal defendant to be
8 related by a witness, which would be our investigator, so we
9 have a criminal defendant who made a statement out of court --
10 okay, so here we have a criminal defendant.

11 **THE COURT:** Yeah. But that was because the criminal
12 defendant took the stand and testified. The declarant
13 actually testified, and they were trying, after his testimony
14 wanted to get in the uncle's testimony that he had made a
15 prior inconsistent statement, different from the way he was
16 testifying in trial. Here this is a stand your ground hearing
17 that does not involve your client's co-defendant. He has bot
18 taken the stand. He is not testifying. He's asserting his
19 Fifth Amendment right which makes him unavailable. But the
20 rule you site still says it has to be against his interest,
21 not your client's interest, but his interest.

22 **MS. WALTER:** Your Honor, I would also note that it's not
23 a prior inconsistent statement because we don't have a
24 statement with which to compare it. But with this logic to
25 the next extreme, if the State were to try two defendants

1 together and each defendant gave a statement saying -- I'll
2 use myself and Mr. Holford -- yep, Mr. Holford we went into
3 that bank, we robbed it, we shop up people and he gave a
4 similar statement implicating me as well as himself. At trial
5 we both decide we're not going to testify, I mean, and it
6 would be as if one of the defendant's could then use their co-
7 defendant's statement and that's not how it works.

8 **THE COURT:** Yeah. Alright. I sustain the State's
9 objection. You can't get that in.

10 **MR. MCCOY:** Thank you, Your Honor. I had to ---

11 **THE COURT:** I understand. I understand. So, I sustain,
12 or I'll let Mr. Fox assert his client's Fifth Amendment right.
13 And what's your client's name?

14 **MR. FOX:** It's Aliga, that's A-L-I-G-A, Campbell.

15 **THE COURT:** C-A-M-P ---

16 **MR. FOX:** Yes, sir.

17 **THE COURT:** B-E-L-L.

18 **MR. FOX:** That's correct.

19 **THE COURT:** Alright, so Mr. Campbell won't testify
20 because Mr. Fox asserts his Fifth Amendment.

21 **MR. MCCOY:** Yes, sir, Your Honor.

22 **THE COURT:** Alright, now do you have another witness?

23 **MR. MCCOY:** No, Your Honor.

24 **THE COURT:** Okay. So, I sustain -- in other words, who
25 was the other witness you wanted to call?

1 **MR. MCCOY:** My private investigator would be Jay Stevens.

2 **THE COURT:** Jay Stevens?

3 **MR. MCCOY:** Yes, sir, Your Honor.

4 **THE COURT:** And you were calling him to ---

5 **MR. MCCOY:** To essentially verify the existence of a
6 sworn statement by the co-defendant in this case and also
7 testify to its -- what's in the statement, its contents.

8 **THE COURT:** Alright. I sustain the State's objection to
9 suppress that as hearsay. That's not an exception.

10 **MR. MCCOY:** Thank you, Your Honor.

11 **THE COURT:** So, having said that, you rest?

12 **MR. MCCOY:** We rest, Your Honor.

13 **THE COURT:** Alright. Any motions?

14 **MR. HOLFORD:** Yes, Your Honor. The State would make two
15 separate motions in this case for directed verdict as to the
16 count. First of all, as it relates to Damian Alston, the
17 State would say as to that indictment the defendant has not
18 shown that he acted in self-defense. Specifically, in this
19 this hearing he's claimed that he did not shoot Damian Alston
20 and his witnesses have claimed that he didn't shoot Damian
21 Alston. And so as to the charge of murder against Damian
22 Alston he is not actually asserting a self-defense claim based
23 on him shooting and killing Damian Alston.

24 **THE COURT:** And which indictment is that?

25 **MR. HOLFORD:** Your Honor, that would be indictment 2017-

1 GS-26-02914.

2 **THE COURT:** Alright.

3 **MR. HOLFORD:** And so as to that indictment the State
4 would argue that that indictment should proceed and that's an
5 issue for a jury to determine whether, in fact, he shot him
6 given the testimony at trial.

7 **THE COURT:** Alright.

8 Alright, Mr. McCoy.

9 **MR. MCCOY:** Your Honor, clearly, it's transferred intent.
10 The evidence shows immensely from both of the testimony of the
11 witnesses who were there including my client that Damian
12 Alston, yes he was a friend of my client, yes he was there,
13 yes Damian Alston tried to break up the fight. But no, we
14 don't know who shot Damian Alston. But we do know that the
15 State is accusing my client of shooting Damian Alston through
16 a transferred intent.

17 **THE COURT:** Yeah, but the problem is is what you're
18 claiming as self-defense for the -- as I understand your
19 testimony is, number one your client did not shoot Damian
20 Alston.

21 **MR. MCCOY:** Right.

22 **THE COURT:** Which means stand your ground doesn't apply.
23 That's a jury question to decide whether or not he actually
24 shot him, number one. Number two, if you're claiming self-
25 defense Damian Alston was not the aggressor and according to

1 your position here, your client killed the person he was
2 trying to defend. The transferred intent. You said when Mr.
3 Burgess started shooting he turned around, was shooting I
4 guess to protect everybody including Mr. Alston against the
5 aggression from Mr. Burgess.

6 **MR. MCCOY:** Who did? My client?

7 **THE COURT:** Yes.

8 **MR. MCCOY:** Okay, because there was several people
9 firing.

10 **THE COURT:** Right.

11 **MR. MCCOY:** I was getting confused.

12 **THE COURT:** And you're saying that your client firing the
13 shots was to defend others against Mr. Burgess.

14 **MR. MCCOY:** No. My client was defending himself against
15 Mr. Burgess and there's no arguable presumption in this case,
16 or no arguable facts in this case that if my client -- if my
17 client is ruled to have qualified for stand your ground
18 against Jamal Burgess in this case it transfers to Damian
19 Alston. There's no question of that. If there's ---

20 **THE COURT:** But, I mean, he's trying to defend Damian
21 Alston.

22 **MR. MCCOY:** I'm confused. He's trying to save his own
23 life against Jamal. He's not trying to defend Damian. He's
24 trying to save himself. Damian just tried to break up ---

25 **THE COURT:** I mean, the transferred intent, I don't see

1 where stand your ground ---

2 **MR. MCCOY:** What we ---

3 **THE COURT:** I mean, you might have a defense of no
4 criminal intent or involuntary manslaughter or something of
5 that nature. But what you're saying is either your client did
6 not shoot Damian Alston ---

7 **MR. MCCOY:** Correct.

8 **THE COURT:** Or if your client shot Damian Alston, it was
9 an accident, as he was defending himself against Burgess.

10 **MR. MCCOY:** Yes, sir. Your Honor.

11 **THE COURT:** Okay. That's accident. That's a separate
12 defense than stand your ground.

13 **MR. MCCOY:** Yes, sir.

14 **THE COURT:** Stand your ground is self-protection. Stand
15 your ground is you're protecting yourself or you're protecting
16 others because of an aggression. So, I don't know how he can
17 claim stand your ground against Damian Alston because the
18 evidence is either one or two -- if we take your case 100
19 percent then either your client did not kill Damian Alston and
20 so the State's going to have to prove that at trial; or if
21 your client shot Damian Alston it was an accident because he
22 was trying to defend himself against Burgess. Well, there
23 again, that's a factual determination by a jury. That's not
24 stand your ground.

25 **MR. MCCOY:** Right, Your Honor, and I believe that we

1 whole heartedly came here for the stand your ground for Jamal
2 and the State ---

3 **THE COURT:** Alright, well I'm going to grant your motion
4 for directed verdict as to indictment 2017-GS-26-02914
5 regarding the murder of Damian Alston. I'm granting the
6 State's motion for directed verdict as to that. Alright.

7 **MR. HOLFORD:** Thank you, Your Honor. And as to
8 indictment 2017-GS-26-02913 for murder, the State would also
9 assert to the Court that in relying on 16-11-440(c), it was in
10 a place which given the testimony, if believe by the
11 defendant, he had the right to be at. So, we would fall under
12 16-11-440(c), not under A or B and so he's not entitled to an
13 assumption of imminent fear. That it wasn't his own house.
14 So, we fall under this 16-11-440(c) and under to prevail under
15 that the defendant would still have to show that he prevails
16 on the three of four prongs of self-defense. Being that he
17 was without fault in bringing on the difficulty, that he was
18 in fear of imminent danger of serious bodily injury or death;
19 and three that that was a reasonable fear by a reasonably
20 prudent person under those circumstances. The State would
21 argue that he has failed to show that Mr. Ford was without
22 fault in bringing on the difficulty. Based on the testimony
23 he was at this party earlier in the night. He left. Mr.
24 Burgess was not at that party earlier in the night and within
25 5 minutes of apparently Mr. Burgess making fun of Aliga

1 Campbell, Aliga Campbell attempting to call Mr. Ford, Mr. Ford
2 coming up to the party, within 5 minutes there's an argument
3 between Mr. Ford and Mr. Burgess which results in the death of
4 both Burgess and Alston. Your Honor, the State would assert
5 that certainly had Calvin Ford not come back to that party,
6 there would not have been gun shots which resulted ---

7 **THE COURT:** Yeah, but I mean, he's got the legal right to
8 be there. Yeah, he might not, should not have come there but
9 what says he does not have the legal right to be there?

10 **MR. HOLFORD:** I'm not arguing that he didn't have the
11 legal right to be there. I understand that. I'm arguing that
12 Calvin Ford brought about the difficulty which resulted in the
13 death of Jamal Burgess.

14 **THE COURT:** How?

15 **MR. HOLFORD:** Well, he was at the party. And then he
16 leaves the party. Apparently, Jamal makes some comment to
17 Aliga Campbell and within 5 minutes of Calvin coming back over
18 to the party, there's a shootout.

19 **THE COURT:** Okay. Alright, I don't think that's --- I
20 think if he's where he can legally be then that get's him past
21 the directed verdict.

22 **MR. HOLFORD:** I would just like to state for the record,
23 I understand that there's a court case out there that's an
24 unlawful carrying of a pistol in and of itself is not an
25 unlawful act that would preclude someone from relying on stand

1 your ground. However, the State would like the record to
2 reflect that Calvin Ford is prohibited from carrying a handgun
3 so he's not just unlawful carrying but he's a prohibited
4 person engaged in a fight by his own words. He says, hey
5 let's just fight. That was his testimony that he told Jamal
6 let's fight and instead he picked up a gun, if his testimony
7 is believed, and instead shot Jamal.

8 **THE COURT:** Alright. I'm going to deny -- this is still
9 on your motion for directed verdict as to Jamal Burgess?

10 **MR. HOLFORD:** Yes, Your Honor.

11 **THE COURT:** Okay. Well, let me hear from you on that,
12 unlawful carrying.

13 **MR. MCCOY:** Your Honor, if that was the case, I mean, I
14 think we all know what the (inaudible) case says. If the
15 Court would like I could read it. It applies to this case
16 wholeheartedly. It also quotes the McCaskill and Goodson
17 case, a person can be acting lawfully even if he is in
18 unlawful possession of a weapon if he was entitled to arm
19 himself in self-defense at the time of the shooting. Clearly
20 Calvin Ford was entitled to arm himself once he saw Jamal
21 reaching for a gun. Once he saw, once he heard Jamal had
22 already attacked him, knocked his teeth out a couple of years
23 prior, saying I'm going to shoot you. Mr. Ford heard it and
24 another witness heard it and Mr. Ford is simply saying don't
25 shoot me, I don't have a gun, let's just fight.

1 **THE COURT:** I understand. I'm going to still deny your
2 motion. Anything else?

3 **MR. HOLFORD:** No, Your Honor.

4 **THE COURT:** Alright, now I had previously said, and let
5 me hear from you on this, the stand your ground that is not a
6 defense to possession of a firearm by a felon and having
7 granted the motion for directed verdict that would kind of
8 kill it as a defense, not that I even know that it is a
9 defense to a possession of a weapon during the commission of a
10 violent crime. I guess, my only question going forward now is
11 regarding the alleged murder of Jamal Burgess.

12 **MR. MCCOY:** Your Honor, that murder, whatever happened
13 between Calvin and Jamal is the whole case. Yes, sir. That's
14 why we're here.

15 **THE COURT:** Okay, alright. So, I grant the directed
16 verdict as to the alleged murder of Damian Alston. Grant the
17 State's motion for directed verdict. The stand your ground is
18 not a defense to the possession of a firearm of a felon which
19 is 2017-GS-26-2912. Likewise, it's not a defense to
20 possession of a weapon during the commission of a violent
21 crime, 2017-GS-26-2915. So, now we'll just proceed with the
22 State's case as to indictment 2017-GS-26-2913.

23 **MR. MCCOY:** Yes, sir. Thank you.

24 **THE COURT:** Alright, the State can call your first
25 witness.

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1 **MS. WALTER:** The state calls Elizabeth Holoman.

2 **THE COURT:** Alright.

3 **MS. WALTER:** Come right up here, Ms. Holoman. Watch
4 yourself on this wire.

5 **MS. HOLOMAN, HAVING BEEN FIRST**
6 **DULY SWORN, TESTIFIED AS FOLLOWS:**

7 **CLERK:** If you could please state your name and spell
8 your name for the Court?

9 **MS. HOLOMAN:** Elizabeth Holoman.

10 **MS. WALTER:** And, ma'am, could you just spell your last
11 name for the court reporter, please?

12 **MS. HOLOMAN:** H-O-L-O-M-A-N.

13 **MS. WALTER:** May I, Your Honor?

14 **THE COURT:** Alright.

15 **DIRECT EXAMINATION OF MS. HOLOMAN BY MS. WALTER:**

16 Q: Good afternoon, Ms. Holoman. Are you also known as Ms.
17 Dudley?

18 A: Yes, I do.

19 Q: Okay. And where do you live?

20 A: [REDACTED] Warren Street, Myrtle Beach, South Carolina.

21 Q: Do they also call Warren Street, Dudley Row?

22 A: Yes, that's what they call it. I don't know why but they
23 do.

24 Q: Do you know the defendant in this case, Calvin Ford?

25 A: Yeah. I know him.

1 Q: How long have you known him?

2 A: Ever since he was a little child, I guess.

3 Q: Is he someone that frequents the neighborhood?

4 A: Huh?

5 Q: Does he come around Dudley Row a lot?

6 A: Sometimes he will.

7 Q: So, you know him from around the neighborhood.

8 A: Uh-huh. (Affirmative response).

9 Q: Alright. And you have to say yes or no because that young

10 lady is trying to take down everything you say.

11 A: Yes.

12 Q: Do you also know a man named Jamal Burgess?

13 A: Yes, I know him.

14 Q: And did you know him by the name J-Money?

15 A: That's the only thing I know him by is J-Money. That's

16 all I call him.

17 Q: How did you know J-Money?

18 A: Well, he be at my house a lot.

19 Q: How long have you known him?

20 A: All his life.

21 Q: I want you to think back to July 23rd of 2016. The night

22 that Jamal Burgess was killed. Do you remember that night?

23 A: Yes, I do.

24 Q: What were you doing that day?

25 A: Well, I went out of town to Spartanburg to my nephew

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1 funeral. And when I came back that night he was in the yard
2 talking on the phone.

3 Q: I'm just going to stop you there for one second. Who was
4 in the yard, J-Money?

5 A: J-Money.

6 Q: Okay.

7 A: And he saw me getting out of the car and he saw I had some
8 packages so he turned around and came back and took my package
9 so I could get out the car. And when I got out the car, I
10 said I can take it now. He said, you sure. I told him I'm
11 sure. He said, okay. So, he went walking up the road
12 talking.

13 Q: So, you saw him talking on the phone this whole time?

14 A: Yes.

15 Q: Did you ever see him having any type of argument or
16 conversation with anyone else?

17 A: No, just on the phone.

18 Q: When you saw him did you ever see him with a gun?

19 A: No. I didn't see no gun.

20 Q: After he helped you out of the car, what did you do?
21 Where did you go?

22 A: I went straight on in the house.

23 Q: Can you estimate how many people were outside?

24 A: I really can't, but a yard full.

25 Q: Was there a party going on?

1 A: Well, they was out there gambling and drinking, having fun
2 as usually.

3 Q: But, a lot of people outside?

4 A: Yeah.

5 Q: When you went inside, what happened next?

6 A: I heard a gunshot.

7 Q: How much time do you think passed between your going
8 inside and hearing the gunshot?

9 A: Well, I wasn't in there about 5 minutes and I heard the
10 gunshot and I said, what is that. And my sister said, that's
11 a gun you crazy, somebody shooting. So that's when I called
12 the police. I grabbed the phone and called 911.

13 Q: Now, before you went into the house when J-Money was
14 carrying or helping you out of the car, did you see Calvin
15 Ford there at all?

16 A: I didn't see him.

17 Q: Alright, so you called 911. Did you ever go outside after
18 calling 911?

19 A: No, because they asked me was they alive or what. I told
20 them I don't know, but I'm not going out there cause they
21 shooting. I'm gone stay in the house.

22 Q: Do you know how many shots you heard?

23 A: I think I heard about two. I'm not sure right now, you
24 know, it's been a while, but I think it was two.

25 Q: And that you know of after that, both J-Money and Damian

1 Alston were dead?

2 A: Huh?

3 Q: After that, as far as you know, J-Money and Damian Alston
4 were dead?

5 A: Yeah. Far as I know cause I didn't go out until the
6 police came.

7 Q: When you went outside once the police got there, did you
8 see the defendant?

9 A: No.

10 Q: Did you see -- do you know Everett Ford? Bill Bill, they
11 call him Bill Bill. Do you know who that is?

12 A: Everett Ford?

13 Q: Everett Ford, someone known as Bill Bill.

14 A: No.

15 Q: No. Okay.

16 **MS. WALTER:** Court's indulgence.

17 **THE COURT:** Alright.

18 **MS. WALTER:** I have nothing further at this time.

19 **THE COURT:** Alright. Cross examination.

20 **CROSS EXAMINATION OF MS. HOLOMAN BY MR. MCCOY:**

21 Q: Hey Ms. Dudley. My name is Jonny McCoy.

22 A: Alright.

23 Q: I don't have any questions for you.

24 A: Okay.

25 **THE COURT:** Alright. You may step down.

1 **MS. HOLOMAN:** Alright.

2 **MS. WALTER:** Your Honor, the State will next call Felicia
3 Williams.

4 **THE COURT:** Okay.

5 **MS. WALTER:** Your Honor, I'm sorry. We'd ask that Ms.
6 Holoman be released from her subpoena, but she's going to
7 stick around for a ride.

8 **THE COURT:** Alright. Any objection?

9 **MR. MCCOY:** Nothing from the defense, Your Honor.

10 **THE COURT:** Alright. She's free to go.

11 **MR. WILLIAMS, HAVING BEEN FIRST**
12 **DULY SWORN, TESTIFIED AS FOLLOWS:**

13 **CLERK:** Just state your name and spell it for the record,
14 please.

15 **MS. WILLIAMS:** Felicia Denise Williams. F-E-L-I-C-I-A D-
16 E-N-I-S-E W-I-L-L-I-A-M-S.

17 **MS. WALTER:** May I, Your Honor?

18 **THE COURT:** Yes, ma'am.

19 **DIRECT EXAMINATION OF MS. WILLIAMS BY MS. WALTER:**

20 Q: Ms. Williams, you're not thrilled to be here, are you?

21 A: No, I'm not.

22 Q: It took a little doing to get you to come in?

23 A: Yes, ma'am.

24 Q: And I apologize for that inconvenience. We'll try not to
25 keep you here too long.

1 A: That's okay.

2 Q: Do you know the defendant in this case, Calvin Ford?

3 A: Yes, I do.

4 Q: How do you know him?

5 A: Growing up in Myrtle Beach, Calvin's aunt used to stay
6 next to my grandmother and we used to play on the weekends
7 together.

8 Q: So, you've known him most of your life?

9 A: Yes, ma'am.

10 Q: Did you know Jamal Burgess?

11 A: Yes, I do. Jamal and Jamal's grandmother and my father
12 live on Canal Street and Jamal stays on the bottom. So, we
13 played and we were on the rec team together. So, we basically
14 grew up together as well.

15 Q: What about Damian Alston?

16 A: Damian, I knew Damian as a childhood friend. He's a
17 little younger than me.

18 Q: So, essentially the four of you grew up together?

19 A: Yes. All from the same area.

20 Q: Do you recall the night of July 23rd, 2016 when Jamal and
21 Damian were killed?

22 A: Yes, I do.

23 Q: Did you on that evening go to Dudley Row or Warren Street?

24 A: Yes. I did go over there.

25 Q: Alright. When you got there can you tell us what you did?

1 A: I actually came up on the road. I parked on one side of
2 the road where one of my friends were standing and we were
3 outside talking, conversating. And you want me to keep
4 telling you what I did?

5 Q: Yes.

6 A: Okay. We were conversating and we were conversating I
7 heard a glass drop and it caught my attention. So, you know,
8 I stood back from the car to see what was going on. I seen
9 Mr. Calvin Ford pull out a gun and him and Jamal --- well,
10 actually I seen --- let me go back, I'm sorry. I seen Calvin
11 and Jamal was --- when I pulled on the road, Calvin and Jamal
12 were already talking to each other. And Damian was in the
13 middle of them. And I seen Jamal hand go like this, because
14 after the glass bottle dropped, I seen Jamal's hand go like
15 this to move Damian. That's when I seen Calvin pull out the
16 gun and once the first shot went off I took off running into
17 Dudley's house.

18 Q: Okay. And let me just stop you there. So, you said you
19 saw Jamal's hand go like this. And you're sort of giving a
20 sweeping motion?

21 A: Yes. Moving Damian out the way from in the middle of
22 them.

23 Q: Okay.

24 **MS. WALTER:** And if I may approach, Your Honor.

25 **THE COURT:** Alright.

1 **BY MS. WALTER:**

2 Q: I am showing you State's Exhibit 2. And that would be ---
3 do you recognize that address?

4 A: That's Dudley's house and that's Tara's house and then
5 that's the road. I was right here.

6 Q: Okay. So, you're showing us on the picture that you
7 stopped across the street from Ms. Holoman's house.

8 A: Yes.

9 Q: And you said when you pulled up the defendant and Jamal
10 were already talking.

11 A: Yes. It was all three of them were already in the road.

12 Q: Okay. So, all three meaning, Calvin Ford, Damian Alston
13 and Jamal Burgess?

14 A: Yes, ma'am.

15 Q: How were they standing?

16 A: They were -- Calvin's back was towards 10th Avenue. Damian
17 was in the middle and Jamal's back was towards the back of
18 Warren Street.

19 Q: Okay. And I'm going to approach again just so we're
20 clear.

21 A: They were in the road right here.

22 Q: And you're indicating between what you've said was Ms.
23 Dudley's house and Tara's house.

24 A: Yes. And Calvin's back was pointed toward this. Damian
25 was in the middle and Jamal's back was pointed towards that

1 way.

2 Q: Okay, and when you say this way, it's the right side of
3 the picture. That's where Mr. Joe White or 10th is?

4 A: Yes. That's going back to 10th Avenue North.

5 Q: So, Calvin's back was towards Joe White. Jamal's back was
6 towards the other end of Warren Street?

7 A: Yes, ma'am.

8 Q: This conversation that they were having, did it -- can you
9 describe what it seemed like?

10 A: No. I can't. I couldn't make out the words. I mean, I
11 really wasn't trying to pay attention. I was over there
12 talking to someone else in another yard.

13 Q: Were you able to tell whether it was angry, or happy, or
14 anything like that?

15 A: No. I wasn't about to tell that. Just what brought my
16 attention was when the glass bottle dropped.

17 Q: Do you know what that glass bottle was?

18 A: It was a bottle of Hennessy.

19 Q: And who had that glass bottle?

20 A: I'm not sure. Like I said, I was on the side of the car
21 talking. That's when I heard the glass bottle drop. I
22 stepped back to see what was the noise and that's what I saw.

23 Q: You said once you stepped back and turned towards those
24 three men, you saw the defendant pull out a gun?

25 A: Yes. And that's when --- no, Jamal took his hand and

1 moved Damian. That's when Calvin pulled out the gun.

2 Q: Could you see where he pulled the gun from?

3 A: Off of his body. It was like he came up like that.

4 Q: And you're showing from your right side?

5 A: Uh-huh. (Affirmative response). Came up like that.

6 Q: Did you ever see the defendant bend down to pick a gun up
7 off the ground?

8 A: No, ma'am. I didn't see any of that.

9 Q: Did you ever see Damian Alston with a gun?

10 A: No, ma'am. I didn't see Damian with a gun.

11 Q: Did you see Jamal Burgess with a gun?

12 A: No, I didn't see him with a gun. Like I said, when Calvin
13 shot I took off running in Dudley's house.

14 Q: How many shots do you think you heard?

15 A: I don't know, about three or four.

16 Q: Now, in the period of time from what you first pulled onto
17 the block and ran inside, did you see Aliga Campbell anywhere?

18 A: Only time I saw Aliga Campbell is when I ran into Dudley's
19 house. He was inside.

20 Q: And that was after the shooting?

21 A: Yeah. That was after the first shot went off and we all
22 took off running in the house. I did see Aliga Campbell in
23 Dudley's house, inside.

24 Q: Okay. And what about -- do you know a man named Everett
25 Ford or Bill Bill?

1 A: Yes. I do know Bill Bill.

2 Q: Was Bill Bill there?

3 A: No, Bill Bill was not there that night.

4 Q: You did not see Bill Bill?

5 A: I did not see Bill Bill at all that night.

6 Q: Do you know Bill Bill?

7 A: Yes, I do.

8 Q: And that is Everett Ford, right?

9 A: Yes.

10 Q: Okay. How do you know Bill Bill?

11 A: As I said before, we all grew up together at my
12 grandmother's house on the weekend's. Like I said, I played
13 with Calvin, Bill Bill, he has another brother and a couple
14 cousins. We all played together.

15 Q: And people were aware -- have people contacted you about
16 the fact that you're testifying in this hearing?

17 A: Yes, they have.

18 Q: Specifically, has Everett Ford contacted you about your
19 testimony here?

20 A: Yes, he has.

21 Q: Can you tell the Court about that conversation?

22 A: He contacted me on Friday, this Friday that just passed.
23 He said that he know that -- he knows that I didn't want to
24 testify against Calvin. And he said don't let them people
25 coerce me into saying something that's not true. And I said,

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1 well Bill Bill I'm just going up -- I call him Bill Bill,
2 y'all may call him Everett. I said I'm just going to tell
3 them what happened. I'm telling them the truth. And he was
4 like tell them the truth because you wasn't there. And I was
5 like, Bill Bill I was there. I picked Sherika kids up off
6 that road. The police seen my car leaving off that road. I
7 was there. And he specifically told me, he was like -- I
8 said, well they asked me were you there and I told them no you
9 weren't there. And he was like, yeah because when I heard the
10 gunshots, I ran from my mother's house to the fire station and
11 by the ---

12 **MR. MCCOY:** Objection, Your Honor. That's hearsay.

13 **THE COURT:** Sustained.

14 **BY MS. WALTER:**

15 Q: Okay. But just to reiterate, you did not see Bill Bill
16 there?

17 A: No, I didn't.

18 Q: Now, after the shooting you said that you gathered Sherika
19 Gore's children. Did you go outside at some point?

20 A: After the shooting? Yes, I did go outside. I got
21 Sherika's four kids and we were getting in the car. As I go
22 outside Damian was by the basketball court. Jamal was further
23 in the driveway and it was some people over there with Jamal,
24 it was some people over there with Damian as well.

25 Q: Can you describe how Damian was?

1 A: Damian was face down. I couldn't even tell who Damian
2 was. I wasn't sure who that was.

3 Q: Did you see any guns around him?

4 A: No.

5 Q: Did you hear anyone talking about any guns around him?

6 A: No.

7 Q: Where ---

8 **MS. WALTER:** If I may approach, Your Honor.

9 **THE COURT:** Alright.

10 **BY MS. WALTER:**

11 Q: So, with State's 2 and showing the back of the driveway,
12 is that where Damian Alston was?

13 A: Damian was back there, and Jamal was over there.

14 Q: And so, you're indicating sort of like the sidewalk area
15 in front of Ms. Holoman's?

16 A: Uh-huh. (Affirmative response). That's actually still
17 the driveway.

18 Q: Okay. So, did you have to pass by where Jamal Burgess was
19 laying?

20 A: Yes. I did.

21 Q: Can you describe what you saw?

22 A: He was on the ground. He had on a white wife beater and
23 it was blood, and it was people around and they was like, hold
24 on Jamal, hold on. And he was like, I am, I am. He was still
25 talking. He was still alive when I left off that road.

1 Q: Did you see a gun anywhere near him?

2 A: No, I did not.

3 Q: Did you see anyone taking a gun from the ground or
4 anywhere around there?

5 A: No, I did not.

6 Q: Did you hear anyone say something like, get that gun, hide
7 that gun?

8 A: No. I wasn't out there that long to hear any of that.

9 Q: Where you able to see -- After Calvin started shooting
10 were you able to see which way he ran?

11 A: No. I took off running. I wasn't standing around to see.

12 Q: You couldn't see which direction down Warren Street he
13 went? I think you said that the shooting sort of occurred in
14 the street here.

15 A: It was in the middle of the road right there.

16 Q: Okay. Were you able to see which direction on Warren
17 Street Calvin ran?

18 A: No. Once they started shooting, I took off running. I
19 don't know what direction they took off. I don't know if he
20 went this way or ran. I don't know what happened in that
21 yard.

22 Q: Okay. When you came outside was Calvin still there?

23 A: No, he wasn't.

24 Q: Okay.

25 A: As I was getting Sherika's kids in the car and leaving off

1 that road, it was some boys running across the street. Little
2 Calvin was one of them going back across 10th.

3 Q: Okay. So, as you're getting Sherika's -- and that's S-H-
4 E-R-I-K-A and the last name is G-O-R-E. After -- as you were
5 getting Sherika's children into the car, you saw ---

6 A: Some boys running across the road. It was Little Calvin
7 and they were in black. They were running back towards 10th.

8 Q: Okay. So, I'm going to approach with State's 1. So, this
9 is showing Ms. Dudley's house. Where did you see these men?

10 A: They were coming back cross this way.

11 Q: Okay. So, across or down Warren and down Mr. Joe White
12 Avenue?

13 A: Yes. 10th Avenue North.

14 Q: 10th Avenue. Okay, and Calvin was one of those?

15 A: Yes, he was.

16 **MS. WALTER:** Court's indulgence one moment.

17 **THE COURT:** Alright.

18 **BY MS. WALTER:**

19 Q: And you said that as Jamal was laying on the ground, you
20 remember him saying like I'm hanging on. Do you remember him
21 saying anything else, maybe related to the shooting or to the
22 defendant?

23 A: No. Like I said, I mean, he was on the ground and I can't
24 recall what he said to be honest with you.

25 Q: That's okay. Thank you. I have nothing further. Mr.

1 McCoy's going to have some questions for you.

2 **MR. MCCOY:** Thank you. May it please the Court, Your
3 Honor?

4 **THE COURT:** Yes.

5 **CROSS EXAMINATION OF MS. WILLIAMS BY MR. MCCOY:**

6 Q: Hi, Ms. Williams.

7 A: Hey, how are you doing?

8 Q: I'm okay. My names Jonny McCoy. I'm Calvin's defense
9 lawyer in this case. I appreciate you coming out here this
10 afternoon. I know this is difficult. I want to talk to you
11 about a couple of things. First, let's just go over a few
12 things that you just told the Solicitor's Office.

13 A: Okay.

14 Q: You said you didn't see Bill Bill, who is named Everett
15 Ford, right?

16 A: Uh-huh. (Affirmative response).

17 Q: So, you didn't see Bill Bill but you said that you pulled
18 up to the house when Calvin was already talking or arguing
19 with J. Money; is that right?

20 A: Yes.

21 **MS. WALTER:** Objection. She did not say that they were
22 arguing.

23 **THE COURT:** Go ahead. Overruled.

24 **BY MR. MCCOY:**

25 Q: So, when you pulled up to the house and you saw Jamal and

1 Calvin arguing did you walk around to see anything else or was
2 your attention focused on that?

3 A: No, my attention wasn't focused on that. I was actually
4 talking to a classmate of mine.

5 Q: Okay. How long did that incident, did the argument take
6 place?

7 A: Like I said, when I came on the road my intentions was to
8 just go talk to my classmate.

9 Q: Right.

10 A: So, when I got out the car we were talking and then that's
11 when I heard the glass bottle drop. That's what alerted me
12 and made me say like what is that.

13 Q: Yeah. I understand.

14 A: So, that's why I stepped back from the car and looked at
15 what was going on in the road.

16 Q: So, you were classmate and then the argument?

17 A: Yes. It was right there.

18 Q: So, that's probably why you didn't see Bill Bill; is that
19 right? You weren't looking for him.

20 A: I mean, I didn't see Bill Bill out there.

21 Q: Well, I understand that. But, the logical reason would
22 be, you didn't see a whole lot of people, did you?

23 A: Yeah. I didn't see a lot of people out there.

24 Q: And, I mean, you're not afraid of Bill Bill, right?

25 A: No, I'm not.

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1 Q: And you're not afraid of Calvin, right?

2 A: No.

3 Q: And you're just here to tell the truth. We all know that,
4 correct?

5 A: Yes, sir.

6 Q: Alright. And did you tell the truth to -- or do you
7 remember talking to Detective Woods in a recorded statement
8 you gave him right after this incident on 7/24/2016?

9 A: Yes, sir. I do.

10 Q: Okay. Do you remember telling that detective that you
11 heard the conversation between J-Money and Calvin? They were
12 trying -- quote -- tell me if this is wrong. At 10 seconds in
13 your interview, they were trying to squash beef cause J-Money
14 knocked Calvin teeth out.

15 A: I just told them -- they asked me what was the beef about
16 and I said it could have been over J-Money knocking Calvin's
17 teeth out.

18 Q: Okay. So, you didn't say, I heard them talking about
19 that?

20 A: No. I didn't hear them talking.

21 Q: Okay. But, you did say, and I quote, is this not true at
22 47 seconds into it: Calvin said I'll fight, I'll fight but I
23 ain't gonna shoot.

24 A: Calvin did say that.

25 Q: Right. Because Jamal said, I'm gonna shoot, quote: Jamal

1 said I'm gone shoot fool, I'm gonna shoot. Now you said that,
2 correct?

3 A: No. I did not say Jamal said I'm gone shoot fool, I'm
4 gone shoot.

5 Q: What did you say then?

6 A: I didn't say Jamal said anything in my statement. All I
7 heard, like I said, when I came on that road, they were
8 standing up talking. I didn't pay attention really to see
9 what they were saying. I mean, this did happen almost three
10 years ago.

11 Q: But you specifically remember Calvin saying, I'll fight,
12 I'll fight man, but I ain't gone shoot?

13 A: Yes. I did remember Calvin saying that.

14 Q: Okay. And then at 53 seconds in, correct me if I'm wrong.
15 Do you remember saying, J-Money pushed Damian out of the way?

16 A: Yes. J-Money took his arm and moved Damian out the way.
17 He did.

18 Q: Okay. And J-Money's back was to me that's why I could see
19 the arm moving. Is that correct?

20 A: No. J-Money, when I was standing -- if my car was right
21 there. I came on the side when the bottle dropped. So,
22 nobody's back actually was toward me. They were like one,
23 two, three. They were in a line.

24 Q: They were in a line just three guys facing?

25 A: No. They weren't facing me, Jonny. They were one, two,

1 three. It was Calvin's back was towards 10th.
2 Q: Okay, hang on.
3 A: So, you're Calvin.
4 Q: I'm Calvin
5 A: You're Calvin. Your back is towards 10th Avenue. Damian's
6 in the middle.
7 Q: Right here?
8 A: No, put Damian, turn Damian around. He's in the middle.
9 Q: Right here? Where do you want me to be?
10 A: You trying to be funny.
11 Q: I swear to God. Alright, Calvin's here.
12 A: Calvin's there.
13 Q: Alright.
14 A: Damian's in the middle of them. And then Jamal is facing
15 Calvin so you need to turn around.
16 Q: Oh okay.
17 A: Okay, now you're Jamal.
18 Q: And now, you're there?
19 A: Yes. I'm on the side.
20 Q: Alright, which angle are you?
21 A: I'm on the side by my car, Jonny.
22 Q: Okay. So, like just this way, right?
23 A: Yes. Basically, where I can back up and I can -- I was on
24 the side of my car. I could see what was going on.
25 Q: Okay. So, then Jamal sweeps this way?

1 A: Yes. Moves his arm so Damian can move.

2 Q: Okay.

3 A: And then that's when I seen Calvin take the gun out.

4 Q: Okay. So, when Damian moves out of the way does he fall

5 backwards?

6 A: No. I don't recall him falling backwards.

7 Q: And when ---

8 A: He probably kind of stumbled or something, but I don't

9 remember him falling backwards.

10 Q: And did you notice when Jamal moved Damian out of the way,

11 you say you didn't see anything fall on the ground or

12 anything?

13 A: No. Nobody bent down to the ground that night.

14 Q: Okay.

15 A: The only thing that was on the ground was those bodies

16 after the thing happened.

17 Q: I understand. So, you say at 2:05 in your statement: it

18 was a split second, it was so crazy. It all went down so

19 fast. Is that accurate?

20 A: Yes.

21 Q: And at 3 minutes into it, you say, I'm not sure if J-Money

22 fired a gun. Do you remember saying that?

23 A: No. I don't remember saying that.

24 Q: Well, we'll get to that in a second.

25 A: I'm not sure. I can't tell you if J-Money fired a gun. I

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1 ran in the house. I don't know who else was shooting out
2 there.

3 Q: Okay. And let's talk about the demeanor while you saw
4 Jamal and Calvin talking to each other. When you first saw
5 them when the bottle dropped and broke, usually when a bottle
6 drops and breaks in a bar everybody kind of turns and looks.

7 A: Uh-huh. (Affirmative response). Catches your attention.

8 Q: That's the moment. That's the moment where it's about to
9 go down, right? And we heard from Bill Bill earlier and you
10 can correct this if I'm wrong, Hennessy is Jamal Burgess', it
11 was his drink, correct?

12 A: I can't tell you that.

13 Q: Okay.

14 A: I just know Hennessy is a bottle of liquor.

15 Q: Okay. So, you hear the bottle crash and at that point
16 finally you look over at the argument; is that correct?

17 A: It wasn't an argument. I mean, they were talking. I
18 don't know if it was an argument or not. I can't say it was a
19 loud argument where they were loud, like duh, duh, duh. No,
20 they were talking. If I was on the side of the car speaking
21 with one of my classmates as I was, I wasn't tuned in to what
22 they were saying. But, you know, you could hear the
23 conversation, but it wasn't any loud talking or aggression or
24 anything like that to say it was an argument.

25 Q: So, Calvin was like, hey man you know I'll fight but I

1 ain't gone shoot man. Like just joking with him?

2 A: No. It wasn't like that.

3 Q: No. It was because he was about to get shot and he said -
4 --

5 **MS. WALTER:** Objection, Your Honor.

6 **THE COURT:** This is cross examination. Overruled. Go
7 ahead.

8 **BY MR. MCCOY:**

9 Q: So, he was about to get shot but he said, I'll fight but
10 I'm not gonna shoot, right? It was more that way?

11 A: No. It wasn't Jonny.

12 Q: Well, how was it.

13 A: It wasn't how you're trying to make it seem.

14 Q: Okay, then how was it?

15 A: It was more of them talking and then the bottle dropped
16 and then from there it just went like that. I don't know what
17 made the bottle drop. I don't know. But like I said, my
18 intentions was not to come over there to see what Little
19 Calvin and them had going on.

20 Q: So, just like you said you didn't know if you saw Bill
21 Bill, and just like you said you didn't know if you saw Jamal
22 fire a gun, you don't know if Jamal had a gun on his
23 waistband, do you?

24 A: I don't know that because I didn't ---

25 Q: You weren't inspecting his waistband?

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1 A: I wasn't looking at him like that.

2 Q: That's right.

3 A: I didn't see him with a gun. You asked if he had a gun.
4 I didn't see him with one.

5 Q: Yes, ma'am. I understand. Thank you. Alright. I have a
6 couple more questions for you. Have you ever told anybody,
7 including Calvin Ford, that if you didn't shoot Jamal he was
8 going to shoot you?

9 A: I mean, like I said, it would have went either way out
10 there.

11 Q: Well, then that would indicate that Jamal had a gun.

12 A: I said it could have went either way out there.

13 Q: I'm confused.

14 A: You're speaking of snapchat messages me and Little Calvin
15 had, yes.

16 Q: So, you told Calvin, if you didn't shoot Jamal he would
17 have shot you.

18 A: I said it would have went either way out there. That's
19 what I said to him. It could have gone either way out there.

20 Q: Is that your exact wording or do you want to change it?

21 A: I mean, I can't remember what I said but it was some
22 conversations between us.

23 Q: Is I showed you your snapchat conversation would that help
24 refresh your recollection?

25 A: I mean, you can. When I was on the snapchat you saw me

1 tell him I didn't see Jamal shoot.

2 Q: I understand that. It was very fast. There was a lot of
3 things.

4 A: Yes. And also on the snapchat you will see that Calvin
5 said he shot first.

6 Q: I do not see that. Maybe you could bring that to us.

7 A: Okay.

8 **MR. MCCOY:** Your Honor, may I approach?

9 **THE COURT:** Alright.

10 **MS. WALTER:** Can I see what you're showing her?

11 **MR. MCCOY:** Yes, ma'am. Sorry. I've got an extra copy
12 for you.

13 **BY MR. MCCOY:**

14 Q: Alright, I'm going to approach now. And this is the full
15 conversation, what we have. But I'm going to direct your
16 attention to number 2. It's labeled on the back and I'll get
17 out of your way in a second. But if you could, just read at
18 the beginning of the second page there. Start at the top.

19 A: Everyone is not against you. I say it like this, if you
20 wouldn't have killed Jamal he would have killed you. Somebody
21 was going to get killed that night regardless. Just wish both
22 of y'all could have talked this shit out and squashed it.

23 Just wish it didn't have to end like it did. Just wish it
24 could have happened elsewhere except on Dudley Road with
25 everyone out there like that. It could have been more than

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1 just J-Money and Dam gone. What if one of those bullets would
2 have hit one of them kids, Dudley, or even May? They didn't
3 have anything to do with the beef. Everyone lost someone that
4 night. Kids lost their father's, you missed out on almost a
5 year of Carter's life you can't get back. Just promise me
6 you'll make better decision now. Carter needs you.

7 Q: Thank you very much. You have a very good reading voice.

8 A: Oh, thank you.

9 Q: So, just to clarify. You said to Calvin, if you wouldn't
10 have killed Jamal, he would have killed you. Right?

11 A: Yes. I probably did say that. I did say it. It's in the
12 snap.

13 Q: Okay, and you believe that.

14 A: I just feel like something probably bad would have
15 happened that night.

16 Q: At that moment?

17 A: Yes, but like I said, I didn't see Jamal with a gun that
18 night so I can't say that Jamal was shooting. The only way I
19 was told something about Jamal having a gun was when the
20 detectives came to me the next morning and said that he had
21 gunshot residue on him.

22 **MR. MCCOY:** Your Honor, I don't have anything further of
23 this witness. Thank you.

24 **THE COURT:** Alright. Redirect.

25 **MS. WALTER:** Just very briefly.

1 **REDIRECT EXAMINATION OF MS. WILLIAMS BY MS. WALTER:**

2 Q: So, I just want to make sure I heard something correctly
3 that you just said. Did the defendant tell you that he shot
4 first?

5 A: Yes, he did.

6 Q: And you never saw Jamal with a gun?

7 A: I never saw Jamal with a gun that night.

8 Q: You never saw Jamal fire a gun that night?

9 A: Never saw him fire a gun that night.

10 Q: When you saw the defendant pull out a gun, you did not see
11 a gun in Jamal's hand?

12 A: No, I didn't.

13 **MS. WALTER:** Nothing further, Your Honor.

14 **THE COURT:** Alright. You may step down.

15 **MS. WALTER:** And, Your Honor, I'd ask that she be
16 released from her subpoena.

17 **THE COURT:** Any objection?

18 **MR. MCCOY:** None, Your Honor.

19 **THE COURT:** Alright, she's free to go.

20 **MS. WALTER:** The State calls Sherika Gore.

21 **THE COURT:** Alright. Excuse me for one second.

22 **MR. GORE, HAVING BEEN FIRST**
23 **DULY SWORN, TESTIFIED AS FOLLOWS:**

24 **THE COURT:** Hold for one second.

25 **CLERK:** Just state your name and spell your name for the

1 record.

2 **MS. GORE:** Do it now?

3 **MS. WALTER:** Yes.

4 **MS. GORE:** Sherika Gore. S-H-E-R-I-K-A, last name Gore,
5 G-O-R-E.

6 **MS. WALTER:** May I, Your Honor?

7 **THE COURT:** Alright.

8 **DIRECT EXAMINATION OF MS. GORE BY MS. WALTER:**

9 Q: Ms. Gore, you're here because you were subpoenaed by the
10 State, correct?

11 A: Yes.

12 Q: Do you know the defendant, Calvin Ford?

13 A: Yes.

14 Q: How do you know him?

15 A: We grew up together.

16 Q: Did you know Jamal Burgess?

17 A: Yes.

18 Q: How did you know him?

19 A: We also grew up together.

20 Q: What about Damian Alston?

21 A: Yes.

22 Q: Also grew up together?

23 A: Yes.

24 Q: So, the four of you sort of grew up in the same
25 neighborhood as friends?

1 A: Correct.

2 Q: Directing your attention to July 23rd of 2016, did you
3 attend a party on Warren Street at Ms. Dudley's house?

4 A: Yes.

5 Q: Do you know about what time you got there?

6 A: I don't. It was early though because the sun was still
7 out and it was still warm.

8 Q: Did you have your children with you?

9 A: I did.

10 Q: How many children did you have at the time?

11 A: Four.

12 Q: How old were they?

13 A: Ten, eleven, twelve and a three-month-old.

14 Q: Alright, were all four of them there?

15 A: Yes.

16 Q: Okay. Did you see Jamal Burgess at the party?

17 A: I did.

18 Q: Do you remember what he was wearing?

19 A: He had on some jeans, a wife beater, and a jersey that was
20 open.

21 Q: Like a baseball jersey?

22 A: Yes.

23 Q: Okay. How was he wearing his jeans?

24 A: He was sagging.

25 Q: Okay.

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1 A: You could see his boxers.

2 Q: Okay. So, sort of down around his hips?

3 A: Yes.

4 Q: At some point did Jamal hold your youngest child?

5 A: He did.

6 Q: Did you prior to that happening did you see Jamal with a
7 gun at all?

8 A: I didn't.

9 Q: Would you have let him hold your daughter?

10 A: No.

11 Q: Okay. Do you think that based on what he was wearing
12 would you have been able to see that he had a gun?

13 A: Yes.

14 Q: Were you still at the party when Ms. Holoman or Ms. Dudley
15 got home?

16 A: I was.

17 Q: Okay, what did you see with respect to any interaction
18 between her and Jamal?

19 A: He helped her carry some of her groceries from out of the
20 car to her house.

21 Q: How much time passed between that and were you still there
22 when shots were fired?

23 A: I was.

24 Q: How much time passed between Jamal helping Ms. Dudley and
25 the shots being fired?

1 A: It wasn't that long after, maybe 15 minutes or so. It
2 wasn't that long because she wasn't home for that long.

3 Q: And if you don't know a time if I'm asking you how long,
4 you can always say not that long or a long time.

5 A: It wasn't that long.

6 Q: Okay. What did you see leading up to the shots being
7 fired?

8 A: Only thing I can remember, I seen Jamal and Calvin talking
9 and they was kind of like off in the road. I wasn't paying
10 that close of attention and then the next thing when I looked
11 up I seen Calvin with a gun and then I ran.

12 **MS. WALTER:** If I may approach, Your Honor.

13 **THE COURT:** Alright.

14 **BY MS. WALTER:**

15 Q: I'm going to show you State's Exhibit 2. Do you recognize
16 that as Ms. Dudley's address?

17 A: Yes.

18 Q: Okay. So, where were you standing when you saw Jamal and
19 ---

20 A: Maybe about right here.

21 Q: So, sort of in the driveway but in front of the house.

22 A: Yeah. Uh-huh. (Affirmative response). A little close to
23 those bushes.

24 Q: Okay, and you just have to keep your voice into that. So,
25 close to these bushes in front of the house?

1 A: Correct.

2 Q: And where was the defendant and Jamal?

3 A: They were kind of off in the road a little bit. Maybe

4 about right here or so.

5 Q: So, in the middle of Warren Street but still in front of

6 Ms. Dudley's house?

7 A: Yeah.

8 Q: Was Damian Alston there too?

9 A: He was.

10 Q: Can you -- what di you remember about that conversation?

11 Did it seem -- were they gesturing or was it loud?

12 A: It wasn't loud because if they were arguing then it would

13 have gotten the attention of everyone. So, it wasn't loud.

14 It was more so like they were talking. But I didn't hear

15 anybody yelling.

16 Q: Now, you say you saw Calvin with a gun. Did you see where

17 he got the gun from?

18 A: I didn't.

19 Q: Did you see Damian Alston with a gun?

20 A: I didn't.

21 Q: Did you see Jamal Burgess with a gun?

22 A: I didn't.

23 Q: Did you ever see either Damian Alston or Jamal Burgess

24 fire a gun?

25 A: No.

1 Q: So, the only person you saw with a gun was the defendant?

2 A: Correct.

3 Q: Once you saw him with the gun what did you do?

4 A: I ran.

5 Q: Where did you run?

6 A: Inside Ms. Dudley's house.

7 Q: Did you come out eventually?

8 A: I did.

9 Q: When you came outside did you see Jamal and Damian?

10 A: I did.

11 Q: Where were they?

12 A: Damian was like over near the basketball goal and Jamal

13 was kind of at the end of the driveway.

14 Q: What did Damian look like?

15 A: He was bleeding all over so.

16 Q: Okay. What about Jamal?

17 A: Jamal was still alive and everybody was trying to keep him

18 calm. But I can't remember exactly where he was shot at.

19 Q: Okay. Did you see either Damian or Jamal with a gun while

20 they were laying on the ground?

21 A: I didn't.

22 Q: Did you see anyone picking a gun up from where they were

23 laying?

24 A: I didn't.

25 Q: When you came outside did you see the defendant at all

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1 A: I didn't.

2 Q: Did you see where he went after the shooting?

3 A: No, ma'am.

4 Q: Do you know a man named Everett Ford, Bill Bill?

5 A: Yes, ma'am.

6 Q: When you were at the party -- let's first talk about

7 before the shooting -- did you ever see Everett Ford there?

8 A: I didn't.

9 Q: Did you see him there after the shooting?

10 A: No, ma'am.

11 Q: Did you see Aliga Campbell there? Do you know Aliga

12 Campbell?

13 A: Does he have another name?

14 Q: Lij.

15 A: Yes.

16 Q: Okay. You saw him there?

17 A: Yes.

18 Q: Did you see any kind of confrontation or anything between

19 Lij and Jamal?

20 A: I seen them two talking.

21 Q: Just talking?

22 A: Uh-huh. (Affirmative response).

23 Q: But no ---

24 A: Before Calvin came they were talking.

25 Q: Based on that conversation did you have any idea there was

1 a problem between them?

2 A: No.

3 Q: Did you ever see Jamal -- strike that. Did you ever see
4 Lij take his teeth out?

5 A: No, ma'am.

6 Q: Okay.

7 **MS. WALTER:** Nothing further at this time, Your Honor.

8 **THE COURT:** Alright. Cross examination.

9 **MR. MCCOY:** Thank you, Your Honor. May it please the
10 Court?

11 **CROSS EXAMINATION OF MS. GORE BY MR. MCCOY:**

12 Q: Ms. Gore, my name is Jonny McCoy. I am Calvin Ford's
13 defense lawyer. Thank you for coming in today. Do you
14 remember giving a statement to Detective Hugh Jones on
15 September 1st, 2016, and Horry County Detective?

16 A: Yes.

17 Q: You remember that being recorded?

18 A: Yes.

19 Q: And do you remember him telling you you need to tell the
20 truth you're giving a statement to the police and all that
21 good stuff?

22 A: Uh-huh. (Affirmative response). Yes.

23 Q: And do you remember taking your oath here today?

24 A: Yes.

25 Q: Under penalty of perjury?

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1 A: Yes.

2 Q: Okay. So, you stated that, it just seemed like they were
3 talking. It didn't seem like an argument when you saw them
4 talking.

5 A: Right.

6 Q: That's what you say here today, right?

7 A: Yes.

8 Q: Did you say something different back on September 1st?

9 A: I did not. I let them know that it seemed like they were
10 talking because if they were arguing then so many people was
11 around, they would have gotten up and diffused the situation.

12 Q: Okay. So, let's see if I got my notes wrong from the
13 recording, okay.

14 A: Uh-huh. (Affirmative response).

15 Q: Do you remember at 1 minute into the recording saying,
16 they walking into the road arguing?

17 A: No.

18 Q: Do you remember at 1 minute and 8 seconds saying, and then
19 it got heated?

20 A: No.

21 Q: Now, these are just my notes so I'm just clarifying. Do
22 you remember at 1 minute 11 seconds saying, the voices they
23 were yelling. It was obvious I could hear their voices
24 yelling?

25 A: No.

1 Q: And do you remember saying -- flash forward to 2 minutes
2 and 50 seconds, I could hear them getting loud before Jamal
3 pushed Damian?

4 A: No.

5 Q: Okay. Well, now let's go over to the detective's notes
6 okay. Alright, and tell me if these are wrong now. I'm just
7 trying to get to the bottom of it. Detective Hugh Jones
8 conducted a recorded interview with Sherika Gore. She advised
9 that they were celebrating Alston's birthday last night. She
10 advised that Calvin and Burgess were in the road arguing. She
11 advised that the argument turned into yelling. She advised
12 that she sees the two of them begin shouting. Do you remember
13 not saying any of that?

14 A: No.

15 Q: So, this detective is just completely?

16 A: I don't remember saying that.

17 Q: Is that what happened? This was given a month after the
18 incident. You're here almost three years later, it's okay if
19 this is what really happened and maybe your ---

20 **MS. WALTER:** Objection, Your Honor. I'm going to ask him
21 to allow the witness to answer. He's asked a couple questions
22 in there.

23 **THE COURT:** Alright, ask your question.

24 **BY MR. MCCOY:**

25 Q: So, I know that you're on the stand and that you've done

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1 some preparations for your testimony here today, correct?

2 Have you talked to anybody about your testimony here today?

3 A: No.

4 Q: You haven't talked to the prosecutor's office or any
5 police officers?

6 A: They didn't prep me on anything.

7 Q: Did you tell them what you were going to say on the stand
8 today?

9 A: No.

10 Q: Okay. Now, my question is what you told the detective back
11 in 2016, did they show you what you said to the detective in
12 2016, has anybody?

13 A: I heard the taping of it. The recording.

14 Q: And how long ago did you hear the recording?

15 A: Right before we came here.

16 Q: And you don't remember saying on the recording, the
17 argument turned into yelling and then I witnessed Jamal push
18 Damian out of the way?

19 A: No.

20 Q: You don't remember saying at 1 minute, they walked in the
21 road arguing?

22 A: No.

23 Q: Do you not remember at 1 minute 8 seconds, then it got
24 heated?

25 A: Uh-Uh. (Negative response).

1 Q: You don't remember hearing that at all in the ---

2 A: No.

3 **MR. MCCOY:** Alright, Your Honor, I'm going to beg the
4 Court's indulgence.

5 **BY MR. MCCOY:**

6 Q: If I played back your statement for you would you be able
7 to identify if that's you on the statement and if that's what
8 you said?

9 A: Yes.

10 **THE COURT:** Do we need to take a break or is it about ---

11 **MR. MCCOY:** Yes, Your Honor. My computer it takes like 5
12 minutes to open up. If we take a 10-minute break, 5-minute
13 break.

14 **THE COURT:** Alright, let's take about a 5-minute break.
15 Ms. Gore, we're still in the middle of your testimony so you
16 cannot discuss your testimony with anyone, whether it be what
17 you've testified to thus far or what you anticipate testifying
18 to in the future, okay?

19 **MS. GORE:** Okay.

20 **THE COURT:** Alright, you can step down but don't discuss
21 your testimony with anyone. We're only going to take about a
22 10-minute break and then we'll come back.

23 **MS. GORE:** Yes, sir.

24 **MR. MCCOY:** Thank you, Your Honor.

25 **(RECESS)**

1 **THE COURT:** Please be seated. Alright, Mr. McCoy, you
2 can continue.

3 **MR. MCCOY:** Thank you, Your Honor. If it'd please the
4 Court?

5 **THE COURT:** Alright.

6 **BY MR. MCCOY:**

7 Q: I just have a few more questions, okay. When you said
8 that you never -- you talked about Jamal's clothing that day
9 and what he was wearing and how his pants were worn and things
10 like that. And you say that you never saw a gun on him. Do
11 you remember saying that?

12 A: Yes.

13 Q: Could he have had a gun on him? I mean, did you
14 thoroughly look him over? Could he have a gun on him on his
15 waistband or something? Did you miss it?

16 A: No.

17 Q: If I showed you a picture of what is believed to be Jamal
18 on that day could you identify whether or not it was him or
19 not?

20 A: Yes.

21 Q: And possibly who the other person is in the photo?

22 A: Yes.

23 **MR. MCCOY:** Your Honor, may I approach, please?

24 **MS. WALTER:** Counsel, can you show us what you're talking
25 about first?

1 **MR. MCCOY:** Oh, I'm sorry. So, we can mark this one ---
2 we'll do that second.

3 **BY MR. MCCOY:**

4 Q: Now, do you recognize those two people in that photo?

5 A: Yes.

6 Q: And who is that?

7 A: Jamal and my daughter.

8 Q: Okay. And is that the outfit that you described?

9 A: It is.

10 Q: Is that what he was wearing on that day?

11 A: Yes.

12 Q: And do you see a gun in that photo on his waistband?

13 A: I don't.

14 Q: Do you see anything in his waistband?

15 A: Looks like maybe a cellphone holder.

16 Q: Looks like a cellphone holder? If I showed you an
17 enlarged photo of that area that you're saying is a cellphone
18 holder would that help you out a little bit?

19 A: Uh-huh. (Affirmative response).

20 **MR. MCCOY:** Your Honor, may I approach?

21 **THE COURT:** Yes.

22 **BY MR. MCCOY:**

23 Q: Does that help you a little bit? Does that look like a
24 cellphone holder?

25 A: It still looks like that to me, yes.

1 Q: Okay.

2 **MR. MCCOY:** Your Honor, at this time I'd like to move
3 these into evidence as Defendant's Exhibit 1 and 2.

4 **MS. WALTER:** Your Honor, there's been no foundation laid
5 for them.

6 **THE COURT:** Alright. Sustain the objection.

7 **MR. MCCOY:** Okay.

8 **BY MR. MCCOY:**

9 Q: Okay, is this the -- is this how you saw Jamal on that
10 day?

11 A: It is.

12 Q: Is this exactly what he was wearing?

13 A: Correct.

14 Q: And is that your child in the photo?

15 A: It is.

16 Q: And is this exactly the condition that he was in when you
17 saw him earlier in the day?

18 A: Yes.

19 **MR. MCCOY:** Your Honor, we move these into defense
20 exhibit 1 and 2, please.

21 **THE COURT:** Alright. Any objection?

22 **MS. WALTER:** No, Your Honor.

23 **THE COURT:** Alright, defendant's exhibit's 1 and 2
24 admitted into evidence without objection.

25 **(DEFENSE'S EXHIBIT NUMBER ONE AND TWO**

1 **ARE ADMITTED INTO EVIDENCE.)**

2 **BY MR. MCCOY:**

3 Q: And just for purposes of the record I'm just going to say
4 one is the photo enlargement and two is the enhanced photo,
5 correct?

6 A: Yes.

7 **MR. MCCOY:** Thank you, Your Honor. No further questions.

8 **THE COURT:** Alright. Redirect.

9 **MS. WALTER:** No, Your Honor.

10 **THE COURT:** Alright. You may step down.

11 **MS. WALTER:** And, Your Honor, we'd ask that Ms. Gore
12 would be released from her subpoena.

13 **THE COURT:** Any objection?

14 **MR. MCCOY:** None, Your Honor.

15 **THE COURT:** Alright, she's free to go.

16 Alright, State can call your next witness.

17 **MS. WALTER:** State calls Chris Turner.

18 **OFFICER TURNER, HAVING BEEN FIRST**

19 **DULY SWORN, TESTIFIED AS FOLLOWS:**

20 **CLERK:** Please state your name and spell your name for
21 the record.

22 **MR. TURNER:** Christopher Turner.

23 **DIRECT EXAMINATION OF OFFICER TURNER BY MR. HOLFORD:**

24 Q: Officer Turner, where are you employed?

25 A: Myrtle Beach Police Department.

1 Q: And how long have you been there?

2 A: Five years.

3 Q: Did you have an opportunity -- were you employed with
4 Myrtle Beach Police Department in July of 2016?

5 A: Yes, sir.

6 Q: And were you on duty that day?

7 A: Yes, sir.

8 Q: Did you have an opportunity to respond to Warren Street?

9 A: Yes, sir.

10 Q: Approximately what time was that?

11 A: I don't have that in my report?

12 Q: Was it in the evening?

13 A: Yeah, it was dark.

14 Q: What was it in reference to?

15 A: Shots fired.

16 Q: Okay. So, you responded to shots fired at Warren Street?

17 A: Yes.

18 Q: What happened when you ---

19 **MR. HOLFORD:** Court's indulgence.

20 **THE COURT:** Alright.

21 **BY MR. HOLFORD:**

22 Q: Can you just tell the Court the scene of what you
23 responded to? What did you see?

24 A: When I first responded I could see down Warren Street.

25 It's a dead end from Joe White. I looked down and there was

1 just a huge crowd of people when I first pulled up and we went
2 in and I immediately saw a male on the ground with apparent
3 gunshot wounds.

4 **MR. HOLFORD:** May I approach, Your Honor.

5 **THE COURT:** Yes.

6 **BY MR. HOLFORD:**

7 Q: I'm going to show you what's been marked as State's 2 and
8 if you hold it so Warren Street's at the bottom. So, this is
9 as if you're on Warren Street facing that house, correct?

10 A: Uh-huh. (Affirmative response).

11 **THE COURT:** Excuse me, you need to answer yes or no.

12 **OFFICER TURNER:** Yes, sir.

13 **BY MR. HOLFORD:**

14 Q: Is that where you responded to?

15 A: Yes, sir.

16 Q: And where on this photograph did you see the male?

17 A: Lying on the ground?

18 Q: Yeah.

19 A: I know that he was in the driveway somewhere. I'm not
20 exactly sure where.

21 Q: Okay. But in this driveway right here?

22 A: Yes.

23 Q: Okay. Did you know who the male was at that time?

24 A: At first, when I first pulled up, no. But I was told and
25 as soon as I heard his name I was familiar.

1 Q: Okay, and what was his name?

2 A: Jamal Burgess.

3 Q: And what did you do?

4 A: I rendered aid to him.

5 Q: Was he still breathing?

6 A: Yes, he was breathing slightly.

7 Q: And so when you rendered aid what were you trying to do?

8 A: I was trying to put some pressure on the wound. He had a
9 stomach wound and a back wound. I removed his shirt. I
10 believe I cut it off. I removed his belt as well to further
11 assess injuries to see if he had any other wounds.

12 Q: Did you see a gun on Mr. Burgess?

13 A: No, sir.

14 Q: Was there a gun under him?

15 A: Not that I saw.

16 Q: Did EMS arrive at some point?

17 A: Yes, sir.

18 Q: And were you with Mr. Burgess until EMS arrived?

19 A: Yes, sir.

20 Q: Did they eventually move him?

21 A: Yes, sir.

22 Q: Did you see a gun around him after they moved him?

23 A: I did not.

24 Q: Did you notice any shell casings on or around his person?

25 A: I did not.

1 **MR. HOLFORD:** No further questions.

2 **THE COURT:** Alright. Cross examination.

3 **MR. MCCOY:** Just a few, Your Honor.

4 **CROSS EXAMINATION OF OFFICER TURNER BY MR. MCCOY:**

5 Q: Do you work that area a pretty good bit? Is that your
6 area?

7 A: It was not my area. But yeah I'm very familiar with that
8 area.

9 Q: Have you responded to shootings in that area?

10 A: Yes. Yes, sir.

11 Q: And have you responded to any victims, where there were
12 victims on the scene with gunshot wounds?

13 A: In close proximity. Not to that exact area.

14 Q: Okay. And would you say that this scene had an average
15 amount of people or above average amount of people?

16 A: There was above average.

17 Q: Okay. Did you expect to find a gun in the middle of all
18 these people?

19 A: I didn't have any expectations.

20 **MR. MCCOY:** No further questions, Your Honor.

21 **THE COURT:** Alright. Redirect.

22 **MR. HOLFORD:** None, Your Honor.

23 **THE COURT:** Alright, you may step down.

24 **OFFICER TURNER:** Thank you, sir.

25 **MR. HOLFORD:** Your Honor, I'd ask that Officer Turner be

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1 excused.

2 **THE COURT:** Any objection?

3 **MR. MCCOY:** None, Your Honor.

4 **THE COURT:** Alright, he's free to go.

5 **MR. HOLFORD:** State calls Officer Benco.

6 **OFFICER BENCO, HAVING BEEN FIRST**
7 **DULY SWORN, TESTIFIED AS FOLLOWS:**

8 **CLERK:** Please state your name and spell your name for
9 the record.

10 **OFFICER BENCO:** Officer Curtis Benco. Last name is B-E-
11 N-C-O.

12 **DIRECT EXAMINATION OF OFFICER BENCO BY MR. HOLFORD:**

13 Q: Officer Benco, where are you currently employed?

14 A: City of Myrtle Beach.

15 Q: With the police department?

16 A: Yes, sir.

17 Q: How long have you been employed there?

18 A: Since January 2016, so about three years.

19 Q: Were you on duty on July 23rd, 2016?

20 A: Yes, sir.

21 Q: And did you have an occasion to respond to Warren Street?

22 A: Yes, sir.

23 Q: Was that during the day or night? Do you remember?

24 A: During the night.

25 Q: And what was the reason for your responding?

1 A: We're relieving the Myrtle Beach PD and there was reports
2 of shots fired with possible victims on Warren Street and
3 that's where we responded. It was [REDACTED] Warren Street.

4 Q: Okay. And when you arrive on scene can you just describe
5 what you saw and what you drove up to?

6 A: There was a large crowd. It was later learned that it was
7 a birthday party. When we pulled up, I was riding with
8 Officer Turner. He was directed to one victim that was laying
9 next to the road. I was directed towards another victim which
10 was laying underneath the basketball -- it's like a basketball
11 hoop in the rear of the driveway.

12 **MR. HOLFORD:** Can I approach, Your Honor?

13 **THE COURT:** Yes.

14 **BY MR. HOLFORD:**

15 Q: I'm going to show you what's been entered as State's 2.
16 Does that appear to be the house that you responded to?

17 A: Yes.

18 Q: Okay. And where was the victim that you responded to?

19 A: He was back in the rear, right back here.

20 Q: So, the driveway to the right of that house?

21 A: Yes.

22 Q: And the back of the driveway would be towards the
23 backyard?

24 A: Yes.

25 Q: Okay. Did you know who that victim was at the time?

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1 A: No. I did not.

2 Q: And what did you find when you responded to him?

3 A: He was unresponsive. He had a large amount of blood
4 around him. I checked him for a pulse and attempted to render
5 aid. He had no pulse, and that's pretty much all we had at
6 that point until EMS arrived and helped with the victims.

7 Q: Were you one of the first on scene?

8 A: Yes.

9 Q: And was there a gun or any shell casings around this
10 victim by the basketball court?

11 A: No. Not that I observed.

12 Q: Did EMS eventually move him?

13 A: Yes.

14 Q: Did you observe any firearms on his person or under him or
15 around him after he was moved?

16 A: No, sir.

17 **MR. HOLFORD:** No further questions.

18 **THE COURT:** Alright, Mr. McCoy, cross examination.

19 **CROSS EXAMINATION OF MR. BENCO BY MR. MCCOY:**

20 Q: Did you know how many shots were -- how many times the
21 victims were hit in this case?

22 A: No. Not until after the fact.

23 Q: So, did you find an amount of casings at the scene that
24 matched the amount of times that the victims were hit?

25 A: I did not collect any shell casings or see any shell

1 casings because we left right after the victims were
2 transported by EMS.

3 Q: As working crime scenes as you do, would it surprise you
4 to know that the difference between the amount of injuries to
5 the victim's bodies and casings on the ground was grossly
6 disproportionate?

7 A: I ---

8 Q: More wounds than casings. Less casings than wounds. Is
9 that common?

10 A: I couldn't answer that, there's all these variables. I
11 can't testify to something I'm not sure of.

12 Q: Okay.

13 **MR. MCCOY:** Thank you, Your Honor.

14 **THE COURT:** Redirect.

15 **MR. HOLFORD:** Nothing, Your Honor.

16 **THE COURT:** Alright. You may step down.

17 **OFFICER BENCO:** Thank you.

18 **MR. HOLFORD:** Your Honor, the State calls CSI Bailey.

19 **THE COURT:** Alright.

20 **OFFICER BAILEY, HAVING BEEN FIRST**
21 **DULY SWORN, TESTIFIED AS FOLLOWS:**

22 **CLERK:** Please state your name and spell your name for
23 the record.

24 **OFFICER BAILEY:** David Bailey.

25 **DIRECT EXAMINATION OF OFFICER BAILEY BY MR. HOLFORD:**

1 Q: Mr. Bailey, where are you currently employed?

2 A: The City of Myrtle Beach Police Department.

3 Q: And what's your title there?

4 A: I'm a crime scene investigator.

5 Q: Crime scene investigator. How long have you been a crime
6 scene investigator with Myrtle Beach?

7 A: Probably 12 years.

8 Q: And were you crime scene investigator back on July 23rd,
9 2016?

10 A: Yes, sir, I was.

11 Q: And did you have an occasion that night to respond to
12 Warren Street?

13 A: Yes, I did.

14 Q: What was that in reference to?

15 A: It was in reference to a shooting incident.

16 Q: And what were your duties that night?

17 A: To process the scene, photograph, collect evidence.

18 Q: And did you photograph and process that scene?

19 A: Yes, I did.

20 **MR. HOLFORD:** Your Honor, may I approach the witness?

21 **THE COURT:** Yes.

22 **BY MR. HOLFORD:**

23 Q: I'm going to hand you what's been marked as State's 5 for
24 ID at this point. Can you identify what that document is that
25 I just showed you?

1 A: Yes. It's an overall photograph of the scene.

2 Q: And who took that photograph?

3 A: I did.

4 Q: And does it appear to be an accurate reflection of the
5 photo you took that night?

6 A: Yes, it does.

7 **MR. HOLFORD:** State would seek to enter 5 in evidence.

8 **THE COURT:** Any objection?

9 **MR. MCCOY:** None, Your Honor.

10 **THE COURT:** Alright. State's Exhibit 5 admitted into
11 evidence without objection.

12 **(STATE'S EXHIBIT NUMBER FIVE**
13 **IS ADMITTED INTO EVIDENCE.)**

14 **MR. HOLFORD:** Your Honor, may I approach again?

15 **THE COURT:** Yes.

16 **BY MR. HOLFORD:**

17 Q: Now, I'm going to show you what's been already entered as
18 State's 2. Do you recognize what State's 2 is?

19 A: Yes, it's overall.

20 Q: It's a photo of what?

21 A: Of Warren Street, the incident scene.

22 Q: Okay. And so, if we're looking at State's 2 with Warren
23 Street on the bottom and the house up above it as I'm
24 orienting this picture. Where is the photo you took, State's
25 5, where are you standing?

1 A: I'm standing just approximately in front of this house
2 right here, this with the red roof, near that direction.

3 Q: Okay. And what are you taking a picture of? What
4 direction?

5 A: The direction would be sort of northeast probably, just
6 photographing the entire scene. Trying to include as much
7 evidence as I can in one single photograph.

8 Q: Okay. And in State's 5, the little yellow markers, what
9 are those?

10 A: Those are evidence markers.

11 Q: And what were they evidence markers of?

12 A: It was markers of cartridge casings, fired cartridge
13 casings.

14 Q: Okay. And what -- how many cartridge casings did you find
15 on that scene?

16 A: There were six.

17 Q: Six. And can you identify what kind of caliber those
18 cartridge casings were?

19 A: There was five 380 cartridge casings and one 9-milimeter
20 cartridge casing.

21 Q: And with this picture on State's 5, can you tell where the
22 380's were located?

23 A: The 380's were on the east side of the roadway. Some of
24 the cartridge casings are very, very close to the roadway.

25 Some are in the dirt, some are on the roadway, but they're

1 very close together in sort of like a line going up beside the
2 road.

3 Q: Now, did you mark -- you said there were five 380's.

4 A: Yeah.

5 Q: Did you mark a specific number? Is there something that
6 we can tell which is a 380 and which is another caliber?

7 A: Yes. When I photographed the scene and the marker
8 numbers, I photographed it at sort of a line angle and I'll
9 come in close and I'll photograph again and then I'll hold the
10 cartridge case and actually photograph the back of the
11 cartridge case showing the headstamp and showing the marker
12 number showing where I actually collected that particular
13 cartridge case from.

14 Q: And so markers 1, 2, 3, 4, and 5; do you know what caliber
15 those casings were?

16 A: 380.

17 Q: I might have skipped over this. What is a cartridge
18 casing?

19 A: It contains the powder and actual projectile. It's just
20 basically a spent cartridge. Once the bullet's fired it's
21 ejected out of the weapon.

22 Q: Okay. And so, were these actual full bullets that could
23 have been fired?

24 A: No. These have already been fired.

25 Q: Okay. So, they're casings from a bullet that has already

1 been fired?

2 A: Yes, sir.

3 Q: And then marker 9. You said there were six casings out
4 there. What was the last marker that you had?

5 A: Marker 9 was -- it doesn't show exhibit B -- or exhibit 5
6 here. There's an additional wide angel photograph. Marker
7 number 9 was a 9-millimeter cartridge casing.

8 **MR. HOLFORD:** May I approach, Your Honor?

9 **THE COURT:** Yes.

10 **BY MR. HOLFORD:**

11 Q: I'm going to hand you what's been marked for ID as State's
12 6. Is that the photograph you were just talking about?

13 A: Yes.

14 Q: Did you take this photograph?

15 A: I did. Yes, sir.

16 Q: And does that include all the markers?

17 A: Yes, it does.

18 Q: Okay. State would seek -- is it a true and accurate
19 reflection of the picture you took that night?

20 A: Yes, it is.

21 Q: And it is the scene as you processed it?

22 A: Yes.

23 **MR. HOLFORD:** State would seek to introduce 6 into
24 evidence, Your Honor.

25 **THE COURT:** Any objection?

1 **MR. MCCOY:** No objection.

2 **THE COURT:** Alright, State's Exhibit 6 admitted into
3 evidence without objection.

4 **MR. HOLFORD:** Thank you.

5 **(STATE'S EXHIBIT NUMBER SIX**
6 **IS ADMITTED INTO EVIDENCE.)**

7 **BY MR. HOLFORD:**

8 **Q:** Alright, as to this picture that has all the markers in
9 id; doesn't it?

10 **A:** Yes.

11 **Q:** Okay. And where is marker 9 in relation to the others?

12 **A:** Marker 9 is in the center of the roadway, approximately in
13 the center of the roadway. Just -- if I had a copy of the
14 report, I could tell you exactly as I measured it down. But
15 it's approximately in the center of the roadway right in front
16 of the driveway where the shooting incident took place. And
17 it's a single casing by itself. There was no other casings
18 around it.

19 **Q:** And what was the caliber of that one?

20 **A:** A 9-millimeter.

21 **Q:** So, the total number of casings you found on the scene
22 were? Tell me again.

23 **A:** Six.

24 **Q:** Six. Five were?

25 **A:** Five were 380, one was a 9-millimeter.

1 **MR. HOLFORD:** No further questions at this time, Your
2 Honor.

3 **THE COURT:** Alright. Cross examination.

4 **MR. MCCOY:** Nothing, Your Honor.

5 **THE COURT:** Alright, you may step down.

6 **OFFICER BAILEY:** Thank you.

7 **MR. HOLFORD:** Now the State would call -- or I would ask
8 that CSI Bailey be excused.

9 **THE COURT:** Any objection?

10 **MR. MCCOY:** None, Your Honor.

11 **THE COURT:** Alright, he's free to go.

12 **OFFICER BAILEY:** Thank you.

13 **THE COURT:** Thank you.

14 **MR. HOLFORD:** The State would call CSI Howitt.

15 **THE COURT:** Alright.

16 **OFFICER HOWITT, HAVING BEEN FIRST**
17 **DULY SWORN, TESTIFIED AS FOLLOWS:**

18 **CLERK:** Please state your name and spell your name for
19 the record.

20 **OFFICER HOWITT:** Officer Nathan Howitt. H-O-W-I-T-T.

21 **DIRECT EXAMINATION OF OFFICER HOWITT BY MR. HOLFORD:**

22 Q: Officer Howitt, where are you currently employed?

23 A: The Myrtle Beach Police Department.

24 Q: And how long have you been with the police department?

25 A: Since 2007.

1 Q: Okay. You're currently in crime scene investigation?

2 A: That's correct.

3 Q: How long have you been there?

4 A: Since 2015.

5 Q: And so, were you in crime scene investigation back on July
6 23rd, 2016?

7 A: I was.

8 Q: And how did you become involved or did you have an
9 occasion to become involved in the case against Calvin Ford?

10 A: I was assigned to attend the autopsy after the shooting.

11 Q: And whose autopsy did you attend?

12 A: The two victims, Mr. Alston and Mr. Burgess.

13 Q: Okay. And did you -- were you present for the whole
14 thing?

15 A: Yes, sir.

16 Q: And did you note how many -- I'm not going to ask you
17 specifically the manner of death, but what did you notice
18 about these two bodies?

19 A: Yes, sir. Mr. Alston sustained three gunshot wounds. Mr.
20 Burgess sustained one gunshot wound. He had two other
21 injuries on him.

22 Q: Okay. So, you got to my question, how many times had
23 Burgess been shot?

24 A: The preliminary findings per Doctor Proctor was at least
25 one. There was two other injuries but he didn't specify if

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1 they were gunshot wounds or from an assault.

2 Q: And how about Alston?

3 A: Three times.

4 Q: Alright. Now, sometimes when we see wounds there's
5 entrance and exit. Are you talking about number of holes or
6 number of shots?

7 A: Shots total three shots for Alston and one shot with
8 Burgess.

9 Q: Did you recover any -- withdraw that.

10 **MR. HOLFORD:** No further questions at this time, Your
11 Honor.

12 **THE COURT:** Alright. Cross Examination.

13 **MR. MCCOY:** Thank you, Your Honor. Just briefly.

14 **CROSS EXAMINATION OF OFFICER HOWITT BY MR. MCCOY:**

15 Q: What kind of bullets were used?

16 A: None were recovered from the body, sir.

17 Q: So, you have no idea.

18 A: No, sir.

19 Q: Okay. It could have been multiple guns?

20 A: I don't know.

21 Q: Okay. Were you present during the GSR kits that were done
22 on the two victims?

23 A: On the victims? No, sir. Stand by. I don't believe I
24 did GSR on the victims. No, sir.

25 Q: Did you do GSR at all in this case?

1 A: Not to my knowledge.

2 Q: Are you aware that GSR came back positive on the victims?

3 A: No, sir.

4 **MR. MCCOY:** Nothing further, Your Honor.

5 **THE COURT:** Redirect.

6 **MR. HOLFORD:** Nothing, Your Honor.

7 **THE COURT:** Alright, you may step down.

8 **OFFICER HOWITT:** Thank you.

9 **MR. HOLFORD:** Your Honor, the State would rest.

10 **THE COURT:** Alright. Any motions?

11 **MR. HOLFORD:** Your Honor, I'm actually blanking, if it
12 would be my motion to deny since it was originally raised or
13 since we ended if it would be his motion?

14 **THE COURT:** Well, I'll entertain a motion by anyone.

15 **MR. HOLFORD:** I apologize, Your Honor.

16 **THE COURT:** Yeah.

17 **MR. HOLFORD:** Your Honor, the State would make a motion
18 to deny the Stand Your Ground Hearing in regards specifically
19 to indictment 2017-GS-26-2913, as it relates to the murder of
20 Jamal Burgess. Your Honor, again, I believe the State's
21 contention would be that we are under section 16-11-440(c) and
22 in such that the defendant would have to show, still prove
23 self-defense, at least those three elements. And further that
24 the State has shown by a preponderance of the evidence based
25 on not only questioning defense witnesses but also providing

1 its own witnesses that the defendant was, in fact, the
2 aggressor in this. And therefore, he would fail on the first
3 part of ---

4 **THE COURT:** Before you go any further here, are you going
5 to put up any rebuttal witnesses?

6 **MR. MCCOY:** No more witnesses, Your Honor.

7 **THE COURT:** Okay. Alright, go ahead.

8 **MR. HOLFORD:** I apologize, Your Honor.

9 **THE COURT:** That's fine.

10 **MR. HOLFORD:** That defendant would fail on the first
11 prong of self-defense that he was without fault in bringing on
12 the difficult -- testimony has come out now to the Court that
13 it was, in fact, Mr. Ford that fired the first shot. They did
14 not see Jamal Burgess with a gun. Prior there were two
15 separate witnesses that did not see Jamal with a gun. In
16 fact, that it was Mr. Ford that pulled a gun from his
17 waistband and was the first to fire. Also, there has been
18 testimony that would rebut the defense's position that Mr.
19 Ford had a 9-millimeter. Mr. Burgess was shot, as stated by
20 Officer Howitt, at least once; on Damian at least three times.
21 There are five 380 casings laying along the road. The
22 direction as stated by his own witness, Everett Ford, if he
23 was even out there; was that Calvin was running toward White
24 Street in between those houses. In State's 5 and in 6 the
25 Court can see that those are where the shell casings were.

1 Further, there's been testimony to the Court that no
2 responding officer found a gun on either of the victims in
3 this case. There's been testimony that individuals did not
4 see either of the victims with a gun in this case. Your
5 Honor, by the defense's own admission, Calvin was firing
6 multiple shots. There's only one 9-milimeter casing found at
7 the scene and multiple 380 casings found at the scene. Your
8 Honor, the major reason why the State would move to -- move
9 this Court to deny the Motion for Stand Your Ground would be
10 the defendant was, in fact, with fault in bringing on the
11 difficulty and further there certainly a jury question here.
12 There are witnesses on both sides, if believed, the defense
13 witnesses that Jamal had a gun and that Mr. Ford fired. But
14 on the State's side, if believed, Jamal didn't have a gun and
15 didn't fire first. Certainly a question the State would pose
16 to this Court that is a question for the jury to determine
17 which side or which witnesses to believe or not to believe.

18 **THE COURT:** Alright. Mr. McCoy.

19 **MR. MCCOY:** Your Honor, the purpose of this hearing is to
20 decide immunity before we get to trial. As you know in the
21 Duncan case and in the State statute we're here to kind of
22 circumvent, or prior to a full on trial to assure citizens of
23 the State of South Carolina that you don't have to go in front
24 of 12 people if you are just defending yourself. We don't go
25 in front of a jury and say, hey it's a question for you guys

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1 to figure out whether or not this guy, you know, may or may
2 not have been in reasonable fear, if at the Stand Your Ground
3 Hearing we show that theses elements are met, Your Honor. So,
4 the question that this is a question for a jury, I don't
5 believe that's the law. This is a -- did Mr. Ford show by a
6 preponderance of the evidence, which is more likely than not
7 51 percent as Your Honor knows, was he more likely than not at
8 fault of bringing on the controversy. And I bring your
9 attention to South Carolina Chapter 8, defenses, self-defense
10 without false definition in our South Carolina Court of Jury
11 Charges. If the defendant's conduct was the type which was
12 reasonable calculated and did provoke a deadly assault, Calvin
13 didn't provoke a deadly assault. None of the witnesses said
14 that he was going to provoke a deadly assault. He had a man
15 who knocked his teeth out, pulled him in the same way.
16 Everybody, everybody testified that they knew Calvin had his
17 teeth knocked out. He had his teeth knocked out in the same
18 manner and the same way than the guy had done it four years
19 prior. Calvin knew that the guy was in jail just a couple
20 days before. Calvin knew -- all these things are in his mind.
21 Calvin knew that the guy was dangerous and was just involved
22 in a club shooting. Calvin knew that the guy had told people
23 who he was close to, when he gets out of jail, he's going to
24 kill you. Calvin knew that his mom saw him right in front of
25 the house. All these things were in his mind when the guy

1 comes up and puts his arm around him. Now, whether or not
2 Calvin ran when he saw the guy is not the question. Whether
3 or not Calvin had the right when he goes to pull the trigger
4 to defend himself in the great State of South Carolina is the
5 question. And that question is answered in the affirmative in
6 this case. The preponderance of the evidence shows that
7 Calvin went to a birthday party. He was with his kid and his
8 -- the mother of his child all day long, visiting his father,
9 visiting his mother and stopping in every now and then on the
10 party. But, I mean, there was evidence that showed he stopped
11 there for 10 minutes. He stopped there and he comes back
12 without his family finally and this is the time where he
13 finally -- nobody said he saw Jamal before. Nobody said he
14 was confronted before, but he finally sees Jamal and Jamal, as
15 Calvin testified on his own admission he had a car behind him
16 and Jamal sees him, comes up and puts his arm around him. Two
17 witnesses testified Calvin was trying to get the arm off
18 because that's how the gun happened last time. Calvin says I
19 saw the gun in his front of his jeans pocket. One of the
20 State's witnesses paints the perfect picture of how he looked
21 on that day. Goes through his entire clothes. I asked her
22 did he have a gun on him? No way. I looked him up and down.
23 I said, did he have anything in his waistband. She said no
24 way, I looked him up and down. I show her the picture and I
25 submit, Your Honor -- request, Your Honor, to look at that

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1 photo because clearly there's something and she says it looks
2 like a cellphone holder. I mean, there is a clear definite
3 hammer from the back end of a gun in that photo and we
4 enlarged it and she said yep it still looks like a cellphone
5 holder. That's there one witness to the event. She's
6 backtracking but that goes to show credibility. That's one
7 witness. What about the other witness? Well, I show her the
8 snapchat conversation and she says, if you didn't shoot that
9 guy he would have definitely killed you. I can pull it up
10 verbatim, Your Honor. You know, those are there two
11 witnesses. We have satisfied our burden. Our burden was to
12 exceed preponderance of the evidence. They found two
13 witnesses, both of them on the stand backtracked. The second
14 one -- the first witness that they put up miss Felicia
15 Williams might as well of been our witness. I said it like
16 this, if you wouldn't have killed Jamal he would have killed
17 you. Somebody was going to get killed that night regardless.
18 That's what their witness testified to and then I said was
19 that true when you said it to him, she said yes. And then
20 they put up another witness and I tried to get in the
21 statement she made through one of the other officers as
22 opposed to playing the audio, but I didn't realize we weren't
23 going to bring the officer. It's okay. But that witness said
24 I looked him up and down. She asked him about his boxers, she
25 asked him about his t-shirt. She asked him about his Tampa

1 Bay Devil Rays Jersey and put up into evidence -- she said
2 there wasn't anything on it. There wasn't anything on his
3 waist. Now, I show him a picture from that day when he's
4 holding her child. Now, I understand that they're very close
5 and it's a very heated case for all of these families involved
6 and it's horrible. It's tragic. But at the same time there's
7 got to be a truth somewhere and saying the guy didn't have
8 anything in his waistband when the photo clearly shows he did.
9 That's not truth, that's not justice. And then the other one
10 saying I don't remember saying to Calvin if you wouldn't have
11 killed the guy, the guy would have killed him. That's not
12 truth. And that was their only two witnesses, Your Honor.
13 This is preponderance of the evidence. We put up three
14 different witnesses to show that guy was dangerous. Calvin
15 knew it. All we have to show is Calvin was without fault.
16 Calvin did not go over there to kill somebody, on GPS monitor,
17 at his brother's birthday party, and also under curfew and
18 while he's being watched for two other cases that she brought
19 up, and in front of all of these people. This wasn't some
20 setup in the middle of the street, Your Honor. And secondly,
21 and secondly, without fault it would have to be conduct that
22 was the type when reasonable calculated to provoke the deadly
23 assault. Calvin would never approach this guy and try to
24 assault this guy. Never. And he didn't that day. They say
25 they were just talking and all of our witnesses said no, no,

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1 no they were arguing. As a matter of fact, Your Honor, when
2 they put up one of their witnesses who was Ms. Gore, she says
3 oh yeah, yeah, yeah I saw -- she corroborates with Bill Bill's
4 statement. She corroborates Everett Ford's statement.
5 They're saying Everett Ford wasn't there, Sherika Gore said
6 no, no, no I saw what Everett Ford said. I saw Aliga Campbell
7 and Jamal talking earlier in the day. And were they fighting?
8 What were they doing? I mean, she wouldn't make that up.
9 These are all things that go to a line, our witnesses are
10 telling the truth. And when it comes down to the things that
11 are pointed, they're not credible. But the fact remains is
12 the first witness hit the law on the nose for us. I mean,
13 clearly Stand Your Ground was established for this case. And
14 we'll take it on to imminent danger. Your Honor, he knew --
15 he told the guy and it was said by their witness, by their
16 witness. I heard Calvin say, don't shoot, let's fight. I
17 can't think of a more clear case in the State of South
18 Carolina where we have a Stand Your Ground where somebody says
19 -- this is what we've longed for, for these kids. Let's not
20 shoot each other. Let's fight with our hands. That was their
21 witness and our witness and our witnesses' brother -- or our
22 witness who was his brother. These are all three separate.
23 We've never even talked to that witness, Your Honor. She said
24 I don't remember saying that on the recording with the
25 detective. And now, reasonable fear, this man undoubtably had

1 a reasonable fear of this man, of Jamal. He had his teeth
2 knocked out with a gun, undisputed. We raised the issue
3 undisputed. The preponderance of the evidence standard. My
4 client testified, his brother knew about it, he visited him in
5 the hospital, his mom knew about it. This man had his teeth
6 knocked out in the middle of the street. Yes, he didn't talk
7 about it because that's where he's from. He doesn't talk to
8 anyone about this case, ever. They've asked him everything,
9 he hasn't said a word. That's just how it is and that
10 shouldn't be viewed one way or another. But what should be
11 viewed is that he -- I submit having your teeth knocked out,
12 needing surgery and being in bed for a month is great bodily
13 injury on the first go round. But if it's not is sure is
14 enough to make somebody in imminent fear and have that fear
15 reasonable when he sees a gun. That picture shows a gun, Your
16 Honor. And if it doesn't show a gun, it certainly show
17 reasonable fear that that is a gun. She says it's a phone
18 holder right here in the front of his jeans, Your Honor. I
19 submit to you, that is highly unlikely. And let's say for
20 arguments sake she's spot on and it is. It's reasonable for
21 him to fear that it's a gun, Your Honor. Reasonable under
22 those circumstances. He was told he was going to get out of
23 jail and kill him. He was told that he was -- that Jamal was
24 angry at him. He saw Jamal for the first second and all of
25 that stuff happened at one time. And, Your Honor, under 14-40

1 (c) he was attacked at a place he had a right to be. This was
2 his brother's birthday. Everybody knew that he was invited.
3 It's a very, very sad and tragic case. But they have another
4 person who they arrested for this charge.

5 **THE COURT:** Alright.

6 **MR. MCCOY:** Thank you, Your Honor.

7 **THE COURT:** Alright. I don't know if you call it
8 granting the State's motion or what, but I am going to deny
9 the defendant's motion for immunity from prosecution. I find
10 that the defense has failed to prove by preponderance of the
11 evidence that they are in -- or that he is entitled to
12 immunity in this case. So, therefore it does go to trial.
13 Now, the burden shifts and the State has to disprove self-
14 defense but preponderance of the evidence -- I mean, beyond a
15 reasonable doubt. So, I'm just denying the defendant's motion
16 for immunity finding that the defendant has failed to prove
17 immunity under the statute 16-11-450 by preponderance of the
18 evidence. And as I said, that just means it goes to trial.
19 He can still raise self-defense and the State has to disprove
20 self-defense beyond a reasonable doubt. Alright.

21 **MR. MCCOY:** I understand. Thank you, Your Honor.

22 **THE COURT:** Thank you.
23
24
25

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY)

The State,	)	
	)	
Plaintiff,	)	
	)	2017GS2602912
vs.	)	2017GS2602913
	)	2017GS2602914
	)	2017GS2602915
Calvin Durrell Ford,	)	
	)	
Defendant.	)	
 The State,	)	
	)	
Plaintiff,	)	
	)	2017GS2606725
vs.	)	2017GS2606729
	)	
	)	
Aliga Dasun Farrie Campbell,	)	
	)	
Defendant.	)	

Transcript of Record
November 4-8, 2019

B E F O R E:

Honorable Paul M. Burch
Horry County Courthouse
Conway, South Carolina

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

Joshua D. Holford, Esquire
Mary-Ellen Walter, Esquire
Attorneys for Plaintiff

Jonathan D. McCoy, Esquire
Attorney for Defendant,
Calvin Durrell Ford

Opening Statement by Mr. Holford

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1 be on the exam at the end of the semester. So I learned the
2 hard way about that. Now, my wife, she can sit there in a
3 room and watch three televisions at one time and tell you
4 exactly which one and what's going on. People are different,
5 but personally, like I said, I wouldn't do it because it can
6 be a distraction. All right. I think that's all I need to
7 cover with you right now and I'm going to go ahead and turn it
8 over to the trial attorneys for their presentations. I just
9 ask that you listen and observe, and any problems you let us
10 know and we'll try to address them. The State has the burden
11 of proof. So they will open with their opening statements.
12 Solicitor.

13 MR. HOLFORD: Thank you, Your Honor. May it please the
14 Court?

15 THE COURT: Yes, sir.

16 MR. HOLFORD: Let's go back to July 23rd, 2016. There's a
17 party at Ms. Dudley's house. It's down in Myrtle Beach.
18 Dameion Alston just turned 26. It's his birthday. A lot of
19 people are out there. They're celebrating, barbecue, people
20 are drinking, people are playing cards, a lot of people out in
21 the yard and the backyard, the front yard, inside the house.

22 Now, during that night Jamal Burgess is there, so is
23 Dameion Alston. Aliga Campbell is over there. He's in the,
24 the button-down right by Mr. Fox, his attorney. I might refer
25 to him as Aliga, Mr. Campbell, Aliga Campbell. He has a

1 disagreement with Jamal Burgess. Calvin had been over there
2 earlier, Calvin Ford, the gentleman with the, the zip-up polo
3 had been over there earlier. I might refer to him as Calvin
4 or Mr. Ford, but that's Calvin Ford. He's not there at that
5 time during that disagreement. He comes back over a little
6 before 9:00 o'clock. Within five minutes of Calvin Ford
7 showing back up boom, boom, boom, boom, boom, boom, six shots.
8 Jamal Burgess shot once. Dameion Alston shot three times,
9 both deceased. Now, this is a party. This is a good time.
10 This is a celebration. Everyone's out there. You'll hear
11 from the witnesses about what was going on that night.

12 Now, you might be wondering why. When I'm doing this I
13 like to have a little visual because sometimes I forget. I've
14 lived this case. I know this case. I know who the players
15 are, but right now I'm just now introducing it to you. So
16 when I say Warren Street I'm talking about down on -- off Mr.
17 Joe White, down in Myrtle Beach, Futrell Park, White Street,
18 Warren Street. So here's the house we're talking about. This
19 is where it happened. This is where Jamal are. This is where
20 Dameion is. This is where the party is going on. Calvin Ford
21 comes over from right down here on White Street.

22 Now, why did this happen? It could have been a
23 disagreement that night, could have been the disagreement that
24 Aliga had with Jamal earlier that night, could have been a
25 prior beef. You'll hear during this trial that Jamal had

Opening Statement by Mr. Holford

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1 knocked Calvin's teeth out years before. Now, why did it take
2 years? Well, I'm not going to hide the ball. Jamal Burgess,
3 he had a troubled past, in and out of prison, in and out of
4 jail. He had been to prison, been to jail. You know, he got
5 out of jail the week before this happened. He hadn't been
6 home long. Within a week of him getting out of jail and being
7 home, Calvin killed him. Now, how do we know that Calvin
8 killed him? Well, you're going to hear from the witness stand
9 witnesses that come and they tell you what they saw, what they
10 heard, what happened, but what you're also going to find out
11 Calvin freely admits it, he shot Jamal Burgess. So what
12 happened to Dameion? By all accounts, unfortunately, it seems
13 like Dameion got caught in the crossfire, unintended target.

14 So why are, why are we charging both with murder, two
15 counts? When you intend to kill one person with malice
16 aforethought, you shoot at that person and kill another, that
17 intent transfers. You'll hear about the law. You'll hear
18 about it from the Judge. We'll talk about transferred intent,
19 but when an individual takes a weapon to an altercation and
20 does what he intended to do, which is kill that person, Jamal
21 Burgess, 27-year-old male, I told you he's got a troubled
22 past. He didn't deserve to die. Nothing he did the State was
23 going to put him to death for. The penalty for what he had
24 done was not death and certainly not at the hands of Calvin
25 Ford. Dameion Alston on his birthday, 26 years old, did not

1 deserve to die. I don't care if there's this beef. What's
2 that show you? An ill intent. He was angry, maybe he got
3 disrespected, maybe he got his feelings hurt, maybe he got his
4 teeth knocked out. That's not justification to take another
5 man's life, but that's what this trial is going to be about.
6 Was he justified? Because, like I said, he's already admitted
7 that he shot Jamal. He says he's entitled to. He was scared,
8 afraid.

9 You know what, Calvin Ford is not allowed to have a gun.
10 You'll hear from this witness stand he's been convicted of a
11 violent crime. That prohibits him from having a gun, and yet,
12 on that night he takes a gun over to a birthday party, and
13 what happens, exactly what he intended, exactly what happens
14 when you take a gun over to a situation like that, someone
15 gets shot. In this case, two people get shot because when you
16 fire multiple rounds where there's a crowd of people, someone
17 is going to die, and that's exactly what happened in this
18 case. You're going to hear all that. I talk about within
19 five minutes. How do we know some of this stuff? Where shell
20 casings on the scene, you'll hear from the officers that
21 responded. You'll hear their GPS movement. So we know where
22 certain people were at certain times, what time they got
23 there. You'll hear from the witnesses what happened, what may
24 have been said, what was going on before. There were two guns
25 out there that night, multiple shell casings, 380, that's one

Opening Statement by Mr. McCoy

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1 caliber, 9 millimeter, five 380 shell casings, one 9
2 millimeter. Aliga Campbell had a gun, Calvin Ford had a gun.
3 There were no other guns found on scene. Jamal didn't have a
4 gun, Dameion didn't have a gun. This is senseless. It didn't
5 need to happen. Two young men did not deserve to have their
6 lives taken away. That's why we're here. Thank you.

7 MR. MCCOY: Thank you, Your Honor.

8 THE COURT: Counsel.

9 MR. MCCOY: May it please the Court. Thanks, Josh.

10 Ladies and gentlemen of the jury, my name is Jonny McCoy.
11 I, obviously, I'm an attorney here in town. I have an office
12 down on 21st Avenue, and I have the privilege of representing
13 Mr. Calvin Ford seated over there. He's at the table next to
14 my assistant, Marissa Gross, and the PD's office, Eric Fox,
15 and Aliga Campbell, the Codefendant down at the other end of
16 the table.

17 Didn't hear too much about Aliga Campbell just now; did
18 you? We'll explain why I think Aliga's here, even though he's
19 not my client. As a matter of fact me and Eric aren't even
20 working on this case together, but let's get to the
21 introduction. Yes, just as the Solicitor stated, he knows all
22 the players. As he said, he's been working on this case since
23 it started in July 23rd of 2016. That is three and a half
24 years, three and a half years, we're here right now.

25 Now, the good news about being a juror is you get to

1 bring in all of your common sense, all of your common
2 knowledge. We can't take that away from you. That's why I
3 love the jury box so much. It's the great equalizer, and you
4 get to bring in all of your, all of your intuitions that says,
5 "Well, three and half years, when, when they want you you're
6 coming to trial if they've got the evidence. You're coming in
7 this courtroom within years, within two years." We're here
8 three and a half years later, and I'm going to explain why
9 that's the case in a second.

10 Now, the charges in this case are murder, two counts of
11 murder for my client, Calvin Ford, two counts of murder for
12 his Codefendant, Aliga Campbell. That is the greatest
13 criminal offense that a person can commit in the history of
14 our nation. That's what you all are here for, and I do not
15 envy you. God knows, I'm going through -- you already heard I
16 have a therapist during the jury voir dire. Breathe. So you
17 guys have this awesome, awesome responsibility, not one, but
18 two murders, and you have to decide it within a few days, and
19 how are you going to come to that conclusion?

20 You're going to hear from the witness stand. You're
21 going to hear the evidence, but what are we really doing here?
22 Right? "Okay. Mr. McCoy, it's three and a half years. It's a
23 double murder. You seem like you're pretty convicted on this
24 case." What are we really doing here? There's not enough
25 evidence. It's not even close. It's a self-defense case.

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1 Yes, Calvin said he shot at Jamal because he feared for his
2 life. The Prosecutor wants to say, "Yeah. He knocked his
3 teeth out four years ago. This was revenge." Four years ago,
4 revenge from four years ago? The reason that they have to
5 point that out it sounds like revenge from four years ago is
6 because part of the self-defense is if you've had prior
7 instances and you reasonably fear that you're going to get
8 your teeth knocked out again, you're going to get put back in
9 the hospital and have your mouth wired shut, that if that
10 person approaches you, you have the right to defend yourself,
11 but they want to, they want to box it up and say, "No, no, no,
12 this was revenge."

13 I don't want to be here. It makes me sick to be here
14 today. I don't want to be in this courtroom and say somebody
15 participated in their own death, somebody caused their own
16 death. That -- I'm a human being. I'm not an attorney. I'm
17 a husband. I'm a father of a pit bull. I'm an attorney like
18 tenth. To say that a man contributed to his own death, but I
19 have to be here because I believe in justice. I believe in
20 the system in which we are founded upon, the greatest nation
21 in the world. My wife is from Brazil, and I've lived there.
22 We will crumble.

23 So what are we doing here? Two things, two reasons.
24 Number one, the State is -- they're passing -- they don't want
25 to tell the city, they don't want to tell the county, they

1 don't want to tell the State of South Carolina, they don't
2 want to tell the families, they don't want to tell everybody
3 involved, the police officers, the detectives, they don't want
4 to tell them, "We arrested the guy the day after. We didn't
5 have a -- we didn't investigate whether it was self-defense or
6 not." We can't -- they don't drop murder charges. So they
7 pass it to you three and a half years later. That's what
8 we're doing here so that you will come forward and say to the
9 family and to the county and to the state, not guilty by self-
10 defense. That's what they've done. I don't think it's fair,
11 but as, as the witnesses unfold, and you're going, "This isn't
12 enough. What is going on," and I mean, they're going to be
13 crisscrossing their own statements. Many of these witnesses
14 have given one, two, three statements on recordings, sworn
15 testimony, and they're all different, themselves they're
16 different, what time they got there, what they were doing when
17 they got -- what they heard, what they saw, and I -- and, and
18 let me stop right there, as this proceeding goes forward I
19 don't want to be here longer than anybody else. I don't even
20 want to be here right now, but as it goes forward I am going
21 to ask the question and then I'm going to as, as I hear
22 somebody say a lie or something that was contradictory I'm
23 going to stop and then I'm going to go over to the table and
24 then I'm going to grab the document or we're going to play a
25 video of them saying something totally different, and I'm not

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1 going to hesitate. I'm just not going to make you
2 uncomfortable. We're going to listen over and over and over
3 and over again to contradictory statements by the State's own
4 witnesses. They only have two, maybe three people that were
5 actually there, and we're going to talk about that in a
6 second.

7 So what's the other reason that we're here? First is so
8 the State can have a mouthpiece to say not guilty, self-
9 defense. They don't have to do it. The second reason that
10 we're here, the second reason that we're here is because the
11 State doesn't believe that you can fight the urge that is --
12 makes you human, that you can fight the urge that grows in all
13 of us when you hear something that doesn't sound safe, when
14 you, when you hear something that makes you hesitate and say,
15 "I don't want that part of my life. I don't want that coming
16 into my family's life, my mother, my father, my sisters, my
17 kids, my, my wife, my husband." They're hoping that at the
18 end of the day when you hear all about Calvin, not about the
19 incident, you're going to say, "I don't want this guy in
20 society." Calvin has a violent criminal charge on his record.
21 Calvin had a GPS ankle monitor on the night of this incident,
22 so did the two victims. This is a different world that these
23 people live in. We've all seen the TV shows. I just told you
24 you can bring in your own common sense and outside versions
25 and views. It exists. It exists, and I don't want to get

1 into some deep philosophical discussion about how it got there
2 or why it's there, but I promise you the answer is not to show
3 Calvin Ford and people like Calvin that the way that you say
4 straighten up is to, is to throw another injustice at them.
5 You fight this by throwing justice at them. There's not
6 enough evidence, and when you come back and you say, "Yes, you
7 had an ankle monitor. Yes, you had a criminal conviction for
8 a violent crime. Yes, you, you've got no teeth in the front
9 of your mouth so you use a gold teeth thing, but there wasn't
10 enough evidence on that night and we're going to find you not
11 guilty even though you admitted to firing a shot because we
12 are blind to your past and, and so is our lady justice."
13 She's blind.

14 Now, here, let's talk about the facts in the case. This
15 did not start on July 23rd, 2016. This started much longer --
16 much further before that. Calvin's teeth got knocked out by
17 Jamal Burgess. Every single witness will tell you this. All
18 the State's fact witnesses will tell you, Jamal put his arm
19 around Calvin four years prior to this incident, took a
20 handgun and knocked his teeth out. Then when Calvin was on
21 the ground he said, "I should shoot you." This wasn't a
22 fight. This was Jamal was involved in something else with
23 other people. Calvin was there, and it was just a bully
24 situation. Again, I don't want to speak ill of the dead, but
25 we're here. The law says and the Judge is going to tell you

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1 the law. Don't listen to me if I say anything different but
2 the law says if you have a prior incident with somebody comes
3 into play with the jurors, you can bring it in. Of course,
4 he's going to fear for his life against this guy when you see
5 -- when, when something's going down, especially when he
6 approaches him.

7 The Solicitor just told you that Jamal got out, got out
8 of prison the week before the incident. He got out of prison
9 three days before the incident, three days. Now, you're going
10 to hear testimony that while he was in prison he told people,
11 "I'm going to kill two people when I get out," Calvin Ford and
12 another man named Kendrick Green. He told people that. Gets
13 out of prison and then, and then this incident happened three
14 days later. Two days later, the night before this incident,
15 Calvin, I think, yeah, and Aliga, Calvin, for sure, and his
16 family, including Dameion, Dameion, the guy he's charged with
17 murdering, and the second one is Calvin's best friend. He's
18 his cousin. They, they were inseparable, inseparable. The
19 night before this shooting Calvin, Dameion, Aliga and all of
20 Calvin's family members were at a blue crab boil at an aunt's
21 house. They were all together. The aunt, the aunt had --
22 just had somebody pass away and they were with them. During
23 that time you're going to hear testimony that Calvin's mom saw
24 Jamal out in front of their house that they share together.
25 So one night after he got out of jail he was out in front of

1 Calvin's house. You're going to hear Calvin's mom testify to
2 that. The next night this incident happened. So what happens
3 on this incident? Well, there's video, there's video camera
4 of the street, and we're going to talk a lot about those
5 videos during this trial, but there's video cameras of the
6 street and you see Calvin crossing the street. Let's just
7 stop right there. They're charging Calvin with premeditated
8 murder, premeditated murder on a GPS monitor on a road in
9 which he's lived his whole life and you're going to hear
10 everyone testify that, that this is where they all hung out.
11 This is what -- this was their hang out, Warren Street.
12 Calvin played basketball there. He grew up there. He know --
13 he knew there were -- he knew there was cameras right there
14 catching him cross the road. He was over there earlier at
15 7:00 o'clock at night. The State's position on that, you'll
16 hear is, while he was there earlier he was there for 10
17 minutes, 10 minutes, 7:00 o'clock at night for a huge birthday
18 party. The birthday party was for Calvin's brother, Rasheed
19 McKnight, his actual brother, and his cousin Dameion, who's
20 there -- who's Dameion Alston, who's the other person who's
21 deceased. Calvin went to the birthday party for 10 minutes.
22 Then he goes back home. He's on GPS, and he goes back home.
23 Remember it's daylight, goes back home, meets with his mother
24 who's watching his son for that short period of time. His,
25 his girlfriend gets off work. He hangs out with them for an

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1 hour and then he goes, "I've got to be back on my curfew for
2 10 -- at 10:00 o'clock at night. So I'm going to go back over
3 to the party, see, see the family, see my friends for, you
4 know, 30 minutes, an hour, I don't have much time, I got to be
5 back at 10:00 o'clock and then I'm going to -- and then I'll
6 be back," and the State's theory is this was all some sort of
7 like premeditated like planned to like kill this guy at 8:30
8 at night over some teeth that happened four years ago while
9 he's on a GPS monitor and crossing in front of a video camera
10 on the street where there's 100 people at a party. I'm
11 telling you this is real. We're, we're really here right now.
12 So as he, as Calvin crosses the street, the camera sees him in
13 full. He's walking thereby. There was two others guys. They
14 walk off in a whole 'nother direction. He crosses the street.
15 He walks, you know, he's actually in the little white line
16 like walking on the sidewalk, obeying the rules, gets over
17 there and not four minutes passes before the 911 call rings
18 out. I told you there's three witnesses that the State say is
19 there and then we have witnesses, neutral witnesses. One of
20 them lives on the street, some 55-year-old man. You'll hear
21 from him. The three witnesses that the State has, now, one of
22 the -- and these are three that, that we know that they've,
23 that they've turned over in discovery stating they were there.
24 One of these witnesses has a -- and I -- if they call this
25 witness you are going to see a broken man questioning her.

1 This witness has paranoid schizophrenia.

2 MS. WALTER: Objection, Your Honor. May we approach?

3 THE COURT: Yes.

4 (Whereupon, a bench conference is held in the presence
5 but out of the hearing of the jury.)

6 MR. MCCOY: So this witness has paranoid schizophrenia.
7 During her interview with the police she says, "Don't call me
8 to court. I may have an episode. I -- my medicine doesn't
9 work. I have memory problems," all this other stuff, and in
10 the beginning of her interview she says, "Jamal was my best
11 friend," and she breaks down crying. She also goes in to say
12 she, she's been followed by people in 2011 and '12 and that
13 she's about -- that she was going to get on a plane during
14 this and fly to Nebraska to stay with a rich aunt, and all
15 during this the detective keeps leading her. Instead of
16 stopping and saying, "Can we get this woman, you know, some
17 help, some water," it's just like, "And then you saw this, and
18 then you saw this, and then you saw this." That's witness
19 number one. Oh, by the way, that witness, bless her heart,
20 says that witness number two wasn't there, wasn't there.
21 She's positive of it, witness number two, the one that witness
22 number one says wasn't there, witness number two makes, makes
23 -- she's -- she has three different statements. She has one
24 sworn at a previous hearing. She has one recorded the day
25 after the incident and she has text messages between her and

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1 Calvin. All of them contradict themselves and not just like,
2 "Oh, you were wearing blue." No. I'm talking like, "I saw
3 this," and then it's like, "I never saw that. I ran right
4 after the shots. I didn't see the shots, and then I stood
5 there, I listened or, or watched what happened. I got in my
6 car. I backed up after the shooting. Somebody came out of
7 the house, told me to come in the house. I parked my car over
8 here. Then I ran in the house." A whole 'nother statement
9 she goes, "Right after the first shot I ran in the house."
10 This is not how you convict somebody of murder in, in the
11 United States of America, and on to the third witness, she's
12 -- she says that she's there, she's not paying attention to
13 anything that they're saying. So she has no idea if, if Mr.
14 Burgess threatened Calvin, and then she says, and, and I'll
15 give her credit, you know, she just says, "Look, I wasn't
16 listening," you know, but then she goes on to say, "Yeah. Mr.
17 Ford got there. He pulled up in his white car and got out and
18 approached Jamal." He walked across the street. This is not
19 how you convict somebody in the United States of America.
20 We'll see the evidence. I'm telling you.

21 There's so many flaws to this case. That's what makes it
22 so hard, hard for, hard for this table. You know, they say
23 the guilty sleep. We haven't slept in three and a half years
24 over there, but I always tell the jury our job is to give you
25 the words. Our job is to give you the right things to say for

1 your story for your story, to tell your loved ones, the
2 people who are going to ask you, "How was that murder trial?
3 What happened in that murder case? How did you
4 find him not guilty, the guy with an ankle monitor, a guy
5 who wasn't allowed a gun because he had a violent crime,
6 the guy who admitted to shooting the guy," and again,
7 on that you're going to hear that when, when, when Calvin
8 crossed the street that night Jamal came bee-lining straight
9 for Calvin, put his arm around him again. This is not the
10 four years prior, same exact thing happened, put his arm
11 around him again, Calvin shrugs off the arm, you're going to
12 hear this from the witnesses, then Jamal, and you'll hear
13 this from the State's witnesses, Jamal, the deceased, moves
14 Dameion out of the way who was telling Jamal, "Whoa, whoa,
15 whoa, calm down, calm down." Jamal moves Dameion out of the
16 way. Every witness is the same, "I saw Jamal push Dameion,"
17 and as -- as soon as he pushes him you -- they hear the pow,
18 pow, pow, pow, pow that Josh told you about. Right? And
19 then their three witnesses say Calvin was the only one with a
20 gun.

21 Well, then the State goes out to the scene and they count
22 five 380s, so that must be Calvin, and a 9 millimeter. Well,
23 in steps Aliga who's arrested a year and some change after
24 this case, not my client, don't know anything about the guy.
25 You know why Aliga is here? So that they can say -- they

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1 didn't even have anything to say about him in his opening, so
2 that they, so that they have a -- somebody to show for the
3 other shell on the ground. That's it. That's the only reason
4 Aliga's here, and you'll hear from one of the witnesses who
5 was standing there, one of the State's witnesses, not ours,
6 one of the State's witnesses, "Calvin had a big black gun."
7 Anybody in here familiar with handguns, you can educate the
8 other jurors when you're back there, a 380 is the smallest
9 gun, smallest pistol on the market, fits inside the palm of
10 your hand. Nine millimeter, five 380 casings found, one 9
11 millimeter, Jamal got hit by one bullet. No witness will say,
12 as a matter of fact, the witnesses say no way Calvin shot
13 Dameion, no way, the State's witnesses, but one of the, one of
14 the most pivotal parts that we have discovered through our
15 discovery process after three and a half years going through
16 this stuff, I finally listened back to one of the recordings
17 of witness number two, and I listened all the way, all the way
18 to the ending of it. You know, it's my fault for not catching
19 it sooner, and she says at the very end of her recording which
20 we'll play because she's going to deny, though I don't know
21 how that's going to play out, but she says something critical
22 and you'll hear it from the stand or I'll get it from her.
23 She says when Jamal is laying on the ground he was still alive
24 but she said she ran into the house, depending on what
25 version, she runs into the house and then she comes back out

1 and she sees Jamal on the ground and he's still alive, and she
2 sees Jamal's best friend over him, just like any good friend
3 will do, talking with him, "Stay alive, breathe," those types
4 of things, you've got to understand that's his best friend.
5 She says that's his best friend. As a matter of a fact, she
6 says, "That's the guy Calvin may need to worry about. That's
7 this guy," and we'll say his name here in a little while from
8 the witness stand. The victim Jamal was on an ankle monitor.
9 He just got out of prison. His best friend is going to leave
10 a gun next to him while he's still alive? His best friend is
11 going to -- so Jamal had a gun, you think that thing was still
12 there when his best friend, all these 50 people, these were
13 Jamal's friends, too. You think the police are coming five
14 minutes away you think he's just going to go, "Man, breathe,
15 Jamal, breathe," all this stuff that he said to him, and he's
16 just going to go, "All right. Let's get out here," leave the
17 gun? What if Jamal would have lived? He would have gone to
18 jail. The most -- but they never, they never even questioned
19 the guy who was leaning over him and talking to him. Never
20 said, "Did you pick up a gun? Did you see a gun?" Nothing.
21 But they say, "Oh, there wasn't any guns on the scene." By
22 the way, no guns have been recovered, only those shells;
23 right? So they pick up shells and guns from these scenes in
24 this area. Like I said, different world, different life,
25 different situation, but we're here, and as I

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1 told you our job is to give you the words for your story that
2 you're going to tell to your friends and your family at the
3 end of this case. "How did you find him not guilty of
4 murder," this guy with no teeth in the front of his mouth,
5 uses a gold grill, with an ankle monitor on, violent crime in
6 his past, that neighborhood, uses slang and all this other
7 terminology, you're going to hear a lot of slang from here.
8 I'm telling you. "How did you find that guy innocent?" I'm
9 telling you right now you're writing your story. You started
10 yesterday. The only thing yet to be decided is what's the
11 moral. Thank you.

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

13 THE COURT: Yes, sir.

14 MR. FOX: Good morning, ladies and gentlemen. Again, my
15 name is Eric Fox, and I am here today representing this week
16 Aliga Campbell who's at the end of the table. I agree with Mr.
17 McCoy, Mr. Campbell absolutely should not be here. No way in
18 the world he should be here. However weak the evidence is
19 against Mr. Ford, and I believe that it is weak, the evidence
20 against Mr. Campbell is virtually nonexistent. All right? It
21 is infinitesimal, and he is here solely because in order for
22 the State, they believe, to successfully prosecute Mr. Ford
23 they're going to have to have an explanation for this random
24 shell. There are several 30 -- 380 caliber shells and a 9
25 millimeter, and they have to account for that. There's got to

1 be a second shooter, someone else out there had a gun and it
2 can't be Jamal Burgess or Dameion Alston because that would
3 play into Mr. Ford's self-defense, but you're not going to
4 hear virtually anything about Mr. Campbell. His name will be
5 there. Everybody in this, everybody in this scenario other
6 than police officers, SLED agents you'll hear from, all of the
7 witnesses, all the lay-witnesses, the victims, the Defendants,
8 everybody knows each other. All right? It's a tight community.
9 Some people get along better than others, but this is --
10 Warren Street where the shooting happened, along Joe White
11 Avenue, White Street, these people are friends. They grew up
12 together. They went to school together. They've got children
13 together. They're related to each other, you know, they're
14 cousins. Dameion Alston was Mr. Campbell's cousin, too, and
15 good friends. Dameion Alston, neither of them deserved to die.
16 One thing I want to emphasize, though, the logistics in
17 this courtroom are that we've only got one table. So we're
18 all packed in at that table, but Mr. Ford and Mr. Campbell are
19 not one. As you know already from Mr. McCoy's opening
20 statement, Mr. Ford is more than adequately represented. He's
21 got an excellent attorney, he does not need my help. Other
22 than he's a human being I frankly don't care what happens to
23 Mr. Ford in the context of this trial because he's not my
24 concern. My concern is Mr. Campbell. They are not together.
25 They did not act together. Whatever happened they did not

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1 plot together or plan together and they're entitled to, and
2 the Judge will tell you, separate verdicts. So we're going to
3 be sitting there physically, but I want you to imagine a
4 barrier because I've got nothing to do with Mr. McCoy,
5 wouldn't be -- would -- danger to try to direct him anyway.
6 He doesn't need my help, but almost all the evidence you're
7 going to hear this week is going to concern Mr. Ford and not
8 Mr. Campbell, but the State has got to have a reason, they've
9 got to check off self-defense, and so Mr. Campbell is here.

10 It is absolutely true, the police, there was a shooting,
11 ain't no doubt about that, Mr. Burgess and Mr. Alston dead,
12 whatever the context of that. The police interviewed a lot of
13 people. The State's right, there's a lot of people out there.
14 It's a double birthday party. There were a couple of dozen
15 people, at least, out there afternoon into the early evening
16 doing what you do at a birthday party, some of them playing
17 cards, some were shooting hoops, they're talking, they're
18 drinking, they're having a good time, because it's a party.
19 Everybody knows each other.

20 So the police arrive, they do what police do when there's
21 a shooting. They investigate. They collect evidence. They
22 talk to witnesses. They do a full police investigation. They
23 get video. They mock up maps. They collect evidence, and
24 within a couple of days they decide they have enough to at
25 least arrest Calvin Ford. They do not arrest Aliga Campbell.

1 Based on the interviews of the witnesses as you will hear
2 from, they talked to these people already, all right. They
3 talked to these people within days or a couple of weeks of
4 this shooting. They have the physical evidence. They've done
5 the autopsies. They've got their theory of the case. Mr.
6 Campbell isn't hiding. He lives right around here. They're
7 all within a couple of blocks. He hasn't gone anywhere.
8 Guess who's not on an ankle monitor out of this whole crowd?
9 Mr. Campbell was not on an ankle monitor. All right? And I
10 agree with Mr. McCoy. I don't think that's got nothing to do
11 with nothing, but Mr. Campbell wasn't on an ankle monitor, but
12 within a few weeks, within a couple of days Mr. Ford has been
13 arrested, correctly or not he's been arrested and charged with
14 the murder of Dameion Alston and Jamal Burgess. They have the
15 evidence they have now because there have been preparations
16 and things that have gone on over the last couple of years, of
17 course, have been. They tested shell casings and things.
18 They did gunshot residue on people, and by the way, the, the
19 victims both had gunshot residue on them, all right, which
20 indicates maybe they were just near a gun going off, but it
21 also could indicate they shot a gun, impossible to tell that,
22 but they did not arrest Aliga Campbell and they did not arrest
23 Aliga Campbell the next week or the next month or the month
24 after that or the month after that and keep going out for 14
25 months. He was not arrested until September of 2017. The

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1 evidence hasn't changed. One witness came forward and you'll,
2 I believe, hear from that witness, but based on the testimony
3 of this one witness, and I'm going to -- I'll deal with him
4 when he gets here, but based on his testimony of that one
5 witness the police decide that, "Now we've got enough and
6 we're going to arrest Aliga Campbell because we've got to have
7 somebody to explain, we need someone that was present to
8 explain this random shell casing that we can't explain if
9 Calvin Ford is sitting in the courtroom all by himself."
10 Nobody wants to be here. Obviously, Mr. Burgess and Mr.
11 Alston's families don't want to be here. Mr. Ford, Mr.
12 Campbell's families don't want to be here. You all don't want
13 to be here. It's going to take several days, but you are
14 citizens of this country and you have the duty. Winston
15 Churchill said if you live in a democracy the three great
16 duties are serving your country in time of war, vote and jury
17 service. So you swore an oath to do your duty and I'm going
18 to expect that you will, which means that you will pay
19 attention and listen carefully. I have a friend who's a
20 research scientist. He has this great t-shirt that I think
21 applies here. It says, "Demand -- think critically and demand
22 evidence." That's exactly what you all need to do. Think
23 critically. Think for yourselves. What does this really
24 mean? I'm going to tell you what I think it means. Mr. McCoy
25 will tell you. The Solicitor will tell you. Think for

1 yourselves. Think critically and demand evidence.

2 The Judge will define reasonable doubt for you at the end

3 of the trial. You probably can give a pretty good definition

4 of it yourselves right now, a doubt for which you can give a

5 reason. Right? The State is not required to prove guilt

6 beyond all doubt. That's impossible. None of you were there

7 on Warren Street in July of 2016. You cannot know anything

8 one hundred percent. It's not required. However, this is not

9 horseshoes or hand grenades, close doesn't count. Almost

10 doesn't count. You have to be firmly convinced of the guilt

11 of Mr. Campbell, not Mr. Ford, whatever you decide about Mr.

12 Ford that's a separation determination, but you must be firmly

13 convinced, without a doubt, of guilt of Mr. Campbell in order

14 to return a verdict of guilty. Now, used to think it was un-

15 cool to take notes up here and do this, but I've learned not

16 to trust my memory. There are some things that I make sure I

17 say. Whatever happened between Mr. Burgess and Mr. Ford

18 that's between them. I think it's very well agreed that Mr.

19 Alston was not a part of all that. I think it is absurd to

20 think that an incident that happened four years ago, no matter

21 how serious it was, prompted this four years later. There is

22 no indication that Mr. Campbell had any kind of incident with

23 Mr. Burgess that justified this, that led to this because it

24 didn't. Everyone will tell you, all the witnesses will say

25 whenever it happened, you know, when the shots went off, when

Opening Statement by Mr. Fox

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1 people started running, there was Mr. Burgess, Mr. Alston and
2 Mr. Ford, that whatever, whatever happened, I don't know, you
3 all can sort that out, that's not frankly my concern, but what
4 they will tell you is Mr. Campbell wasn't there. There's a
5 witness who's going to say everybody ran, panicked. "Did you
6 see Mr. Campbell there?" "Well, I saw him when I ran inside
7 this house. Mr. Campbell was inside this house right there
8 where I ran into." Ladies and gentlemen, the evidence in this
9 case is nonexistent against Mr. Campbell. He is here because
10 the State believes they need him to get through to Mr. Ford.
11 He is here on trial for his life. I appreciate your time and
12 attention and I'll talk to you at the end of the case.

13 THE COURT: All right. Does anybody need a brief recess
14 before we begin the evidentiary portion? Once again, I will
15 remind you what the lawyers say not necessarily evidence. You
16 will try this case on the evidence presented from the witness
17 stand and any exhibits. Solicitor.

18 MS. WALTER: Thank you, Your Honor. The State calls
19 Elizabeth Holoman.

20 THE COURT: If you'll come up, please, and be sworn.

21 Whereupon, Elizabeth Holoman is called to the stand, duly
22 sworn by the clerk and testified as follows:

23 THE CLERK: State your name and spell your name for the
24 court. Okay?

25 DIRECT EXAMINATION

- 1 BY MS. WALTER:
- 2 Q Ms. Holoman, if you can just -- good morning, Ms.
- 3 Holoman. If you can just state your name and then just spell
- 4 your last name for the court reporter, please.
- 5 A Say what?
- 6 Q Can you state your name, please, and then just spell your
- 7 last name for the court reporter.
- 8 A Oh, Elizabeth Holoman, Elizabeth Holoman.
- 9 Q And how do you spell your last name?
- 10 A H-O-L-O-M-A-N.
- 11 Q Are you referred to as Ms. Dudley?
- 12 A Yes.
- 13 Q Okay. And where do you live?
- 14 A [REDACTED] Warren Street, Myrtle Beach.
- 15 Q And that's here in Horry County?
- 16 A Uh-uh. Myrtle Beach, South Carolina.
- 17 Q Right beside --
- 18 A In Myrtle Beach, South Carolina.
- 19 Q Okay. And do people also refer to Warren Street as
- 20 Dudley Row?
- 21 A Yes. They do.
- 22 Q Okay. How long have you lived there?
- 23 A Ever since 1965.
- 24 Q Okay. And you're -- so you're still living there today?
- 25 A I'm still there.

Elizabeth Holoman - Direct by Ms. Walter

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- 1 Q Okay. Now, I'm going to ask you if you know a couple of
2 people if that's all right. If you can look over there, do
3 you know Calvin Ford?
- 4 A Yeah.
- 5 Q How do you know him?
- 6 A Well, we were all raised up around there together. I
7 know him by his family.
- 8 Q You know him through his family?
- 9 A Yeah.
- 10 Q How long have you known him?
- 11 A Ever since they been here.
- 12 Q Would you say he frequents Warren Street or Dudley Row?
- 13 A No.
- 14 Q No.
- 15 A Huh-uh.
- 16 Q Did -- and what about Aliga Campbell in the checked
17 shirt?
- 18 A Yeah. I know him.
- 19 Q How do you know Aliga Campbell?
- 20 A He's kin to my grandchildren.
- 21 Q And how long have you known Aliga Campbell?
- 22 A All his life, too.
- 23 Q Did Aliga Campbell come over to Warren Street a lot?
- 24 A Yeah. He be there.
- 25 Q Okay. Did you know Jamal Burgess?

- 1 A Yeah.
- 2 Q What name did you know him by?
- 3 A J Money.
- 4 Q How did you know Jamal?
- 5 A Well, he raised up there around my house, around, him and
- 6 Mario, they all very close friends.
- 7 Q And when you say Mario who are you referring to?
- 8 A One of my son, Mario Randall.
- 9 Q So your son Mario Randall and Jamal Burgess were friends?
- 10 A Yeah.
- 11 Q And would Jamal Burgess come over to Warren Street a lot?
- 12 A Did who?
- 13 Q Did Jamal Burgess or J Money come over to Warren Street a
- 14 lot?
- 15 A Yeah. Yeah. He do.
- 16 Q And then did you know Dameion Alston?
- 17 A Yeah.
- 18 Q Okay. How did you know Dameion?
- 19 A Well, through his family, I know them, all his family.
- 20 Q And did Dameion come over to Warren Street a lot?
- 21 A Dameion?
- 22 Q Pardon me? Did he come over to Warren Street a lot?
- 23 A Who?
- 24 Q Dameion.
- 25 A Dameion.

Elizabeth Holoman - Direct by Ms. Walter

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- 1 Q Dameion Alston.
- 2 A Alston?
- 3 Q Yes.
- 4 A Yeah. They just come around there, where his sister live
- 5 right across the street.
- 6 Q Okay. Now, thinking back to July 23rd of 2016, do you
- 7 remember that day, the day that the shooting occurred?
- 8 A Uh-huh.
- 9 Q And you just have to say yes or no so she can --
- 10 A Yes.
- 11 Q Okay. Sorry. What had you been doing that day?
- 12 A Well, I been out of town for my nephew funeral in
- 13 Spartanburg, South Carolina.
- 14 Q Did you come back home after the funeral?
- 15 A Yes. We did.
- 16 Q Do you know about what time you got home?
- 17 A I know it was dark. I can't remember what time it was.
- 18 Q But it was already dark out?
- 19 A Yeah. Uh-huh.
- 20 Q And who had gone with you to the funeral? Who went to
- 21 the funeral with you?
- 22 A Oh, me and my brother and my cousin and one of our
- 23 friends, she took us.
- 24 Q Okay. So when you got back to Warren Street what did you
- 25 see happening outside?

- 1 A Well, when I got back there everybody was -- they was
2 playing cards and the girl was sitting up by the house
3 drinking beer.
- 4 Q So a party you think?
- 5 A I don't know, but they was out there, you know.
- 6 Q Okay.
- 7 A Because they usually be out there drinking beer or
8 something like that and playing cards.
- 9 Q Who do you remember seeing out there when you first got
10 home?
- 11 A Well, J Money was the first one I seen.
- 12 Q All right. And what happened when you saw him?
- 13 A He came -- he saw me getting out the car. So he turned
14 around and came back and help me out of the car, take my
15 package and stuff, help me get out of the car so.
- 16 Q Okay. So when you first saw Jamal what was he doing?
17 You said he came over. What was he doing before he came over?
- 18 A On the phone.
- 19 Q Can you describe what his mood was like?
- 20 A He was in a good mood. He was on the phone talking to
21 someone.
- 22 Q And did you hear him say anything as he was coming
23 towards you?
- 24 A No. I didn't hear nothing.
- 25 Q When he came towards you what did he do?

Elizabeth Holoman - Direct by Ms. Walter

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- 1 A He take my package and stuff and take them out of the car
2 and after they got -- I got out I told him to gave, gave me
3 back to me, I'll take them. He said, "You sure?" I said,
4 "Yeah. I'm sure." So he --
- 5 Q Now, when he was helping you with this package, was he --
6 with your packages, was he fairly close to you sort of like I
7 am?
- 8 A Yeah. Just like this.
- 9 Q Okay. So --
- 10 A He was as close to me as this.
- 11 Q Okay. And so that's about a foot or two?
- 12 A Uh-huh.
- 13 Q Were you able to get a good look at him?
- 14 A Yeah.
- 15 Q Did you see him with a gun at any point?
- 16 A I didn't see no gun.
- 17 Q Okay.
- 18 A All I saw was that phone.
- 19 Q Okay. And so when -- as he was walking towards you you
20 didn't see a gun?
- 21 A No.
- 22 Q As he helped you with this package -- with your packages
23 you didn't see a gun?
- 24 A I -- package -- I still didn't see no gun.
- 25 Q Now, did you see anyone else that you recognized outside?

- 1 Any -- did you recognize any of the girls that were drinking
2 beer?
- 3 A Yeah.
- 4 Q Who do you remember seeing?
- 5 A Sherika and Shea, all I know her by is Shea.
- 6 Q Okay. Okay. And --
- 7 A And the baby, they had the baby.
- 8 Q Did you see Felicia Williams out there?
- 9 A No. I really didn't pay that much attention. I didn't
10 see. I was so busy trying to get in the house I didn't --
- 11 Q You weren't taking --
- 12 A I won't say she was there and she wasn't because there
13 been a lot of people out there.
- 14 Q Okay. And you weren't taking roll of who was around?
- 15 A No.
- 16 Q Do you remember any of the men that were outside?
- 17 A The onliest one I remember is I -- Poo and Mario and it
18 was some more but I didn't pay that much attention, you know.
- 19 Q And when you say Poo, P-O-O, you're --
- 20 A Ashley.
- 21 Q Ashley Randall?
- 22 A Yeah.
- 23 Q Okay. That's right. Once you went inside your house
24 did, did you hear anything?
- 25 A No. Right after I got in there, I was in there about

Elizabeth Holoman - Direct by Ms. Walter

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1 five minutes and I heard a gunshot.

2 Q What did you do once you heard the gunshot?

3 A And I thought it was firework, and my sister she's blind.
4 She said, "Girl, that ain't no firework. That's a gun," and I
5 hollered, "Someone call 911," but I don't think they heard me,
6 so I picked up the phone. I got the phone and called 911.

7 Q Did you hear more than that one shot?

8 A No.

9 Q Okay. And so you said that you called 911. Have you had
10 a chance to listen to that call since that night?

11 A Yeah. The other day.

12 Q Okay. Okay. And is that a fair and accurate copy of the
13 call that you made that night?

14 A Yeah.

15 MS. WALTER: Your Honor, Exhibit One, which has been pre-
16 marked, is a copy of that 911 call. We would ask at this time
17 that it be admitted and published to the jury.

18 MR. MCCOY: Without objection, Your Honor.

19 MR. FOX: No objection, Your Honor.

20 THE COURT: In without objection.

21 (Whereupon, State's Exhibit Number One [911 Call]
22 admitted into evidence and appropriately marked.)

23 (State's Exhibit Number One played in open court.)

24 BY MS. WALTER:

25 Q And so, Ms. Holloman, the, the last time you saw Jamal

1 was right before you went inside; correct?

2 A Yeah.

3 Q And when -- I believe we've covered this, but when he
4 helped you with your packages you didn't see any gun on him?

5 A No. I didn't see no gun.

6 Q Did you see him having any kind of confrontation with
7 anyone, any kind of argument with anyone?

8 A No. He was on the phone talking, look like he was happy
9 while he was on that phone talking as he walked toward the
10 road.

11 Q Okay. Thank you. I have nothing further, but if you'd
12 just answer the questions from Mr. McCoy and Mr. Fox.

13 MR. MCCOY: Thank you, Your Honor. May it please the
14 Court?

15 THE COURT: Yes, sir.

16 CROSS EXAMINATION

17 BY MR. MCCOY:

18 Q Good morning, Ms. Holloman.

19 A Hi.

20 Q How are you? I just have a couple of questions for you.
21 Okay?

22 A Okay.

23 Q Do you remember testifying at that previous hearing where
24 I was?

25 A Yeah.

Elizabeth Holoman - Cross by Mr. McCoy

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- 1 Q I never asked you any questions then?
- 2 A Yep.
- 3 Q I just have one or two. I promise. Okay?
- 4 A Okay.
- 5 Q I promise. Okay. The Prosecutor at that previous -- at
- 6 -- today asked you did Calvin come on Warren Street a lot.
- 7 You remember her asking you that?
- 8 A Yeah.
- 9 Q Do you remember what you said to her?
- 10 A I said not regular far as I know.
- 11 Q Not really. Do you remember telling -- when she asked
- 12 you at, at a previous hearing, she said, "Does he come around
- 13 Dudley Row a lot?" Do you remember responding, "Sometimes he
- 14 will, yeah"?
- 15 A Yeah.
- 16 Q Okay. And do you remember during that hearing saying
- 17 that he comes to play basketball over there?
- 18 A Yeah. He play basketball whenever he come over there.
- 19 Q Yeah.
- 20 A But it wasn't that regular.
- 21 Q Yes, ma'am. I understand. Okay. You, you were at a
- 22 funeral; right?
- 23 A Yes. My nephew.
- 24 Q Okay. And did Felicia Williams go to the funeral with
- 25 you?

- 1 A No. She didn't go to no funeral.
- 2 Q She didn't go to a funeral?
- 3 A No, not Felicia, not with me.
- 4 Q Okay. So you didn't see her out there at all at that
- 5 funeral?
- 6 A No.
- 7 Q It's okay. You don't have to -- I'm not trying to trick
- 8 you. I promise.
- 9 A Huh-uh, no. I don't, you know.
- 10 Q Yes, ma'am. Okay.
- 11 A If she went I don't know. I didn't see her.
- 12 Q Okay.
- 13 A Because it was a crowd of people there because he was a,
- 14 he was a policeman.
- 15 Q Yes, ma'am.
- 16 A He was a highway patrolman, a lot of people was there.
- 17 Q Okay. And then you said you saw Sherika and Shea but you
- 18 didn't see Felicia when you got home; did you?
- 19 A No. Because I went straight in the house and they was on
- 20 -- them, them two was sitting on the porch drinking, holding
- 21 the baby.
- 22 Q Okay. Yes, ma'am.
- 23 A But they could have been some more girls out there but I
- 24 didn't pay no attention. I was busy trying to get in the
- 25 house see about my sister.

Elizabeth Holoman - Cross by Mr. McCoy

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- 1 Q Yes, ma'am. And you say you didn't see a gun on Jamal;
2 right?
- 3 A No. I didn't see no gun.
- 4 Q Did you see him with a bottle of Hennessy?
- 5 A No. I tell you the only thing he had in his hand was
6 that phone.
- 7 Q Okay. Did you see him with an ankle monitor on?
- 8 A With what?
- 9 Q With an ankle monitor on?
- 10 A Well, I don't know. I didn't pay that much attention on
11 there.
- 12 Q That doesn't mean it wasn't there; right?
- 13 A I ain't look down there.
- 14 Q I understand. And on the 911 call while you were on the
15 phone that was after the shooting; right?
- 16 A Yeah.
- 17 Q And you could hear a bunch of people in the background;
18 right?
- 19 A Yeah.
- 20 Q And you say there was all of them out there in the yard;
21 right?
- 22 A Yeah.
- 23 Q Because they were all gathered around Jamal; right?
- 24 A No. There was at the table.
- 25 Q Well, I mean, after he was shot.

- 1 A Oh, I guess so. I don't know.
- 2 Q Checking on him and stuff.
- 3 A Yeah. Because I didn't go out the door.
- 4 Q I understand. I wouldn't have either.
- 5 A I wasn't going out there.
- 6 Q I understand. Ms. Holoman, thank you very much. Okay?
- 7 A Okay.
- 8 Q Thank you.
- 9 THE COURT: Mr. Fox.
- 10 MR. FOX: Thank you, Your Honor. I have no questions of
- 11 this witness.
- 12 THE COURT: Ms. Holloman, you may step down. Be careful.
- 13 A All right. Thank you.
- 14 MS. WALTER: And Your Honor, we'd ask that she be
- 15 released from her subpoena.
- 16 THE COURT: Any objection?
- 17 MR. MCCOY: None, Your Honor.
- 18 MR. FOX: None, Your Honor.
- 19 THE COURT: All right. We will take about a 10 to
- 20 15-minute break. Mr. Clerk will be coming back to
- 21 --
- 22 MS. WALTER: May I just escort -- I'm just going to
- 23 escort the witness.
- 24 THE COURT: -- yeah -- take your lunch order. The jury
- 25 may step back to the room.

Christopher Turner - Direct by Mr. Holford

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1 OFF THE RECORD

2 (On the record. The following takes place outside the
3 presence of the jury.)

4 THE COURT: Ready?

5 MS. WALTER: Yes. Yes, Your Honor.

6 MR. MCCOY: Yes, Your Honor.

7 THE COURT: Bring them on. Who's the next
8 witness?

9 MR. HOLFORD: Chris Turner.

10 THE COURT: Chris Turner.

11 MS. WALTER: Your Honor, do you want him on the witness
12 stand? I'm sorry.

13 THE COURT: That'll be fine. He can come on up and have
14 a seat. Mr. Turner, if you'll make yourself comfortable
15 there.

16 (Whereupon, the following takes place in the presence of
17 the jury.)

18 Whereupon, Christopher Turner is called to the stand,
19 duly sworn by the clerk and testified as follows:

20 THE CLERK: Please state your name and spell your last
21 name for the Court.

22 MR. TURNER: Christopher Turner, T-U-R-N-E-R.

23 THE COURT: Solicitor.

24 DIRECT EXAMINATION

25 BY MR. HOLFORD:

- 1 Q Mr. Turner, where are you currently employed?
- 2 A Myrtle Beach Police Department.
- 3 Q And how long have you been with the police department?
- 4 A Five and a half years.
- 5 Q Okay. What's your, what's your position there right now?
- 6 A I work in the K-9 department, a K-9 unit.
- 7 Q Okay. And where were you working back in July 2016?
- 8 A I was working for the patrol unit.
- 9 Q Patrol. Okay. You're an officer, obviously?
- 10 A Yes, sir.
- 11 Q I know that's a silly question. You're in civilian
- 12 clothing though; right?
- 13 A Yes, sir.
- 14 Q Did you respond in this case with Calvin Ford and Aliga
- 15 Campbell?
- 16 A Yes, sir.
- 17 Q Where'd you respond to?
- 18 A I responded to Warren Street.
- 19 Q All right. Where is Warren Street?
- 20 A It is off of Joe White just north of Joe White in
- 21 between, I guess, Dunbar and Robert Grissom.
- 22 Q And at that point how long had you been a patrol officer
- 23 in Myrtle Beach?
- 24 A Two years-ish.
- 25 Q You're familiar with that area?

Christopher Turner - Direct by Mr. Holford

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- 1 A Yes, sir.
- 2 Q Would you be able to identify and recognize the area if I
- 3 showed you a picture of a map?
- 4 A Yes, sir.
- 5 MR. HOLFORD: May I approach?
- 6 THE COURT: Yes.
- 7 BY MR. HOLFORD:
- 8 Q I'm going to show you what's been marked as State's 41.
- 9 Right now that's for ID. Can you identify what I'm showing
- 10 you?
- 11 A Yes, sir.
- 12 Q And, and what's this a picture of?
- 13 A This is a picture of the area where the incident occurred
- 14 that night.
- 15 Q Okay. And you're familiar with this area?
- 16 A Yes, sir.
- 17 Q And that's where you responded?
- 18 A Yes, sir.
- 19 MR. HOLFORD: Your Honor, the State would seek to
- 20 introduce State's 41 in evidence.
- 21 THE COURT: Any objection?
- 22 MR. MCCOY: Without objection, Your Honor.
- 23 MR. FOX: No objection, Your Honor.
- 24 THE COURT: In without objection.
- 25 (State's Exhibit Number 41 [Poster] admitted into

1 evidence and appropriately marked.)

2 BY MR. HOLFORD:

3 Q Then I'm going to show you -- this is State's 39. How is
4 that different from 41?

5 A It's just a larger view. Warren Street is on the top
6 right of the picture.

7 Q Okay. And you're familiar with this?

8 A Yes, sir.

9 MR. HOLFORD: The State would seek to introduce State's
10 39 in evidence.

11 MR. MCCOY: Without objection, Your Honor.

12 MR. FOX: No objection.

13 THE COURT: In without objection.

14 (State's Exhibit Number 39 [Poster] admitted into
15 evidence and appropriately marked.)

16 BY MR. HOLFORD:

17 Q And the last one, I took them a little out of order.
18 This is State's 40. How, how does this differ from 39?

19 A It's just a -- more zoomed in view.

20 Q Okay. And you're familiar with that area?

21 A Yes, sir

22 MR. HOLFORD: The State would seek to introduce State's
23 40 in evidence.

24 MR. MCCOY: Without objection, Your Honor.

25 MR. FOX: No objection, Your Honor.

Christopher Turner - Direct by Mr. Holford

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1 (State's Exhibit Number 40 [Poster] admitted into
2 evidence and appropriately marked.)

3 MR. HOLFORD: Your Honor, could the officer come off the
4 stand and explain as he's pointing to these maps?

5 THE COURT: Sure.

6 BY MR. HOLFORD:

7 Q Now, would you just explain as best you can without
8 blocking anyone out, maybe go like this. This is State's 39,
9 so, so to give the jury an idea where, where we are in
10 relation to Myrtle Beach?

11 A This is kind of the center of Myrtle Beach. The police
12 department is further down, the bottom, would be in the bottom
13 right-hand corner of that area. Robert Grissom would be
14 further up here, and 501 would be running along almost kind of
15 parallel to Joe White.

16 Q Okay. And what's this, what's this pond here?

17 A That's the pond in Futrell Park.

18 Q Okay. Now, what is this, this Warren Street? Why
19 is that marked on there?

20 A That was the location of the incident.

21 Q Okay. And so you said you responded there; right?

22 A Yes, sir.

23 Q Okay. Which way did you come?

24 A I was coming out of the police department which like,
25 like I said earlier would be in the bottom right-hand corner

1 of the, the picture there.

2 Q Okay.

3 A And I came westbound on Joe White which is going towards
4 Warren Street, and I made the immediate right onto Warren
5 Street.

6 Q Okay. Now, we're going to zoom in just a little bit.
7 This is -- now, now we're looking at State's 40. So that's
8 just a little closer up to where you responded?

9 A Yes, sir.

10 Q All right. So, so where do you pull in once you come off
11 Joe White onto Warren Street? Where are you pulling into?

12 A I pulled in right onto Warren Street, and I'm not sure
13 exactly where I parked. There was a large crowd, but I parked
14 somewhere in the road.

15 Q All right. Tell me about that, a large crowd.

16 A It was just seemed like there was some kind of party
17 going on that night. There was a large crowd, multiple
18 people.

19 Q Could you estimate about how many people are out there?

20 A Anywhere between 60 to 80 I would, I would guess.

21 Q More than 10?

22 A Oh, absolutely.

23 Q More than 40?

24 A Absolutely.

25 Q And so, so what do you do? You park your car and then

Christopher Turner - Direct by Mr. Holford

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1 where did you go?

2 A I parked my car, and I, I was -- I could see where people
3 were pointing me to go, and I saw a body laying in --
4 somewhere around the, the driveway of [REDACTED] Warren Street, and
5 I immediately went to the body.

6 Q All right. Can you point on the map about where you saw
7 that?

8 A I believe it was somewhere in this area. I'm not exactly
9 sure whereabouts.

10 Q All right. So you're, you're pointing closer to Warren
11 Street in the driveway rather than further back in the
12 backyard?

13 A Yes, sir.

14 Q Okay. And, and do you know who that was laying on the
15 ground?

16 A It was Jamal Burgess.

17 Q And did you -- what'd you see when you saw Jamal Burgess
18 laying on the ground?

19 A He was bleeding. He had apparent gunshot wounds.

20 Q All right. You say apparent gunshot wounds. How, how do
21 you know they were gunshot wounds?

22 A I, I would assume they were gunshot wounds based off the
23 -- what I was instructed. I was told that he had been shot
24 and I've also seen them prior by working on the, on the road.

25 Q Okay. What does a, what does a gunshot wound look like?

- 1 A Essentially it looks like a puncture wound.
- 2 Q Okay. And how would that differ from a stab wound or, or
- 3 another weapon?
- 4 A Normally stab wounds are elongated. This was a circle.
- 5 Q Where did you see these wounds on Jamal Burgess?
- 6 A Saw one in his abdominal area and one on his back.
- 7 Q Okay. And that would -- in here somewhere?
- 8 A Yes, sir.
- 9 Q Okay. Did you see anyone, anyone else laying on the
- 10 ground?
- 11 A I did not see anyone in that area when I first arrived.
- 12 After I had been there for a little while I realized that
- 13 another officer was tending to a subject that was -- had also
- 14 been shot and he was further towards the back of the --
- 15 Q Okay. Can you just point on the map to where?
- 16 A I believe it was, like I said, somewhere towards, closer
- 17 towards the backyard.
- 18 Q You can come back here if you want. Now, talk to us about
- 19 when you respond, you see Jamal Burgess laying on the ground,
- 20 what you say is an apparent gunshot wound. So what do you do?
- 21 A I began to render aid. We've been taught to remove as
- 22 much clothing as we can to figure out how many injuries there
- 23 are to the, to the subject. I removed his shirt and I began
- 24 to remove his clothing. Shortly after I was rendering aid,
- 25 another officer was there and assisted me. I began to put

Christopher Turner - Direct by Mr. Holford

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1 pressure on the wound, on the stomach wound, and he was -- we
2 were both trying to multitask and tend to the crowd as well
3 because there was only two -- three of us on scene at that
4 time.

5 Q Okay. Now, you pointed out kind of where Myrtle Beach
6 Police Department would have been and how you responded. Do
7 you know what time this call came out?

8 A I believe it was around 2100 hours.

9 Q Are you familiar with what's called a CAD sheet?

10 A Yes, sir.

11 Q Can you explain just what that is?

12 A A CAD sheet is essentially documentation of officers --
13 what the call is, the notes of the call, what type of call it
14 is, the officers that arrive on scene, and everything is
15 documented on a timesheet and time stamped as to when it's
16 called out and --

17 Q And so when you say around 2100, would you be able to
18 look at a CAD sheet and know exactly what time the call came
19 out?

20 A Yes, sir.

21 Q Okay. If I approach you with the, the CAD sheet for this
22 case would it refresh your recollection?

23 A Yes, sir.

24 MR. HOLFORD: The Court's indulgence. May I approach?

25 BY MR. HOLFORD:

- 1 Q I'm going to hand you what's been marked as State's 43.
2 This is just for ID. It's not in evidence, but are you able
3 to tell by refreshing your recollection what time that call
4 came out?
- 5 A The date and time it was received was 2058.
- 6 Q Okay. And so what is that in laymen's terms?
- 7 A That was the time the call came out, and it would be
8 8:58.
- 9 Q Okay. And, and on this CAD sheet are you able to tell
10 when you respond?
- 11 A Yes, sir.
- 12 Q Were you riding with anyone else? Were you by yourself?
13 How do you, how do you know that patrol?
- 14 A Yes, sir. I was, I was riding or I was driving the
15 vehicle and Officer Benco was riding with me in passenger.
- 16 Q Okay. And, and does the CAD sheet show when you're
17 dispatched or when you arrive?
- 18 A The CAD sheet shows when Officer Benco was dispatched and
19 he was the one that was operating the radio at the time as --
20 because I was driving. He was dispatched at 21:01, which
21 would be 9:01.
- 22 Q Okay. So within three minutes?
- 23 A Yes, sir.
- 24 Q And does it show what time you arrived?
- 25 A Yes, sir. It shows that Officer Benco arrived, and like

Christopher Turner - Direct by Mr. Holford

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- 1 I said, he would be the one calling out our traffic at 21:01.
- 2 Q So you actually arrive at the scene within three minutes?
- 3 A Yes, sir.
- 4 Q When you get to -- when you get there and, and you see
- 5 Jamal Burgess laying on the ground, did you see anything
- 6 around him?
- 7 A No, sir.
- 8 Q Did you see any weapons around him?
- 9 A No, sir.
- 10 Q Did you see a gun around him?
- 11 A No, sir.
- 12 Q You said you're taught to remove clothing. Did -- was
- 13 clothing removed?
- 14 A Yes, sir. I believe I -- I know that I removed his, his
- 15 shirt and I believe that we were working on removing his pants
- 16 as well.
- 17 Q Was there a gun in his waistband?
- 18 A No, sir.
- 19 Q Was he laying on one?
- 20 A No, sir.
- 21 Q Did you, did you search around that immediate vicinity
- 22 for one?
- 23 A In the very close immediate area I was able to. There
- 24 was a large crowd around us. So I wasn't able to see very far
- 25 around.

1 Q No further questions.

2 MR. MCCOY: Thank you, Your Honor. May it please the
3 Court?

4 THE COURT: Yes, sir.

5 CROSS EXAMINATION

6 BY MR. MCCOY:

7 Q Officer Turner?

8 A Yes, sir.

9 Q Thank you for being here today. My name is Jonny McCoy.
10 I'm the Defense attorney in this case. I think we met before
11 at the previous hearing.

12 A Yes, sir.

13 Q So you said that you -- that, that you just identified
14 the call coming in at 8:58:22; right?

15 A Yes, sir.

16 Q Okay. Well, 8:58?

17 A Yes, sir.

18 Q 8:58. Now, let me just ask you a couple of questions
19 about the scene. You didn't find a cell phone holder on the
20 ground around Jamal; right?

21 A Not that I recall.

22 Q And you didn't see a glass bottle on the ground anywhere
23 in the road or anything that you recall; correct?

24 A No, sir.

25 Q And did you see cars pulling out as you were coming up,

Christopher Turner - Cross by Mr. McCoy

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- 1 people leaving?
- 2 A I know that people were leaving. I don't remember if
- 3 cars were pulling out, but --
- 4 Q Right. But there was -- in fact, when you got there you
- 5 said 60 to 80 people still there; correct?
- 6 A Yes. There was -- yes, sir.
- 7 Q Okay. And did you see any shell casings on the ground?
- 8 A I did not observe any, no, sir.
- 9 Q Okay. But you now know that there were six?
- 10 A Yes, sir.
- 11 Q Okay. But you didn't see any?
- 12 A No, sir, not at the time.
- 13 Q And you don't know what types of bullets those were on
- 14 the ground?
- 15 A No, sir.
- 16 Q All right. You, you were asked to identify the street in
- 17 which this happened by Mr. Holford; correct?
- 18 A Yes, sir.
- 19 Q Do you mind stepping down for us for a second again,
- 20 please, sir?
- 21 A Yes, sir.
- 22 Q Thank you so much. So you said you were familiar with
- 23 this area; right? You worked there for two years?
- 24 A Yes, sir.
- 25 Q All right. And you know this is Robert Grissom, no, this

1 is Joe -- Mr. Joe White.

2 A Yes, sir.

3 Q 10th Avenue; correct? And on 10th Avenue, you've been
4 working there two years, you know that there's cameras;
5 correct, called Milestone?

6 A Yes, sir.

7 Q All right. And are you familiar with these -- with the
8 cameras being right here on the Milestone right here at the
9 corner of Warren and 10th Avenue?

10 A Yes, sir.

11 Q You are familiar with those cameras?

12 A Yes, sir.

13 MS. WALTER: Can we see what you're showing him?

14 MR. MCCOY: Yes, I'm sorry.

15 BY MR. MCCOY:

16 Q All right. I'm going to show you, it has not been marked
17 yet. I will do that in a second. I'm going to show you a
18 picture of what is believed to be the corner of Warren Street
19 and 10th Avenue, if you could identify whether or not these
20 are, in fact, the, the Milestone cameras. Do you see Warren
21 Street on this and you see the cameras?

22 A Yes, sir.

23 Q Okay.

24 MR. HOLFORD: Your Honor, they haven't been entered yet.

25 MR. MCCOY: I'm, I'm just asking him to describe it.

Christopher Turner - Cross by Mr. McCoy

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1 MS. WALTER: But --

2 MR. HOLFORD: He's showing it to the jury.

3 MR. MCCOY: Okay. Yeah. No.

4 THE COURT: You have any objection?

5 MR. HOLFORD: I don't have an objection if he wants to
6 enter them.

7 MR. MCCOY: Okay.

8 BY MR. MCCOY:

9 Q So do you recognize -- I'm sorry. Do you recognize this
10 as the cameras on 10th Avenue and Warren Street?

11 A Yes, sir.

12 Q And those -- that's a true and accurate picture of what
13 they look like?

14 A Yes, sir.

15 MR. MCCOY: Your Honor, we would now ask to move this
16 into evidence as Defense One.

17 THE COURT: Without objection?

18 MR. HOLFORD: Without objection.

19 THE COURT: It's in.

20 (Defendant Ford Exhibit Number One [Photograph] entered
21 into evidence and appropriately marked.)

22 BY MR. MCCOY:

23 Q All right. And again, that's a true and accurate picture
24 of this, just the cameras here. They're about halfway up the
25 pole; correct?

- 1 A Yes, sir.
- 2 Q About halfway up the pole, and this is, this is the green
- 3 street sign of the entrance of the actual street; correct?
- 4 A Yes, sir.
- 5 Q Okay. And is that street a dead end?
- 6 A Yes, sir.
- 7 Q So that's the only entrance into that street; correct?
- 8 A Yes, sir.
- 9 Q Okay. So how many cameras are on that pole? Is it four;
- 10 correct?
- 11 A I do not know.
- 12 Q Okay. If I show you a, a close-up picture of the cameras
- 13 on that pole would that help refresh your recollection?
- 14 A Yes, sir. I could count them.
- 15 Q Okay. Does that look like a true and accurate copy of
- 16 the cameras on Warren Street, and the corner of Warren and 10th
- 17 Avenue?
- 18 A Yes, sir.
- 19 Q Okay.
- 20 MR. MCCOY: Your Honor, we would move -- ask to move this
- 21 picture as Defense Exhibit Two.
- 22 MR. HOLFORD: No objection.
- 23 THE COURT: In without objection.
- 24 (Defendant Ford Exhibit Number Two [Photograph] admitted
- 25 into evidence and appropriately marked.)

Christopher Turner - Cross by Mr. McCoy

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1 BY MR. MCCOY:

2 Q Now, can you tell the jury how many, how many cameras are
3 on the, the camera pole at the corner of Warren Street and
4 10th Avenue?

5 A I see four.

6 Q Four cameras at the corner of Warren Street and Joe White
7 Avenue; correct?

8 A Yes, sir.

9 Q Okay. And can you tell the jury what -- which way each
10 one's facing? It's towards, towards the --

11 A They're all on the Joe White side. I'm not sure where
12 they're -- the lens is actually pointing.

13 Q Is there one in front or, or down towards the entrance of
14 the, the street?

15 A Yes. There's one that's more towards the Warren Street
16 and Joe White side.

17 Q And you've patrolled there and you see these cameras. Do
18 you think that camera would have captured who came, who came
19 to the party in a car?

20 A Possibly, probably.

21 Q Probably. Is this a close up of the -- of those cameras
22 that you just saw?

23 A Yes, sir, appears to be.

24 Q This is a true and accurate copy or picture of what those
25 cameras appear to be?

- 1 A Yes, sir.
- 2 MR. MCCOY: Your Honor, we'd ask to move this picture as
- 3 State's or Defense Exhibit Three.
- 4 MR. HOLFORD: No objection.
- 5 THE COURT: In without objection.
- 6 (Defendant Ford Exhibit Number Three [Photograph] entered
- 7 into evidence and appropriately marked.)
- 8 BY MR. MCCOY:
- 9 Q Now, again, how many cameras can you see there?
- 10 A Four.
- 11 Q All right. You can sit back down. Thank you very much.
- 12 A Thank you, sir.
- 13 Q Now, did you, did you happen to, did you, did you happen
- 14 to -- do you happen to know which of these cameras was turned
- 15 over to the Defense in discovery?
- 16 A No, sir.
- 17 Q No. So did you investigate this case?
- 18 A No, sir.
- 19 Q So you didn't watch the cameras at all?
- 20 A Not that I remember. No, sir.
- 21 Q Well, I appreciate you identifying them for us. You have
- 22 a gun on your hip; correct?
- 23 A Yes, sir.
- 24 Q What, what kind of gun is that?
- 25 A This is an M&P.

Christopher Turner - Cross by Mr. Fox

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1 Q You got -- you know, come on, man.

2 A Smith & Wesson M&P 45 2.0.

3 Q 45. Okay.

4 MR. MCCOY: I have no further questions. Thank you, Your
5 Honor.

6 MR. FOX: May it please the Court, Your Honor?

7 MR. HOLFORD: Redirect? Oh, I'm sorry.

8 MR. FOX: Not used to having two of us over here.

9 MR. HOLFORD: I'm not.

10 MR. FOX: Just very briefly.

11 CROSS EXAMINATION

12 BY MR. FOX:

13 Q Officer, you say the phone call came in, reflected on
14 that CAD sheet at 8:58 p.m.; correct?

15 A Yes, sir.

16 Q That was the, the alert from dispatch to your unit; is
17 that correct?

18 A I believe that's when the call came in to dispatch.

19 Q Okay. And they alerted you?

20 A Yes, sir.

21 Q And then you were responded by 9:01?

22 A Yes, sir.

23 Q Okay. So in other words it took you, and it's obvious,
24 three minutes from the time you got the call to arrive on
25 scene; correct?

- 1 A Yes, sir.
- 2 Q Okay.
- 3 A From the time that dispatch got the call to the time we
- 4 arrived on scene.
- 5 Q And you were -- you and Officer Benco were the first
- 6 officers on scene?
- 7 A Yes, sir. Myself, Officer Benco and Officer Duncan
- 8 arrived around the same time.
- 9 Q Okay. And no EMS or anybody else there at the time?
- 10 A No, sir.
- 11 Q Okay. So you have no idea what happened in that three-
- 12 minute interval around Mr. Burgess?
- 13 A No, sir.
- 14 Q Okay. You don't know if anyone tried to render aid?
- 15 A No, sir.
- 16 Q You don't have any idea whether anyone might have picked
- 17 something up that was on him, say a gun and taken it away?
- 18 A No, sir.
- 19 Q Thank you. No further questions.
- 20 A Yes, sir.
- 21 MR. HOLFORD: Redirect, Your Honor?
- 22 REDIRECT EXAMINATION
- 23 BY MR. HOLFORD:
- 24 Q Just a couple of questions.
- 25 A Yes, sir.

Christopher Turner - Redirect by Mr. Holford

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1 Q These pictures, Defendant's One, Two and Three, did you
2 take those pictures?

3 A No, sir.

4 Q Do you know when they were taken?

5 A No, sir.

6 Q You do know that there are cameras at that intersection;
7 correct?

8 A Yes, sir.

9 Q Do you know how many cameras there were in 2016?

10 A I have no idea.

11 Q And the, the way these cameras are there appears to be
12 like there's a little covering on them; right?

13 A Yes, sir.

14 Q Can you tell which direction that camera is actually
15 pointing?

16 A No, sir. I cannot tell where the lens is directed.

17 Q Okay. So just because there's a lens there doesn't mean
18 it was pointing in a certain direction? It could be down,
19 out?

20 A Yes, sir.

21 Q When you responded, this is State's 41, when you, you
22 respond you're coming this direction?

23 A Yes, sir.

24 Q From the road here do you remember being able to see the
25 second victim, Dameion Alston back here?

1 A I could not see the victim. I could see an officer
2 kneeling down back there.

3 Q Okay. No further questions.

4 THE COURT: Anything else?

5 MR. MCCOY: Nothing from Defense One, Your Honor.

6 MR. FOX: Nothing further, Your Honor.

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

8 A Thank you, Your Honor.

9 THE COURT: We need him?

10 MR. HOLFORD: Your Honor, the State would ask that he be
11 released from his subpoena.

12 MR. MCCOY: Certainly, Your Honor.

13 MR. FOX: No objection, Your Honor.

14 THE COURT: Thank you. You are excused.

15 MR. HOLFORD: The State calls Bernie, Bernard Devoid.

16 Whereupon, Bernard Devoid is called to the stand, duly
17 sworn by the clerk and testified as follows:

18 THE CLERK: State your name and then spell your name for
19 the Court.

20 MR. DEVOID: Bernard Devoid, B-E-R-N-A-R-D, D-E-V-O-I-D.

21 DIRECT EXAMINATION

22 BY MR. HOLFORD:

23 Q Officer Devoid, where are you currently employed?

24 A Myrtle Beach Police Department.

25 Q And how long have you been at Myrtle Beach Police?

Bernard Devoid - Direct by Mr. Holford

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- 1 A 19 years.
- 2 Q 19 years. All right. What's your current position?
- 3 A Assigned to patrol division.
- 4 Q Okay. And, and where were you assigned back in July of
- 5 2016?
- 6 A I was assigned to midnight patrol.
- 7 Q Patrol. Okay. You have a vehicle?
- 8 A Yes.
- 9 Q Did you ride with anyone at the time or were you by
- 10 yourself?
- 11 A I was by myself.
- 12 Q Okay. And did you respond to this shooting incident on
- 13 Warren Street --
- 14 A Yeah.
- 15 Q -- On July 23rd, 2016?
- 16 A Yes. I did.
- 17 Q Okay. And tell the jury just a little bit about how do
- 18 you, how do you know there's a shooting? How does that
- 19 happen?
- 20 A The call was dispatched as a shooting incident and I
- 21 think I was actually at the police department when that came
- 22 out.
- 23 Q Okay.
- 24 A And then we basically left from there.
- 25 Q And when a call comes to dispatch what, what happens?

- 1 What does dispatch do?
- 2 A Goes to dispatch. They dispatch units that are in the
3 area with a call like that. Normally depending on how many
4 people are working a lot of people go to that.
- 5 Q So how do you find out about it?
- 6 A Radio.
- 7 Q Radio. And are, are the radios connected? Do multiple
8 people hear the same thing?
- 9 A Yes.
- 10 Q And you responded in this case; correct?
- 11 A Yes. I did.
- 12 Q Now, where did you respond? Where'd you go first?
- 13 A When I left the police department there was another call
14 that came in and said that the fire station, which is fire
15 station one, it's -- it backs to actually east of the actual
16 incident location. They said that the firemen were calling
17 and saying there were shots fired and somebody's beating on
18 their door. So I responded to that fire station, fire station
19 one.
- 20 Q Okay. Could there have been multiple calls come in for
21 the same incident?
- 22 A Yes.
- 23 Q Do you know what time you arrived on scene?
- 24 A 21:02.
- 25 Q 21:02, and how are you able to, how are you able to tell

Bernard Devoid - Direct by Mr. Holford

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- 1 us that?
- 2 A From our CAD report.
- 3 Q Okay. And you've reviewed the CAD report?
- 4 A Briefly.
- 5 Q So you respond within about four minutes; is that right?
- 6 A Correct.
- 7 Q I'm going to show you what's been entered as State's 39.
- 8 Are you familiar with this area?
- 9 A Yes.
- 10 Q Okay. Is the fire station on here?
- 11 A Yes, sir.
- 12 Q And, and can you point to the jury where that is?
- 13 A It's right here on this side here. Sorry.
- 14 Q This big building?
- 15 A Yes.
- 16 Q Okay. So where we see [REDACTED] Warren Street, that's marked;
- 17 correct?
- 18 A Correct.
- 19 Q Again, just for -- why is that marked?
- 20 A That's the shooting incident.
- 21 Q Okay. And so you responded to this big building right
- 22 back here?
- 23 A Correct.
- 24 Q Okay. Do you eventually go over to this Warren Street?
- 25 A I do. I checked with the firemen that are inside. They

1 give me brief information, said somebody was pounding on the
2 door. I exit the west back door is what it would be at the
3 police -- at the fire department and clear the immediate area,
4 and when I clear that it almost puts me directly in -- behind
5 the, the incident location.

6 Q I'm going to ask --

7 MR. HOLFORD: Your Honor, could Officer Devoid come down
8 off the stand?

9 THE COURT: Yes, sir.

10 A Thank you.

11 BY MR. HOLFORD:

12 Q You're going to have to stand next to this microphone,
13 and I, I, I just want to be clear because when you say you
14 exit to west. So we're looking at State's 40 now. Again,
15 just point out where the fire station is on here.

16 A This would be the actual fire station.

17 Q Okay. And where do you respond to, where do you actually
18 pull --

19 A I actually pull up into the parking spot, somewheres over
20 here where the parking is.

21 Q Okay.

22 A Go through the building, meet the firemen at the door and
23 I exit in between these two areas right here.

24 Q Okay. So you exit out back here?

25 A Correct.

Bernard Devoid - Direct by Mr. Holford

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- 1 Q And are you able to get to this location from there?
- 2 A Yes.
- 3 Q Did you have to drive there?
- 4 A No. I walk.
- 5 Q Okay. So you can walk through this backyard.
- 6 A Yes.
- 7 Q Can you walk past the fire station after that?
- 8 A You got to go through it. Yes. You can walk anywhere.
- 9 You can take anywhere. Then there's a fence that runs around
- 10 the border here.
- 11 Q Okay. Can you walk around the fence? Is a person able
- 12 to?
- 13 A I would imagine so. I haven't, I haven't checked on this
- 14 area, but right here is where the fence line would be.
- 15 Q So, so leaving this address, if someone were to leave
- 16 there, the -- this isn't the only way out towards Joe White;
- 17 is it?
- 18 A No.
- 19 Q If someone's on foot they can go any which way?
- 20 A Yes. Correct.
- 21 Q And that's, in fact, what you did. You came from the
- 22 back?
- 23 A Right.
- 24 Q All right. So when you get to [REDACTED] Warren Street what do
- 25 you see, what do you do?

- 1 A I'm clearing, clearing this area because we didn't know
2 if there was a potential suspect that was banging on the door.
3 All they knew there was gunshots fired, clearing the initial
4 area, walked up to the back here, to the back here and that's
5 where I, I come in contact with another officer and Officer
6 Turner was there, also. I think we were probably the first
7 three there. There was a large crowd in this area, the victim
8 on the ground here and then another victim on the ground here.
- 9 Q Okay. So, so point again, where's the first victim that
10 you see?
- 11 A Right around this area.
- 12 Q Okay. And then where do you see another victim
13 eventually?
- 14 A Probably right about where this spot is here.
- 15 Q Thank you. Now talk to us a little bit about when you
16 respond you see, you see the victim laying on the ground.
17 What do you see?
- 18 A A lot of people, a lot of unorganized chaos I guess.
19 People were upset. People were screaming, didn't know exactly
20 where -- if we were looking for suspects or just victims.
- 21 Q Okay.
- 22 A Officer Benco immediately went to lifesaving mode on the
23 victim number two. I start started trying to clear the crowd
24 back. Again, we didn't know if there was anybody -- if the
25 suspect was still on scene or had gone. So started calling

Bernard Devoid - Direct by Mr. Holford

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1 EMS for evac of the people because it's a, it's a dead-end
2 road. So you don't want to bottleneck that road.

3 Q So, so when you respond to the victim do you know who
4 that is?

5 A No. Not at first.

6 Q Do you learn who that is?

7 A Yes.

8 Q And who was that?

9 A That would be Dameion Alston.

10 Q Okay. Did you see any injuries to Dameion Alston?

11 A It appeared that he had a bullet wound to his right
12 shoulder and, I mean, there's a lot of blood. I didn't really
13 have time to do the first-aid stuff. I was trying to do the
14 security stuff.

15 Q Okay. In trying to do security stuff, did you see any
16 weapons around Dameion Alston?

17 A I did not.

18 Q You didn't see a gun?

19 A No.

20 Q Did you see a gun on his person or under him or anywhere
21 closely around him?

22 A No. I did not.

23 Q Did you look around that area to see if you could find
24 any weapon?

25 A Eventually, when we were able to get a little bit of

1 control of the immediate area, yes, but it was, it was
2 sometime after we started assisting with witness statements
3 and stuff like that.

4 Q Okay. And were you able to find a weapon?

5 A No.

6 Q Now, this is going to seem like a really silly question,
7 but this area of Myrtle Beach, what county is that in?

8 A Horry County.

9 Q No further questions.

10 MR. MCCOY: Thank you, Your Honor. May it please the
11 Court?

12 THE COURT: Yes, sir.

13 CROSS EXAMINATION

14 BY MR. MCCOY:

15 Q Maybe just one or two questions, Officer Devoid. Thank
16 you for being here. This is a dead-end street; correct?

17 A Correct.

18 Q And if you're coming on car that's the only way to get
19 out of there is that one exit onto Robert Grissom?

20 A Yes, sir.

21 Q Or Mr. Joe White, 10th Avenue; correct?

22 A Right.

23 Q You said eventually you got around -- you were able to, I
24 should say, look for a gun?

25 A Right.

Bernard Devoid - Cross by Mr. McCoy

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1 Q Correct? Now, you, you've obviously investigated crime
2 scenes before?

3 A Yes, sir.

4 Q And have you been in a crime scene where there's been
5 that many people before, 60 to 80 people?

6 A Yes.

7 Q Okay. And you weren't that surprised that you weren't
8 able to find a weapon amongst 60 to 80 people just on the
9 ground; correct?

10 A Correct.

11 Q No further questions.

12 MR. FOX: No questions, Your Honor.

13 THE COURT: Solicitor, anything further?

14 MR. HOLFORD: Nothing further, Your Honor.

15 THE COURT: Thank you, sir. You may step down.

16 MR. HOLFORD: The State calls Cathie Rhodes.

17 THE COURT: Ms. Rhodes, if you'll come up.

18 Whereupon, Cathie Rhodes is called to the stand, duly
19 sworn by the clerk and testified as follows:

20 THE CLERK: State your name and spell your last name for
21 the Court.

22 MS. RHODES: My name is Cathie Rhodes, spelled last name,
23 R-H-O-D-E-S.

24 REPORTER: Can you spell your first name, too?

25 MS. RHODES: C-A-T-H-I-E.

1 REPORTER: Thank you.

2 DIRECT EXAMINATION

3 BY MR. HOLFORD:

4 Q Officer Rhodes, where are you currently employed?

5 A Myrtle Beach Police Department.

6 Q And what's your position with the police department?

7 A I'm the support services lieutenant.

8 Q Okay. How long have you been a lieutenant there?

9 A I've been a lieutenant for two years.

10 Q And what were your -- what was your position back in
11 2016?

12 A I was the support services manager. I over -- I
13 supervised the records and communications division.

14 Q Okay. And, and just tell us a little bit about what do
15 you do as a lieutenant for support services? What's your job
16 entail?

17 A My job entails overseeing all of dispatch, all of records
18 and the supervision of all those employees.

19 Q Okay. And, and, and so talk to us just a little bit
20 about dispatch. If a person calls 911 what happens?

21 A One of our call takers or dispatchers answers the line
22 and communicates with them understanding the problem and
23 sending help.

24 Q Are those calls recorded?

25 A Yes. They are.

Cathie Rhodes - Direct by Mr. Holford

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- 1 Q How are they recorded? Is it manual?
- 2 A No. It's a, it's a digital recording.
- 3 Q Okay. Are all calls that come into dispatch recorded?
- 4 A Yes. They are.
- 5 Q Does it -- do you have multiple lines at dispatch?
- 6 A We do.
- 7 Q Tell us a little bit about those multiple lines.
- 8 A We have seven admin lines and then we have trunk lines
- 9 coming in from the county for 911.
- 10 Q Okay. So what's that mean? What's an admin line versus
- 11 a trump line?
- 12 A An admin line is just one where you call. It's a 10
- 13 digit number that you call and it comes directly to our
- 14 department and 911 calls go to Horry County and then are
- 15 transferred to our department.
- 16 Q Okay. So if a person calls the police department it
- 17 comes to dispatch?
- 18 A Yes.
- 19 Q And that's that 10 digit number?
- 20 A It is.
- 21 Q But if a person in Myrtle Beach calls 911 what happens to
- 22 that call?
- 23 A It's goes to Horry County communications. They take the
- 24 initial call, figure out jurisdiction and then forward the
- 25 call to that location.

- 1 Q Okay. And so if I call 911 in Myrtle Beach it's going to
2 come to your dispatch?
- 3 A It will eventually, yes.
- 4 Q And then are all -- all those calls are recorded, too?
- 5 A They are.
- 6 Q Do you, in your position, do you keep records of all
7 these calls?
- 8 A We do.
- 9 Q Is there a way to research and figure out who called and
10 when they called?
- 11 A Yes. There is.
- 12 Q And is there a way to get those recordings?
- 13 A Yes.
- 14 Q Are they kept in the normal course of business?
- 15 A Yes. They are.
- 16 Q And are they catalogued and, and is there a way to tell
17 who made the call and when it came in?
- 18 A We have the -- on our -- in the software we have a way of
19 knowing the number that it came from.
- 20 Q Okay. So if I, if I reached out to you and said, "I want
21 this phone call," would you be able to find it and produce it
22 from that system?
- 23 A Yes.
- 24 Q And is that done in the normal course of business?
- 25 A It is.

Cathie Rhodes - Direct by Mr. Holford

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1 MR. HOLFORD: May I approach, Your Honor?

2 THE COURT: Yes, sir.

3 MR. MCCOY: No, no objection.

4 MR. FOX: No objection.

5 BY MR. HOLFORD:

6 Q I'm going to show you what's been marked as State's Two.

7 Can you just tell us what that is for the record?

8 A That looks like it's a 911 call.

9 Q Okay. Is it on a CD or DVD?

10 A Yes. It is.

11 MR. HOLFORD: Your Honor, the State would seek to

12 introduce State's Two in evidence.

13 MR. MCCOY: Without objection, Your Honor.

14 MR. FOX: No objection, sir.

15 THE COURT: In without objection.

16 (State's Exhibit Number Two [911 Call] admitted into
17 evidence and appropriately marked.)

18 BY MR. HOLFORD:

19 Q And have you reviewed 911 call in preparation for today?

20 A Yes. I have.

21 Q Okay. And is it a 911 call that came in for this case?

22 A Yes. It is.

23 MR. HOLFORD: Your Honor, the State would seek to publish
24 State's Two.

25 THE COURT: All right.

1 (State's Exhibit Number Two played in open court.)

2 BY MR. HOLFORD:

3 Q Now, when that call comes in at, at 9:00 o'clock and
4 lasts about three minutes in that time do officers arrive on
5 scene?

6 A Yes.

7 Q It sounds like there's a lot of commotion going back
8 there. Just briefly, tell us a little bit about that dispatch
9 room. How's it set up? Are there multiple people working
10 and, and what's happening?

11 A We have -- there's normally four people in the room. We
12 have two people that answer phones. You have a fire
13 dispatcher and a police dispatcher. So each of them have
14 their own duties. You know, the call takers were answering
15 the phones, the dispatchers were sending police and fire to
16 the scene. It gets very chaotic when you have a, a major
17 call for service trying to get people where they need to be
18 and get help there.

19 Q And dispatch is able to take multiple calls at the same
20 time?

21 A We are.

22 Q From multiple people?

23 A We are.

24 Q And then at the same time kind of simultaneous are you
25 dispatching people out like officers out to the scene?

Cathie Rhodes - Cross by Mr. McCoy

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1 A Yes. We are.

2 MR. HOLFORD: No further questions.

3 MR. MCCOY: Thank you, Your Honor. May it please the
4 court?

5 CROSS EXAMINATION

6 BY MR. MCCOY:

7 Q Thank you for being here today. My name is Jonny McCoy.

8 I'm the defense attorney for Mr. Ford in this case. Mr. Smith
9 called about 9 p.m. according to the record; correct?

10 A Yes.

11 Q Okay. So that is roughly two minutes after another 911
12 call; are you aware of that one?

13 A I did not review that one. No.

14 Q Okay. So we'll just stick to this one. In this call Mr.
15 Smith told you, Mr. Smith told you, "I, I saw somebody," Mr.
16 Smith told you, "I saw somebody in a long white shirt run in
17 the bushes, looked like he stashed something, maybe a gun and
18 then run back out of the bushes"; correct?

19 A I was not the dispatcher on duty that night.

20 Q So who is that on the phone?

21 A Her name was Megan Gardner.

22 Q Okay. But he said that to Megan Gardner; correct?

23 A Yeah. He said that to -- I -- you know, he said that to
24 the dispatcher.

25 Q And you, and you heard that just now and you --

- 1 A Uh-huh.
- 2 Q -- have listened to it in preparation for today; correct?
- 3 A Uh-huh. Yes.
- 4 Q Okay. And are you now aware that Mr. Ford was on a GPS
- 5 monitor?
- 6 A I was not aware of that.
- 7 Q Okay. So you're not aware that Mr. Ford's movement was
- 8 tracked and it doesn't show him running into a bush and
- 9 running back out? You're not aware of that?
- 10 A No. I'm not.
- 11 Q And Mr., Mr. Campbell, his, his whereabouts don't --
- 12 nobody says that he ran into a bush and ran back out? Are you
- 13 not aware of that?
- 14 A No. I'm not.
- 15 Q And this case, a contention in this case, are you aware
- 16 that a contention in this case is that there's a missing gun?
- 17 Are you aware of that?
- 18 A No. I'm not.
- 19 Q And are you aware that of anybody who investigated
- 20 whether or not the guy in the long white shirt who ran in the
- 21 bushes did, in fact, hide a missing gun?
- 22 A No. I'm not.
- 23 Q Did you convey to anybody, "We need to look into this,"
- 24 after you reviewed the 911 call?
- 25 A No.

Cathie Rhodes - Redirect by Mr. Holford

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1 Q Did Megan? I'm sorry. What's her last name?

2 A Gardner.

3 Q Is it Officer Gardner --

4 A Uh-huh.

5 Q -- relay that information, "Hey, there was a guy in a
6 long white shirt," a credible witness in a 911 call and said
7 this guy ran into the bush and ran back out and looked
8 suspicious, looked like he was stashing a gun? Did Officer
9 Gardner relay that information to the police on scene?

10 A Officer Gardner had given the information in a typical
11 course of duty would enter that into the call for service.

12 Q Okay. And have you reviewed that call for service?

13 A I have not seen the, the paper document, no.

14 Q So to the best of your knowledge you have not seen
15 anything where Officer Gardner who took the 911 call said,
16 "Hey, we need somebody to check these bushes because the 911,
17 the 911 call somebody just called in and said a guy in a long
18 white shirt ran in the bushes, stashed something, looked like
19 he stashed a gun and ran back out?"

20 A No.

21 Q Thank you. No further questions.

22 A Uh-huh.

23 MR. FOX: No questions, Your Honor.

24 THE COURT: Solicitor?

25 REDIRECT EXAMINATION

1 BY MR. HOLFORD:

2 Q Just briefly, Officer Rhodes, the call is what it is;
3 right?

4 A Yes.

5 Q And so we can listen and the jury can listen to the call
6 as it is?

7 A Yes.

8 MR. MCCOY: Objection. Leading, Your Honor.

9 THE COURT: Repeat that question.

10 Q So we or the jury can listen to the call as it is and
11 determine what was said?

12 A Yes.

13 MR. MCCOY: Leading, Your Honor.

14 THE COURT: Technically you need to rephrase that
15 question because it does suggest the answer.

16 MR. HOLFORD: All right.

17 BY MR. HOLFORD:

18 Q Can we listen to the call and determine what was said?

19 A Yes.

20 Q Nothing further.

21 MR. MCCOY: Nothing from the Defense, Your Honor. Thank
22 you.

23 THE COURT: Mr. Fox?

24 MR. FOX: Nothing further, Your Honor.

25 THE COURT: You may step down. May she be excused?

Kenneth Harlow - Direct by Ms. Walter

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1 MR. MCCOY: Yes, sir, Your Honor. Thank you.

2 MR. FOX: No objection.

3 THE COURT: Thank you, Lieutenant.

4 MS. WALTER: Your Honor, the State calls Officer Harlow.

5 Whereupon, Kenneth Harlow is called to the stand, duly

6 sworn by the clerk and testified as follows

7 CLERK: State your name and spell your name for the Court.

8 MR. HARLOW: My name is Corporal Kenneth Harlow, K-E-N-N-
9 E-T-H, Harlow, H-A-R-L-O-W.

10 MS. WALTER: May I, Your Honor?

11 DIRECT EXAMINATION - BY MS. WALTER:

12 Q And I am sorry. I demoted you. I called you officer, so
13 Corporal Harlow.

14 A That's all right.

15 Q It's obvious from your attire, but where do you work?

16 A I work for the City of Myrtle Beach Police Department.

17 Q How long have you been with the police department?

18 A About ten and a half years now.

19 Q What is your current assignment?

20 A I am currently assigned as a supervisor over the Myrtle
21 Beach K-9 unit.

22 Q And just slow down just a little bit so that she can get
23 down everything you're saying.

24 A Okay.

25 Q How long have you been with the K-9 unit?

1 A Working on my seventh year.

2 Q So safe to say that you were working in the K-9 unit back
3 on July 23rd of 2016?

4 A Yes, ma'am.

5 Q Did you respond to a shooting at [REDACTED] Warren Street in,
6 in Myrtle Beach?

7 A Yes, ma'am. I did.

8 Q How did you get information about that shooting?

9 A Obviously, the call came out through dispatch, heard,
10 heard, obviously, a call come out of that magnitude. So at
11 that point I responded over to that location.

12 Q Now, as you are listening to the radio are you constantly
13 getting information about what's going on?

14 A Correct. I mean, it's very vital for our safety and
15 obviously making sure what we're going into to obviously
16 listen to dispatch and everything they're relaying to us so we
17 can do obviously an effective job when we, we get there.

18 Q Do you know how long it took you from the time you first
19 heard the radio traffic to get to the scene?

20 A I can't tell you exact minute by minute. I know it
21 wasn't very long, but again, obviously, I'm, I'm more trying
22 to prepare myself going into that scene to make sure what,
23 what's to come than looking at necessarily a clock to tell you
24 exactly when.

25 Q As you were getting to the scene do you recall receiving

Kenneth Harlow - Direct by Ms. Walter

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1 any information about a 911 call that had been made?

2 A Yes. There was information that came in that somebody
3 observed somebody possibly running into the bushes while I was
4 in route.

5 Q Did it say -- did the information that you received say
6 anything more other than just running into the bushes?

7 A It, it was -- I remember it wasn't a ton of information,
8 just said, hey, looked like somebody ran into the bushes at
9 the end of the street at Warren Street and ran back out. So
10 obviously that was, and again, as I'm going to the scene still
11 trying to receive all that information. I can't tell you word
12 for word but something to that extent was what, what I heard.

13 Q Okay. And when you got to the scene what -- can you tell
14 us what you saw?

15 A So when I came on scene obviously was still a large crowd
16 of people outside. There were some officers and EMS already
17 on scene. I observed one individual that appeared to be shot
18 at the bottom of the driveway and when I went up to the
19 driveway and got up on the driveway there was another
20 individual that appeared to be shot that was up at the top of
21 the driveway. There was still a very large crowd of people.
22 So as we're trying to get resources in there we're trying to
23 secure the scene. So at that point I started trying to get
24 people out of the area to get that scene secure so we could
25 get everybody and the resources that we needed and to go ahead

1 and get it taped off.

2 Q As you were approaching the scene and you see, and I'm
3 going to show you a photo in just a minute, you see the one
4 victim on the front of the driveway and the other victim in
5 the back. Did you see any guns around either one of those
6 victims?

7 A No, ma'am, I did not.

8 Q Did you see anyone removing a gun from the area around
9 either one of those victims?

10 A No, ma'am. I did not.

11 MS. WALTER: May I approach, Your Honor?

12 THE COURT: Yes.

13 BY MS. WALTER:

14 Q I'm showing you what has been entered into evidence as
15 State's Exhibit 41?

16 A Yes, ma'am.

17 Q Can you point on here and tell us where you saw the first
18 victim?

19 A It was roughly down in this area here down -- like I
20 said, it was closer to the bottom of the driveway.

21 Q And so you're indicating an area closer to Warren Street
22 next to a light pole?

23 A Yes, ma'am.

24 Q Okay. And then where was the second victim?

25 A The second one was up here about right here at the top of

Kenneth Harlow - Direct by Ms. Walter

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1 the driveway almost right here near the grass line.

2 Q Okay. And so on the side of the residence further away
3 from Warren Street towards -- and that's the firehouse?

4 A Yes, ma'am.

5 Q Do you -- if you recall, when you came up Warren Street
6 were you able to see the second victim from the road?

7 A I can't recall specifically because, like I said, there
8 was a large crowd of people. It's just when I came up through
9 here and after I, I seen the first one I could then look back
10 up and see that there was somebody else up there.

11 Q Okay.

12 A Yes.

13 Q Now, you indicated that as you were arriving on scene,
14 you got information that someone saw someone running into some
15 bushes?

16 A Yes, ma'am.

17 Q At any point did you do anything to see if you could find
18 whatever this person had done in the bushes?

19 A Yeah. So I ended up actually making contact with the
20 individual that made that call, even though he was reluctant
21 to want to meet with us, still met with him and got a better
22 location of where he saw that individual go into the bushes.

23 Q Do you recall who you spoke with?

24 A I believe his name was James.

25 Q Okay. And you said that he was reluctant to speak with

1 you. What do you mean?

2 A He didn't -- he was worried about, obviously, safety, I
3 mean, obviously.

4 MR. MCCOY: Objection to hearsay, Your Honor.

5 MS. WALTER: He hasn't said what -- any out-of-court
6 statement, Your Honor.

7 THE COURT: Yeah. And there may be an exception there
8 even though -- well, just try to keep it as clean as you can.

9 MS. WALTER: Yes, sir.

10 BY MS. WALTER:

11 Q When you say he was reluctant to speak with you, what do
12 you mean? Did it take you some time to make contact with him?

13 A No. He just didn't -- he felt, obviously, a little
14 unsafe, obviously, because of the situation.

15 Q Okay. And were you able to pinpoint the location where
16 he said he saw someone run into the bushes?

17 A Yeah. So he gave the bushes at the end of Warren Street.
18 It's kind of, like I said, it's kind of -- if you, if you have
19 a picture I can kind of point in the general direction.

20 Q I do.

21 A Okay.

22 Q So this is State's Exhibit 40. I'm going to stand this
23 way so that the jury can see it, too.

24 A Okay.

25 Q And then just make sure you're speaking into the

Kenneth Harlow - Direct by Ms. Walter

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1 microphone for the court reporter.

2 A Yeah. Not a problem. So this, obviously, this is Joe
3 White Avenue here, the firehouse. I don't know if you want to
4 turn it a little bit more towards them so they can see. And
5 obviously Warren Street, so back up here this is where this
6 road dead ends back here and there's kind of like some
7 roadblock barricades and there's some bushes there and there's
8 some bushes and trees right along here.

9 Q Okay. And so you're indicating sort the end of Warren
10 Street farthest away from Joe White Avenue?

11 A Yes, ma'am, down here.

12 Q And did anyone assist you in searching that area?

13 A Yes. Myself and Officer Householder, who was also a
14 another K-9 handler, we both went down in that location trying
15 to see if we could locate anything.

16 Q Approximately how long did you spend searching that area?

17 A I can't give you a minute-by-minute, but we were down
18 there for a while, obviously, trying to, trying to scour the
19 area.

20 Q It seems as though there are a number of trees or bushes
21 at the end of that road; is that an accurate description?

22 A Yes, ma'am.

23 Q Were either you or Officer Householder able to find
24 anything of evidentiary value back there?

25 A No, ma'am. We were not.

1 Q Now you're both with the K-9 unit. Did you deploy your
2 canines?

3 A We did not in that area.

4 Q And can you tell us why?

5 A Because of the scene location, the amount of people and
6 the way that they work off of a human odor obviously there's,
7 there's people everywhere in an event like that. So at that
8 point we won't put them in that situation.

9 Q In other words, there was so many people there that it
10 wouldn't be effective for the dogs?

11 A Correct because they work off of human odor, and when you
12 have that many people and that much stuff going on in that
13 area it's going to make it extremely difficult and basically
14 improbable.

15 Q And so I tend to sometimes use lawyer words. I asked you
16 if you found anything of evidentiary value. Did you find a
17 gun?

18 A No, ma'am.

19 Q Did you find any other kind of weapon?

20 A No, ma'am.

21 Q Nothing further.

22 MR. MCCOY: Thank you, Your Honor. May it please the
23 Court?

24 CROSS EXAMINATION

25 BY MR. MCCOY:

Kenneth Harlow - Cross by Mr. McCoy

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1 Q Corporal Harlow.

2 A Yes, sir.

3 Q Harlow. I apologize.

4 A Harlow.

5 Q Jonny McCoy, I'm Defendant Calvin Ford's defense
6 attorney. Thank you for being here today. I just have a
7 couple of questions for you.

8 A Yep.

9 Q When you responded to the scene you said that you saw the
10 victims on the ground. I know that you stated that there were
11 a lot of people around. Did you get a good look at the, the
12 victim in the driveway, which was further up in the driveway,
13 Mr. Alston?

14 A Yes.

15 Q Okay. And the photos that we saw, did you see Mr.
16 Alston's belt off of him like somebody had tried to stop
17 bleeding on him?

18 A I didn't recall seeing something like that, no.

19 Q Okay. Now, did you see a glass bottle in the road or
20 anywhere around the bodies or anything like that, a broken
21 bottle?

22 A No. I mean, I'm not, not looking for just broken glass.
23 I'm obviously looking at the bodies to see if I can render aid
24 to them and then trying to get people out of the area.

25 Q So did you see a broken bottle anywhere?

1 A No.

2 Q Okay. Now, as far as you, you said that you searched for
3 the gun in the bushes from the 911 call, which we heard
4 earlier; correct?

5 A Yes.

6 Q Is it common for you to come to a crime scene and then
7 search for weapons?

8 A Yeah. I mean, any time because, again, just because
9 that's where the, the shooting took place was right there in
10 that area of -- right in front of the house on that Warren
11 Street, we're still going to get outside of that area and try
12 to cover as much ground. Again, we're going to want to
13 utilize every resource we can to try to preserve any evidence
14 in the crime, obviously. So that's why we check the bushes
15 because we had a call come in that said they observed somebody
16 run into those bushes.

17 Q Right. Because weapons can be removed from scenes;
18 correct?

19 A Again, I'm not going to speculate.

20 Q In your 10 years as a supervisor of a K-9 unit and as a
21 corporal have you ever come across a scene where a weapon has
22 been removed?

23 A No. I have not.

24 Q You've never come across a scene --

25 A No. I have not.

Kenneth Harlow - Cross by Mr. McCoy

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1 Q -- where a gun has been removed?

2 A No.

3 Q Or that you know of I should say; right?

4 A Again, I mean, we can speculate, but there's no, no
5 incident I have responded to where I can tell you for certain
6 that a weapon was removed.

7 Q Okay. Fair enough.

8 Now, you say that you taped off, you were the one who
9 came and taped off the road; correct?

10 A Yes.

11 Q Now, when you taped off the road were you telling people
12 to get back and stuff like that?

13 A Yeah. I mean, we were going to try to preserve a crime
14 scene as much as we can.

15 Q Okay. Now, as you were taping off the road and telling
16 people to get back and stuff like that were you going around
17 and getting witnesses' names and things like that or were you
18 just telling them to get back?

19 A So we were just obviously pushing back. When you got
20 that large of a crowd you're still trying to preserve
21 obviously anything that's inside that scene. That's a little
22 more secondary obviously when we get to that point and usually
23 there's going to be other officers that are, are necessarily
24 doing that because as -- after I got done with securing that
25 crime scene then I started trying to make contact to figure

1 out if there was any evidence that was discarded in the
2 bushes.

3 Q Okay, and other than in the bushes did you, did you talk
4 to other witnesses at the scene?

5 A Not that I can necessarily recall. I mean, like I said,
6 I obviously spoke to the individual that made the phone call
7 to try to find that gun.

8 Q And so you went searching for that gun? This is the
9 first time in your 10-year career that a gun was possibly
10 removed from the scene; right?

11 A Again, you can, like I said, all I knew was a call came
12 out and said somebody ran into the bushes and came back out.
13 I was looking for, for evidence in that area.

14 Q Is this the first time somebody has told you that a gun
15 was removed from a scene in your 10 years as a corporal?

16 A The first time you're telling me that. Yeah. I mean,
17 I've never been told when I go to a murder scene or anything
18 like that that a firearm has been removed from the scene.

19 Q So this is the first time ever, yes or no?

20 A Absolutely. Yes, sir.

21 Q Thank you. No further questions.

22 MR. FOX: Thank you, Your Honor.

23 CROSS EXAMINATION

24 BY MR. FOX:

25 Q Officer, what's the purpose for securing a crime scene,

Kenneth Harlow - Cross by Mr. Fox

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1 putting up tape, moving the crowd back?

2 A That's to preserve evidence, sir.

3 Q Preserve evidence, okay. And what can happen if there's
4 60 to 80 people right in the middle of your crime scene?

5 A We obviously want to get them out. That's why we were
6 trying to clear them out to preserve the scene because
7 obviously we want to obviously do the best we can to get it,
8 get it secured so we can obviously get to the, the facts.

9 Q Well, specifically, and I get you want to preserve the
10 scene, but what's the danger specifically you've got a body at
11 one end of the driveway again, and another victim at the end?

12 A Yes, sir.

13 Q A driveway, how long would you estimate that driveway was
14 roughly?

15 A I mean, I, again, to give you exact distance, I mean, it
16 was at least from here to the back of the wall probably there.

17 Q Okay.

18 A Probably roughly.

19 Q I'm sorry. Didn't mean to cut you off.

20 A Yeah. You're good.

21 Q Where you are to, to the door?

22 A Yeah. Roughly probably the distance. I mean, it's not
23 like a little, a little driveway like from here to the desk.
24 I mean, it, it goes back a little bit, but yes.

25 Q So your crime scene extends at least that far; correct?

1 A Yes.

2 Q Okay. And you're going to look certainly in a line
3 between the two people that had been shot in a direct line?

4 A Yes.

5 Q And then as you testified you're going to go out at least
6 some distance because you don't know, even if you're there in
7 just a couple of minutes, you don't know if the person that's
8 on the ground here was shot feet away or even some, you know,
9 maybe out in the street and stumbled farther. So you're going
10 to expand the crime scene out beyond just those two bodies of
11 course?

12 A Yes.

13 Q Correct? Okay. You're going to look for things like --
14 because you, you observed the two men who were on the ground?

15 A I did look at them. I didn't get down and like --

16 Q Right.

17 A -- handle them but I, I, I can tell you where I saw
18 bodies at. Yes.

19 Q Was it your impression from what you saw that obviously
20 they were wounded, injured. Could you tell what type of
21 injury you felt they had?

22 A No. I mean, it's, like I said, obviously, the call come
23 out victims or gunshot. Like I say, when I have that amount
24 of people around I want to get them away so we can get EMS and
25 all the assistance in.

Kenneth Harlow - Cross by Mr. Fox

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1 Q And you answered my question which was the call was about
2 gunshots. So in securing a crime scene you would potentially
3 expect to find maybe shell casings?

4 A Yes.

5 Q Spent bullets, potentially?

6 A Potentially, yes.

7 Q Maybe a weapon?

8 A Maybe.

9 Q Okay. And so, again, back to my original thread here,
10 then the danger of having 60, 80 people there on a concrete
11 driveway?

12 A Yes.

13 Q All right. So not grass or, or pebbles or anything?

14 A Correct.

15 Q Okay. So tell me if I'm wrong, the danger would be that
16 in milling around, 60 to 80 upset people, been described as
17 chaotic, that evidence moves. In other words, shell casings
18 aren't very heavy; are they?

19 A No.

20 Q Okay. So if I -- if you arrive on a crime scene and you
21 find shell casing here all you know is you found a shell
22 casing here. You don't know that a gun was fired right there;
23 correct?

24 A Correct. I mean, I'm not a forensic expert by any means.
25 I'm not -- can't testify to that.

1 Q I understand, but regardless, the point of securing the
2 crime scene is to make sure that evidence, to the best of your
3 ability, is preserved in the state it was in this case when
4 the shooting occurred?

5 A Yes, sir.

6 Q Is that a fair statement? Okay. And through no fault of
7 yours or any of the other officers that responded, that just
8 wasn't possible in those intervening three, four, five minutes
9 between the call and officers arrived on scene?

10 A I'm not -- can you clarify a little bit more for me?

11 Q Well, again, the, the idea is, you've testified, to
12 preserve the evidence as, as best you can at the location in
13 this case of a shooting?

14 A Yes.

15 Q Through no fault of your own or any other officer that
16 responded it took two, three, five minutes to get there.
17 You're not in control during the -- those moments; correct, of
18 this crime scene?

19 A Again, I can't tell you how fast the first officers
20 arrived on scene.

21 Q Okay.

22 A I don't want to speak on their behalf. I can only tell
23 you what I did when I got there, sir.

24 Q I understand. Thank you. I have no further questions,
25 Officer.

David Bailey - Direct by Mr. Holford

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1 the jury.)

2 THE COURT: All right, Solicitor.

3 MR. HOLFORD: Your Honor, the State calls David Bailey.

4 Whereupon, David Bailey is called to the stand, duly
5 sworn by the clerk and testified as follows:

6 THE CLERK: State your name and spell your name for the
7 Court.

8 MR. BAILEY: My name is David Bailey, last name is B-A-I-
9 L-E-Y.

10 DIRECT EXAMINATION

11 BY MR. HOLFORD:

12 Q Officer Bailey, where are you currently employed?

13 A Myrtle Beach Police Department.

14 Q And how long have you been at Myrtle Beach Police
15 Department?

16 A A little over 20 years.

17 Q What's your current assignment there?

18 A I'm a crime scene investigator.

19 Q Crime scene investigator, and how long have you been a
20 crime scene investigator?

21 A Approximately 14 years.

22 Q Okay. And so it's safe to say you were a crime scene
23 investigator July 23rd, 2016?

24 A Yes. I was.

25 Q And did you respond to a scene of a crime at [REDACTED] Warren

1 Street?

2 A Yes. I did.

3 Q On July 23rd, 2016?

4 A Yes, sir.

5 Q And tell us how do you get involved in that? How is
6 crime scene called out to a scene?

7 A I was on duty and I was called to process the scene.

8 Q How many crime scene investigators are there at Myrtle
9 Beach?

10 A There are six of us right now.

11 Q And so when you say you're on duty what does that mean?
12 How does that go?

13 A Just mean we're -- you'll have people work morning times,
14 sort of like shift work. You'll have one guy work daytime and
15 another guy work evening and another guy work midnights,
16 things like that.

17 Q Okay. And so, so, what do you respond to when you
18 respond to a scene?

19 A Just respond to a -- could you repeat the question?

20 Q Yeah. Are, are you called out like normal dispatch and
21 you just go for any reason or are you called specifically?

22 A No. I'm -- we're called specifically for, you know,
23 large incidents, you know, shootings, things of that nature,
24 burglaries, not just for regular incidents.

25 Q Okay. And what did you know when you were responding?

David Bailey - Direct by Mr. Holford

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1 A I knew there was a shooting and possible two people shot.

2 That's about all they'll --

3 Q And so what's your, what's your job as a crime scene
4 investigator? What are you trying to do when you respond to
5 the scene?

6 A I document evidence, any and all evidence, collect,
7 collect any and all evidence.

8 Q And did you do that in this case?

9 A Yes, sir, I did.

10 Q Do you write a report?

11 A I do.

12 Q Do you take pictures?

13 A I do.

14 Q Do you collect -- do you actually pick up and collect the
15 physical evidence?

16 A Yes. I do.

17 Q Did you take pictures in this case?

18 A Yes, sir, I did.

19 Q If I showed you those would you be able to recognize
20 those pictures you've taken?

21 A Yes.

22 Q I'm going to approach --

23 MR. HOLFORD: May I approach?

24 THE COURT: Yes.

25 BY MR. HOLFORD:

- 1 Q I'm going to hand you State's Four, Five, Six, Seven,
2 Eight, Nine, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and one
3 out of order, Three, so Three through 19. Can you flip
4 through those? I know you just saw me flipping through them.
5 Are those pictures you took in this case?
- 6 A Yes, sir.
- 7 Q And do they fairly and accurately depict what you arrived
8 and what you were documenting at that scene that night?
- 9 A Yes, sir. They do.
- 10 MR. HOLFORD: Your Honor, at this time the State would
11 seek to introduce State's Three through 19.
- 12 MR. MCCOY: Without objection, Your Honor.
- 13 MR. FOX: No objection, Your Honor.
- 14 THE COURT: In without objection.
- 15 (State's Exhibits Three through 19 [Photographs] entered
16 into evidence and appropriately marked.)
- 17 BY MR. HOLFORD:
- 18 Q Now, do you know about what time you responded?
- 19 A I can't remember the approximate time on it.
- 20 Q Okay. Do you respond hours later or minutes later?
- 21 A No. I respond usually just moments later.
- 22 Q By the time you responded was there crime scene tape up
23 or is that something that you do?
- 24 A No. The crime scene tape was up.
- 25 Q Okay. And can you tell us just the purpose of crime

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1 scene tape?

2 A Just to keep anyone that's not involved in actual
3 investigation of the scene out of the scene.

4 Q And are other officers trained in preserving a scene?

5 A Yes.

6 Q Now what's the purpose of preserving a scene?

7 A Just so no evidence get moved, tampered with or anything
8 like that, basically is trying to keep it as the way it was
9 when it happened when I see it.

10 Q And when you respond were you able to document evidence?
11 Was there something like around?

12 A Yes. I was.

13 Q Okay. Of note in this case what specifically did you
14 notice and take pictures of?

15 A Well, first I take overalls of the whole entire scene to
16 include everything.

17 Q And are there pictures of those?

18 A Yes. There is. There is overall there. This is a, a
19 medium overall.

20 Q All right. So in State's Three and Four, where are these
21 pictures of?

22 A [REDACTED] Warren Street with that -- the whole alley, the
23 whole block there.

24 Q Okay. So these are, these are pictures that night
25 looking at [REDACTED] Warren Street where you responded?

- 1 A Yes.
- 2 Q Now, I don't see anyone laying on the ground in these
3 photos.
- 4 A No, sir. Both victims had been transported from the
5 scene when I arrived.
- 6 Q Okay. And where are they transported to?
- 7 A To my knowledge it was Grand Strand Regional Hospital.
- 8 Q But I do see yellow markers. Are those yellow markers
9 out there when you arrive?
- 10 A No. I placed those out there.
- 11 Q Okay. So these are pictures that you took after you
12 place the markers?
- 13 A Yes.
- 14 Q Tell us, what's the purpose of a yellow marker? What are
15 you doing?
- 16 A Just to notate the locations of any evidence I find on
17 the scene.
- 18 Q All right. And what did you find in this case?
- 19 A There were cartridge cases, and what I mean by cartridge
20 cases is the piece that's ejected out of a gun after it's
21 fired. Basically some people call them casings or cartridge
22 cases, cartridge cases, some fragments, one projectile which
23 is fired out of the barrel of the weapon, one projectile and
24 there were 380 cartridge cases and that one 9 millimeter
25 cartridge casing and an unfired -- I mean, a fired projectile

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1 with -- it had a little bit of blood on it.

2 Q All right. Let's, let's back up just a little bit. I --
3 and explain so we're using the same terminology.

4 A Okay.

5 Q Cartridge casings, so let's talk about a cartridge --

6 A Okay.

7 Q -- or a bullet. What, what are the components of a
8 bullet?

9 A The components of a bullet you have the projectile, which
10 is the lead part on the front and then you'll have the case
11 which contains the powder for the bullet and then a primer in
12 the back of the case which is struck to fire the bullet,
13 ignite the powder and fire the bullet.

14 Q Okay. And so what happens when a bullet is fired from a
15 gun?

16 A When a bullet is fired from a gun in a semi auto pistol
17 the bullet is -- the striker is struck by the firing pin and
18 the bullet goes out of the barrel. As the bullet exits the
19 barrel the slide on the weapon will come back and eject a
20 cartridge casing out of the weapon.

21 Q And let me back you up just a moment. You said you'd
22 been at Myrtle Beach Police for 20 years and you've been with
23 crime scene for 14. Do you have specific training in crime
24 scene analysis?

25 A I do.

1 Q Have you been to conferences or do you have updated
2 training that you do?

3 A Multiple, multiple conferences.

4 Q What does that include? What, what do you need?

5 A Everything from ballistics, photography courses, blood
6 spatter courses. They're all specifically related.

7 Q Do you have hours that you're required to keep up every
8 year?

9 A Yeah. We have training hours which we're required to
10 keep up just for the department, but the department sends us
11 to these classes as extra just so we can keep our knowledge up
12 on, you know, everything that's coming out new, something
13 different, things like that. So we go consistently to
14 classes.

15 Q Do you have certifications that you have to do or tests
16 that you have to do?

17 A Just as far as certification like crime scene
18 investigation, but you get certificates but it's not like a --
19 not a certified like type of course thing.

20 MR. HOLFORD: Your Honor, at this time I would seek to
21 tender Officer Bailey, Crime Scene Investigator Bailey as an
22 expert in crime scene analysis and ballistics.

23 THE COURT: Counsel?

24 MR. FOX: Your Honor, I have no objection to crime scene
25 qualification. I do in terms of ballistics. I'm not sure if

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1 he -- I heard he goes to conferences and studies crime scene.
2 I'm not sure he's had or at least there's been testimony or
3 evidence about his qualifications as a ballistics expert.

4 THE COURT: Would you like to question him a little
5 further about that?

6 BY MR. HOLFORD:

7 Q Officer Bailey, specifically as it relates to ballistics,
8 now, when I say ballistics what does that mean?

9 A Just means firearms related, like projectile related, you
10 know, anything fired -- that would fire a projectile.

11 Q Okay. And what is your training specific to ballistics
12 or fired projectiles?

13 A Training on basically impact, like bullet strikes, bullet
14 holes, things of that nature, nothing to do with the trace but
15 just on the actual bullet trajectories, impacts, things of
16 that nature is what it involves.

17 Q Now, when you say trace, nothing to do with trace, what
18 does that mean?

19 A Trace entails the lands and grooves on the projectile
20 after it's been fired and your grooves on the back of the
21 cartridge casing after it's been ejected from the weapon.

22 Q So you're not able to tell us if, if a certain bullet was
23 fired from a certain weapon?

24 A No, sir. I'm not.

25 Q But, but do you have knowledge about how a bullet is

1 composed and fragments or shell casings or the powder or
2 primers or the projectiles from a bullet?

3 A Yes. I do.

4 Q Are you familiar with firearms?

5 A Yes. Very.

6 Q And how they -- how one shoots a firearm?

7 A Yes.

8 Q Are you familiar with different types of firearms?

9 A Yes.

10 Q And how are you familiar with these things?

11 A I was competitive shooter, competition shooter for years
12 and when I lived in West Virginia and being in law enforcement
13 I come across a lot of firearms and I've versed myself in a
14 lot of the processes on how the weapons work and it's been
15 many, many different types of weapons.

16 MR. HOLFORD: Your Honor.

17 THE COURT: Mr. Fox, with that limitation, excepting the
18 trace any objection?

19 MR. FOX: Not at this point, Your Honor.

20 MR. MCCOY: We don't have an objection.

21 THE COURT: Okay. All right. So qualified.

22 MR. HOLFORD: And, and I should have done that before. I
23 took it a little out of order.

24 BY MR. HOLFORD:

25 Q So now explain to us, we're, we're back at casings and

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1 projectiles and the powder and primer. So when a firearm has
2 a bullet, what, what I would call a bullet in it, what are the
3 multiple components involved?

4 A The components of a bullet, the first is the primer,
5 which is in the center of the back of the casing, which is
6 loaded with barium and it's a couple of chemicals that develop
7 an explosion. You have the primer, which is a small circle in
8 the back of the bullet, then the casing which contains the
9 powder and then the bullet which is crimped inside the casing.

10 Q Okay. And when you say the bullet you can also call that
11 a projectile?

12 A Yes, sir.

13 Q And so when a -- when a gun is fired what leaves out the
14 end of the barrel?

15 A The bullet comes out and then you'll have trace elements
16 behind it, barium, antimony, different type of trace elements,
17 burnt powder, things of that nature.

18 Q Okay. And then does the casing stay inside?

19 A The casing stays in -- when the bullet exits the barrel
20 the gas from the explosion of the bullet pushes the slide back
21 and exit -- and ejects the cartridge casing in a semi auto.
22 In a revolver it does not eject.

23 Q Okay. And let's talk about that a little bit, too. In a
24 revolver where does the casing go?

25 A Revolvers casings stay inside the cylinder. You have to

1 manually open it to take them out.

2 Q And so in, in a revolver if you were to shoot multiple
3 times the casings would stay within that weapon?

4 A Yes, sir. They would.

5 Q Unless they were ejected?

6 A Unless they were ejected out.

7 Q But in a semi auto you're talking about a slide going
8 back and the casing being ejected?

9 A Yes, sir.

10 Q And so a semi automatic can be fired multiple times;
11 correct?

12 A Yes.

13 Q And those casings will go flying out of the gun?

14 A Yes.

15 Q All right. So when you respond to [REDACTED] Warren Street
16 and you're taking markers, you said that you found casings?

17 A Yes.

18 Q And so what do those casings tell you about that?

19 A Just that a weapon was fired.

20 Q Okay. Are you able to tell from scene casings what time
21 it was fired or when it was fired?

22 A No.

23 Q What are you able to tell based on those casings?

24 A Just a rough, a rough location of where the weapon was
25 fired from.

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1 Q Okay. Are there different types of casings or bullets
2 that go to different types of guns?

3 A Yes.

4 Q Are there a number of different types of guns?

5 A There's, yeah, vast.

6 Q Can you shoot a 45-caliber or a 380-caliber out of a 9
7 millimeter gun?

8 A Not a 45-caliber. A 380-caliber could be fired out of a
9 9 millimeter barrel but it would not eject.

10 Q Okay. So when you say it would not eject, the, the, the
11 projectile would go forward but the shell casing would not?

12 A Would not eject.

13 Q And why is that?

14 A Because the caliber is so small -- I mean, it would fit
15 but the casing is shorter than a 9 millimeter casing and they
16 don't have as much powder, as much, as much power to kick it
17 out of the barrel. So usually it will fire it, the bullet
18 will come out of the barrel but it does not have enough powder
19 in the casing to eject the slide to push the slide all the way
20 back to eject the round out.

21 Q So when you find 380 shell casings on the scene, based on
22 your expertise, are you able to say that it was a 380 that
23 fired those?

24 A Yes.

25 Q And is it true, same for a 9 millimeter?

1 A Yes.

2 Q Can you fire a 9 millimeter bullet or projectile with a
3 shell casing from a 380?

4 A No.

5 Q So in this case how many shell casings did you find?

6 A There were a total of -- do you have my notes on the --
7 for me -- I'm sorry. It was a really long time ago.

8 MR. HOLFORD: May I approach?

9 BY MR. HOLFORD:

10 Q I'm going to have your report marked. This is just for
11 -- to refresh your recollection. It is State's 44. Now, just
12 for purposes of the record, you said you keep a report for any
13 case; right?

14 A Yes.

15 Q And are you referring back to that report to see the
16 notes that you took?

17 A Yes, sir. And to answer your question, sir, it was five
18 casings, cartridge casings.

19 Q Five cartridge casings?

20 A Yes.

21 Q And what was the caliber of those cartridge cases?

22 A 380.

23 Q And how are you able to tell that?

24 A On the back of the cartridge casing there'll be a stamp
25 and it'll usually tell you the manufacturer of the bullet and

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1 it'll also tell you the caliber of the bullet.

2 Q All right. And did you find any other cartridge casings
3 on scene?

4 A There were -- the only cartridge cases I found were 380
5 but they were in different manufacturer.

6 Q All right. Was there -- on the bottom of that list is
7 there one other?

8 A Yes. There is actually a 9 millimeter.

9 Q Okay. And where was that found?

10 A Nine millimeter casing was in the center of the road just
11 roughly across from [REDACTED] Warren Street.

12 Q And did you take pictures of all these?

13 A I did, sir.

14 Q So and State's 18 where is that picture facing?

15 A Would be facing the -- facing east.

16 Q East. Now, is that up the driveway at [REDACTED] Warren?

17 A That's up the driveway, yes, sir.

18 Q And can we see numbers on these markers?

19 A Yes.

20 Q And so as we get closer we're able to tell what the
21 number is?

22 A Yes.

23 Q Now, I'm going to show you it's been entered as State's
24 Five. So that's marker one?

25 A Yes.

- 1 Q Now, what is marker one?
- 2 A It's a 380-caliber cartridge casing.
- 3 Q And how are you able to tell that? How do we know?
- 4 A By the -- it's what we call a head stamp which is on the
- 5 back of the casing shows the caliber and manufacturer of that
- 6 caliber.
- 7 Q All right. So you laid out all these markers and you,
- 8 you know that marker one is identified with a certain casing?
- 9 A Yes.
- 10 Q Now, markers two, three, four and five, what are all of
- 11 those?
- 12 A Those are cartridge casings.
- 13 Q And what type of cartridge casings?
- 14 A 380s.
- 15 Q Now, what about marker six and seven?
- 16 A Marker six is a projectile and marker seven is a fragment
- 17 of a projectile.
- 18 Q And where did you find marker six and seven? Where did
- 19 you find the projectile and the fragment of the projectile?
- 20 A In the driveway there of [REDACTED].
- 21 Q Okay. In the front of the driveway near the street or in
- 22 back of the driveway?
- 23 A The -- let me look at my notes to be exact.
- 24 Q If we look at State's 18?
- 25 A It was just -- yeah, it's just a little bit west of six.

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1 Q So if we look at State's 18 we're able to see where they
2 are in the driveway?

3 A Yes.

4 Q And that was the projectile and the fragment?

5 A Yes.

6 Q Now, State's 12 and 13 looks like marker number eight.
7 What's that a picture of?

8 A It's a -- appears to be a bullet strike on the vehicle,
9 like a glancing strike.

10 Q All right. Talk to me about a bullet strike. What does
11 that mean?

12 A Basically the impact of a projectile striking the
13 surface.

14 Q So you're taking a picture of that vehicle showing where,
15 where a bullet hit it?

16 A Yes.

17 Q And if we refer back again to a further out view of
18 State's 18, is that the white car?

19 A Yes. It is.

20 Q And these pictures, the strike, State's 12, what side of
21 the vehicle is that?

22 A It's the passenger side.

23 Q Passenger side?

24 A Yes.

25 Q And based on State's 18, the passenger side of the

- 1 vehicle, how's the vehicle oriented in the driveway? Is it
2 facing towards the street or facing towards --
- 3 A It's facing away from the street.
- 4 Q Okay. So if it hit on the passenger side, I'm going to
5 show you State's 41. So if, if the vehicle was hit on the
6 passenger side, what direction is the bullet coming from?
- 7 A The bullet -- due to the impact on the car, the bullet
8 appeared to be coming from the roadway facing west.
- 9 Q Down, down here?
- 10 A Yes.
- 11 Q Okay. And then State's 17 is that just a different angle
12 of the driveway?
- 13 A It is.
- 14 Q Okay. And can we still see the markers --
- 15 A Yes.. You can.
- 16 Q -- six and seven and even five in there?
- 17 A Yes.
- 18 Q Now, you said there's a 9 millimeter casing out there.
19 What marker number was that?
- 20 A Nine millimeter casing was marker number nine.
- 21 Q Okay. And in State's 14 is marker nine indicated on
22 there?
- 23 A Yes. It is.
- 24 Q And then in 15 and 16 are those close-ups of the same?
- 25 A Yes.

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- 1 Q So basically you take a, a wide picture so we can see and
2 then zoom in --
- 3 A Yes.
- 4 Q -- to tell what it actually is, and then tell the jury
5 again where, where is that 9 millimeter shell casing?
- 6 A It's west of [REDACTED] Warren Street. It's approximately 16
7 to 20 feet from the driveway of [REDACTED] Warren.
- 8 Q Is that away from all the, the 380s?
- 9 A Yes. It is.
- 10 Q Were there any other 9 millimeter shell casings out
11 there?
- 12 A That's the only one I found.
- 13 Q Now, that's not in the driveway?
- 14 A No, sir.
- 15 Q I want to go back to this, this overall photo. If we can
16 look at State's Four and Nine. Are we able to kind of piece
17 together where each of those shell casings is laying based on
18 the yellow markers?
- 19 A Yes.
- 20 Q So does it kind of go like, like that?
- 21 A Yes.
- 22 Q That's the yellow pole right there, and can you see the
23 vehicles in both of them?
- 24 A Yes.
- 25 Q So if we look at both of those we're able to see the

1 groupings of where you found those shell casings?

2 A Yes.

3 Q Talk to us just briefly about, now, you said a shell
4 casing is ejected from a semi automatic?

5 A Yes, sir.

6 Q How, how does that happen? What's the direction? Can it
7 go anywhere? Does it go in a single direction?

8 A It could go, it could go straight up. It could go -- but
9 most, most firearms eject to the right with the exception of
10 some custom made pistols. Most firearms, because most people
11 in the world are right-handed and firearms are made to where
12 they eject on the right-hand side so basically the casing when
13 it comes out it doesn't hit you in the face. So but most,
14 most firearms eject to the right.

15 Q Okay. And is there a distance, I mean, if you're firing
16 a gun in one spot are you able to tell how far away the shot
17 was actually?

18 A It -- you couldn't tell exactly. You could do -- it
19 would just be a proximate because it depends on the power of
20 the weapon, what type of weapon, you know, all weapons throw
21 cartridges different, different distances.

22 Q But when you're looking at this crime scene and you see
23 all these shell casings, are they, are they grouped together,
24 are they all spread out, are they random?

25 A They appear to be in close quarters to each other, almost

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1 in a line. It appeared either someone was either walking
2 towards or retreating back from that scene while they were
3 being fired.

4 MR. MCCOY: Speculation, Your Honor.

5 THE COURT: I'm going to give him some leeway. I
6 overrule the objection on that one.

7 MR. HOLFORD: Thank you, Your Honor.

8 BY MR. HOLFORD:

9 Q Now you say that it appears someone was either walking
10 towards or away, what do you base that on?

11 A Just on the cartridge cases being in a row.

12 Q Okay. So if, if a person were standing stationary, based
13 on your experience, are shell casings going to be in a line
14 from, from there to behind the person?

15 A In my experience, no.

16 THE COURT: Solicitor, is it a good time for a break?

17 MR. HOLFORD: Yes, Your Honor.

18 THE COURT: Okay. All right. Your lunch is here. Let's try
19 to hold it to 45 minutes. The rest of us should be ready to
20 go back to work about 20 till two. All right. Breaking for
21 lunch, 45 minutes. All right. You may step down and relax.
22 (The following takes place outside the presence of the jury.)

23 MR. HOLFORD: Your Honor, may we approach?

24 THE COURT: Yes, sir.

25 MR. HOLFORD: And obviously we can't talk to the witness

1 during lunch.

2 THE COURT: Now, you can't talk to him. Just keep to
3 yourself. Don't let anybody approach you.

4 (Whereupon, a bench conference is held.)

5 OFF THE RECORD

6 (Whereupon, the following takes place outside the
7 presence of the jury.)

8 THE COURT: All right. We'll see if they're ready.

9 (Whereupon, the following takes place in the presence of
10 the jury.)

11 THE COURT: All right, Solicitor.

12 MR. HOLFORD: May I proceed, Your Honor?

13 THE COURT: Yes, sir.

14 BY MR. HOLFORD:

15 Q All right. Investigator Bailey, I know we were going
16 through this about all the shell casings where they were
17 located right before lunch, and I tend to drone on a little
18 bit, but the five 380 shell casings were -- did you mark the
19 distances on those? Do you have distances that you marked?

20 A I don't have exact distances. The FARO scanner will do
21 the -- did the exact distances down to the millimeter.

22 Q In your report do you write approximate distances --

23 A I do.

24 Q -- from each other? And again, where were those 380
25 shell casings in relation to the driveway that we're looking

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1 at on State's 41?

2 A It would have been right here along the, the east side of
3 the road edge here.

4 Q All right. And the east side is towards the --

5 A Four of them, four of them --

6 Q -- fire station?

7 A Yes, sir.

8 Q Okay.

9 A Four of them were in the grassy area and one of them was
10 partially on the pavement.

11 Q Okay. And then there are other markers up here in the
12 driveway, again, closer towards the fire station; is that
13 correct?

14 A Yes, sir.

15 Q Okay. And the, the bullet strike on the car was on the
16 passenger side?

17 A On the, yes, passenger side.

18 Q Based on the bullet strike to the car and where you found
19 that projectile, the, the fired bullet up in the driveway,
20 what's your estimation as to the direction of the fire?

21 A It appeared to, it appeared to come from east to west
22 from the roadway towards the driveway.

23 Q And when you -- okay. So east to west is roadway towards
24 the driveway?

25 A Yes.

- 1 Q Did you find any projectiles out in the roadway?
- 2 A No. I did not.
- 3 Q Or shooting away from the home?
- 4 A No, sir. I didn't.
- 5 Q And the 9 millimeter casing that you found, about how far
- 6 away from the driveway was it out into the roadway?
- 7 A Approximately 16 feet.
- 8 Q And, and you have a tape measure out there? You measure
- 9 them?
- 10 A Yes.
- 11 Q Now, after you, you collect these items, after you take a
- 12 picture with the markers, let me slow down, after you take the
- 13 picture with the markers you collect the actual items; don't
- 14 you?
- 15 A Yes, sir.
- 16 Q And then what do you do with them? Is there a way that
- 17 you can tell that this shell casing is identified as a certain
- 18 number?
- 19 A I put the marker down, and I slowly -- I start with an
- 20 overall photograph and then as I get closer to the item I take
- 21 photos as I'm getting closer to it so I'll know exactly which
- 22 item as I'm collecting them what's in what bag and how it's
- 23 collected.
- 24 Q And then do you put those in -- into evidence?
- 25 A Yes, sir. I do.

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1 Q And tell me about that. What is -- what's evidence at
2 Myrtle Beach?

3 A Evidence is we have a system that's called RMS and
4 basically it stores evidence in like a chronological order and
5 it tells us when we put it in, who put it in, if anyone has
6 checked it out. It's all logged and I stored it in there, sir.

7 Q All right. I'm going to hand you what's been marked as
8 State's 46, 47, 48, 49 and 50. These are for identification
9 right now. Can you identify what those documents are?

10 A These are property evidence sheets.

11 Q Okay. And what are you able to tell from -- generally
12 from a property evidence sheet?

13 A The item and what's put into property and evidence, the,
14 the description of the item, what the item is, if it has a
15 marker number, an ID number to it and what officer placed it
16 in.

17 Q Are they fair and accurate depictions of, of evidence
18 sheets in this case?

19 A Yes.

20 Q And are they from items that you placed into evidence or
21 that you seized?

22 A Yes.

23 MR. HOLFORD: Your Honor, at this time the State would
24 seek to introduce State's 46 through 50.

25 MR. MCCOY: Without objection, Your Honor.

1 MR. FOX: No objection, Your Honor.

2 THE COURT: In without objection.

3 (State's Exhibit Numbers 46 through 50 [Property Reports]
4 entered into evidence and appropriately marked.)

5 BY MR. HOLFORD:

6 Q Now, starting with 46, you have a casing and a marker
7 number. Does that, does that correlate to a bag number in
8 property and evidence?

9 A It's -- the marker numbers are going to be different than
10 item numbers. Marker numbers are mainly for identifying
11 objects on the actual scene itself, like marker one through
12 six will be on the scene, but when they get put into the
13 property and evidence or in the RMS or stored it could be item
14 1, item 2, item 3, but they won't be the exact same as the
15 items as they were collected on the scene. They may have
16 different numbers, but it'll be the same item.

17 Q Okay. So, so item 1 collected from marker one, what,
18 what item is that in evidence at Myrtle Beach?

19 A It'll be item 1 as, as in the evidence report.

20 Q Okay. From marker one?

21 A It doesn't actually show me my item on this form here.

22 MR. HOLFORD: May I approach?

23 BY MR. HOLFORD:

24 Q If I showed you State's 26 and State's --

25 MS. WALTER: That's just got to be opened.

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1 Q Okay. I'm just going to show you what's been marked as
2 State's 26 in that, in that bag that is unmarked at this time.
3 That bag, does it contain different items inside it?

4 A It should, yes.

5 Q And then State's 26, what is that? Are you familiar with
6 that type of box?

7 A Yes. It's a, a bullet box we call them.

8 Q Okay. And do you place things in boxes like that?

9 A Yes.

10 Q Okay. And is that something that you collected?

11 A Yes.

12 MR. HOLFORD: Your Honor, the State would seek to
13 introduce State's 26 into evidence.

14 MR. MCCOY: No objection, Your Honor.

15 MR. FOX: No objection, Your Honor.

16 THE COURT: In without objection.

17 (State's Exhibit Number 26 [Fragment] admitted into
18 evidence and appropriately marked.)

19 BY MR. HOLFORD:

20 Q Now, on this box are you able to tell where it came from,
21 what marker it came from?

22 A That would have been marker number seven.

23 Q Okay.

24 A That is a fragment.

25 Q Marker number seven is a fragment?

1 A Yes.

2 Q So if I showed you State's 52 does that correlates to the
3 same item?

4 A Yes. It does.

5 MR. HOLFORD: Your Honor, the State would seek to
6 introduce State's 52.

7 MR. MCCOY: Without objection, Your Honor.

8 MR. FOX: No objection, Your Honor.

9 THE COURT: In without objection.

10 (State's Exhibit Number 52 [Property Report] entered into
11 evidence and appropriately marked.)

12 BY MR. HOLFORD:

13 Q Now, I know I'm trying to make it clear. On this sheet
14 that is State's 26 is from marker seven but then it also has a
15 group number on there.

16 A 19.

17 Q 19. What does that group number mean?

18 A That group it's just the order that it, excuse me, the
19 group number is just the order that they go into our property
20 and evidence system. It's just a number attached to it by the
21 system itself.

22 Q Okay. So we can look at your pictures, see marker seven,
23 look on here and tell group 19 and then look at 52 and tell
24 what it is?

25 A Yes, sir.

David Bailey - Direct by Mr. Holford

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1 Q Okay. So there's a lot of numbers going around. The
2 State's numbers are just my numbers for marking evidence?

3 A Yes.

4 Q The marker numbers that you took on scene are what you
5 track?

6 A Yes.

7 Q And then Myrtle Beach PD evidence actually groups them
8 into -- it might be group 18 through 19 group?

9 A Yeah. It just -- it goes on, yeah, all the way up to,
10 you know, a thousand.

11 Q So looking at those property and evidence sheets the 380
12 shell casing that you took, can you identify what group
13 numbers they are in Myrtle Beach in evidence?

14 A Yes. Let's see. See group 15, group 16, group 17, group
15 14 and group 13.

16 Q And, and just explain to us why is that -- why is it
17 important to be able to tell -- if I had a, a bunch of shell
18 casings would I be able to identify the differences between
19 them?

20 A You'd have to -- this helps, by putting them on here,
21 putting them on here, it helps identify them by their -- we'll
22 usually identify them by their head stamp, it's the number on
23 the back, what we spoke of earlier it's got the caliber and
24 the manufacturer on the back, that's how we would
25 differentiate each type of cartridge casing.

1 Q But this allows us to know that when I take group 19 out
2 of evidence I can correlate on, on your pictures where it was
3 actually collected at the scene?

4 A Yes.

5 Q And the other shell casings, were they -- do you do
6 processing yourself? Do you test -- earlier you said you
7 don't do trace analysis.

8 A Right.

9 Q Who does that?

10 A Trace analysis would be SLED or a private lab that -- all
11 of our trace evidence goes to SLED.

12 Q Okay. So, so Myrtle Beach PD then sends it for further
13 analysis to SLED?

14 A Yes, sir.

15 Q Did you -- I'm going to hand you 51 and 53. Again, can
16 you just identify what those are property records for?

17 A Yeah. 18 is a fragment and 20 is a casing.

18 MR. HOLFORD: The State would seek to introduce State's
19 51 and 53 in evidence.

20 MR. MCCOY: No objection, Your Honor.

21 MR. FOX: No objection.

22 THE COURT: In without objection.

23 (State's Exhibit Number 51 [Property Report] and State's
24 Exhibit Number 53 [Property Report] entered into evidence and
25 appropriately marked.)

David Bailey - Direct by Mr. Holford

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- 1 BY MR. HOLFORD:
- 2 Q And what's the casing from, what marker number?
- 3 A Would be item 1, marker nine.
- 4 Q Okay. I'm going to hand you 50 -- 45, 54 and 55. Can
- 5 you identify what those property records are for?
- 6 A Let's see. 11 is a swab and 24 is a GSR kit and 25 is a
- 7 GSR kit.
- 8 Q Now, when you're reading 11, 24 and 25, are those the bag
- 9 numbers for --
- 10 A Those are bag numbers, sir.
- 11 MR. HOLFORD: The State would seek to introduce State's
- 12 -- I've got to refer to them by my numbers?
- 13 A Okay.
- 14 MR. HOLFORD: 50 -- 45, 54 and 55 in evidence.
- 15 MR. MCCOY: No objection, Your Honor.
- 16 MR. FOX: No objection.
- 17 THE COURT: In without objection.
- 18 (State's Exhibit Number 45 [Property Report], State's
- 19 Exhibit Number 54 [Property Report] and State's Exhibit Number
- 20 55 [Property Report] entered into evidence and appropriately
- 21 marked.)
- 22 BY MR. HOLFORD:
- 23 Q Now 45 says swabs from five 380 casings?
- 24 A Yes.
- 25 Q What, what is that?

- 1 A It's to get any possible touch DNA off the cartridge
2 casings.
- 3 Q Did you do the swabs?
- 4 A I did.
- 5 Q Okay. What, what item number is it?
- 6 A It'd be bag 11, item 1.
- 7 Q And for 54 and 55 what are those item numbers?
- 8 A Items bag 24, item 1 and bag 25, item 1, both are gunshot
9 residue tests, kits.
- 10 Q Okay. Gunshot residue tests?
- 11 A Yes.
- 12 Q And did you place those gunshot residue tests into
13 evidence?
- 14 A I did not. No. The CSS Howitt was in the control of all
15 the, the, the gunshot residue kits on the individuals.
- 16 Q Did each of these have a corresponding seizing officer
17 and officer who dropped them in? Are we able to look at the
18 chain and see?
- 19 A You can look at the chain, yeah. Office Howitt collected
20 them and I actually typed them in and it will have my name on
21 there as the person entering it.
- 22 Q Okay. So --
- 23 A But he was the one who collected them.
- 24 Q And you entered in, into evidence?
- 25 A Yes.

David Bailey - Cross by Mr. McCoy

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1 Q But again, did you test any GSR? Do you do that?

2 A No, sir.

3 Q Who does that?

4 A SLED does that.

5 Q Who would also test for swabs for DNA or serology?

6 A SLED would do that, also.

7 Q Okay. So you don't do that specifically?

8 A No, sir.

9 Q But you would take the swabs and then have them sent for
10 testing?

11 A Yes, sir.

12 Q No further questions.

13 MR. MCCOY: Thank you, Your Honor. May it please the
14 Court?

15 THE COURT: Yes, sir.

16 CROSS EXAMINATION

17 BY MR. MCCOY:

18 Q Investigator Bailey, how you doing?

19 A Good. How are you, sir?

20 Q My name is Jonny McCoy. I am Defendant's -- my shirt
21 keeps coming un-tucked.

22 A I've seen your signs.

23 Q Oh, yeah. Thank you very much. I'll remember to pay
24 the bill then. I -- I am Calvin Ford's Defense attorney in
25 this case. I just have a couple of questions for you.

- 1 A Sure.
- 2 Q You just testified just a moment ago that the reason that
3 you secure a scene is so that evidence -- so that no evidence
4 gets moved or tampered with; correct?
- 5 A Yes, sir.
- 6 Q So before a scene is secured you can't verify whether or
7 not any evidence was moved or, in your words, moved or
8 tampered with; correct?
- 9 A No, sir, I can't.
- 10 Q So when you're talking about this is where the bullets
11 are here or the casings are here and there's a 9 millimeter
12 over here, those could have been moved by the 60 to 80 people
13 who were trampling around the crime scene before it was taped
14 off; correct?
- 15 A Yes, sir.
- 16 Q Now, in preparing for your trial today or, or for your
17 testimony here today, since you have been marked as an, as an
18 expert, have you conversed with the State about their theory
19 of what gun each Defendant had?
- 20 A No, sir, I have not.
- 21 Q So you have no opinion as to which gun was on which
22 person?
- 23 A No.
- 24 Q Including whether or not the victim had a gun; correct?
- 25 A Correct.

1 Q But you are a, a gun expert; right?

2 A Yes.

3 Q And out of those two guns, a 380 and a 9 millimeter, as
4 an expert, which one would someone refer to as a big ass
5 gun?

6 MR. HOLFORD: Objection.

7 A Between a 380 and 9 millimeter neither one.

8 MR. HOLFORD: Objection, Your Honor.

9 A They're both really small calibers.

10 THE COURT: Yes.

11 Q If you had to choose between --

12 THE COURT: I've got an objection. Yes, sir.

13 MR. HOLFORD: Your Honor, I would object to him
14 classifying as what people would refer to.

15 THE COURT: He's an expert. He answered it. It's fine.

16 Q If you had to choose between those two guns, you're an
17 expert, we're asking for your opinion, the jury is going to --
18 they got to take your opinion, now, okay, so let's hit, let's
19 just give your opinion.

20 A Okay.

21 Q A 380 and a 9 millimeter.

22 A 9 millimeter.

23 Q 9 millimeter. Could there be any circumstance --

24 remember, you're an expert now, where a 380 would be described
25 as a big ass gun?

1 A No.

2 Q No. You described the shell casings' location as a rough
3 location from where the gun was fired; correct?

4 A Yes.

5 Q And that's also rough from whether or not the 60 to 80
6 people were trampling, moving it around or whether or not
7 those, those guns were even fired from that night; correct?

8 A Yes.

9 Q And if somebody was firing a revolver out there, there
10 could have been more than just a 380 and a 9 millimeter;
11 correct?

12 A If they were firing a revolver, sir, they wouldn't have
13 ejected.

14 Q So there could have been another gun; correct?

15 A It's possible.

16 Q Thank you. No further questions.

17 A You're welcome.

18 Q Yes, sir.

19 CROSS EXAMINATION -- BY MR. FOX:

20 Q Officer Bailey --

21 A Yes, sir.

22 Q -- you don't do -- I think you've testified that you
23 don't do the actual analysis of the -- in this case you have
24 shell casings or cartridges as to, as to whether they were
25 fired by the same gun. That's something that's sent to SLED,

David Bailey - Cross by Mr. Fox

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1 these items sent to SLED and then they may or may not attempt
2 to make a determination whether they came from the same
3 firearm; is that correct?

4 A That's correct.

5 Q Okay. So the fact that you've got five 380 caliber shell
6 casings tells us that you've got five 380 caliber shell
7 casings and it's possible that more than one firearm left
8 those?

9 A Yes.

10 Q Okay. And I think you also testified that, of course,
11 you can't determine from the location of a shell casing that
12 you found anything than a rough estimate of where a gun was
13 fired and nothing about the timeframe; correct?

14 A Correct.

15 Q And I think you also said, I don't want to misquote you,
16 but that you have no way of determining whether it would --
17 you saw -- you testified that the 380s were in a rough line;
18 correct?

19 A Yes, sir.

20 Q But no way to tell whether they were fired, number one,
21 it might have been multiple guns; correct?

22 A Correct.

23 Q But also even if it were one individual, one firearm,
24 whether that person was advancing or retreating I think was
25 your words; correct?

- 1 A Correct.
- 2 Q Okay. And if you found in this case it was a 9
- 3 millimeter I think you indicated that cartridge, shell casing
- 4 was in the middle of the -- roughly in the middle of the road?
- 5 A Yes, sir.
- 6 Q Okay. About 16 to 20 feet from the residence?
- 7 A The driveway, sir.
- 8 Q The driveway. I'm sorry.
- 9 A Yes.
- 10 Q The driveway. And the residence set back a little bit?
- 11 A Yes.
- 12 Q Farther -- okay. So if someone were standing --
- 13 A Excuse me.
- 14 Q -- in the vicinity of the residence, say at the residence
- 15 or at the upper end of the driveway, in that vicinity, you
- 16 would not expect with a 9 millimeter weapon, you would not
- 17 expect to find that shell casing out in the center of the
- 18 road; correct?
- 19 A Correct.
- 20 Q Okay.
- 21 MR. FOX: The Court's indulgence, Your Honor. Thank you.
- 22 No further questions.
- 23 MR. HOLFORD: Nothing further.
- 24 THE COURT: You may step down.
- 25 A Thank you.

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1 MR. HOLFORD: Ask that he be excused from his subpoena.

2 MR. MCCOY: Yes, sir, Your Honor. We don't have a
3 problem with that. Thank you.

4 THE COURT: Excused?

5 MR. FOX: No objection, Your Honor.

6 THE COURT: Thank you.

7 A Thank you, Your Honor.

8 MS. WALTER: Your Honor, the State calls Darlene Young.

9 Whereupon, Darlene Young is called to the stand, duly
10 sworn by the clerk and testified as follows:

11 THE CLERK: State and spell your name for the Court.

12 MS. YOUNG: My name is Darlene Young, D-A-R-L-E-N-E, Y-O-
13 U-N-G.

14 MS. WALTER: May I, Your Honor?

15 DIRECT EXAMINATION

16 BY MS. WALTER:

17 Q Good afternoon, Ms. Young. Can I call you Cup?

18 A Yes. You can call me Cup.

19 Q Is that what your friends call you?

20 A That's what everybody calls me. I ain't got no friends.

21 Q Okay. What part of, what part of Myrtle Beach do you
22 live in?

23 A Oh, I'm everywhere.

24 Q Okay. Is there a particular area where you stay more
25 often than others?

- 1 A No. I'm homeless.
- 2 Q Do you have any place that you lay your head that's
- 3 around Futrell Park?
- 4 A No.
- 5 Q Have you ever been in that area?
- 6 A Yes.
- 7 Q Okay. Now, let's start this way, get this out of the
- 8 way. You've had some trouble with the law; right?
- 9 A Yes, ma'am.
- 10 Q Okay. So back 26 years ago in sometime around 1993 you
- 11 were convicted of larceny?
- 12 A Yes, ma'am.
- 13 Q And then 24 years ago domestic violence?
- 14 A Yes, ma'am.
- 15 Q Twenty-two years ago possession of cocaine?
- 16 A Yes, ma'am.
- 17 Q Eleven years ago giving false information?
- 18 A Yes, ma'am.
- 19 Q And in 2007 you were convicted of smuggling heroin?
- 20 A Yes, ma'am.
- 21 Q Okay. And you actually did some federal prison time for
- 22 that one?
- 23 A Yes, ma'am.
- 24 Q Now, let's -- let me go back to the giving false
- 25 information. Can you tell the jury what that was about? What

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1 happened?

2 MR. FOX: Objection, Your Honor. They can't go into
3 details about that, only the conviction, anymore than we can.
4 They can't go into the specifics, just the fact that it was a
5 conviction, anymore than we can explore that. So they can --
6 the fact is on there, but that's as far as they can go.

7 MS. WALTER: As long as they don't inquire, that's fine.

8 BY MS. WALTER:

9 Q Now, Ms. Cup, do any of those convictions have anything
10 to do with your telling the truth here today?

11 A No, ma'am.

12 Q So you just swore to tell the truth. Are you going to
13 tell the jury the truth today?

14 A Yes, ma'am.

15 Q Okay. Now, I'm going to ask you if you know a couple of
16 people; all right? Do you know the Defendant, Calvin Ford?

17 A Yes, ma'am.

18 Q What do you know him by? What name?

19 A Smoo.

20 Q Is it like Smoo as in S-M-O-O or you don't spell it?

21 A I don't never spell it. I just call him Smoo. That's
22 it.

23 Q Okay. How long have you known him?

24 A All my life. That my cousin.

25 Q Okay. How often would you see him?

- 1 A I used to see him all the time.
- 2 Q All right. And what about Aliga Campbell; do you know
- 3 him?
- 4 A Yes. Yes. I know him.
- 5 Q How do you know him?
- 6 A All my life.
- 7 Q Okay. And did you know Jamal Burgess?
- 8 A Yeah. That my son best friend.
- 9 Q All right. And how long have you -- did you know Jamal
- 10 Burgess?
- 11 A All my life. He used to eat at my mama table, all my
- 12 life.
- 13 Q Okay. And what about Dameion Alston?
- 14 A That my cousin.
- 15 Q So you knew Dameion Alston your whole life?
- 16 A All my life.
- 17 Q All right. Now, do you remember back July 23rd, 2016,
- 18 when Jamal and Dameion were killed?
- 19 A Yes, ma'am.
- 20 Q All right. So let's start a little bit earlier than
- 21 that. Did you go to a party on Warren Street that night?
- 22 A I didn't attend no party. Like I said before, I woke up
- 23 out my sleep. I wanted to get high. I was going to get my
- 24 other high. I smoke gas every day.
- 25 Q Okay. Okay. So did you --

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- 1 A Gas is marijuana.
- 2 Q All right. Thank you for explaining that. So did you go
3 to Warren Street to get marijuana?
- 4 A I went on Warren Street, not saying that I was going to
5 Warren Street to get marijuana, but I went on Warren Street.
- 6 Q All right. When you got to Warren Street do you know
7 what time it was?
- 8 A It was dusk dark.
- 9 Q Okay. When you got to Warren Street was anyone else on
10 Warren Street?
- 11 A It was a few people out there.
- 12 Q Do you remember seeing anyone in particular?
- 13 A I seen J Money and I seen Dameion.
- 14 Q All right. And when you say J Money do you mean Jamal
15 Burgess?
- 16 A Yes, ma'am.
- 17 Q And you saw Dameion. Did you see anyone else out there?
- 18 A There was other people out there but I was talking mainly
19 to them two people.
- 20 Q All right. Did you have any physical contact with --
- 21 A I got a hug from both of them.
- 22 Q When you hugged them, did you -- were you able to tell
23 whether either one of them was carrying a gun?
- 24 A Man, I, I ain't felt no gun on either one of them.
- 25 Q And when you hugged them was it full body on them?

- 1 A Yeah. Full body. I got a hug 'round my neck and I
2 hugged them 'round their waist because they taller than me.
- 3 Q All right. And you --
- 4 A J Money taller than me. Me and Deem [spelled
5 phonetically] probably about the same height, but he didn't
6 have no gun.
- 7 Q Okay. Now, thinking back to some of the other people
8 that were there, do you remember seeing Sherika Gore there?
- 9 A Yes, ma'am.
- 10 Q What about Poo or Mario?
- 11 A He was probably out there, ma'am.
- 12 Q What -- when you got there what were Jamal and Dameion
13 doing?
- 14 A Standing up with a big old bottle of Hennessy.
- 15 Q Where were they standing?
- 16 A Right there on the car porch.
- 17 Q Okay.
- 18 MS. WALTER: May I approach, Your Honor?
- 19 THE COURT: Yes.
- 20 BY MS. WALTER:
- 21 Q Step around this way, and you just have to -- I'm going
22 to hold it this way because you have to talk into that
23 microphone. So I'm showing you State's Exhibit 41, [REDACTED]
24 Warren Street. Can you show us on here where Jamal and
25 Dameion were standing?

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- 1 A (Complies with request.)
- 2 Q So and you're pointing to an area in the middle of the
3 driveway?
- 4 A In the middle right here. That's where I got my hug at,
5 right there, by both of them.
- 6 Q Okay. So right in the middle of the driveway, and do you
7 recall who had the bottle of Hennessy?
- 8 A Dameion had the bottle of Hennessy because he ask me to
9 take a shot with him, and I told him I don't drink.
- 10 Q Okay. After Dameion offered you a shot what happened?
- 11 A They went -- you know, they went about their ways, you
12 know, doing what they was doing, but Jamal personally asked me
13 to call my son for him. I called my son and they talked on
14 the phone. They said what they said, whatever, whatever, and
15 you know, after I hung my phone up he said, "Take your A
16 home." I said, "I ain't going nowhere," you know, we used to
17 go back and forth because that was just J Money. He always
18 like a laugh, you know.
- 19 Q So you were kidding back-and-forth --
- 20 A Yeah. We kid for a little minute back-and-forth and then
21 I just stood there waiting for somebody to come up so I could
22 get what I wanted so I could go back 'cross the highway.
- 23 Q Okay. And so how long do you think you stood there?
- 24 A I stood there a little bit too long, that's all. I stood
25 too long. That's it. I stood too long.

- 1 Q Okay. As you were standing there, did you see either of
2 the Defendants walk up?
- 3 A No. I can't tell you I seen Aliga walk up.
- 4 Q What about Calvin?
- 5 A I can't tell you that.
- 6 Q What about Calvin Ford?
- 7 A Oh, yeah, I seen him.
- 8 Q Where did you see him coming from?
- 9 A Across the highway into -- I didn't see him until he got
10 in the yard.
- 11 Q Okay. What yard did he get into?
- 12 A He was in Dudley yard, on Dudley car porch.
- 13 Q And Dudley, that's Ms. Holloman?
- 14 A Ms. Holloman.
- 15 Q I'm going to show you again Exhibit 41. Where was Calvin
16 Ford when you first saw him?
- 17 A Okay. This the back of Dudley daughter house. They was
18 up in this area. They was close to the basketball court. It
19 was a basketball court back here, but they were standing
20 closer but they was on the car porch.
- 21 Q And who -- when you say they were standing close to the
22 car porch, who are you saying?
- 23 A Jamal and Calvin.
- 24 Q Okay. So and did, did you see Calvin walk up?
- 25 A He walked up.

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1 Q When, when Jamal and Calvin first got together how did
2 that happen? Who approached who?

3 A I can't honestly tell you who approach who, but I seen
4 when J Money put his arm around Calvin neck and they walk from
5 the car porch together. I'm thinking they sums it up, they --
6 whatever problem they got it's going to end there.

7 Q All right. Let me stop you there for a second. So you
8 saw Jamal put his arm around Calvin's neck?

9 A Yes, ma'am.

10 Q Was it friendly, aggressive that you could tell?

11 A It didn't look aggressive at all.

12 Q When Jamal put his arm around Calvin's neck what did
13 Calvin do?

14 A They walked off the car porch and they was talking.

15 Q Could you tell whether that was a friendly conversation,
16 an argument or something else?

17 A For it had -- for it to have been intensive conversation
18 or not I can't tell you that. I can't tell you if it was
19 violent or nonviolent, but they walked off the car porch
20 together.

21 Q Could you hear the volume of their words? Were they
22 talking in normal tones or were they shouting?

23 A I didn't hear the volume until it got into the street.

24 Q What happened when they got into the street?

25 A I heard Calvin say, "If I want something done to you I

- 1 could have been had it done to you."
- 2 Q Who was he talking to when he said that?
- 3 A Jamal Burgess.
- 4 Q Now, and where were they when he said -- when Calvin said
- 5 that?
- 6 A They were standing in the street of Warren Street. This
- 7 the street right here; right?
- 8 Q Yep.
- 9 A Okay. So they was standing about right here.
- 10 Q Okay. And so you're indicating sort of in the middle of
- 11 Warren Street?
- 12 A Right here.
- 13 Q On the corner of --
- 14 A Right. Right.
- 15 Q -- Ms. Dudley's daughter's house?
- 16 A Yes, ma'am.
- 17 Q All right. How far were you standing from them during
- 18 this conversation?
- 19 A At that light pole on that picture right there, at that
- 20 light pole.
- 21 Q Okay. And so that light pole?
- 22 A This, right here, yes, ma'am.
- 23 Q Okay. Was there anyone else standing right there besides
- 24 Calvin and Jamal?
- 25 A Dameion.

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1 Q Where was --

2 A Dameion was trying to break it up.

3 Q When you say he was trying to break it up, what --

4 A He was trying to eliminate the problem. He didn't want
5 it to get to where, where it got to. That's what he was
6 trying to -- he was trying to stop it. He knew more than what
7 I knew apparently.

8 Q Okay. So we can't talk about what Dameion knew, but what
9 was happening right before Dameion tried to break whatever it
10 was up?

11 A Smoo and J Money was having words.

12 Q Is that when you've testified Calvin said, "If I wanted
13 something done to you I could have been done it"?

14 A I heard him say that.

15 Q All right. How was Dameion trying to break it up?

16 A Telling them to, "Go ahead, it's my birthday, man, let's
17 turn up."

18 Q What does that mean, let's turn up?

19 A Turn up is having a good time.

20 Q Okay. So as Dameion is trying to break it up, as he's --
21 where is he standing?

22 A Right on the outside of them.

23 Q And which way was Calvin Ford facing?

24 A Right towards the back of the projects.

25 Q So would his back have been towards Joe White?

- 1 A Yes, ma'am.
- 2 Q And where was Jamal standing?
- 3 A In front of him facing Joe White.
- 4 Q Okay. And where was Dameion standing?
- 5 A Right beside them.
- 6 Q All right.
- 7 A On Warren Street.
- 8 Q What was Dameion doing to try to break it up?
- 9 A He just kept telling them, "Man, go ahead, man, don't do
10 this. Go ahead, man." He just kept saying that.
- 11 Q Could you see Calvin Ford's hands during this time?
- 12 A At one point in time I could. At one point in time I
13 couldn't.
- 14 Q And what about Jamal Burgess?
- 15 A He was -- he was talking with his hands. He was talking
16 with his hands. He was moving his hands.
- 17 Q Okay. And you're indicating just sort of moving your
18 hands back and forth?
- 19 A Yeah. Like, yeah. Just like that.
- 20 Q All right. Now, at some point did whatever was going on
21 between Jamal and Calvin escalate, like get worse? Did
22 something happen? What did you see happen?
- 23 A I seen fire come out of a gun and hit J Money. That's
24 what I seen.
- 25 Q All right. Now, let me back you up for a second. Who

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1 had the gun?

2 A Calvin.

3 Q Did you see where Calvin got the gun from?

4 A It was out, out of one of his pockets, but I seen the
5 fire come out the gun and when it hit J Money. I seen that.

6 Q How far away were you when you --

7 A Right there at that light pole like I told you the first
8 time.

9 Q Okay. When -- so you saw Calvin take it from one of his
10 pockets?

11 A Yes, ma'am.

12 Q So you never saw Calvin bend down to the ground?

13 A No, ma'am.

14 MR. MCCOY: Your Honor, I'm going to start objecting to
15 leading this witness. It's gone on long enough.

16 MS. WALTER: That's fine.

17 THE COURT: Yeah.

18 BY MS. WALTER:

19 Q Did you ever see Dameion with a gun?

20 A No, ma'am.

21 Q Did you see Jamal pull a gun?

22 A No, ma'am.

23 Q When Calvin pulled the gun what was Jamal doing with his
24 hands?

25 A Jamal hands was in the air.

- 1 Q Can you show us how he?
- 2 A (Complies with request.)
- 3 Q Okay. So indicating raised up, both arms raised up?
- 4 A Just like this.
- 5 Q Okay. And what was Dameion doing?
- 6 A Dameion was basically out the way because I didn't see
- 7 him no more for a little while.
- 8 Q Do you know how he got moved up -- how he came to be out
- 9 of the way?
- 10 A Man, when them shots got fired he had sense he'd ran like
- 11 everybody else.
- 12 Q Okay. So you saw one shot hit Jamal?
- 13 A Yes.
- 14 Q Could you tell where on the body it hit him? And you can
- 15 just be general or if you don't know, don't know.
- 16 A I want to say his right side. That's what I want to say
- 17 on his right side.
- 18 Q So when that shot was fired did you see anyone other than
- 19 Calvin Ford with a gun?
- 20 A No.
- 21 Q Once that shot was fired what did you do?
- 22 A I ran.
- 23 Q Where did you run?
- 24 A I ran behind Dudley house.
- 25 Q Did you do anything as you were running behind?

Darlene Young - Direct by Ms. Walter

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- 1 A Yes. I picked that baby up and I threw him in the bush.
- 2 Q Do you know whose baby it was?
- 3 A Sherika Gore baby, Xavy [spelled phonetically].
- 4 Q Okay. And you said you threw the baby in a bush. Why
- 5 did you do that?
- 6 A It was either him -- he -- I couldn't see that baby get
- 7 hit with no bullet. I deal with kids. I got that baby out
- 8 the way.
- 9 Q Okay.
- 10 A And I kept running.
- 11 Q After that first shot did you hear any other shots?
- 12 A I heard a lot, but I don't know who was shooting because
- 13 I was running.
- 14 Q But you heard more than one shot?
- 15 A Yes.
- 16 Q Could you tell what direction the shots were coming from?
- 17 A Man, I wasn't paying none of that no attention. I was
- 18 getting out the way.
- 19 Q Okay. At any time during the night did you see Aliga
- 20 Campbell?
- 21 A I seen Aliga.
- 22 Q When did you see him? Here, I'll be more -- let me --
- 23 A At the end of the row I seen Aliga.
- 24 Q At the end of Warren Street?
- 25 A Warren Street and Joe White.

- 1 Q When did you see Aliga at the end of Warren Street and
2 Joe White?
- 3 A After everything was over.
- 4 Q Did you have any conversation with Aliga at that point?
- 5 A Yes.
- 6 Q What was that conversation?
- 7 A He asked me a question.
- 8 Q What did he ask you?
- 9 A "Where Smoo went?" I say, "I don't know."
- 10 Q Had you seen Aliga earlier that night?
- 11 A I did.
- 12 Q Where did you see him earlier that night?
- 13 A He was over there in Dudley yard.
- 14 Q Okay. When -- was he near or far to Calvin and Jamal?
- 15 A No. He was nowhere around neither one of them.
- 16 Q Did you ever see --
- 17 A I didn't see him around neither one of them.
- 18 Q At all during that time?
- 19 A At all, at all. I did not see that man nowhere around
20 him. I can't tell you that lie.
- 21 Q Okay. Now, the police interviewed you at some point;
22 correct?
- 23 A Yes.
- 24 Q And I, I, I take it from your look that you were not
25 happy about that?

Darlene Young - Direct by Ms. Walter

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- 1 A No.
- 2 Q You didn't want to talk to the police?
- 3 A No.
- 4 Q Okay. And during that interview did you talk to the
- 5 police about some mental health issues?
- 6 A I did.
- 7 Q Okay. What are those mental health issues?
- 8 A Bipolar schizophrenic.
- 9 Q Does that have anything to do with your ability to tell
- 10 the truth?
- 11 A No.
- 12 Q Are you telling the jury the truth here today?
- 13 A Yes.
- 14 MS. WALTER: The Court's indulgence.
- 15 BY MS. WALTER:
- 16 Q Did you ever see Dameion after the shooting?
- 17 A Yeah. He was dead.
- 18 Q Where did you see him?
- 19 A In front of the basketball court.
- 20 Q Okay. So if you can show us where the basketball court
- 21 is.
- 22 A (Complies with request.)
- 23 Q All right. And so you're pointing at the end of the
- 24 driveway?
- 25 A Right in that area that's where the basketball court was

1 at.

2 Q Can you tell me what Dameion looked like at that
3 point?

4 A He had a bullet hole through his head.

5 Q Did he appear to be alive?

6 A He wasn't alive because he wasn't talking. He wasn't
7 moving. He wasn't doing nothing.

8 Q Okay. And what about Jamal? Did you see Jamal after the
9 shooting?

10 A He was there. He was laying there like, he was just
11 laying there like.

12 Q Like what?

13 A He was dead. Like he wasn't moving like.

14 Q Do you -- did you know where he was laying?

15 A More in the street than Dameion was. He was over here.
16 He was in this area. He could have even been right here, but
17 if he wasn't here he was here.

18 Q Okay. So more in front?

19 A Right at the edge of the trees.

20 Q And more in front of Ms. Dudley's house?

21 A Yes.

22 Q Okay. When you saw Dameion and Jamal on the ground at
23 that point did you see either -- a gun around either one of
24 them? And you just have to say yes or no.

25 A No.

Darlene Young - Cross by Mr. McCoy

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1 Q Did you see anyone taking a gun from where they were
2 laying?

3 A No.

4 Q Did you hear about anyone talking about a gun?

5 A No.

6 Q I don't have any further questions. You're just going to
7 have to answer some questions from Mr. McCoy and Mr. Fox.

8 CROSS EXAMINATION

9 BY MR. MCCOY:

10 Q Ms. Young, my name is Jonny McCoy. I'm Calvin Ford's
11 Defense attorney.

12 A I know.

13 Q How are you doing?

14 A Not good, but I'm all right.

15 Q I understand that. A second ago -- I'm just going to
16 address this first, okay. I, and I'm addressing it -- I'm
17 going to try to be as, as understanding as possible. I have
18 PTSD.

19 MS. WALTER: Objection, Your Honor.

20 Q I have an issue as well.

21 MS. WALTER: Objection.

22 THE COURT: The jury disregard that statement. Okay.

23 MR. MCCOY: I apologize.

24 BY MR. MCCOY:

25 Q Are you, are you taking any medication right now for your

1 paranoid schizophrenia?

2 A I do take medication. I take Seroquel.

3 Q And have you taken your Seroquel today?

4 A I'm, I'm okay. I'm okay. I'm, I'm good. I know I'm
5 telling the truth. I got --

6 Q I understand. I understand. Did you take your Seroquel?

7 A No. I didn't take my Seroquel today.

8 Q Did you take it the day of the incident?

9 A I've been taking it all my life. I just hadn't taken it
10 today.

11 Q So you, so you did take it on the day of the incident?

12 A I sure did.

13 Q Okay. And what drugs were you using on the day of the
14 incident?

15 A Everything under the sun.

16 Q So can you please go through them?

17 A Molly and Ecstasy and marijuana.

18 Q Okay. And how do you feel when you take Molly, Ecstasy
19 and marijuana?

20 A Good, real good. It still make -- it still don't make me
21 lie.

22 Q I understand that. Now, you're going to have to --

23 you're the best person to tell us what goes on, you know, with
24 you, okay, and what you see and how you feel. So with Molly
25 and Ecstasy and marijuana, those things distort reality;

Darlene Young - Cross by Mr. McCoy

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- 1 correct? They make it so it's not as hard to live in the, in
2 the situation that you're in; right?
- 3 A No. I don't be in situations.
- 4 Q Okay.
- 5 A I do drugs. Drugs don't do me.
- 6 Q Okay. So what do the drugs do for you?
- 7 A Make me feel good.
- 8 Q They make you feel good?
- 9 A Make me feel real good.
- 10 Q Do they make you feel pain?
- 11 A I don't be in pain before I take them.
- 12 Q Okay. Do -- as a paranoid schizophrenic, classic,
13 classic signs sometimes you hear things; correct?
- 14 A Yeah.
- 15 Q Sometimes you see things; right?
- 16 A You right.
- 17 Q Sometimes you imagine things that aren't there; right?
- 18 A I guess if that's what you say, if that's what you say.
19 That ain't what I say.
- 20 Q I understand. I'm just trying to get to the bottom of
21 it. Okay?
- 22 A Yeah. Get to the bottom of it.
- 23 Q Okay. Yes, ma'am. So when you were talking with those
24 detectives back in --
- 25 A 2016?

1 Q Yes, ma'am, back in 2016 did you know that they were
2 recording your conversation?

3 A I know everything.

4 Q Okay.

5 A And what I said then I can say now.

6 Q Okay. Did you tell them -- do you remember telling them
7 back then that you didn't want to be on the stand in court
8 because you may have a mental health episode, breakdown and
9 the medicine didn't work?

10 A I told -- I probably did tell them that. I probably did.
11 I probably did. I'm not saying I did and I'm not saying I
12 didn't, but I probably did.

13 Q Okay.

14 A But I know I'm telling the truth.

15 Q Yes, ma'am. Your version of the truth; right? We all
16 have different --

17 A You're right. You're absolutely right.

18 Q Thank you.

19 A You're absolutely right.

20 Q Okay. So you say there was a few people out there when
21 you got there? Would you say less than 10?

22 A Including the kids it was more than 10.

23 Q Okay. Less than 20?

24 A Probably about 25, 30.

25 Q Okay. And you said you saw Sherika Gore; right?

Darlene Young - Cross by Mr. McCoy

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1 A I did.

2 Q But you didn't see Felicia; correct?

3 A I didn't see Felicia until after and she -- her car was
4 parked across the street, but I can't, I can't tell you
5 nothing else like I seen her car.

6 Q You told -- do you remember telling the detectives that
7 Felicia Williams got out there after the police got there. Do
8 you -- we, we can play it back for you. Do you remember it?

9 A I don't care what -- do what you do, do what you get paid
10 for.

11 Q Do you remember -- thank you. Do you remember her -- do
12 you remember telling detectives, "Felicia Williams wasn't out
13 there. She said she was but she got there after you all got
14 out there."

15 A It's a possibility I could have said it. It's a
16 possibility. Like I said I ain't got no reason to lie or
17 sugarcoat nothing.

18 Q Okay. And this statement was given right after the
19 incident or soon after?

20 A After I -- after the -- your, your client sent them to
21 me, yeah, I probably did.

22 Q Okay.

23 A Yeah.

24 Q Okay. So, so this was closer to when the incident
25 happened than today, which is three and a half years later;

1 correct?

2 A You're right.

3 Q Okay. Earlier you testified that -- earlier you
4 testified that Aliga and Calvin were not together; correct?

5 A I didn't see them together.

6 Q Earlier, earlier you testified that Calvin walked up on
7 his own; right?

8 A Uh-uh.

9 Q Yes, ma'am?

10 A Yes, sir.

11 Q You don't have to call me sir. And, and that is your --
12 that is your recollection from that night; correct?

13 A That's what I seen. I seen him walk across the yard up
14 into Dudley yard. That's what I seen.

15 Q Okay. So you told the detectives a day or two after or
16 whatever this was after the incident in 2016, let's see here,
17 "Calvin was walking up with Aliga." You don't remember
18 telling them that?

19 A I've never Calvin and Aliga together that night at all.

20 Q Okay. So if I play that recording back for you would
21 that help remember what you said?

22 A You can, you can play it. Because you play it that don't
23 mean I'm going to remember.

24 Q Okay.

25 MR. MCCOY: The Court's indulgence, Your Honor.

Darlene Young - Cross by Mr. McCoy

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1 MS. WALTER: Your Honor, I won't object, but I think that
2 it actually has to be marked as an exhibit, admitted and then
3 published to the jury.

4 Q Okay. So you remember giving a recording; correct or
5 being on a recording; right? You just --

6 A I do remember that. Yes, sir.

7 MR. MCCOY: And Your Honor, this was given earlier in
8 discovery.

9 MS. WALTER: It still has -- in order to be shown to the
10 jury it has to be marked as an exhibit. It has to be admitted
11 and the Judge has to allow you to publish it.

12 MR. MCCOY: Okay. We would now move to tender her
13 recorded interview into evidence. Would you stipulate?

14 MS. WALTER: There's no objection, Your Honor.

15 THE COURT: Got you. So admitted.

16 REPORTER: Am I going to have something to mark?

17 MR. MCCOY: It's a USB.

18 MS. WALTER: I'll give you the State's copy.

19 MR. MCCOY: And Your Honor, we're only marking this for
20 identification purposes. We're not moving it into evidence.

21 MS. WALTER: Well, then it can't be shown. In order for
22 the jury to see it it has to be entered into evidence and
23 published.

24 MR. MCCOY: Okay. Well, then we'll enter it into
25 evidence. I was just -- we're just doing it for impeachment

1 purposes. Okay.

2 (Defendant Ford Exhibit Number Four [CD - Statement of
3 Darlene Young] admitted into evidence and appropriately
4 marked.)

5 MR. MCCOY: Okay. Is this plugged in here?

6 (Portion of Defendant Ford Exhibit Number Four played in
7 open court.)

8 Q Okay. Did you hear that?

9 A I heard that.

10 Q Now, back then did you test -- did you tell the
11 detectives shortly after the incident that Calvin and Aliga
12 were walking up together?

13 A I, like I said, I could have.

14 Q Okay. Is that the truth?

15 A No. That's -- that is not the truth at all.

16 Q So when are you telling the truth, now?

17 A I'm telling the truth now, right now, and I ain't on no
18 medication, and my, my mental, my mental status shouldn't
19 uphold none of this right here, but I did not see Aliga
20 Campbell and Smoo walk up together. That's on everything.
21 That right there, man, that, I was, I was on drugs then. I
22 ain't on drugs now. I was on drugs on that right there. I
23 ain't on drugs now, clear minded, clear head. I did not see
24 Aliga Campbell walk up with no Calvin. That is a lie. That
25 is definitely a lie. That man was already in the yard.

Darlene Young - Cross by Mr. McCoy

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- 1 Calvin came up by hisself. I seen Calvin with my own eyes
2 before he killed J Money.
- 3 Q So --
- 4 A So what now?
- 5 Q So why would you lie?
- 6 A I was high. I was on drugs.
- 7 Q So when's the last time you took drugs?
- 8 A I don't do drugs. I haven't did drugs since Dameion and
9 Jamal got killed three years ago.
- 10 Q Did you go to treatment?
- 11 A No. I quit.
- 12 Q Okay. Now, you testified a moment ago that, that Jamal
13 had his hands straight up during the incident; right?
- 14 A Yes.
- 15 Q He put them right up; right?
- 16 A Yes.
- 17 Q Do you ever recall telling any detective or any person
18 ever before today that Jamal had his hands up?
- 19 A I probably told quite a few people his hands was up.
- 20 Q Did you ever tell law enforcement or the prosecutor's
21 office?
- 22 A I probably did, but I seen his hands up.
- 23 Q Did you tell them during that recorded video?
- 24 A I don't, I don't know what I told them in that recorded
25 video. Like I told you, I was high. I was on drugs. I'm not

- 1 that person three years ago I was.
- 2 Q I understand that.
- 3 A I don't use drugs.
- 4 Q Okay. Now, but you testified earlier that Jamal had his
- 5 arm around Calvin, okay, stay with me, had his arm around
- 6 Calvin and then walked out to the street; right? Correct?
- 7 A It wasn't even that tight of a hug.
- 8 Q Okay. He had his arm around him; right?
- 9 A Right.
- 10 Q Like more like that. Okay.
- 11 A Right.
- 12 Q And then do you recall saying, saying in your recorded
- 13 video that, that Calvin removed Jamal's arm from around his
- 14 neck?
- 15 A That was after they got to the road.
- 16 Q Right. But he did -- this was before the shooting?
- 17 A Right.
- 18 Q So he removes his arm from his neck; correct? And that's
- 19 when Dameion steps up and approaches, approaches the situation
- 20 to Jamal and Jamal pushes him out of the way. You said that
- 21 on your recording. You remember that; right?
- 22 A Go ahead. I'm following you.
- 23 Q Did Jamal push Dameion out of the way?
- 24 A Yeah. He told him to get out the way. He did.
- 25 Q And Dameion was just trying to calm --

Darlene Young - Cross by Mr. McCoy

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1 A And he was still trying to calm it down. Even after he
2 got pushed out the way he was still trying to calm it down.

3 Q I understand that. So Jamal pushes Dameion out of the
4 way and then right as that happens is when the shot rang out;
5 correct?

6 A It was some more talking and then the shots.

7 Q Okay.

8 A However it was, it was a shot. The man dead. He can't
9 defend hisself.

10 Q No, I --

11 A He ain't here.

12 Q -- I understand?

13 A His family seeking justice. If you didn't come from
14 violence you wouldn't have brought that gun if you come to
15 talk like a man, care how you feel.

16 Q I understand. So if somebody -- and you, you were right
17 there and you've testified, and said, "If I, you know, if I
18 wanted something done to you I would have had something done
19 to you," doesn't that say, "I'm not doing anything to you
20 right now? I'm not trying to do anything to you, if I wanted
21 to I would have"; right?

22 A That's what your client say, honey.

23 Q Well, that's what you said he said; right?

24 A Your client said that. I'm repeating what he said.

25 Q Okay. But it's not like he was reading from a script;

1 right, of how to, of how to get a self-defense verdict? He
2 wasn't reading from a script; right?

3 A I don't know what he was reading from. All this stuff
4 was going on while I was in prison. I came home to a bad
5 situation.

6 Q Oh, I understand that. But you --

7 A But far as somebody coming to tell you all, I could tell
8 you all what's going on, I can't tell you all nothing. How
9 could I tell you something? I ain't had nothing to do with
10 it. You brought me in it. You called my name.

11 Q You're not our witness. You understand that; right?

12 A I'm for whoever that called my name. The people say he
13 called my name. So I'm here. So however it is, it is, it is
14 what it is. I ain't scared of nobody.

15 Q People say who called your name?

16 A The police say Calvin Ford, Smoo called my name. That's
17 why they went to Racepath to my grandmamma house looking for
18 me.

19 Q Are you aware Calvin has never given a statement in this
20 case?

21 A Man.

22 MS. WALTER: Objection, Your Honor.

23 A I don't care what he gave. I don't care what he given
24 you. I don't care. I don't care.

25 Q Now, do you remember saying in the recorded statement to

Darlene Young - Cross by Mr. McCoy

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1 the police Smoo didn't kill Dameion?

2 A I said that and I said some other stuff. I said, my
3 words was in my heart, my heart tell me Aliga Campbell kills
4 Dameion, but to see him physically kill Dameion, I can't say
5 that. Is that what the recording say as well, yes, because I
6 said that. I said that, but I never seen Aliga Campbell with
7 a gun. I seen your client with a gun.

8 Q Right.

9 A I seen the fire come out the gun and hit J Money. That's
10 what I seen.

11 Q I understand.

12 A You can't understand. You keep cross-examining. You
13 can't understand. You can't. Ain't no way you can
14 understand. You don't understand this woman go home every day
15 can't see her son. You can't understand, ain't no way, ain't
16 no way you understand. You got the right one, baby. You got
17 the right one. Yeah. You called my name. I'm in this case.
18 I've never been in a box in my life. Go ahead with your
19 paperwork, honey, what you get paid for. Now I got mental
20 problems, I can't testify and tell the truth. What?

21 MS. WALTER: Ma'am, just wait until there's a question in
22 front of you. Okay, Cup? Thank you.

23 THE COURT: Everybody just take a deep breath and let's
24 try to get back on track here.

25 Q You testified that you haven't done drugs since the

1 shooting; is that right?

2 A That's what I just told you.

3 Q Do you remember telling the detectives that you thought
4 they were calling you to interrogate you because, quote, "Last
5 Tuesday my neighbor gave me a ride and then she fell into a
6 coma. Everyone said I gave her heroin"? Do you remember
7 telling the detectives that?

8 A I ain't never sold heroin. So I know you're lying. No.
9 That's not me. That's definitely not me.

10 Q Do you remember that situation where the lady that you
11 were giving a ride to fell into a coma and people were
12 accusing you of --

13 A I ain't gave nobody no ride that fell into no coma.
14 Somebody probably give me a ride.

15 Q Right. Somebody gave you a --

16 A But I ain't give nobody no ride, and I ain't never sold
17 no heroin. So find somebody else to tell that one. No. I
18 will not carry that one. No.

19 Q I understand.

20 A No.

21 Q Do you remember telling the detectives that --

22 A No. I remember telling no detectives no junk like that.

23 Q Okay.

24 A Run your tape back again. Run your tape back again
25 because I ain't never told nobody I give nobody no heroin. I

Darlene Young - Cross by Mr. McCoy

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1 ain't never sold no heroin.

2 Q Now, you didn't -- to correct myself, you did say --

3 A Man, play the recording, man. Let me listen to the
4 recording.

5 Q Okay.

6 A Tell the police I give somebody some heroin, that's a
7 whole indictment.

8 (Portion of Defendant Ford Exhibit Number Four played in
9 open court.)

10 MR. FOX: Judge, Judge, Judge, we have a matter --Your
11 Honor, can we approach?

12 THE COURT: Sure.

13 (Whereupon, a bench conference is held in the presence,
14 but out of the hearing of the jury.)

15 Q Almost finished, maybe just a few more questions; okay?

16 MS. WALTER: Your Honor, I think our witness needs to
17 take a bathroom break.

18 THE COURT: You need a --

19 A Yes, sir.

20 THE COURT: All right. The Court will stand at ease just
21 a few minutes. Since she stepped out does any juror need a
22 brief recess? We will be taking a recess in just a few
23 minutes. Mr. Monckton, if you're around, I need to see you.

24 MR. MONCKTON: Yes, sir, Your Honor.

25

OFF THE RECORD

1 (On the record. The following takes place in the
2 presence of the jury.)

3 THE COURT: All right, counsel.

4 MR. MCCOY: Back on the record, Judge.

5 BY MR. MCCOY:

6 Q All right. Ms. Young, you testified a moment ago that
7 the conversation didn't look aggressive; right? That's right?

8 A Yes, sir.

9 Q And that you couldn't tell what the conversation was
10 about. That's what you just testified; right?

11 A Yes, sir.

12 Q So it wasn't like, you know, wasn't anything crazy at
13 that point; right, not out of control; right? Except you got
14 to speak in just --

15 A No, sir.

16 Q Okay. I have one more question; okay? A moment ago you
17 said that you don't mess with heroin, you don't know nothing
18 about heroin, you never seen any heroin?

19 MS. WALTER: Objection. Actually she said she doesn't
20 --

21 A No. That's not what I said.

22 Q What did you say about heroin? I'll give you a moment to
23 clarify.

24 A I said I didn't -- I couldn't have told nobody that I
25 gave somebody something to OD on heroin. I never give nobody

Darlene Young - Cross by Mr. McCoy

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1 nothing to OD on no heroin.

2 Q I understand.

3 A But they -- you all, what, you know, the police come up
4 with their own method of what kind of drug it be. I could
5 have Molly. They consider that as heroin. Ecstasy pill is
6 considered as heroin. So heroin itself I ain't never sold no
7 heroin.

8 Q Okay.

9 A And that paper say I smuggle heroin, must have been a X
10 pill or some Molly because I ain't never sold no heroin in my
11 life.

12 Q All right. Ms. Young, thank you. Thank you for bearing
13 with me. Okay?

14 MR. MCCOY: Nothing further, Your Honor.

15 THE COURT: All right.

16 MR. MCCOY: It's Defense Two now.

17 MR. FOX: Your Honor, I have no questions for this
18 witness.

19 THE COURT: Let's --

20 MS. WALTER: Yes, Your Honor.

21 THE COURT: -- the jury -- let's take about 10 minutes.
22 The witness may step down. The jury may step back.

23 MS. WALTER: And we'll ask that she -- that she be
24 released from her subpoena.

25 MR. MCCOY: Absolutely, Your Honor.

1 DIRECT EXAMINATION

2 BY MS. WALTER:

3 Q Mr. Green, where do you work?

4 A I'm employed by the South Carolina Law Enforcement
5 Division commonly referred to as SLED.

6 Q What is SLED?

7 A It's the State Law Enforcement Agency that is -- we're a
8 -- excuse me, an assisting agency. We provide technical
9 expertise to agencies that don't have it.

10 Q In what types of areas?

11 A Well, we have a full service forensics laboratory dealing
12 with firearms, trace, DNA, that sort of thing, and we also
13 have an investigative unit that helps out smaller agencies
14 investigating larger cases. We also have crime scene,
15 computer technology, that sort of thing.

16 Q How long have you been with SLED?

17 A Since June of 2005.

18 Q What's your current assignment?

19 A I'm a forensic -- excuse me, a forensic scientist in the
20 firearms department of the forensic services laboratory.

21 Q How long have you held that position?

22 A Since I started at SLED.

23 Q What does a forensic scientist in the firearms department
24 do?

25 A We examine firearms and firearm related evidence, fired

James Green - Direct by Ms. Walter

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1 bullets, fired cartridge cases or tool marks like a hammer and
2 a nail, that kind of thing, to determine a common source, was
3 this bullet fired by this gun, that sort of thing.

4 Q And you would also be able to tell whether bullet A and
5 bullet B were fired from the same gun?

6 A Yes, ma'am.

7 Q What's your educational background?

8 A I have a bachelor of arts from Charleston Southern
9 University. I also have a master's of science in criminal
10 justice from Charleston Southern. When I was hired at SLED I
11 started the firearm and tool mark course of instruction. It's
12 approximately three-year course of instruction studying in an
13 apprentice type fashion learning to, learning to do what I do
14 now.

15 Q During that three-year apprenticeship did you undergo
16 specific training to help you be a forensic scientist in the
17 firearms department?

18 A Yes, ma'am. First I started watching the examiners work
19 their cases, seeing how they do it, the, the worksheets, the
20 firearms, the bullets, that sort of thing, and then as I
21 progressed I started doing more and more on my own. In the
22 end I took a comprehensive final based on everything I had
23 learned.

24 Q Did you pass that comprehensive final?

25 A Yes, ma'am.

1 Q And did -- have you had to complete proficiency testing
2 since then?

3 A Yes, ma'am, every year.

4 Q Okay. So can you just give us in laymen's terms what is
5 -- is there -- have you examined firearms evidence to tell
6 source or whether they're fired from the same gun?

7 A When firearms are manufactured the manufacturer means for
8 certain things to be there, they mean for certain
9 characteristics to be on the firearms they make. What they
10 don't mean are for the individual characteristics to be there.
11 Metal on metal contact causes the markings to change from one
12 gun to the next. It's almost like the fingerprint of a gun.

13 Q Have you in the course of your time with SLED examined
14 firearms evidence before?

15 A Yes, ma'am.

16 Q Approximately how many times?

17 A It's in the thousands.

18 Q What and then physically, again, just in laymen's terms,
19 not specifically related to this case, how is it that you
20 examine firearms evidence?

21 A We have a comparison microscope that is two microscopes
22 connected by a single optical bridge that lets us look at two
23 objects simultaneously and what we'll do is we'll -- excuse
24 me, and if we're looking at just evidence we'll look at the
25 like one cartridge case to another cartridge case

James Green - Direct by Ms. Walter

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1 microscopically to see if we can make the markings match.

2 Q What types of conclusions are you able to draw?

3 A The firearms department we have four conclusions. We
4 have positive, meaning, you know, these two cartridge cases
5 were fired by the same gun. Negative means they were not.
6 Inconclusive means I don't know, there's enough markings there
7 for me to be able to say maybe and then we have unsuitable
8 which is a conclusion basically when the evidence does not
9 have enough markings on it to render a conclusion one way or
10 the other or if it's too damaged to tell.

11 Q After you draw your conclusions do you -- is it checked
12 in any way?

13 A Yes, ma'am. Part of the firearms department, the
14 laboratory as a whole we have a quality control process, and
15 part of that process is a micro verification process. If I
16 were to work a case I would work it all the way through, write
17 my results down on one of the worksheets and then another
18 qualified firearms examiner would come behind me and do an
19 independent analysis of the evidence I just looked at and read
20 my results, and if they agree, they would initial and date it
21 as that day.

22 Q And what happens if they don't agree?

23 A We call in the supervisor.

24 Q Okay. Have you ever been qualified as an expert in
25 firearms identification?

1 A Yes, ma'am.

2 Q Approximately how many times?

3 A Eighty-three times, 81 times in state court and twice in
4 federal court.

5 MS. WALTER: Your Honor, at this time I would proffer Mr.
6 Green as an expert in firearms identification.

7 MR. MCCOY: No objection, Your Honor.

8 MR. FOX: No objection, Your Honor.

9 THE COURT: So qualified.

10 MS. WALTER: Thank you.

11 BY MS. WALTER:

12 Q Is -- does SLED maintain a database that tracks how
13 evidence moves throughout the agency?

14 A Yes, ma'am.

15 Q Does it track it from the time it enters until the time
16 it is returned to the agency?

17 A Yes, ma'am.

18 Q Are those records kept in the ordinary course of
19 business?

20 A Yes, ma'am.

21 Q So would those records have been kept -- and SLED assigns
22 its own L number, lab number to each case; correct?

23 A Yes, ma'am. Each case that's submitted to the laboratory
24 gets its own separate laboratory case number that begins with
25 an L, two digits for the year and then five for the case

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1 number, and then each individual item of evidence in that same
2 case will get its own individual item number as well.

3 Q So was the SLED lab number for this case L1610612?

4 A Yes, ma'am.

5 MS. WALTER: May I approach, Your Honor?

6 BY MS. WALTER:

7 Q First I'm showing you what's been marked for
8 identification as State's Exhibit 33. Do you recognize that
9 document?

10 A State's Exhibit 33 is a verified chain of custody
11 provided to an agency by SLED dealing with this case.

12 Q So that is the chain of custody for the items that were
13 submitted to SLED in this case?

14 A Yes, ma'am.

15 MS. WALTER: Your Honor, I would ask that that exhibit be
16 admitted into evidence.

17 MR. MCCOY: Without objection, Your Honor.

18 MR. FOX: No objection.

19 THE COURT: In without objection.

20 (State's Exhibit Number 33 [SLED Chain] admitted into
21 evidence and appropriately marked.)

22 BY MS. WALTER:

23 Q And then I'm showing you State's Exhibit 36. Do you
24 recognize that?

25 A Yes, ma'am. State's Exhibit 36 is the firearms report I

1 issued in this case.

2 Q So is that a true and accurate copy of the report that
3 you wrote?

4 A Yes, ma'am.

5 MS. WALTER: And Your Honor, I would ask that State's
6 Exhibit 36 be admitted into evidence.

7 MR. MCCOY: Without objection, Your Honor.

8 MR. FOX: No objection.

9 THE COURT: In without objection.

10 (State's Exhibit Number 36 [Firearms Report] admitted
11 into evidence and appropriately marked.)

12 BY MS. WALTER:

13 Q Now, I need to go through a number of other items with
14 you if that's all right. I'm going to show you State's --
15 well, first of all, let me show you this envelope. Do you
16 recognize this envelope?

17 A Yes, ma'am.

18 Q And how do you recognize it?

19 A It has the SLED barcode label on it as well as my
20 initials and on the bottom that's the evidence tape seal along
21 with my dates and initials.

22 Q Showing you what's been marked State's Exhibit 27. Do
23 you recognize that?

24 A Yes, ma'am. State's Exhibit 27 is a fired cartridge case
25 that I exhibit -- excuse me, that I examined in this case. It

James Green - Direct by Ms. Walter

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1 was actually SLED item 8 for State's Exhibit 27.

2 Q Okay. And then State's Exhibit 23.

3 A Ladies and gentlemen of the jury, if you see me rolling
4 the, the packages around in my hand, when evidence comes to
5 the laboratory, particularly the firearms department, we mark
6 on it with a -- like a dremel tool or an electric pencil. So
7 if you see me rolling the evidence around in my hand I'm
8 looking for the markings. It'll be the laboratory case
9 number, the item number and my initials. So that's all I'm
10 doing. Yes, ma'am, State's Exhibit 23 is the SLED item 5
11 cartridge case I examined in this case.

12 Q And that marking that you just described for the jury is
13 that how you are able to be able to identify that casing as
14 something that you've examined?

15 A Yes, ma'am.

16 Q Okay. State's Exhibit 20?

17 A Yes, ma'am. State's Exhibit 20 is the cartridge case I
18 examined as SLED item 2.

19 Q Twenty-one?

20 A Yes, ma'am. State Exhibit 23 [sic] is the SLED item 3
21 cartridge case I examined.

22 Q Twenty-two?

23 A Yes, ma'am. That's the State Exhibit 22 is the SLED item
24 4 cartridge case.

25 Q And then 24?

1 A Yes. State's Exhibit 24 is a SLED item 6 cartridge case
2 I examined in this case.

3 Q So you have six casings in front of you. Can you tell me
4 what type of cartridge casing they are?

5 A Yes, ma'am. State's Exhibits 20, 21, 22, 23 and 24 are
6 all fired 380 auto caliber cartridge cases and State's Exhibit
7 27 is a fired 9 millimeter Luger caliber cartridge case.

8 Q Okay. And then lastly State's Exhibit 25, do you
9 recognize what that is?

10 A Yes, ma'am. State's Exhibit 25 is the fired bullet I
11 examined in this case as SLED item 7.

12 Q And are those all in substantially the same condition as
13 when you examined them?

14 A Yes, ma'am. They're all in the, the Ziploc bags I
15 repackaged them in. They're all heat sealed and the seals are
16 intact.

17 MS. WALTER: Your Honor, at this time I would move for the
18 admission of I believe it should be 20 through 24, 25 and 27.

19 MR. MCCOY: No objection, Your Honor.

20 MR. FOX: Without objection, Your Honor.

21 THE COURT: In without objection.

22 (State's Exhibit Numbers 20 through 24 [380 Casings],
23 State's Exhibit Number 25 [Bullet] and State's Exhibit Number
24 27 [9 millimeter casing] entered into evidence and
25 appropriately marked.)

James Green - Direct by Ms. Walter

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1 BY MS. WALTER:

2 Q Okay. So directing your attention first to the cartridge
3 casings, I believe you said that there were five 380 cartridge
4 casings and one 9 millimeter?

5 A Yes, ma'am.

6 Q Okay. Did you, in fact, conduct an examination on let's
7 start with the five 380 cartridge casings. Did you do an
8 examination of those?

9 A Yes, ma'am.

10 Q What were you able to conclude from your examination
11 there?

12 A My conclusions were that State's Exhibits 20, 21, 22 and
13 23 were all fired by the same firearm, but when I examined or
14 compared State's Exhibits 20 through 23 with State's Exhibit
15 24 my results were inconclusive. There was some markings on
16 there that made me think it could have been fired by the same
17 firearm, but there was not enough for me to say yes, that it
18 was.

19 Q Okay. So let me just go over that to make sure I'm
20 clear. State's Exhibit 20 through 23, so four of the 380
21 caliber cartridge casings were you able to make a -- draw a
22 conclusion as to whether those four had been fired from the
23 same gun?

24 A Yes, ma'am. I did, and they were.

25 Q Did you have a gun to compare them to?

- 1 A No, ma'am.
- 2 Q So are you able to narrow down the field of guns at all
3 that could have fired those cartridge casings?
- 4 A Based on the cartridge cases themselves, no, ma'am.
- 5 Q And then the fifth 380 cartridge casing, you were not
6 able to make a conclusion that it was fired from the same gun
7 as the first four; correct?
- 8 A Yes, ma'am. It was inconclusive.
- 9 Q Directing your attention to State's Exhibit 25 which, I
10 believe, is a fired bullet --
- 11 A Yes, ma'am.
- 12 Q -- were you able to examine that item of evidence?
- 13 A Yes, ma'am.
- 14 Q What if any conclusions were you able to draw there?
- 15 A The State's Exhibit 25 fired bullet was most consistent
16 with being a 380 auto caliber bullet, and the way I was able
17 to tell that is by what we call the, the OPCs, the observable
18 physical characteristics, the side -- diameter at the base,
19 the overall shape and length of the bullet, as well as its
20 weight.
- 21 Q Okay. So when you say that it's most consistent with a
22 380 caliber does that mean that it would not be say from a 9
23 millimeter or some other type of gun?
- 24 A Well, yes, ma'am. It's most consistent with means just
25 that, it's most consistent with being a 380. 380s and nines

James Green - Direct by Ms. Walter

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1 have the same diameter at the base. However, they have
2 different weights. So the profile of this bullet is more
3 consistent with a 380.

4 Q Is there any way to examine the bullet, which is your
5 item number 7, to tell, again, to narrow the field of what
6 type of gun may have fired it?

7 A Yes, ma'am. When firearms are manufactured or some that
8 are even imported to the United States the manufacturers or
9 the importers give the rifling specifications to the FBI or
10 the Federal Bureau of Investigation. They compile all those
11 into a searchable database. So what I was able to do in this
12 case was State's Exhibit 25 was I was able to put the caliber,
13 the type of rifling, the number of lands and grooves, which
14 makes up the rifling, and the widths of those lands and
15 grooves into the database. I searched it and that was able to
16 provide me with a list of possible guns that could have fired
17 it, that State's Exhibit 25.

18 Q And that's noted in your report?

19 A Yes, ma'am.

20 Q And then lastly dealing with item number 8, which would
21 be State's Exhibit 27, is that the 9 millimeter cartridge
22 casing?

23 A Yes, ma'am.

24 Q Did you examine that cartridge casing?

25 A Yes, ma'am.

1 Q Did you compare it to other items of evidence from this
2 case?

3 A Yes, ma'am. I did.

4 Q If you could tell us what your conclusions were with
5 respect to that item of evidence?

6 A Okay. Some firearms that fire 9 millimeter Luger caliber
7 cartridges will also fire 380s because of the similarity in
8 sizes. So not ruling it out just offhand because the
9 difference in the caliber, I did microscopically compare
10 State's Exhibits 20 through 24 with State's Exhibit 27, and I
11 was able to determine that the 9 millimeter, State's Exhibit
12 27, was not fired by the firearm or firearms that fired
13 State's Exhibits 20 through 24.

14 Q And you said not fired by the firearm or firearms. Based
15 on your comparison of the items of evidence that you saw in
16 this case, can you give the jury an idea of how many guns were
17 used -- were involved in this incident?

18 A If we --

19 MR. MCCOY: Objection, Your Honor. Speculating based off
20 of what shells are there, not an overview of, of all the facts
21 concerning the fact that there was people who saw Jamal remove
22 or somebody remove a gun from Jamal --

23 MS. WALTER: Objection.

24 MR. MCCOY: -- and all the other things.

25 MS. WALTER: Objection. That is not in evidence.

James Green - Direct by Ms. Walter

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1 MR. MCCOY: Well, I'm just making my objection.

2 THE COURT: Overruled.

3 BY MS. WALTER:

4 Q Based on your examination of the firearms evidence in
5 this case, are you able to tell how many guns were used in
6 this incident?

7 A There were at least two, but there could have been four.

8 Q And you're able to say that there are at least two
9 because you were able to identify the first four 380s as
10 coming from one gun and the 9 millimeter coming from a second
11 gun?

12 A Yes, ma'am.

13 Q Okay. And it could have been more because of that fifth
14 380 cartridge that you couldn't quite conclude came from the
15 same gun as the first four?

16 A Correct. And then the bullet.

17 Q The bullet.

18 A That would be the fourth if we're assuming that the
19 bullet didn't come from one of State's Exhibit 20 through 24.
20 There could have been four guns.

21 Q Okay. Thank you. Nothing further at this time. If
22 you'd just answer any questions from Mr. McCoy or Mr. Fox.

23 THE COURT: Your witness.

24 MR. MCCOY: Thank you, Your Honor, may it please the
25 Court?

1 CROSS EXAMINATION

2 BY MR. MCCOY:

3 Q Thank you for coming here today.

4 A You're welcome.

5 Q You know, I only have one question from you or for you.

6 You were only -- it's probably two. I apologize. You were

7 only, you were only asked to examine a certain number of

8 things; correct?

9 A Yes, sir. It was a total of six cartridge cases and one
10 bullet.

11 Q Okay. You were not able to and you were not able to
12 review and make a determination about the bullet that was left
13 in Dameion Alston; were you?

14 A All I can examine is what was submitted to me.

15 Q So if the bullet that's still in Dameion Alston's leg
16 would have been sent to you would you have been able to
17 assumingly, reasonably identify what type of gun fired that
18 bullet?

19 A Depending on the condition. Yes, sir.

20 Q And having said that, would you -- able to be determined
21 how many more guns were involved in this?

22 A Theoretically, yes, sir.

23 Q And would you have been able to determine from that if
24 the bullet that's inside of one of these victims was the same
25 as -- fired from the same gun as per se the four 380s, the one

James Green - Cross by Mr. Fox

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1 mysterious one or the one 9 millimeter? Could you have been
2 able to match the, the, the bullet from inside of his leg to
3 one of those perhaps?

4 A To the cartridge cases?

5 Q Or, or either one.

6 A Well, bullets to cartridge cases is not an examination we
7 do at SLED. If you want me to I can explain why.

8 Q Well, I mean, I'm okay with, with that. You're good with
9 that?

10 A Okay.

11 Q So you would not? So but having, having --

12 A But, but I would have been able to compare that bullet
13 with State's Exhibit 25, yes.

14 Q Okay. No further questions. Thank you.

15 MR. FOX: Just a couple, Your Honor.

16 CROSS EXAMINATION

17 BY MR. FOX:

18 Q Mr. Green, it may seem obvious, you can, as you just
19 said, only test what's submitted to you; correct?

20 A Yes, sir.

21 Q And what you have no knowledge of the circumstances as to
22 how those, in this case, shell casings or bullet fragments
23 came to be at [REDACTED] Warren Street in Myrtle Beach?

24 A The only thing I know of when as -- where something comes
25 from specifically like a cartridge case or a bullet is if it's

1 on the log-in sheets when the submitting agency logs it in.

2 Q Right. So, I mean, you know where it came from, but in
3 terms of how it came to be in his case in the driveway --

4 A Oh, no, sir.

5 Q -- you have no knowledge of that?

6 A No, sir.

7 Q You have no knowledge of the circumstances that led there
8 to be five 380 caliber bullets and a bullet fragment and a 9
9 millimeter because that's not your job; correct?

10 A No, sir. That is not.

11 Q Okay. Thank you.

12 MR. FOX: That's all the questions I have, Your Honor.

13 MS. WALTER: Nothing further, Your Honor. I would ask
14 that he be released from his subpoena.

15 MR. FOX: Certainly, Your Honor.

16 MR. MCCOY: No objection.

17 THE COURT: The witness is excused. Thank you.

18 MS. WALTER: Your Honor, the State would next all Officer
19 Howitt.

20 Whereupon, Nathan Howitt is called to the stand, duly
21 sworn by the clerk and testified as follows:

22 THE CLERK: State your name and spell your name for the
23 Court.

24 MR. HOWITT: Nathan Howitt, H-O-W-I-T-T.

25 MS. WALTER: May I, Your Honor?

Nathan Howitt - Direct by Ms. Walter

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1 DIRECT EXAMINATION

2 BY MS. WALTER:

3 Q Sir, where do you work?

4 A The Myrtle Beach Police Department.

5 Q How long have you worked there?

6 A Twelve years.

7 Q What is your current assignment?

8 A Crime scene unit.

9 Q How long have you been in the crime scene unit?

10 A Roughly four or five years.

11 Q What did you do before that?

12 A I was in the patrol division.

13 Q And so you're in the crime scene unit. What are some of
14 the duties and responsibilities of a crime scene specialist or
15 crime scene investigator?

16 A I go out to crime scenes, collect evidence. I also
17 attend autopsies.

18 Q Now, thinking back to July of 2016, did you assist in the
19 investigation of the double homicide that occurred at [REDACTED]
20 Warren Street in Myrtle Beach?

21 A I did.

22 Q What specifically were you tasked with?

23 A I attended the autopsy of both victims.

24 Q And were you able to -- were you present during both full
25 autopsies?

- 1 A Yes, ma'am.
- 2 Q So let's talk first about Dameion Alston. Were you able
- 3 to see how many times he had been shot?
- 4 A Yes, ma'am.
- 5 Q How many?
- 6 A Three times, twice in the chest and once in the leg.
- 7 Q Well, if you know, was any evidence recovered from him,
- 8 any firearms evidence from his body?
- 9 A Two of the wounds were what we call through and throughs
- 10 where they go in one, one end and come out the other. One --
- 11 the one in the leg was still inside the body but we were
- 12 unable to recover it.
- 13 Q Were efforts made by -- were efforts made to recover that
- 14 bullet?
- 15 A Yes. Dr. Proctor attempted to remove the projectile but
- 16 was unable to.
- 17 Q And then what about Jamal Burgess, were you able to
- 18 determine how many times he had been shot?
- 19 A He was shot -- he had one wound to his stomach through
- 20 and through. He had what appeared to be a graze wound where a
- 21 bullet kind of skips through the skin and then he had an
- 22 abrasion on his arm, so either one or two times.
- 23 Q Now, in addition to simply observing the autopsy do you
- 24 gather any evidence from that?
- 25 A Yes, ma'am.

Nathan Howitt - Direct by Ms. Walter

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- 1 Q Can you describe what you did in this case?
- 2 A We do fingernail clippings, which can be for DNA
- 3 purposes, but we also do what are called buccal swabs which is
- 4 when we take a sterile swab, put it in the mouth and it
- 5 obtains a sample of DNA of that person.
- 6 Q Why do you do that?
- 7 A It's may need it down the road. It's just to have a DNA
- 8 standard on, on file.
- 9 Q So for comparison purposes to any other evidence that
- 10 might be recovered?
- 11 A Yes, ma'am.
- 12 Q Okay.
- 13 MS. WALTER: May I approach, Your Honor?
- 14 THE COURT: Yes.
- 15 BY MS. WALTER:
- 16 Q Let's start with State's Exhibit 30. Do you recognize
- 17 that item?
- 18 A I can't, I can't see with the, the SLED packaging. I'm
- 19 sorry. Give me one second. It's kind of -- can see only what
- 20 I can see. Yes. Those are going to be two buccal swabs from
- 21 Mr. Alston.
- 22 Q Are these the buccal swabs that you obtained from Mr.
- 23 Alston during the autopsy?
- 24 A Yes, ma'am.
- 25 Q Did you package the swabs in the interior manila

- 1 envelope?
- 2 A Yes.
- 3 Q And then directing your attention to State's Exhibit 31?
- 4 A Those are going to be from Mr. Burgess, the buccal swabs.
- 5 Q And again, are those the buccal swabs that you got from
- 6 Mr. Burgess during the autopsy?
- 7 A Yes, ma'am.
- 8 Q Did you package it in this interior manila envelope?
- 9 A Yes.
- 10 Q Once you obtain the buccal swabs and seal them in the
- 11 envelope what do you do with them?
- 12 A We put it into property and evidence for safekeeping.
- 13 Q Once items are submitted to property and evidence, bless
- 14 you, do you have any access to them anymore?
- 15 A No, ma'am.
- 16 Q And so did you, in fact, submit these two items to
- 17 property and evidence?
- 18 A Yes, ma'am.
- 19 MS. WALTER: Your Honor, at this time I would ask that
- 20 State's Exhibits 30 and 31 be admitted.
- 21 MR. MCCOY: Without objection, Your Honor.
- 22 MR. FOX: No objection.
- 23 THE COURT: In without objection.
- 24 (State's Exhibit Number 30 [Buccal Swabs, Alston] and
- 25 State's Exhibit Number 31 [Buccal Swabs, Burgess] admitted

Nathan Howitt - Cross by Mr. McCoy

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1 into evidence and appropriately marked.)

2 Q And other than that did you have any involvement in this
3 case?

4 A No, ma'am.

5 MS. WALTER: Nothing further at this time. If you'd
6 just answer any questions from the Defense counsel.

7 THE COURT: Any questions, counsel?

8 MR. MCCOY: Just briefly, Your Honor.

9 CROSS EXAMINATION

10 BY MR. MCCOY:

11 Q So do you have the results from the GSR?

12 A I do not have them.

13 Q Okay. That's okay, and you've testified that Jamal was
14 certainly shot with one bullet and you said could have been
15 grazed by another; correct?

16 A That's correct.

17 Q So let's talk in certainty. Jamal had -- Jamal was shot
18 with one to, to your, to your knowledge that you're certain
19 of. How many times was Jamal Burgess shot?

20 A One for sure.

21 Q Thank you.

22 MR. MCCOY: No further questions, Your Honor.

23 MR. FOX: No questions, Your Honor.

24 MS. WALTER: Your Honor, I'd ask that this witness be
25 excused and released from his subpoena.

1 MR. MCCOY: Yes, sir, Your Honor.

2 MR. FOX: No objection.

3 THE COURT: The witness is excused. Thank you.

4 A Thank you, Your Honor.

5 MS. WALTER: Your Honor, the State calls Melinda Shadoan.

6 Whereupon, Melinda Shadoan is called to the stand, duly
7 sworn by the clerk and testified as follows:

8 THE CLERK: State and spell your name for the Court.

9 MS. SHADOAN: Okay. It's Melinda Shadoan, last name S-H-
10 A-D-O-A-N.

11 MS. WALTER: May I, Your Honor?

12 DIRECT EXAMINATION

13 BY MS. WALTER:

14 Q Where do you work?

15 A The City of Myrtle Beach Police Department.

16 Q How long have you been there?

17 A I'm in my 12th year.

18 Q Where do you work within the police department?

19 A I am in the property and evidence division.

20 Q What does the property and evidence division do?

21 A So my job entails taking all of the not only found
22 property that comes in from the city but the evidence that
23 comes in from all officers, crime scene, investigators, that
24 nature, and we take it and secure it in a location in my room
25 that is completely secure by means of many doors and locks and

Melinda Shadoan - Direct by Ms. Walter

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1 only three people that work in the, the actual office.

2 Q So are you saying that only those three people can access
3 the evidence?

4 A Correct.

5 Q And do you routinely accept evidence related to a
6 criminal investigation?

7 A On a daily basis.

8 Q Did you, in fact, receive evidence for this
9 investigation?

10 A I did.

11 Q I want to show you, if I may. I'm going to put on gloves.

12 A Yes, please.

13 Q We've already gone through quite a bit of evidence. Is
14 some of the -- are two items of evidence that you received
15 gunshot residue kits from the victims?

16 A They are.

17 Q I'm going to approach you first just with this envelope.
18 Do you recognize this envelope?

19 A I do.

20 Q How do you recognize it?

21 A Well, for starters I can tell that it had gone to SLED
22 and I know that I took it because underneath the first set of
23 yellow tape has my initials over here in the corner.

24 Q And then also the stickers on the front, are those Myrtle
25 Beach Police Department stickers?

- 1 A They are. Each one has a unique number for each
2 individual item that comes through.
- 3 Q SLED uses good tape.
- 4 A Uh-huh.
- 5 Q And now, if we can mark this as Exhibit 29. Sorry. If
6 you want to do that one it's 28. Thank you. I got it. So
7 I'll show you first State's Exhibit 28.
- 8 A Okay.
- 9 Q Do you want, do you want gloves?
- 10 A These are okay.
- 11 Q Okay.
- 12 A Thank you.
- 13 Q Do you recognize State's Exhibit 28?
- 14 A I do.
- 15 Q What do you recognize it to be?
- 16 A It is a GSR kit that we took in for Burgess and I have
17 bar sticker that it's included on it from when I processed it
18 in.
- 19 Q And then State's Exhibit 29, do you recognize that
20 exhibit?
- 21 A Yes. Same thing except it's for Alston and I have
22 another sticker on there with a different number for that
23 particular item.
- 24 Q So do you recognize those as the two gunshot residue kits
25 collected in this case?

Melinda Shadoan - Direct by Ms. Walter

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1 A Yes, ma'am.

2 Q Were they, in fact, kept in property and evidence?

3 A They were.

4 Q Is part of your job to physically transport items of
5 evidence to SLED for testing?

6 A Yes, ma'am.

7 Q And, in fact, did you transport these two items to SLED
8 for testing?

9 A I did.

10 MS. WALTER: Your Honor, I would ask that State's Exhibit
11 28 and 29 be admitted.

12 MR. MCCOY: Without objection, Your Honor.

13 MR. FOX: No objection, Your Honor.

14 THE COURT: In without objection.

15 (State's Exhibit Number 28 [GSR Kit, Burgess] and State's
16 Exhibit Number 29 [GSR Kit, Alston] admitted into evidence and
17 appropriately marked.)

18 BY MS. WALTER:

19 Q And then also showing you State's Exhibit 30 and 31?

20 A Can I refer to my notes --

21 Q Yes.

22 A -- to tell you exactly what that's -- okay. So I have
23 mine it's group number 77 for my room and it is two swabs from
24 Dameion Alston and that is with, again, my sticker with a
25 different name -- number on it, and then our group 80 is two

1 swabs from Jamal Burgess, again, with another, the same case
2 number but a different number to incorporate that particular
3 item.

4 Q Did you, in fact, transport State's Exhibit 30 and
5 State's Exhibit 31 to SLED for forensic testing?

6 A I did, and my name and the date that I took it there is
7 right there on the packaging.

8 Q And then --

9 A Yeah. Go ahead.

10 Q -- showing you just this envelope. There are
11 individually packaged items inside.

12 A I'm just putting them in order. Sorry. I have to.
13 Okay.

14 Q And your list.

15 A My number order, sorry. So, again, referring to my
16 notes, group 13 for us is a 380 casing from marker number one,
17 that would be in here, and that comes in this box, and I put
18 the sticker in as well. Group 14 is a 380 Blazer casing from
19 marker number two. Our group 15 is a 380 Blazer casing from
20 marker number three, again, with the certain sticker on it,
21 each one.

22 Q And that's State's Exhibit 22. You just -- that's what
23 you just.

24 A Sure. Yes. Mine is a different group number. I'm sorry
25 to confuse you. My group 16 is a 380 casing from marker

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- 1 number four, again, with a different number, each one
2 correlating to each individual item.
- 3 Q State's Exhibit -- that was State's Exhibit?
- 4 A 23. My group number 17 is a bullet from marker number
5 six, which is State's Exhibit 24. Then 18 or, excuse me, hold
6 on -- 18 is a bullet from marker number -- oop, this -- I'm
7 sorry. Hold on one second. I think I skipped one. Yeah.
8 That was marker number five. This one's marker number six.
- 9 Q Okay. So --
- 10 A Uh-huh.
- 11 Q -- State's Exhibit 23 --
- 12 A 23.
- 13 Q -- is marker number five?
- 14 A Right.
- 15 Q State's Exhibit 24 is --
- 16 A There's so many.
- 17 Q State's Exhibit 23 is marker number four?
- 18 A 16. Yes.
- 19 Q State's Exhibit 24 --
- 20 A Is number five.
- 21 Q -- is marker number five ?
- 22 A Uh-huh.
- 23 Q Okay. And then --
- 24 A And --
- 25 Q -- State's Exhibit 25?

- 1 A Yeah. I mean, all messed up. Hold on. That would be
2 marker number six for our group 18, what you're saying is
3 number 25 exhibit.
- 4 Q Okay.
- 5 A Okay. This is a fragment from marker number seven and
6 that is State Exhibit 26.
- 7 Q And lastly?
- 8 A Is the 9 millimeter Ruger from marker number nine, State
9 Exhibit 27.
- 10 Q Now, were all of these items submitted to property and
11 evidence, your custody and control?
- 12 A They were.
- 13 Q Are all of these items items that you submitted to SLED
14 for forensic examination?
- 15 A Yes. I put all of those together in that one envelope.
- 16 Q Okay. When you take items to SLED is there a procedure
17 by which they note who submitted them?
- 18 A There is. It's another chain of custody. So I have a
19 chain of custody when I get it from an officer, and then when
20 I take it to SLED a chain of custody goes into the log-in tech
21 that takes it in to then put it to the analysis division of
22 whatever it needs to be tested on.
- 23 Q And other than keeping track of all the evidence and
24 running back and forth to Columbia, did you have any other
25 involvement in this case?

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- 1 A I did not.
- 2 Q Okay.
- 3 MS. WALTER: The Court's indulgence. No further
- 4 questions, Your Honor.
- 5 MR. MCCOY: Officer Shadoan, I'm Jonny McCoy.
- 6 A Hi.
- 7 MR. MCCOY: Thank you for coming.
- 8 A How are you?
- 9 MR. MCCOY: No questions, Judge.
- 10 A Thank you.
- 11 MR. FOX: No questions, Your Honor.
- 12 THE COURT: You may step down.
- 13 A Thank you.
- 14 MS. WALTER: Would ask that she be released from her
- 15 subpoena, Your Honor.
- 16 MR. MCCOY: Yes, Your Honor.
- 17 MR. FOX: Yes.
- 18 THE COURT: The witness is excused.
- 19 A Thank you.
- 20 MS. WALTER: May we approach, Your Honor?
- 21 THE COURT: You may.
- 22 (Whereupon, a bench conference is held in the presence,
- 23 but out of the hearing of the jury.)
- 24 THE COURT: All right. Ladies and gentlemen, we've got
- 25 to take a recess. We're getting a witness that's on the way

1 good to go.

2 (Whereupon, the following takes place in the presence of
3 the jury.)

4 THE COURT: Solicitor.

5 MR. HOLFORD: The State calls Dr. Proctor.

6 THE COURT: Hey, Doctor.

7 MR. PROCTOR: How are you, sir?

8 THE COURT: I'm good. How you doing?

9 MR. PROCTOR: I'm doing well.

10 Whereupon, Edward Proctor, Jr., is called to the stand,
11 duly sworn by the clerk and testified as follows:

12 THE CLERK: State and spell your name for the Court.

13 MR. PROCTOR: I am Edward Proctor, Jr., and that's P-R-O-
14 C-T-O-R.

15 DIRECT EXAMINATION

16 BY MR. HOLFORD:

17 Q Dr. Proctor, where are you employed?

18 A I am a physician in Myrtle Beach, South Carolina. I am
19 at Grand Strand Regional Medical Center.

20 Q And how long have you been a doctor?

21 A I have been a physician since 1978.

22 Q All right, and as a physician what are your
23 responsibilities, what do you mainly do?

24 A Okay. I am a physician trained in pathology, and as a
25 pathologist I study the cause and manner of disease. We

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1 examine specimens. We run a lab and in my subspecialty I am
2 subspecialty certified in forensic pathology where we
3 investigate medical legal cause of death.

4 Q And have you been qualified as an expert as a forensic
5 pathologist before?

6 A Yes, sir, I have.

7 Q Do you know about how many times?

8 A Several hundred.

9 Q And would you even be able to estimate about how many
10 autopsies you've performed?

11 A Probably in the neighborhood of 4 to 5000.

12 MR. HOLFORD: Your Honor, the State would tender Dr.
13 Proctor as an expert in forensic pathology.

14 MR. MCCOY: No objection, Your Honor.

15 MR. FOX: Very familiar with Dr. Proctor, no objection.

16 THE COURT: So qualified.

17 BY MR. HOLFORD:

18 Q And Doctor, did you do autopsies in this case?

19 A I have two autopsy reports here, one on an Alston and one
20 on a Burgess. Yes, sir.

21 Q All right. And referring to the autopsy for Jamal
22 Burgess, on Marquis Jamal Burgess were you able to determine a
23 manner and cause of death?

24 A Yes, sir. I was. This gentleman was shot in the
25 abdominal area with the projectile passing left to right and

1 penetrating the left lobe of the liver, the splenic artery,
2 which runs just behind the liver, the aorta and the right
3 back. So it came left to right posterior and out of the back
4 above the left hip.

5 Q And so when we talk left to right we're talking about
6 the, the body itself?

7 A The body, on the body, that's correct.

8 Q So for me it'd be my left?

9 A Your left.

10 Q Okay.

11 A To your right and to back. That's correct.

12 Q Okay. And posterior to?

13 A It went through the liver, through the aorta just in
14 front of the vertebral column and then kept angling backwards
15 to come out of the body just above the iliac crest, which is
16 the bone above the pelvis.

17 Q And were you able to determine that that was the cause of
18 death?

19 A Yes. I was. It penetrated the liver and aorta resulting
20 in massive hemorrhage and exsanguination.

21 Q Did, did Mr. Burgess have any other wounds? Was there
22 one gunshot?

23 A There was just the one gunshot wound that I have on Mr.
24 Burgess.

25 Q Were any projectiles recovered from him?

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1 A Not from this gentleman, no, sir.

2 Q Is it common to do a toxicology on, on someone who comes
3 to you?

4 A Yes, sir. We do -- we try to do a toxicology on all
5 forensic cases, which would include a blood ethanol as well as
6 drugs of abuse such as cocaine, marijuana, opiate drugs,
7 benzodiazepines and any other known drugs that may not be on
8 that list we can certainly request.

9 Q And did you do a toxicology screen for Mr. Burgess?

10 A Yes. A toxicology was performed on Mr. Burgess, blood
11 ethanol 134 milligrams per deciliter, which if you convert it
12 to like blowing on a breathalyzer that's a .13.

13 Q And did he have any drugs in his system?

14 A He did not.

15 Q Now, as to Mr. Alston, did you also perform an autopsy or
16 examine his body?

17 A Yes, sir. I did.

18 Q And what was the cause or manner of death for Mr.
19 Alston?

20 A Mr. Alston was shot multiple times, the most significant
21 wound being that to the midline chest. It penetrated the chest
22 in the sternal area anterior chest, in this area. It passed
23 anterior to posterior and it penetrated the arch of the aorta
24 coming off of the heart, the right lung, so it was on this
25 side of the chest. The right lung and then the right back in

1 between the ribs pretty much straight through penetrating the
2 aorta and the lung resulting in extensive hemorrhage.

3 Q And how many, how many gunshot wounds were there?

4 A There were two other wounds. There was a wound to the
5 right chest above the nipple area which passed through and
6 through, and there was a wound to the right upper leg which
7 penetrated the leg and into the joint space.

8 Q Okay. And, and so, I don't mean to be crass, but there
9 might be multiple holes but are you able to tell if it's
10 multiple shots?

11 A Multiple shots, correct.

12 Q Okay. But if there is a hole in the front and a hole in
13 the back were you able to determine that it went through?

14 A Yes. We were.

15 Q Okay. So two in the chest?

16 A Two in the chest were anterior to posterior based on
17 trajectory, one in the anterior leg, upper leg area passing
18 into the joint space.

19 Q And then anterior is front, posterior is back?

20 A That is correct.

21 Q And with the, with the bullet that went into the leg, did
22 you find an exit wound for that one?

23 A I did not.

24 Q And, and do you know if the projectile was recovered?

25 A I did not recover the projectile. It was in the joint

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1 space, and to have gotten that projectile from the joint space
2 in the leg would have pretty much required disarticulation of
3 the joint, which I did not do.

4 Q Did you also run a toxicology screen for Mr. Alston?

5 A Yes, sir. Mr. Alston drug screen blood ethanol 223
6 milligrams per deciliter, which converts to .223, and the drug
7 screen itself was negative.

8 Q And I think you -- I asked you this, but the manner of
9 death were the gunshot wounds? Is that what caused?

10 A The manner of death in this would have been the gunshot
11 wounds with associated traumatic injury and hemorrhage, yes,
12 sir.

13 Q No further questions.

14 MR. MCCOY: Thank you, Your Honor. May it please the
15 Court?

16 CROSS EXAMINATION

17 BY MR. MCCOY:

18 Q Dr. Proctor, how you doing?

19 A Doing well.

20 Q I am Jonny McCoy. I am Mr. Ford's Defense attorney in
21 this case.

22 A Yes, sir. Uh-huh.

23 Q Just have maybe one or two questions for you, sir. So
24 you said that there was one bullet still in Mr. Alston; is
25 that correct?

- 1 A That is correct.
- 2 Q And what does that mean, disarticulation of a joint?
- 3 A That means literally I'd have had to take his leg off to
- 4 get into the joint to recover the bullet.
- 5 Q Okay. And did you know that this was going to be a
- 6 homicide investigation?
- 7 A Anytime there is a gunshot wound the manner of death in
- 8 both of these is homicide.
- 9 Q So did you ask the State of South Carolina if they would
- 10 be needing the bullet or did they tell you one way or another?
- 11 A They did not.
- 12 Q Had, had, had they told you that we needed the bullet
- 13 would you have gotten it out?
- 14 A Would I have disarticulated the leg? I would have tried
- 15 to recover a bullet, but I do not start disarticulating joints
- 16 and removing limbs for recoveries. I have not ever.
- 17 Q For a double murder case if the State would have
- 18 contacted you and said, "Will you please get this bullet out
- 19 so that we can" --
- 20 A I would have made every effort to retrieve it, but short
- 21 of dismembering a body I have never done that.
- 22 Q You mean dismembering a joint?
- 23 A Totally taking the leg off to get into the joint.
- 24 Q Okay. But you could've done that; correct? You could
- 25 have performed that procedure; right?

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- 1 A I could have done it, yes, but I did not.
- 2 Q And you would have done it had they asked you to do it;
- 3 right?
- 4 A Not necessarily. I've never disarticulated a joint and
- 5 that would have been a decision I'd had to make, but I was
- 6 never approached about it and it was never a question..
- 7 Q Okay. Let's, let's -- if the State did approach you in
- 8 this case, what would you have told them? If they wanted a
- 9 bullet out for a double murder investigation what would you
- 10 have told them?
- 11 A If you want my honest answer, I don't know.
- 12 Q That's what, I, I want your honest answer always.
- 13 A That's my honest answer. That's my final answer.
- 14 Q Always in this court.
- 15 A That's my final answer.
- 16 Q Thank you, Judge. Thank you, Judge. Thank you, Dr.
- 17 Proctor. Now, did Jamal Burgess shoot Dameion Alston?
- 18 A I have no idea.
- 19 Q That bullet in his leg may tell us a little bit
- 20 better?
- 21 A I have no idea.
- 22 Q How, how big is Jamal Burgess?
- 23 A Mr. Burgess, he, let's see, he -- 75 inches in length.
- 24 So that's approximately six feet, three inches tall and
- 25 estimated weight in excess of 200 pounds.

1 Q All right. And do you, do you have any idea whether or
2 not Mr. Ford is five-five and 140 pounds?

3 A I have no -- I do not know Mr. Ford.

4 MR. MCCOY: No further questions, Your Honor. Thank you.

5 THE COURT: Mr. Fox.

6 CROSS EXAMINATION

7 BY MR. FOX:

8 Q Just real briefly, Dr. Proctor. As part of Mr. Alston's
9 autopsy did you cut the skull open and peel back the scalp and
10 remove his brain for examination?

11 A I did.

12 Q Okay. The only question I have. Thank you.

13 REDIRECT EXAMINATION

14 BY MR. HOLFORD:

15 Q Dr. Proctor, when you perform autopsies do you always
16 remove the skull and take out the brain?

17 A As part of a forensic investigation that's standard
18 procedure, yes, sir.

19 MR. HOLFORD: No further questions.

20 RECROSS EXAMINATION

21 BY MR. MCCOY:

22 Q So you remove a brain but you don't want to go into a
23 joint? That's too invasive, Dr. Proctor?

24 A I remove a brain as part of standard procedure for a
25 forensic autopsy. Disarticulation and removing limbs and

Edward Proctor, Jr. - Cross by Mr. Fox

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1 joints is not a standard procedure for a forensic autopsy.

2 Q Even for a murder case?

3 A I was not requested and had I been requested I've already
4 given you my answer.

5 MR. MCCOY: No further questions, Judge. Thank you.

6 THE COURT: Anything further?

7 MR. FOX: I'm sorry. No, Your Honor.

8 MR. HOLFORD: I would ask that the witness be excused
9 from his subpoena.

10 MR. MCCOY: Certainly, Your Honor. Thank you, Dr.
11 Proctor.

12 MR. FOX: No objection, Your Honor.

13 THE COURT: Doctor, you're excused. Good seeing you.

14 A Thank you, Your Honor.

15 THE COURT: It's been a long time.

16 A Good to see you, too. Yes, sir, been a long time.

17 THE COURT: And you haven't aged much.

18 A Thank you very much. I appreciate that.

19 THE COURT: I haven't either.

20 A No you have not. Certainly good to see you.

21 THE COURT: See you. All right. Had enough for today?

22 MR. HOLFORD: Yes, sir.

23 THE COURT: Jury, let's stop for the day. Soon it'll be
24 rush-hour out there, but we do need you back at 9:30 in the
25 morning. Remember my instructions, don't discuss the case

1 the jury.)

2 MR. HOLFORD: Your Honor, the State calls Jason Shumpert.

3 THE COURT: Mr. Shumpert, if you'll take the oath,
4 please.

5 Whereupon, Jason Shumpert is called to the stand, duly
6 sworn by the clerk and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. HOLFORD:

9 Q Mr. Shumpert, where are you currently employed?

10 A The City of Myrtle Beach Police Department.

11 Q And how long have you been at Myrtle Beach Police
12 Department?

13 A I have been there since May of 2011.

14 Q What's your current position there?

15 A Currently right now I'm in the gang unit and assigned to
16 the ATF task force.

17 Q How long have you been with the ATF task force?

18 A Since 2016.

19 Q Okay. What part -- were you there in July 23rd, 2016?

20 A Yes, sir.

21 Q And what was your position prior to that?

22 A Prior to that I was just waterfront officer.

23 Q Okay. What types of things do you do in, in regards to
24 this task force already with Myrtle Beach Police Department?

25 A We prosecute gun cases, people that get caught with a gun

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1 that have violent felonies, convictions, where they've been in
2 and out of the State prosecution. We'll adopt their case and
3 try them federally.

4 Q And do you assist Myrtle Beach Police Officers in, in
5 investigations?

6 A Yes, sir. I do.

7 Q What was your role in regards to Calvin Ford and Aliga
8 Campbell in this case?

9 A When we found out it happened we assisted the detectives
10 with interviews and going out and speaking to people and such.

11 Q Okay. How long have you done interviews?

12 A Oh, well, almost the entire career I've been a police
13 officer.

14 Q Okay. Are, are you trained in, in interviewing people?

15 A Yes, sir.

16 Q Do you have specific training or is it, is it monthly, is
17 it yearly? What type of qualifications do you have?

18 A I've been through interview and interrogation with the
19 FBI classes we've taken through Myrtle Beach.

20 Q Now, in this case you said you were sent out to interview
21 people; is that right?

22 A Yes, sir.

23 Q Who were you attempting to contact?

24 A Several people, attempted to speak to one of the
25 Defendants, Mr. Campbell, a Lakisha Ford [spelled

- 1 phonetically], Everett Ford, Neto Dennison [spelled
2 phonetically], Mario Randall [spelled phonetically], a Tawana
3 Denny [spelled phonetically], Bill Spivey, Ms. Darlene Young.
- 4 Q Now, we're not going to talk about Mr. Campbell, but for
5 Ms. Ford, was she cooperative with you?
- 6 A Yes, sir. She was -- agreed to talk to detectives.
- 7 Q Okay. Did, did Everett Ford agree to talk to you?
- 8 A He, he wasn't home at the time.
- 9 Q Did you make further attempts to talk to Mr. Ford?
- 10 A I'm sure throughout the investigation, yes, sir, I did
11 and I never did make contact with him.
- 12 Q What about Neto Dennison?
- 13 A I'm sure at several times I attempted to reach out to him
14 as well, but I did not make contact with him.
- 15 Q What about Mario Randall?
- 16 A Yeah, I never spoke to him, no, sir.
- 17 Q What about Tawana Denny?
- 18 A I have spoken to her on other occasions but not in
19 reference to this case, no, sir.
- 20 Q What about Bill Spivey?
- 21 A No, sir.
- 22 Q Did you speak to Darlene Young?
- 23 A Very briefly.
- 24 Q Do you know her as Cup?
- 25 A Yes, sir.

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1 Q Were, were there any other people that you were out there
2 trying to locate, trying to speak to in regards to this case?

3 A Whenever I conduct any interview, if I get a chance to
4 bring this case up or any case I will attempt to ask them. If
5 I'm conducting any kind of interview, if I'm sitting down with
6 somebody post Miranda, I'll ask them about this case. So
7 I've, I've asked probably multiple people.

8 Q What, what level of cooperation were you and, and Myrtle
9 Beach Police Department getting with witnesses being willing
10 to talk about this shooting?

11 A My experience we weren't getting too much cooperation,
12 just, you know, people did not really want to be seen talking
13 to us.

14 Q Is, is that shocking? Is that something different that
15 is unique to this case?

16 A No, sir.

17 Q And why is that?

18 A I would tend to believe it's fear of any kind of
19 retaliation.

20 MR. FOX: Objection, Your Honor. He doesn't know why
21 people don't speak to him in this case or any other. That
22 would be particular to each individual.

23 THE COURT: Sustained.

24 MR. FOX: And I'm sorry, and Your Honor, move to strike
25 it. He began that response and I'd move that that -- his

1 response to that question be stricken.

2 THE COURT: The jury will disregard that response.

3 Stricken.

4 Q Were people hesitant to speak with you?

5 A Yes, sir.

6 Q Do you know approximately how many people were out at the
7 party that night?

8 A I don't.

9 Q Were, were witnesses coming forward to you or to Myrtle
10 Beach Police Department to give information about what
11 happened that night?

12 A Not to me, no, sir.

13 Q Were people coming forward willing to say what they saw?

14 A Not to me, no, sir.

15 Q Okay. During the course of your assistance with this
16 investigation did anyone tell you that Jamal Burgess shot a
17 gun that night?

18 A No, sir.

19 Q During the course of your investigation or your
20 interviews did anyone tell you that Dameion Alston shot a gun
21 that night?

22 A No, sir.

23 Q Is there a reluctance to even talk to Myrtle Beach Police
24 Department?

25 A Sometimes.

Jason Shumpert - Cross by Mr. McCoy

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1 Q Is that specific to your police department?

2 A No. I would, I would think not.

3 MR. MCCOY: Objection, Your Honor, speculation.

4 THE COURT: Well, they have to work with other
5 departments. I mean, they have a general knowledge.

6 MR. MCCOY: But he didn't ask him that, has he ever
7 worked in a police department outside of Myrtle Beach.

8 Q In your, in your experience on an ATF task force do you
9 work with other law enforcement agencies?

10 A Several.

11 Q And, and do you routinely assist in investigating other
12 violent crimes?

13 A Yes, sir.

14 Q And is there a hesitancy to talk to police officers about
15 shootings?

16 A Yes, sir.

17 MR. HOLFORD: No further questions at this time.

18 THE COURT: Counsel.

19 CROSS EXAMINATION

20 BY MR. MCCOY:

21 Q You just response -- morning.

22 A Morning.

23 Q Agent Shumpert, I'm Johnny McCoy, as you well know,
24 Defense attorney for Mr. Floyd. Thank you for being here.

25 You just responded to the Solicitor's Office that nobody you

- 1 interviewed ever said that Jamal Burgess fired a gun; correct?
- 2 A At that night.
- 3 Q But somebody did say Jamal Burgess had a gun; correct?
- 4 A Yes, sir.
- 5 Q Mr. Dominic Alston; correct?
- 6 A Yes, sir.
- 7 Q And you pulled over Dominic Alston for another crime;
- 8 right, or somebody did; correct?
- 9 A Correct.
- 10 Q And then Dominic Alston, who wasn't brought to you by my
- 11 client, who wasn't brought to you by anybody on the victim
- 12 side, was just a random guy; correct?
- 13 A Correct.
- 14 Q And then he said, "I have information about this
- 15 incident"; correct?
- 16 A Yes, sir.
- 17 Q And then he said, "I know because I was there"; correct?
- 18 A Correct.
- 19 Q And then he said Jamal had a gun; correct?
- 20 A Yes, sir.
- 21 Q Did he say Jamal, Jamal's gun, somebody took Jamal's gun
- 22 after the shooting?
- 23 A I'm not certain we covered that portion of it.
- 24 Q Well, I appreciate the first part. Now, you said that --
- 25 now, you said that you attempted to interview multiple

Jason Shumpert - Cross by Mr. McCoy

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1 witnesses in this case; correct?

2 A Yes, sir.

3 Q And there was the -- the name Ford was brought up and
4 there was a discussion about whether or not you were able to
5 interview a Ford; correct? I don't know if it was just a
6 Ford. Everett Ford?

7 A Correct, yes, sir.

8 Q But as far as Calvin Ford goes you never interviewed him;
9 right?

10 A No, sir.

11 Q You don't have a problem with the Sixth Amendment; right?

12 A No, sir.

13 Q You think people should be able to just rely on their
14 counsel's advice; right?

15 MS. WALTER: Objection, Your Honor. May we approach.

16 (Whereupon, a bench conference is held in the presence
17 but out of the hearing of the jury.)

18 MR. MCCOY: Withdraw the question, Your Honor.

19 BY MR. MCCOY:

20 Q Now, could part of the reason be that you guys weren't
21 able to get a bunch of people coming forward to talk about
22 this incident could part of that be because people don't want
23 to speak ill of a deceased man? That could be part of it;
24 right?

25 A It could be.

1 Q Could be. Could be that people don't want to say as they
2 are mourning a deceased man, "This guy had a gun. He was
3 drunk. He approached somebody he had a beef with and he
4 participated in his own death, he caused his own death"?
5 That would be something that people wouldn't want to say;
6 right?

7 A Possibly.

8 Q I don't want to get -- okay, and you said that -- we're
9 talking about fear of police and -- or fear of talking to you
10 because of retaliation; correct?

11 A Yes, sir.

12 Q Could the reason that people don't talk to the police be
13 because sometimes when you talk to the police you get, you get
14 -- you yourself get into trouble?

15 A I don't quite understand. I'm sorry.

16 Q Like for instance, let's say a witness was called and
17 then he gets tangled up in this mess and then he doesn't want
18 to testify because he was either high or he was manipulated by
19 somebody.

20 MR. HOLFORD: Objection. This is clearly speculation,
21 has no basis in --

22 THE COURT: You're asking him to speculate.

23 MR. MCCOY: As to why, as to why somebody wouldn't want
24 to talk to the police because they can end up being arrested
25 if they refuse to comply later.

Jason Shumpert - Redirect by Mr. Holford

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1 THE COURT: All right. Go ahead.

2 Q So isn't it true that if somebody talks to you and then
3 they refuse to comply later they can be arrested?

4 A That's correct.

5 Q So why would somebody put themselves in a situation where
6 later they can be prosecuted?

7 A It's a, it's a risk you take to find the truth.

8 Q It's a risk. That's right, and it must be -- you must be
9 sure, correct, in, in order to overcome that risk; right?

10 A Yes, sir.

11 MR. MCCOY: I have no further questions. Thank you,
12 Agent Shumpert.

13 MR. FOX: No questions of this witness, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. HOLFORD:

16 Q Agents Shumpert, when you're out there trying to talk to
17 witnesses and trying to figure out what's going on, what are
18 you looking for? What are you seeking?

19 A Seeking the truth to find out what happened.

20 Q Are, are you out there trying to arrest other people that
21 weren't involved in the shooting?

22 A Absolutely not, no, sir.

23 Q Okay. Were you trying to figure out who killed two
24 people?

25 A Yes, sir.

1 MR. HOLFORD: No further questions.

2 MR. MCCOY: Nothing further, Your Honor.

3 THE COURT: You may step down.

4 A Yes, sir.

5 THE COURT: May he be excused?

6 MR. MCCOY: Certainly, Your Honor.

7 THE COURT: The witness is excused.

8 MR. HOLFORD: The State calls Courtney Thompson.

9 Whereupon, Courtney Thompson is called to the stand, duly
10 sworn by the clerk and testified as follows:

11 THE CLERK: State and spell your name for the Court,
12 please.

13 MS. THOMPSON: My name is Courtney Thompson. Last name
14 spelled T-H-O-M-P-S-O-N.

15 DIRECT EXAMINATION

16 BY MR. HOLFORD:

17 Q Ms. Thompson, where are you currently employed?

18 A I am employed for the South Carolina Law Enforcement
19 Division also referred to as SLED.

20 Q And how long have you been with SLED?

21 A I've been with SLED for about seven years.

22 Q What are your duties at SLED? What's your current
23 assignment?

24 A I am a forensic serologist in the DNA casework
25 department.

Courtney Thompson - Direct by Mr. Holford

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1 Q What type of training or expertise do you have in, in
2 serology?

3 A So I have a bachelors of science degree in forensic
4 science from Southern Wesleyan University, and then I was
5 trained at SLED for about a year in serology in the different
6 types of analysis that I do and evidence collection, evidence
7 handling, report writing. I had to take a battery of
8 different tests before I could touch any casework alone. That
9 included a written exam, an oral exam, a mock case. I had to
10 do a mock trial, and I had to pass all of those things before
11 I was deemed competent in my area and was allowed to work on
12 any cases independently.

13 Q And are you, are you certified in forensic serology?

14 A I am just deemed independent for casework through SLED.
15 It's not like an official certification or anything like that.

16 Q And how long have you been doing that, the whole time
17 you've been with SLED?

18 A Yes. Yes. I've been doing that for the last seven
19 years.

20 Q Have you been qualified as an expert before?

21 A I have.

22 Q And, and just tell us, just generally, what is serology?

23 A Serology in general is the examination of different body
24 fluids, predominantly blood, semen and saliva in the -- for
25 the purposes of DNA analysis. The reason why those body

1 fluids are important is because they're all very good sources
2 for DNA, and so in general, serology is the examination for
3 those potential body fluids.

4 MR. HOLFORD: Your Honor, at this time the State would
5 tender Courtney Thompson as an expert in forensic serology.

6 MR. MCCOY: Certainly, Your Honor, no objection.

7 MR. FOX: No objection, Your Honor.

8 THE COURT: So qualified.

9 BY MR. HOLFORD:

10 Q Now, so you just said that serology is determining body
11 fluids; is that correct?

12 A Yes.

13 Q And so if, if something is collected and submitted to you
14 can you tell -- do you determine which fluid it might be or
15 exclude it as a fluid all together?

16 A It depends on what the fluid of interest is, but yes, my
17 general role in a case is to take an item of evidence and
18 examine it for a body fluid that the agency who submitted it
19 would be interested in, and so, typically, it is just usually
20 blood, semen or saliva, and there are a variety of different
21 tests that can be performed to help give us an idea or
22 indication that those body fluids are present, and then if
23 they are they need to be tested further in order to hopefully
24 aid the DNA analyst in developing a DNA profile.

25 Q You don't develop the DNA profile though; do you?

Courtney Thompson - Direct by Mr. Holford

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1 A Yes. I don't do any DNA analysis.

2 Q So you're kind of the first step in the chain?

3 A That is correct. I tend to take larger items of evidence
4 and then I collect the body fluid or area of interest
5 basically on an item so that the DNA analyst can work with a
6 much smaller sample size. So usually swabs are taken off of
7 items that are sent to the lab.

8 Q And, and did you do that in this case?

9 A Yes. I processed a few items and collected swabs off of,
10 I believe, two items.

11 Q Did you write a report?

12 A I did.

13 Q Would you recognize that report if I showed it to you?

14 A Yes.

15 MR. HOLFORD: May I approach, Your Honor?

16 THE COURT: Yes, sir.

17 BY MR. HOLFORD:

18 Q Can you identify State's 34, what I've just handed you?

19 A Yes. This appears to be a copy of my report.

20 Q Does it appear to be true and accurate?

21 A It does, yes.

22 Q Any additions or deletions?

23 A No. None that I can see.

24 MR. HOLFORD: Your Honor, at this time the State would
25 seek to introduce State's 34 in evidence.

1 MR. MCCOY: Without objection, Your Honor.

2 MR. FOX: No objection.

3 THE COURT: In without objection.

4 (State's Exhibit Number 34 [SLED Serology Report] entered
5 into evidence and appropriately marked.)

6 MR. HOLFORD: May I approach?

7 BY MR. HOLFORD:

8 Q I'm going to hand you what's been marked as State's 42.
9 Are you familiar with State's 42? Can you identify what that
10 is?

11 A Yes. I do recognize this. These -- this package
12 contains the swabs that I collected off of items seven and
13 eight that were submitted to the lab. After I finish my
14 analysis I place each set of swabs inside of these paper
15 envelopes that are then labeled with the appropriate
16 information like the lab number, the item number and what is
17 in there, what type of evidence is in there, and then we have
18 these plastic pouches that we fill out with the case
19 information as well and then I know that I made this pouch
20 because after I was done with it I sealed it and put my
21 initials and the date that I completed my work at the top.

22 MR. HOLFORD: Your Honor, at this time the State would
23 seek to introduce State's 42 in evidence.

24 MR. MCCOY: Without objection, Your Honor.

25 MR. FOX: No objection, Your Honor.

Courtney Thompson - Direct by Mr. Holford

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1 THE COURT: In without objection.

2 (State's Exhibit Number 42 [Swabs] admitted into evidence
3 and appropriately marked.)

4 BY MR. HOLFORD:

5 Q Now you said that these were items 7.1 and 8.1; is that
6 correct?

7 A Yes. They are. When I stated previously, they came from
8 items seven and eight, and the way that we track swabs that
9 are taken off of items is they are -- then they become what we
10 call a sub-item. So that's why they have the .1 after them to
11 denote that they came from items seven and item eight.

12 Q And let me just back up a little bit. Item seven and
13 eight, that's SLED number; correct?

14 A Yes. That's our numbering system.

15 Q And on this, on this package are they submitted by
16 different group numbers?

17 A This labeling that is on the back of the packaging is
18 packaging or, or labels that are placed on here by the
19 submitting agency. So this is for their tracking purposes,
20 not ours. Ours are tracked through the lab number that gets
21 assigned to it whenever it's submitted to the lab and then the
22 item number that gets assigned to it at the time of
23 submission.

24 Q So on this package it's got Myrtle Beach's group 18 and
25 20 but you've marked them as SLED's seven and eight; is that,

1 is that correct?

2 A That is correct, yes.

3 Q And so if I hand you what's been entered into evidence as
4 State's 25 is that's -- what item is that for SLED?

5 A This is SLED item number seven.

6 Q Okay. So that SLED item number seven, the bag that we
7 just talked about, were the swabs you took from that item?

8 A Yes.

9 Q Okay. And that's contained in the report?

10 A Yes. It is.

11 Q And what was SLED item number seven?

12 A SLED item number seven was a fired bullet from the scene.

13 Q And what was SLED item number eight?

14 A SLED item number eight was a 9 millimeter cartridge
15 casing also from the scene.

16 Q All right. And off of seven were you able to determine
17 anything from that, from that item based on your swabs?

18 A From that item I created item 7.1, which are swabs from
19 that bullet, and my result was that presumptive testing for
20 blood was positive. So that means that the test that I
21 performed it is -- doesn't confirm that blood is present, but
22 what it does do is it gives a very good idea that blood is
23 possibly there, and therefore, this item needs further
24 analysis. So it would have then traveled to the DNA section
25 to be analyzed by a DNA analyst.

Courtney Thompson - Cross by Mr. McCoy

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1 Q So you took a fired bullet that was given to you, you
2 swab it and you say presumptively it's blood on that bullet?

3 A Yes. That's correct.

4 Q And what about item eight, did you determine anything
5 from item eight, the 9 millimeter casing?

6 A From item eight I only swabbed that for potential what is
7 called touch DNA. So that's DNA that's left behind because of
8 handling different items, and so that item all I did was swab
9 it and then prepared the swabs for DNA.

10 Q Okay. So was there any blood, semen or saliva on the 9
11 millimeter casing?

12 A No. There was not any, any body fluids on that item.

13 Q And does that conclude your investigation in this case?

14 A Yes. That is the extent of my involvement.

15 MR. HOLFORD: No further questions, Your Honor.

16 MR. MCCOY: Thank you. Just briefly.

17 CROSS EXAMINATION

18 BY MR. MCCOY:

19 Q You said you swabbed the 9 millimeter casing; is that
20 right?

21 A Yes. I swabbed item eight.

22 Q Did you swab the five other casings, the 380s?

23 A No. I did not swab those because they had already been
24 swabbed by the Myrtle Beach Police Department.

25 Q Okay.

1 A Uh-huh. Yeah.

2 Q And so did you -- when you swabbed the 9 millimeter is
3 there any way that you can check that for fingerprints or
4 anything like that?

5 A No. That's not part of my area of expertise. That would
6 have been in the latent prints department. They check for
7 fingerprints. I don't have any qualifications or tools or
8 examinations to do fingerprint analysis.

9 Q Do you know if fingerprint analysis was done in this case
10 on any of the casings?

11 A Not to my knowledge. Let me check this particular item
12 very quickly.

13 Q Yes, ma'am, thank you.

14 A I'm just referring to the chain of custody to see where
15 the items traveled, and they did not travel to the latent
16 prints department at any point that I can tell.

17 Q So no casings were fingerprinted that you know of?

18 A No. Not that I'm aware of.

19 Q Thank you. No further questions, Your Honor.

20 MR. FOX: Just briefly, Your Honor.

21 CROSS EXAMINATION

22 BY MR. FOX:

23 Q Is that something that can be done with a 380? Is it
24 possible to get fingerprints off of a shell casing?

25 A It is possible. It can be submitted to the lab for --

Courtney Thompson - Redirect by Mr. Holford

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1 with the request of latent print examination. However, that
2 is usually determined by the agency. Whenever they submit the
3 items of evidence they have to determine what type of analysis
4 they want performed on it. So for that particular item latent
5 print analysis was not requested.

6 Q Okay. So in other words in this case Myrtle Beach, the
7 agency being the Myrtle Beach Police Department; correct?

8 A Yes.

9 Q And they did not request that any fingerprint analysis be
10 done on these five shell casings?

11 A That is correct.

12 Q All right. Thank you.

13 REDIRECT EXAMINATION

14 BY MR. HOLFORD:

15 Q If you, in your process of swabbing an item in your
16 trying to determine if there are bodily fluids on it could
17 that inhibit the ability to find latent prints?

18 A It does, actually. If an item wants to be processed in
19 latent prints typically what has to happen is it has to go to
20 the latent prints department first because our swabbing will
21 destroy any type of prints that may be left behind, and so
22 sometimes we have to have agencies they need to choose whether
23 they want DNA or latent prints done in order to basically
24 determine what they would prefer to have at that time, if it's
25 latent prints or if it's DNA because our swabbing will remove

1 prints from it.

2 Q No further questions.

3 RECROSS EXAMINATION

4 BY MR. MCCOY:

5 Q But to the best of your knowledge the 380 casings weren't
6 swabbed for either; correct?

7 A The SLED items two through six they were not examined by
8 me because SLED item number one are swabs -- they're listed as
9 being submitted as DNA swabs from five 380 cases collected
10 from the scene. So in my examination we do not process behind
11 things that have already been processed. So I did not swab
12 behind those other five cartridge cases because they've
13 already been swabbed. Therefore, the DNA has most likely been
14 removed. So they appear to have been processed by the Myrtle
15 Beach Police Department prior to submission. So that's why I
16 didn't do anything with them.

17 Q Okay. So just so we're clear, these could have been
18 fingerprinted; correct? Before, before, before you did any,
19 before you did any analysis on them, they could have been,
20 they could have been fingerprinted; right?

21 A I am not sure honestly because it's the latent prints
22 department. So if they had been swabbed prior to submission I
23 do not know if the latent prints department would have been
24 able to examine them.

25 Q If they had never been swabbed and the police just picked

Sara Goodman - Direct by Mr. Holford

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1 them up and said, "Could be multiple shooters, we should check
2 for fingerprints," they could have checked for fingerprints;
3 correct?

4 A To my knowledge that is a possibility that they could
5 have done that, yes.

6 Q Thank you,

7 A But I'm not an expert in latent prints.

8 MR. FOX: Nothing further, Your Honor.

9 MR. HOLFORD: Your Honor, I would ask that this witness
10 be excused.

11 MR. MCCOY: Certainly, Your Honor, thank you.

12 MR. FOX: No objection.

13 THE COURT: Thank you. You're excused.

14 MR. HOLFORD: The State call Sara Goodman.

15 Whereupon, Sara Goodman is called to the stand, duly
16 sworn by the clerk and testified as follows:

17 THE CLERK: State and spell your name for the Court.

18 MS. GOODMAN: My name is Sara Goodman, last name is G-O-
19 O-D-M-A-N.

20 DIRECT EXAMINATION

21 BY MR. HOLFORD:

22 Q Excuse me, Ms. Goodman, where are you currently employed?

23 A I am employed at the South Carolina Law Enforcement
24 Division, commonly referred to as SLED.

25 Q And how long have you been with SLED?

1 A About four and a half years.

2 Q And what's your current position at SLED?

3 A I am a forensic scientist assigned to the DNA casework
4 department.

5 Q Okay. Have you always been with DNA casework?

6 A I have.

7 Q And what are your duties and responsibilities in, in
8 reference to DNA casework?

9 A So we receive evidence from local law enforcement
10 agencies throughout the state. So we receive evidence as well
11 as known standards, and we attempt to generate DNA profiles
12 from both and write a report based on our findings.

13 Q And do you have training or education or expertise in DNA
14 analysis?

15 A I do. I have a bachelors of science degree in biology
16 from Erskine College as well as a master's of science in
17 forensic science from Arcadia University in Pennsylvania and
18 then upon employment at SLED I went through about a year-long
19 training program with another court-qualified analyst and at
20 the end of that successfully completed a series of competency
21 tests to be signed off to do DNA casework.

22 Q And do you have continuing education that you do, are you
23 -- do you have to keep up your standards?

24 A Yes. We're required to have at least eight hours of
25 continuing education a year in our field.

Sara Goodman - Direct by Mr. Holford

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1 MR. HOLFORD: Your Honor, this time the State would
2 tender Sara Goodman as an expert in DNA analysis.

3 MR. MCCOY: No objection, Your Honor.

4 MR. FOX: No objection, Your Honor.

5 THE COURT: So qualified.

6 BY MR. HOLFORD:

7 Q Now, just talk to us briefly about DNA. Can it be
8 anywhere? Is it everywhere and are you able to process DNA
9 from items?

10 A Yes. So DNA is a chemical that's present in almost every
11 cell of our bodies. We get half from our mother and half from
12 our father, and it's unique to an individual with the
13 exception of identical twins. So you can leave behind DNA by
14 touching an item or from different body fluids, and we can
15 generate DNA profiles from those types of DNA.

16 Q Now in your experience, over all the tests that you've
17 done in multiple cases, are you always able to get a DNA
18 profile?

19 A Not always.

20 Q And so why is that if, if there's DNA present or there
21 could be DNA everywhere why are you not able to get DNA in
22 every case?

23 A So there's different factors that can affect the amount
24 of DNA that's left behind. When it comes to touch DNA some
25 people shed more skin cells than others when they touch items.

1 So that can affect how much DNA is left behind, environmental
2 factors like heat or water, rain can affect the amount of DNA
3 that's left behind. So sometimes those factors play into how
4 much we are able to recover.

5 Q And in this case, did you, did you do DNA analysis?

6 A I did.

7 Q And did you write a report about that?

8 A I did.

9 Q Would you recognize it if I showed it to you?

10 A Yes.

11 MR. HOLFORD: May I approach, Your Honor?

12 THE COURT: Yes, sir.

13 BY MR. HOLFORD:

14 Q I'm going to hand you what's been marked as State's 35
15 for ID. Can you identify what that document is that I've
16 handed you?

17 A Sure. This is the report that I issued for my analysis
18 in this case.

19 Q Does it appear to be a true and accurate copy of that
20 report?

21 A Yes. It does.

22 Q Does there appear to be additions or deletions or changes
23 to it?

24 A No. There's not.

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

Sara Goodman - Direct by Mr. Holford

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1 seek to introduce State's 35 in evidence.

2 MR. MCCOY: Without objection, Your Honor.

3 MR. FOX: No objection, Your Honor.

4 THE COURT: In without objection.

5 (State's Exhibit Number 35 [SLED DNA Report] entered into
6 evidence and appropriately marked.)

7 BY MR. HOLFORD:

8 Q Now, we've talked a lot about SLED numbers versus Myrtle
9 Beach Police numbers. Do you have identifying numbers for the
10 items that you reviewed in this case?

11 A Yes. I do.

12 Q Okay. And, and what are those numbers?

13 A So in this case I examined SLED item 1, SLED item 7.1 and
14 SLED item 8.1.

15 Q Okay. Did you also examine items 11 and 12?

16 A Yes. I apologize. SLED items 11 and 12 as well.

17 Q So I'm going to hand you what's been entered as State's
18 30 and 31. Are you familiar with those?

19 A Yes. I am.

20 Q And, and what are they?

21 A These are SLED items 11 and 12. They are buccal swabs
22 from Dameion Alston and buccal swabs from Marquis Burgess.

23 Q Okay. And what's a buccal swab?

24 A So a buccal swab is a known standard that is collected
25 from an individual. It's a swab of the inside of someone's

1 cheeks.

2 Q And, and why would you get a buccal swab or a known
3 standard from an individual?

4 A Known standards are used for comparison purposes. So
5 known standards are an item that we know for sure is from a
6 certain individual and that is used for comparison to evidence
7 that we receive.

8 Q Okay. Were you given any other known standards other
9 than Dameion Alston and Jamal Burgess in this case?

10 A No.

11 Q Okay. Now, you said that item 7.1 and 8.1, I'm going to
12 hand you what's been entered as State's 42. Are you familiar
13 with State's 42?

14 A Yes.

15 Q And what's contained in State's 42?

16 A SLED item 7.1 and 8.1.

17 Q Okay. So what is 7.1 and what is 8.1?

18 A Sure. So item 7.1 is swabs from fired bullet and SLED
19 item 8.1 is swabs from a cartridge casing.

20 Q And then what -- you said you also analyzed SLED item 1.
21 What was SLED item 1?

22 A SLED item 1 is swabs from five 380 cases collected from
23 the scene.

24 Q Okay. So we have the known standard of buccal swab from
25 Dameion Alston and Jamal Burgess. Can you -- did you compare

Sara Goodman - Direct by Mr. Holford

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1 that to swabs from the 380 casings, from the fired bullet and
2 from a cartridge casing?

3 A Yes. Any DNA profiles that were suitable for comparison
4 were compared to those standards.

5 Q Okay. Now talk to us about suitable for comparison.
6 What does that mean?

7 A So that just basically means that we have enough
8 information there to be able to make comparisons.

9 Q What were there -- what's a reason why you wouldn't have
10 enough information there?

11 A If we don't generate, if we're not able to generate a DNA
12 profile from that item or if the amount of data that we have
13 does not meet our standards to be able to use for comparisons
14 then we are not able to compare them to the known standards.

15 Q So, so if I touch an object and swab there could or could
16 not be enough information for you to create a profile?

17 A Correct.

18 Q Was there enough information to create a profile in this
19 case in the swabs that you examined?

20 A There was for item 7.1.

21 Q Okay. What about for 8.1?

22 A No DNA profile was developed from item 8.1.

23 Q And so you examined the, the swabs from the cartridge
24 casing 8.1 and you were not able to even create a DNA profile?

25 A Correct.

1 Q And if you're not able to create a DNA profile can you
2 compare it to anything?

3 A No.

4 Q So there's just not enough information?

5 A Correct.

6 Q You said there was enough to generate a DNA profile for
7 7.1, swabs from a fired bullet and what was that DNA profile?

8 A The DNA profile developed from item 7.1 matches the DNA
9 profile of Dameion Alston. The probability of randomly
10 selecting an unrelated individual having a DNA profile
11 matching this item is approximately one in 290 quadrillion.

12 Q That's more than there are people on earth; correct?

13 A Yes.

14 Q So the serology department passed along swabs from, from
15 the bullet to you?

16 A Correct.

17 Q And the swabs taken from that bullet, the DNA on the
18 bullet matched Dameion Alston?

19 A Yes. That's correct.

20 Q What about the swabs from the 380 casing?

21 A That was SLED item 1. No DNA profile was developed from
22 item 1.

23 Q So there wasn't enough information to, to tell a DNA
24 profile on the 380 casing?

25 A No. There was not.

Sara Goodman - Cross by Mr. McCoy

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1 Q No further questions of this witness.

2 CROSS EXAMINATION

3 BY MR. MCCOY:

4 Q Just briefly, what type of bullet was it that had
5 Dameion's DNA on it?

6 A I'm not aware of that. My item just says a fired
7 bullet.

8 Q Okay. So you're, you're unaware if it was a 380 or a 9
9 millimeter?

10 A As far as the fired bullet, no.

11 Q And you're not aware if it was Jamal's gun or whoever's
12 gun; right?

13 A No. I'm not.

14 MR. MCCOY: No further questions, Your Honor. Thank you.

15 MR. FOX: That covers it. No questions, Your Honor.

16 MR. HOLFORD: I would ask that this witness be excused
17 from her subpoena.

18 MR. MCCOY: Certainly, Your Honor. Thank you, Judge.

19 MR. FOX: Without objection.

20 THE COURT: You're excused, thank you.

21 MS. WALTER: Your Honor, the State would call Jennifer
22 Nates.

23 Whereupon, Jennifer Nates is called to the stand, duly
24 sworn by the clerk and testified as follows:

25 THE CLERK: State and spell your name for the Court.

1 MS. NATES: Jennifer Nates, N-A-T-E-S.

2 MS. WALTER: May I, Your Honor? Thank you.

3 DIRECT EXAMINATION

4 BY MS. WALTER:

5 Q What are we? We're still morning. So good morning.

6 A Good morning.

7 Q How are you?

8 A I'm good.

9 Q Where do you work?

10 A I work for the South Carolina Law Enforcement Division in
11 the trace evidence section of the forensic laboratory.

12 Q So you traveled here from Columbia with our last two
13 witnesses; right?

14 A Yes.

15 Q Thank you very much. Can you tell us how long you've
16 been with SLED?

17 A I have been with SLED for 22 years in about two weeks.

18 Q And what is your current position with SLED?

19 A My current position is as the lieutenant over the trace
20 evidence section, which just means I am the supervisor and I'm
21 also responsible for casework, including the daily activities
22 of that department.

23 Q How long have you held that position?

24 A Since approximately 2010.

25 Q Have you always been with the trace evidence unit?

Jennifer Nates - Direct by Ms. Walter

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1 A I have not. I started at SLED -- I interned at SLED my
2 junior year or actually my junior year in college I interned
3 at University of South Carolina. I met someone from SLED
4 there and did a tour of the lab and decided that was something
5 I was interested in, and following my graduation from college,
6 I interned in the trace section, and then at the end of that
7 summer I was hired in the drug analysis section. So I trained
8 in drug analysis and poison analysis, worked in that section
9 for a year and then transferred into trace evidence.

10 Q And how long have you been with the trace evidence
11 section?

12 A For 21 years.

13 Q Okay. And you, you talked about going to school, can you
14 just give us a little bit of your educational background?

15 A I have a bachelor of science degree in chemistry from a
16 very small, at the time I went there, state school in
17 Pennsylvania called California University of Pennsylvania.
18 It's now a much larger school. I graduated in 1997 and then
19 began the training program in the drug department, completed
20 the police academy training and the drug training, and then
21 once I transferred into trace I began a three to four-year
22 training program in that department under the senior analyst
23 and the lieutenant, which included competency testing, hands-
24 on working with them with casework, taking courses and
25 classes, dealing with the analyses that trace evidence

1 personnel perform and the instrumentation that is used.

2 Currently I still take classes when available and perform
3 proficiency testing yearly to remain competent in the areas in
4 which I do casework.

5 Q So have you ever failed a proficiency exam?

6 A I have not.

7 Q Okay. Before I proffer you as an expert can you tell us
8 what it is that the trace evidence unit does?

9 A The trace evidence section does many different types of
10 analyses. It varies from state to state. In our state we are
11 responsible for gunshot residue analysis, paint analysis,
12 fiber analysis, glass analysis, fire debris, tape, bank die
13 and general unknown identifications and comparisons.

14 Q So dealing specifically with trace evidence as it relates
15 to firearms and firearms evidence, what is it that you do?

16 A That would be the gunshot residue analysis we are
17 requested to perform.

18 Q Can you describe for us in laymen's terms what gunshot
19 residue is?

20 A Gunshot residue is the term to describe any and all
21 debris and residue that is generated when a firearm is
22 discharged. The laboratory analyzes for what is called primer
23 gunshot residue or PGSR, which is specific to the primer
24 composition in the cartridge. So you have the cartridge that
25 has your gun powder, your bullet and your primer. We analyze

Jennifer Nates - Direct by Ms. Walter

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1 for the components that are present in that primer.

2 Q How is it that -- well, how do you test or gather a
3 sample to test for GSR?

4 A We physically collect samples from clothing. Usually
5 officers or corners or people in the police departments will
6 collect samples from a person's hands if they are suspected of
7 firing or being near a weapon when it was discharged. They
8 use a kit that is provided by SLED that contains what are
9 called particle lifts. It's a very small sample collection
10 tool that has an adhesive on it. It's a circular disk with an
11 adhesive. They will dab it over each area of the hands to
12 collect any potential evidence that is present.

13 Q Now, you just said to determine whether someone has fired
14 a gun or been near one. What does the presence of gunshot
15 residue mean to you? What does it -- what does that allow you
16 to conclude?

17 A The purpose of the gunshot residue exam is to determine
18 if there is gunshot residue present on a person or on their
19 clothing. What we can tell you from it being present is that
20 that person was, one, near the discharge of a firearm, which
21 means they potentially fired the weapon, they were near the
22 weapon when it was fired or they handled an object that had
23 gunshot residue present on it.

24 Q Are you able to determine which of those three
25 alternatives it is?

1 A We are not in the majority of the cases that we work,
2 maybe one in a thousand. We may have additional information
3 that we can determine it, but in most cases we are not able to
4 determine that.

5 Q So the mere presence of gunshot residue does not
6 conclusively mean that someone fired a gun. It may also mean
7 that they themselves were shot?

8 A That is one of the, one of the things that can be
9 considered, yes.

10 Q Okay. Now, during your career at the trace evidence
11 section approximately how many times have you examined items
12 for gunshot residue?

13 A Gunshot residue is the first discipline that we train in
14 in trace evidence. So I've been performing gunshot residue
15 exams since 1999. So it is in -- well in excess of thousands
16 of cases.

17 Q Have you ever been qualified in court as an expert in
18 trace evidence or gunshot residue analysis?

19 A I have in both.

20 Q Okay. Approximately how many times?

21 A This will be 142 testimonies.

22 MS. WALTER: Your Honor, at this time I would proffer her
23 as an expert.

24 MR. MCCOY: Without objection, Your Honor.

25 MR. FOX: No objection.

Jennifer Nates - Direct by Ms. Walter

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1 THE COURT: So qualified.

2 MS. WALTER: Thank you.

3 BY MS. WALTER:

4 Q And did you, in fact, perform some analysis in this case,
5 SLED lab L1610612?

6 A I did perform an analysis on that SLED lab number.

7 Q Did you create a report at the end of that analysis?

8 A I did.

9 MS. WALTER: If I may approach the witness, Your Honor?

10 BY MS. WALTER:

11 Q I'm showing you what's been marked as State's Exhibit 37,
12 if you can tell us if you recognize that?

13 A It appears to be the copy of the report that I generated
14 for this case.

15 Q So is that a true and accurate copy of your report?

16 A Yes.

17 MS. WALTER: Your Honor, I would ask that State's Exhibit
18 37 be admitted.

19 MR. MCCOY: Without objection, Your Honor.

20 MR. FOX: No objection, Your Honor.

21 THE COURT: In without objection.

22 (State's Exhibit Number 37 [Trace Evidence Report]
23 entered into evidence and appropriately marked.)

24 BY MS. WALTER:

25 Q And then I am also going to show you admitted exhibits

1 State's 28 and State's 29. Do you recognize those?

2 A I do. These -- this is the outer container that our
3 evidence will be submitted to the agency in. Usually what
4 happens is if a case is submitted to the agency it's assigned
5 what's called a laboratory number, which is this L16 number.
6 The L just means laboratory. The 16 is the year, and then it,
7 it is assigned a sequential case number. In this case it was
8 10612. So it was designated as container B. So it came to me
9 sealed. These two items were inside it, and these are the two
10 items which are the gunshot residue kits that were submitted
11 for analysis.

12 Q And do your records reflect who those kits were taken
13 from?

14 A They do. One kit was taken from Marquis Jamal Burgess
15 and the other kit was taken from Dameion Hakeem Alston.

16 Q So can you just describe for us how you conduct your
17 examination or your analysis?

18 A When the kits are submitted to us, a form usually
19 accompanies them, and this form is a GSR information form that
20 is included in the kit for the officer or the coroner to fill
21 out the pertinent information that is needed for the analysis.
22 So when I receive evidence I will verify that the evidence is
23 sealed and that what the description on the evidence is
24 matches what the officer said it was on the submission
25 documentation just to make sure it's the correct evidence for

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1 that case. I then will document whether the kit is sealed and
2 initialed. I will put a sticker on designating it as the item
3 number that it is, initials and date on when I did that. I
4 then check the sheet that comes in to see who the kit was
5 collected from, what time the kit was collected and what time
6 the incident was, which is information that is needed for a
7 GSR kit collected on a living person. In this case I just
8 reviewed it, made sure all the information was there and then
9 documented that.

10 Q Can I stop you there just for a second?

11 A Yes.

12 Q You just talked about documentation of when the kit was
13 collected versus when the incident was and why that might be
14 important on a living victim. Can you just describe this
15 issue of time-lapse?

16 A On a living person once gunshot residue is deposited on
17 your hands it can be removed very easily. So studies have
18 shown, and even in-house studies that we have done, that once
19 six hours has passed from the time the firearm was discharged
20 any residue that would have been deposited on your hands will
21 no longer be present. So it is our lab policy that we do not
22 analyze gunshot residue kits from a living person that are
23 collected more than six hours after the incident time.

24 Q And that would be different for a sample collected from a
25 deceased person why?

1 A On a deceased person they're going to cease doing any of
2 the activities that a living person would. They're not going
3 to be able to sweat. They're not going to put their hands in
4 and out of their pockets. They're not going to drive a car.
5 They're not going to hand -- give anybody a handshake, wash
6 their hands. So all of the activities that can remove that
7 residue are no longer going to happen on a deceased
8 individual. So once a person is deceased, any residue on
9 their hands will remain until an outside force removes it. So
10 if they're laying outside in the rain, it very well could be
11 removed, but if a person is shot and deceased any residue
12 should remain on that hand till it's physically removed.

13 Q Now, you've talked about a number of things that can
14 cause the gunshot residue to I'll say slough off or disappear.
15 So would you qualify gunshot residue as something that is
16 fragile or long-lasting?

17 A We consider it as fragile evidence because it is so
18 easily removed and so easily dissipates from an object.

19 Q In fact, if I had, say I had just fired a gun, if I just
20 wipe my hand on my clothing I could potentially remove all the
21 gunshot residue from my hand?

22 A From the areas that you touched on something else you can
23 remove it. It depends on how much was deposited and how hard
24 you're rubbing your hand or what areas you touch.

25 Q Now, do you have the ability, if requested, to test

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1 articles of clothing for gunshot residue?

2 A We will test articles of clothing for gunshot residue,
3 but we do not test articles of clothing that are from a
4 shooting victim. If someone has sustained a bullet wound and
5 they have a bullet hole in their clothing we do not test that
6 for the presence of gunshot residue because you've already
7 shown that there's a bullet hole in that clothing.

8 Q And so we've spoken about the time-lapse for collecting a
9 sample from a living victim. With the clothing, if there was
10 a suspect, what are the parameters that SLED uses to determine
11 whether or not it would be, I guess, worthwhile to test
12 someone's clothing, a suspect's clothing?

13 A On a suspect's clothing we usually have to have some type
14 of information that is linking that clothing to that incident,
15 whether it's an eyewitness account that they saw them in this
16 type of clothing, if they have them on video at some point in
17 that day wearing those clothes, some link to that incident
18 that we would think that those were the clothes that were
19 being worn at that time.

20 Q And would normal sort of handling of clothing and
21 potential washing of clothing that could all effect whether or
22 not gunshot residue would still be found?

23 A Yes. Anything that touches the clothing can affect it.

24 Q Now, directing your attention back to this case, you, you
25 had just started to describe your process and I, I interrupted

1 you... So if you could continue, I believe you said you were
2 checking the information from a sheet that had been filled
3 out?

4 A Once we check the information to make sure everything is
5 appropriately documented, we will set up what is an automated
6 sequence on a scanning electron microscope. The purpose of
7 this microscope is to find any particles potentially that are
8 gunshot residue on that sample collection piece that they took
9 with the GSR kit. So we have, in this instrument, we have a
10 block. It has 24 spots on it, and you will put in your
11 sequence, each one of those samples goes on one of those
12 slots. Now, I don't run 24 every time. I might run five or
13 six. So it's not full every time, but I will fill out that
14 sequence, set up the parameters on the instrument and the
15 instrument will scan over each of those. It does a raster
16 scan. So it goes over the top, and any particles it detects
17 it will do a quick x-ray and document what elements were
18 present. So if it finds iron, copper and gold, I will get a
19 printout that says iron, copper and gold were on this
20 particle. I then go back after the automated analysis is
21 completed and I relocate, which means I tell it go to this X-Y
22 coordinate and go to that particle that you deemed or the
23 instrument deemed as PGSR and I will take a longer x-ray of
24 it, take a picture of the particle and document it to make
25 certain that it did classify each element correctly. Once I

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1 do this I will determine if there are particles present on the
2 particle lifts, generate the report. The report then goes for
3 a technical review by another analyst who is qualified to
4 perform the analysis. They will review my technical data, the
5 instrumental data, the spelling and the grammar, and they have
6 to agree with my findings and my report before it can be
7 issued.

8 Q Let's start with so that we can get our numbers straight,
9 State's Exhibit 28, which looks like SLED Exhibit Nine.

10 A Okay.

11 Q Who is that gunshot residue kit from?

12 A This was a kit from Marquis Jamal Burgess.

13 Q And what, if anything, were you able to conclude after
14 analyzing that kit?

15 A Once I concluded my analysis on that kit I determined
16 that I found particles of gunshot residue on those samples.

17 Q Now you say particles. Are you able to quantify the
18 number of particles?

19 A I can tell you how many I verified because the
20 instrument, as I said, it goes through an automated analysis
21 and it can have 50 hits. Only the ones that I verify,
22 physically go back, relocate, take an x-ray of can I say was a
23 particle of GSR.

24 Q And how many did you verify for Mr. Burgess?

25 A For Mr. Burgess I verified five particles.

1 Q In your experiences is that number high, low, sort of
2 average?

3 A Since Mr. Burgess did sustain a gunshot wound, usually we
4 only have to confirm two particles on a victim of a gunshot
5 wound because if someone is shot we expect to find GSR on
6 them. So we do not go any further. In this case I confirmed
7 five. I was on that sample, but it's just we look for the
8 presence or absence. So if I have five or 10 it's not going
9 to change my opinion or what I can tell you about that
10 evidence.

11 Q Because the number of particles would not necessarily
12 help you determine which of those three alternatives that you
13 spoke about -- fire -- being shot, being near or handling
14 something that's been fired or firing a gun? The number of
15 particles doesn't help you determine which of those happened?

16 A It does not.

17 Q Now, let's deal with SLED item 10, which would be State's
18 Exhibit 29, is that the gunshot residue kit for Mr. Alston?

19 A Yes.

20 Q And what were the results of your examination in that
21 kit?

22 A The results were the same for the kit from Dameion
23 Alston. I found particles characteristic of gunshot residue.

24 Q Now, if there had been testimony that the victims in this
25 case were shot from less than 10 feet away, maybe about five

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1 or six feet away, how does that factor into the presence of
2 gunshot residue?

3 A With gunshot residue, as I said before, it's any and all
4 residue that is produced when a firearm is discharged. Now,
5 common sense tells you the majority of it is going to come out
6 of the barrel of the gun because it's the largest opening in
7 the gun. So where the bullet travels is where the majority of
8 the residue will come out. Lots of testing has been done on
9 how gunshot residue, how far it can travel. Usually it has
10 been found that within three feet of a person firing a gun to
11 the sides and to the back they can have as much gunshot
12 residue on them as the shooter. Now, a victim, since the
13 majority of the residue is getting produced towards them, you
14 expect to find it on them, and within 10 feet we most
15 definitely do expect to find it.

16 Q And because you expect to find gunshot residue on gunshot
17 victims, is SLED actually trying to move away from doing
18 gunshot residue analysis for gunshot victims?

19 A We are trying. It's a long process trying to stop
20 something that's been done for so long, but the majority of
21 the states do not perform analysis on victim GSR kits because
22 you already know they were shot. You expect to find GSR, and
23 usually in the majority of the cases there's not any more
24 information we can provide with that analysis.

25 Q And let me just go back to this timing component one more

1. time. So you testified that if longer than six hours has
2 passed for a live suspect between the shooting and the
3 collection of the sample, if it's more than six hours SLED
4 would not consider testing that?

5 A We do not test them.

6 Q Okay. And so if a suspect is then taken into custody for
7 -- until a day after the shooting, that would not be something
8 that you would test?

9 A We would not.

10 Q What about if a suspect is taken into custody more than a
11 year later?

12 A We would not test anything collected at that time.

13 Q Unless you had specific evidence that the clothes that
14 they were wearing at the time of their arrest were the clothes
15 that they were wearing at the incident, hadn't been touched,
16 washed or anything, would you recommend testing the clothing?

17 A Can you repeat that one? I'm sorry.

18 Q I'll break it up. Sorry. I added a lot in there. So if
19 a suspect is arrested the day after an incident, but there's
20 no information that they are wearing the same clothes, would
21 you recommend testing the clothes for gunshot residue?

22 A If they cannot be linked to that incident, I would not.

23 Q So then the same question, if a suspect is arrested a
24 year later and there's no link that the clothes he's wearing a
25 year later were the clothes he was wearing at the time of the

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1 incident would you recommend testing the clothing?

2 A I would not.

3 Q Nothing further at this time. If you'd just answer any
4 questions from Mr. McCoy or Mr. Fox.

5 MR. MCCOY: Thank you, Your Honor. May it please the
6 Court?

7 CROSS EXAMINATION

8 BY MR. MCCOY:

9 Q Just briefly. Thank you for being here today. So you
10 did find gunshot residue on Jamal Burgess; correct?

11 A Yes.

12 Q On his hands; right?

13 A Yes. The kits are collected from the hands.

14 Q Okay. What about his clothing?

15 A I did not receive any clothing for testing.

16 Q So, what does that mean? That -- who, who sent you --
17 who would have sent you the clothing for testing?

18 A I would assume Myrtle Beach Police Department if they
19 were the ones that worked the case, but as he was shot we
20 would not -- we would have turned it around and not done any
21 analysis on it since it was the -- they had sustained a
22 gunshot wound.

23 Q Okay. So if, if somebody has their hands up in the air
24 and they're significantly taller than another person, would
25 you expect to find less particles on them on their hands?

1 A When you ask that question, every gun is different and
2 every scenario is different. It just depends on how that
3 cloud is produced when that gun is shot, which can vary from
4 shot to shot even in a single gun.

5 Q Right.

6 A So if you have your hands up and you're shot, any, any
7 area of you that is exposed to that cloud of gunshot residue
8 will have gunshot residue deposited on it.

9 Q Right. But this was the more than the only two is what
10 you needed to verify that somebody was near; right? This was
11 --

12 A Right because we can't quantitate and say, "I found 20
13 particles, that means their hands were up," or, "I found five,
14 that means their hands were down."

15 Q You stop with -- you, you, you basically stopped your
16 analysis after only two?

17 A In this case I did not but we can on victims. We only
18 need two to report a multiple.

19 Q Okay. So if our theory is that the victim in this or the
20 deceased in this case pushed someone out of the way and then
21 was pulling his gun and then got shot as he's pulling his gun,
22 it was firing at the same time does the GSR analysis fit
23 that?

24 A The GSR analysis will fit that it can be from him firing,
25 being in the vicinity or handling.

Jennifer Nates - Cross by Mr. Fox

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1 Q So it doesn't.

2 A I can't tell you if -- we get that request a lot, the
3 victim fired the gun before he was shot. I can't tell you
4 that. I expect to find GSR on them because they are shot. I
5 can't differentiate between what is deposited from them
6 possibly firing or them being on the receiving end of a
7 bullet.

8 Q So it's not inconsistent with our theory.

9 MS. WALTER: Objection, Your Honor, asked and answered.
10 She said she cannot determine.

11 MR. MCCOY: She -- I'm just trying to get a yes or no.
12 So it's not inconsistent with our theory.

13 THE COURT: I think that's permissible.

14 BY MR. MCCOY:

15 Q So it's not inconsistent with our theory; correct?

16 A That he was pulling a gun out as he was shot?

17 Q Right.

18 A No. It is not.

19 Q Thank you.

20 MR. FOX: Just briefly, Your Honor.

21 THE COURT: Yes, sir.

22 CROSS EXAMINATION

23 BY MR. FOX:

24 Q Ms. Nates, can you tell anything with the, with the
25 amount of residue you found on Mr. Alston, Mr. Burgess, make

1 any kind of estimate about -- well, one possibility, of
2 course, is they fired a gun themselves. That's one
3 possibility, and of course, that's close proximity because
4 it's directly in their hands and it tends to -- it goes out
5 with the bullet and it also --

6 A And it encompasses your hand.

7 Q -- goes out. Okay. So that's one possibility, but if
8 they did not fire the gun, can you tell anything about the
9 distance with the amount of residue found in this case, an
10 estimate -- you mentioned three feet and closer likely to find
11 more, as you get out ten feet might still be in, in range, so
12 to speak, but can you make any kind of estimate about distance
13 in this case?

14 A I have no knowledge of what type of firearm it was, which
15 that is dependent on the estimates for the distances. There
16 have been several studies that have been done that have shown
17 gunshot residue can travel with the path of the bullet up to
18 almost 45, 50 feet away, but that is directly in the path of
19 that bullet and it was only a few particles.

20 Q And you would expect --

21 A Normally what we expect to find is usually we say within
22 10 to 15 feet I can expect to find that GSR which encompasses
23 the guns and I would expect to find gunshot residue on that
24 person from being shot.

25 Q And you found, and I'm sorry, five or 10 different

Jennifer Nates - Recross by Ms. Walter

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1 particles in this case?

2 A I confirmed four on one of the kits and I confirmed five
3 on the other.

4 Q Thank you.

5 RE CROSS EXAMINATION - BY MS. WALTER:

6 Q And again, confirmed does not tell you how many particles
7 were actually identified by the machine?

8 A No. I have data on that that will tell me it had this
9 many hits of gunshot residue and I went back and how many I
10 actually confirmed.

11 Q Okay. And now, Mr. McCoy asked you a double negative,
12 whether what you found was inconsistent with his theory. Let
13 me ask you it in a positive way. If the State's theory of the
14 case is that these victims were unarmed when they were shot
15 would your findings be consistent with that theory as well?

16 A That is one thing it could be consistent with, yes.

17 Q Thank you.

18 THE COURT: Anything else?

19 MR. MCCOY: No further questions, Your Honor.

20 MR. FOX: Nothing further, Your Honor.

21 THE COURT: May the witness be excused?

22 MS. WALTER: Please, Your Honor.

23 MR. MCCOY: Yes, Your Honor. Thank you.

24 MR. FOX: Yes.

25 THE COURT: Thank you. The witness is excused.

1 MS. WALTER: May I, Your Honor?

2 THE COURT: Yes.

3 DIRECT EXAMINATION

4 BY MS. WALTER:

5 Q Good morning, Sergeant Butler. Where do you work?

6 A I'm currently employed with the Horry County Sheriff's
7 Office.

8 Q How long have you been with the sheriff's office?

9 A Ten years.

10 Q What is your current position?

11 A I'm currently a sergeant over the home detention unit.

12 Q What is the home detention unit?

13 A The home detention unit is -- it's a unit that monitors
14 people that are on home detention, GPS monitoring.

15 Q And someone can be on GPS monitoring for a number of
16 reasons; correct?

17 A Correct.

18 Q How long have you been with the home detention unit?

19 A Five years.

20 Q What does it mean in laymen's terms to be on a GPS
21 monitor, monitor, excuse me?

22 A It means that the employees or the deputies with the
23 Horry County Sheriff's Office can monitor the individual's
24 whereabouts at all times when they wear a GPS monitoring
25 device. It's affixed to their ankle. We are always able to

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1 tell the location of an individual or of the device rather.

2 We can tell the speed of the device, stuff like that.

3 Q And I think you brought us a little visual aid?

4 A I did. Yes.

5 Q Is that -- if you can hold that up, is that what a
6 typical ankle monitor looks like?

7 A For the agency that I am employed with, yes, this is what
8 we use.

9 Q Okay.

10 A It's called BLUtag.

11 Q Is the ankle monitor considered tamper proof?

12 A It is not. It's tamper resistant.

13 Q So is it something that a -- let me back up. Who puts
14 the ankle monitor on a person to be monitored?

15 A We -- the deputies with the Horry County Sheriff's Office
16 will put it on them.

17 Q Is it something that the person upon whom it is attached
18 can take on and off every night or if they get in the shower?

19 A They're not supposed to.

20 Q Is it -- would you, would you be able to tell if they had
21 removed it?

22 A Yes. If they're -- there's a band, which is right here.
23 There's a fiber-optic cable that is in it and emits a light.
24 It's an invisible light, and if that band or, excuse me, if
25 that light is interrupted at any point it'll send what's

1 called -- we call a tamper alert and it -- those alerts go
2 directly to our cell phones and that's how we monitor the, the
3 devices.

4 Q So while they are -- no one is supposed to remove the
5 device, if they did remove the device you would be alerted?

6 A Yes, ma'am.

7 Q Okay. And then in laymen's terms can you describe how,
8 how you are able to track location and speed?

9 A Okay. So there are satellites above us. They're about
10 12,000 miles above the earth and they're traveling at about
11 7000 miles per hour, the satellites are and they're in orbit.
12 At any given time we have about 24 satellites that are in
13 view, and these satellites are owned, operated and maintained
14 by the Department of Defense. Onboard each satellite you need
15 three things. You need a computer. You need an atomic clock
16 and then a receiver, and that receiver would -- speaks to, if
17 you will, to devices and that is how it is determined
18 latitude, longitude and elevation. When you have so many
19 satellites in view it will give us the latitude, the longitude
20 and elevation and the speed of, of, of a device.

21 Q So would it be fair to say that the device pings to the
22 satellite? That's probably not a technical term I realize,
23 but --

24 A Yeah. The satellite or, excuse me, the device will call
25 out to the satellite every minute and then it reports to

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1 VeriTracks, which is the monitoring software, the encrypted
2 monitoring software that we use to monitor the devices and it
3 -- every 10 minutes. So it sends in information every 10
4 minutes. However, we can click a button and tell it to call
5 in every minute if we, if we wanted to, but it's, it's
6 constantly gathering data. It always has that data there.

7 Q Now, when you're talking about what happens every 10
8 minutes, is that, I believe, when you and I have spoken,
9 you're dropping a track point, you mean you're pinpointing
10 where the ankle monitor is at that point?

11 A Correct.

12 Q Just to round it out, can the ankle monitor monitor
13 conversations of a person who is wearing it or is it just
14 location?

15 A Just location.

16 Q And you talked about it's -- that it's constantly
17 gathering information. Is that information stored as well?

18 A It is stored within the monitoring software, what we
19 the -- just backend, and it only gives, gives us that
20 information if we ask for it. It's a lot of information to
21 provide all at once. So what they do is they, they keep it on
22 the backend and when we need it it just automatically uploads
23 to us.

24 Q Now, I'm going to talk to you about three individuals and
25 ask whether or not back on July 23rd of 2016 they were wearing

- 1 GPS monitors pursuant to the Sheriff's Office?
- 2 A Okay.
- 3 Q So the first would be Jamal Burgess?
- 4 A He was.
- 5 Q Dameion Alston?
- 6 A He was.
- 7 Q And Calvin Ford?
- 8 A He was.
- 9 Q So each of those three individuals was being GPS
- 10 monitored by the sheriff's office?
- 11 A Correct.
- 12 Q Okay. At some point were you asked to pull data from
- 13 July 23rd of 2016 to determine if those three individuals were
- 14 in a particular area?
- 15 A I was.
- 16 Q Now, are you also able to -- and so let's talk about July
- 17 23rd, 2016, in the area of [REDACTED] Warren Street in Myrtle Beach.
- 18 Are you able to tell anyone who's on an ankle monitor through
- 19 the sheriff's office that's in that area at that time?
- 20 A Yes. As long as they're on our -- on, on GPS monitoring
- 21 with our department, yes.
- 22 Q Okay. So were you, in fact, asked to pull data from July
- 23 23rd of 2016 in the area of [REDACTED] Warren Street?
- 24 A I was.
- 25 Q And have you had an opportunity to review that data and

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1 actually go over it with me?

2 A Yes.

3 Q Okay. So first I'm going to go through each of the
4 individuals and then I'm wanting to go old-school with an
5 easel and we're going to write some stuff out?

6 A Okay.

7 Q So let's talk with Jamal Burgess. Are you able to tell
8 from that data and if you need to refer to --

9 A Okay.

10 Q -- a report or data, that's fine, just let us know. Are
11 you able to tell when Jamal Burgess first went to Warren
12 Street that day?

13 A Yes, refer to my notes. The device that was connected
14 to, to Burgess was there at approximately about 5:05.

15 Q When did he get there? Did he leave at 5:05 or did he
16 get there?

17 A I apologize. Yes. He was -- he arrived at Warren Street
18 at 4:20 p.m. and he stayed until 5:05 p.m.

19 Q And actually let's just get the easel now.

20 A Okay.

21 Q Okay. And you said approximately 4:20 and that was at
22 a.m. or, or p.m.?

23 A It's p.m.

24 Q And he departed at approximately 5:05 p.m., also?

25 A That is correct.

1 Q Now, I noticed a certain phrasing that you used. You
2 said the device that was connected to Jamal Burgess, and
3 that's because you can only say that the device was there;
4 correct?

5 A Correct.

6 Q So if -- now, this isn't attached to anyone, but if I was
7 carrying it around, all you know from the pinging is that the
8 device is here?

9 A That is correct.

10 Q You wouldn't be able to tell whether it was me or Mr.
11 Holford that was swinging it around in the courtroom; right?

12 A Correct.

13 Q So I'm going to jump ahead for a second. The device that
14 had been attached to Jamal Burgess, was the sheriff's office
15 able to recover that device?

16 A We were, yes.

17 Q How was it recovered?

18 A One of the deputies with the Horry County Sheriff's
19 Office went to the hospital, Grand Strand Hospital, removed it
20 from him.

21 Q So it was still attached to his leg when it was removed
22 -- before it was removed?

23 A Correct.

24 Q And the same thing with Dameion Alston, was the sheriff's
25 office able to recover the GPS monitor that had been attached

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1 to him?

2 A We were.

3 Q In the same way?

4 A In the same manner, yes.

5 Q And then I'll get to Calvin Ford in just a minute.

6 So let's continue on with Jamal Burgess. So he left at
7 five -- he left the Warren Street area at 5:05. Do you know
8 where he went?

9 A According to the GPS, the device then traveled to Sam's
10 Club.

11 Q And did he eventually return to the Warren Street area?

12 A The device did, yes.

13 Q Okay. Sorry. Did the device return to the Warren Street
14 area?

15 A Yes, ma'am.

16 Q What time?

17 A At 5:12 p.m.

18 Q Is that when it departed Sam's or when it arrived at
19 Warren Street?

20 A It's when it arrived at Warren Street.

21 Q 5:12. And when did it leave Warren Street?

22 A At 9:13 p.m., approximately four hours later.

23 Q And based on your information, how did, and I'm just
24 going to say, Jamal leave Warren Street that time because I
25 think we've established that he was wearing the device and it

1 was taken off of him. So how did Jamal Burgess leave Warren
2 Street at 9:13 p.m.?

3 A I would assume by an ambulance.

4 Q Okay. Now let's talk about Dameion Alston. Are you able
5 to tell what time Dameion first got to Warren Street?

6 A Yes. He arrived -- the device arrived at 3:45 p.m.

7 Q How long did it stay at that point?

8 A Approximately 30 minutes, 30 minutes. It stayed until
9 4:15 p.m.

10 Q Are you able to tell where Dameion went when he left
11 Warren Street at that time?

12 A The device then traveled to the Ross Department Store in
13 Myrtle Beach where it stayed in that area for about 17 minutes
14 and then departed the shopping center and went to Mr. Alston's
15 designated residence, which was located at [REDACTED] Spivey Avenue
16 in Myrtle Beach.

17 Q Did he at some point go back to the Warren Street
18 location?

19 A The device did, yes.

20 Q We're going to do this all day. So I'm going to start
21 using your terms. Did the device go back to the Warren Street
22 location?

23 A Yes, ma'am.

24 Q Okay. At what time?

25 A At 4:56 p.m.

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- 1 Q How long did the device stay at Warren Street?
- 2 A 10 minutes.
- 3 Q So until about?
- 4 A 5:06.
- 5 Q Where did the device go when it left Warren Street at
- 6 5:06?
- 7 A It departed that area and went to Sam's Club.
- 8 Q Okay.
- 9 A And go ahead?
- 10 Q And then where after Sam's Club?
- 11 A The device then traveled back to Warren Street.
- 12 Q What time did the device arrive back on Warren Street?
- 13 A 5:15 p.m.
- 14 Q What time did the device leave Warren Street?
- 15 A It stayed there for two hours and eight minutes till 7:23
- 16 p.m., and at 7:24 p.m. the, the device arrived in the area of
- 17 White Street.
- 18 Q Okay. Are you familiar with that area of Myrtle Beach?
- 19 A I am.
- 20 Q Approximately how far away is White Street?
- 21 A Across the street.
- 22 Q Okay. Did the device ever go back to Warren Street that
- 23 night?
- 24 A It did. It arrived back in the area at about 7:34 p.m.
- 25 Q And when did the device leave Warren Street?

1 A 9:19 p.m.

2 Q Okay. Then lastly let's deal with Calvin Ford. When
3 someone is enrolled in a GPS monitoring program do you record
4 a home address for them?

5 A We do. Yes.

6 Q So what was the home address you had for Calvin Ford?

7 A It was at the time it was [REDACTED] White Street in Myrtle
8 Beach area of Horry County.

9 Q If I can just show you State's Exhibit 39. Do you
10 recognize this area? Let me stand it here for you.

11 A Right. I do.

12 Q And so [REDACTED] Warren Street is marked on it. Can you tell
13 us approximately where [REDACTED] White Street would be?

14 A Be in this area I believe here.

15 Q Okay. So you're pointing to the area of White Street
16 closest to Joe White Avenue --

17 A Correct.

18 Q -- a little up from where [REDACTED] White Street is marked?

19 A Correct.

20 Q Did -- do your records indicate whether or not the device
21 was at Calvin Ford's home address during that day?

22 A It was. Yes.

23 Q And at some point did he leave his house?

24 A The device did, yes.

25 Q Sorry. What time, what time did the device leave his

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1 house?

2 A It would have been around 5:00 p.m.

3 Q And where did the device go?

4 A At 5:06 the device departed the residence and traveled to
5 10th Avenue, Myrtle Beach, Mr. Joe White Avenue. Then it
6 traveled south on Mr. Joe White Avenue for about three miles
7 an hour and then traveled to Spivey Avenue in the Myrtle Beach
8 section at 5:07 p.m. at about 12 miles an hour and then to
9 King Street at 5:08. That's in Myrtle Beach as well at 13
10 miles an hour. At 5:09 p.m. then traveled along Dunbar
11 Street, then traveled north on Mr. Joe White Avenue at 5:10
12 p.m. and then on to Warren Street at 5:11 p.m., and the device
13 then stayed in that area from 5:11 p.m. to 5:26 p.m.

14 Q Where did the device go when it left Warren Street at
15 5:26?

16 A Back to [REDACTED] White Street.

17 Q Did the device stay on White Street for the rest of the
18 night?

19 A It did not.

20 Q Did the device eventually go back to Warren Street?

21 A It did.

22 Q At what time?

23 A About 6:56 p.m.

24 Q And how long did the device stay there at that time?

25 A At seven -- till 7:13 p.m.

1 Q And then directing your attention -- well, where did the
2 device go at that point?

3 A At that point the device traveled back to [REDACTED] White
4 Street and stayed there for approximately 94 minutes.

5 Q Did the device return to Warren Street?

6 A It did.

7 Q At what time?

8 A 8:52 p.m.

9 Q What time did the device leave Warren Street?

10 A The device left at 8:58 p.m.

11 Q Where did the device go after it left Warren Street at
12 approximately 8:58 p.m.?

13 A According to GPS records it went through Futrell Park to
14 Spivey Avenue at 9:00 o'clock and stayed in that area of
15 Spivey Avenue from 9:00 o'clock to 9:06 p.m. and then at 9:06
16 it departed Spivey Avenue, went through Futrell Park at range
17 of speeds of two to five miles an hour, and from there it
18 headed towards Mr. Joe White Avenue and at nine -- 9:08 p.m.
19 it was back on White Street, and at 9:09 p.m. the device was
20 then located at [REDACTED] White Street in Myrtle Beach.

21 Q I'm showing you State's Exhibit 39 again. Can you tell
22 us where Futrell Park is on here?

23 A It's in this area here.

24 Q Okay. And so --

25 A All, all this area, all this.

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1 Q Including this body of water?

2 A Including all this, yes.

3 Q So indicating the right side of the aerial map and above
4 Mr. Joe White Avenue?

5 A Correct.

6 Q And is Spivey Avenue marked on there?

7 A It is.

8 Q So Spivey Avenue is sort of, I guess, the -- on this
9 photo the top boundary of Futrell Park?

10 A Correct.

11 Q Were you present when Mr. Ford was arrested in this
12 matter?

13 A I was.

14 Q When he was arrested was he still wearing the ankle
15 monitor?

16 A He was.

17 Q At that time were you, were you able to recover the ankle
18 monitor?

19 A I, I had an opportunity to. However, I left it on his
20 person.

21 Q Okay. Eventually were you able to recover that ankle
22 monitor?

23 A Yes.

24 Q And was it intact when you eventually recovered it?

25 A Yes. Except for the cut that we made in it to have it

1 removed.

2 MS. WALTER: The Court's indulgence.

3 BY MS. WALTER:

4 Q I don't have any further questions. Let me move this out
5 of the way, and then if you'd answer any questions from Mr.
6 McCoy or Mr. Fox.

7 A Okay.

8 CROSS EXAMINATION

9 BY MS. WALTER:

10 Q Sergeant Butler, how you doing? As you know, I'm Jonny
11 McCoy. I'm Defendant Calvin Ford's Defense attorney in this
12 case. I appreciate you being here.

13 A Yes, sir.

14 Q You stated earlier that the GPS monitor can be on for a
15 number of things; correct?

16 A That is correct.

17 Q Including nonviolent things; correct?

18 A That is correct.

19 Q Now, now, Calvin knew that you were tracking his
20 movements; right?

21 A Yes, sir.

22 Q And Calvin could have taken off his ankle monitor as you
23 stated, they can, illegally, but they can; right?

24 A Correct.

25 Q And he didn't take off his ankle monitor; correct?

Robert Butler - Cross by Mr. McCoy

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- 1 A That is correct.
- 2 Q And if he would have taken off his GPS monitor how long
- 3 does it typically take for you guys to make an arrest in that?
- 4 It can range from a day to two, two or three days; correct?
- 5 A It can be minutes to hours to days, yes.
- 6 Q So but the ankle monitor also requires charging; right?
- 7 A It does.
- 8 Q But he didn't let his, his ankle monitor die; did he?
- 9 A Not to my knowledge, no.
- 10 Q Well, it definitely didn't die; right? You were tracking
- 11 him?
- 12 A Correct.
- 13 Q But he could have let it die; right?
- 14 A I suppose so.
- 15 Q And then you wouldn't be able to track him; right?
- 16 A Correct.
- 17 Q And you can't tell which way any of the people were
- 18 standing by the dots when the incident occurred; can you? You
- 19 can just tell rough location of where they were; correct?
- 20 A Are you asking me like in what direction they were
- 21 facing?
- 22 Q Right.
- 23 A I cannot. No.
- 24 Q Okay. Now, after the incident, Calvin -- you and Calvin
- 25 -- you're his -- you're over all the GPS; right?

- 1 A Correct.
- 2 Q So he reports back to you; correct?
- 3 A Well, reports back to the Horry County Sheriff's Office
- 4 Home Detention Unit, yes.
- 5 Q Okay. So were, were you aware that Calvin had family on
- 6 Spivey Avenue?
- 7 A No, sir.
- 8 Q Okay. Are you now aware of that?
- 9 A Yes, sir.
- 10 Q Okay. So when Calvin fled after he was shot at --
- 11 MS. WALTER: Objection, Your Honor. There's no evidence
- 12 of that.
- 13 MR. MCCOY: There's evidence that the guy had a gun.
- 14 MS. WALTER: There is not evidence that anyone other than
- 15 his client had a gun. There is no evidence in evidence at
- 16 this point that anyone shot at his client.
- 17 MR. MCCOY: Her own detective testified, "I interviewed a
- 18 neutral witness who said Jamal had a gun."
- 19 MS. WALTER: There was no testimony that it was a neutral
- 20 witness. That's hearsay. That question is impermissible.
- 21 MR. MCCOY: It wasn't even objected to. What's going on
- 22 right now? Sorry, Judge. May I continue?
- 23 THE COURT: Yes.
- 24 MS. WALTER: Your Honor, I -- my objection still stands.
- 25 THE COURT: Noted.

Robert Butler - Cross by Mr. McCoy

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- 1 BY MR. MCCOY:
- 2 Q So Mr. Ford's fleeing the scene where arguably he was
3 being shot at, and he runs, he runs from here -- oh, I'm
4 sorry. I'm sorry. He runs from here - I'm sorry, guys. I'm
5 terrible with this. He runs from here, not back across the
6 street; correct?
- 7 A Correct.
- 8 Q He runs in between the houses; right?
- 9 A Okay.
- 10 Q Is -- I mean?
- 11 A Yes.
- 12 Q And then he runs over here into Spivey; right?
- 13 A Correct.
- 14 Q And then he runs back through here; correct, around the
15 lake, the, the Futrell Park pond; right?
- 16 A No.
- 17 Q Okay. So he goes to Spivey and then where does he go?
- 18 A He stays on Spivey Avenue for a couple of minutes, the
19 device does.
- 20 Q Okay. Then, and then he goes to -- around the lake;
21 right?
- 22 A Correct.
- 23 Q Okay. So it's about five minutes total, and then he
24 comes right back and ends up back at his house; right?
- 25 A Yes. According to the GPS tracks, yes.

1 Q So as -- right after he's being shot at he --

2 MS. WALTER: Objection, Your Honor. Same objection.

3 THE COURT: All right. I've already instructed this jury
4 twice that what you attorneys say is not necessarily evidence.
5 Okay.

6 MR. MCCOY: Yes, sir.

7 THE COURT: Now, how many times did I have to say that?
8 So you can go ahead and ask your questions, but I've already
9 -- this is the third time they've heard me say that.

10 MR. MCCOY: Yes, sir.

11 THE COURT: You need to base your questions on what's
12 before the Court, that's properly before, and quit the
13 conjecture.

14 MR. MCCOY: I understand.

15 THE COURT: But I realize what your position is in the
16 case. So I'm giving you some leeway, but try to keep it as
17 clean as you can.

18 MR. MCCOY: Okay.

19 BY MR. MCCOY:

20 Q So, well, we know that -- all right. So when he's
21 running from whatever he's running from, he, he, he's gone for
22 six minutes and then he's back to his house; correct, I think
23 it was till --

24 A He was on Warren Street at 8:52 p.m. where he then
25 arrived back at [REDACTED] White Street at 9:09 p.m.

Robert Butler - Cross by Mr. McCoy

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1 Q But he left, he left Warren at 8:58?

2 A Correct.

3 Q So in total he was gone for nine minutes?

4 A Correct.

5 Q So he goes from the incident location to home in nine
6 minutes; correct?

7 A Correct.

8 Q And in that time he didn't cut off his ankle monitor;
9 right?

10 A He did not.

11 Q And then you arrive at some point and he's still at his
12 house; correct?

13 A Correct.

14 Q And he still has his ankle monitor on; correct?

15 A Correct.

16 Q And was he hiding -- he wasn't hiding in the closet or
17 anything; right?

18 A I don't know where he was.

19 Q Okay. Now, you stated that Dameion and Jamal came and
20 went throughout the day from the party; correct?

21 A Correct.

22 Q As did Calvin for it looks like roughly 15 minutes;
23 correct?

24 A Correct.

25 Q And you don't have any indication that that's some sort

1 of plan by anybody to do anything; correct? You have no idea
2 what, what somebody's motive would be maybe from coming and
3 going to a party; right?

4 A Correct. That would be purely speculation.

5 Q Thank you. No further questions.

6 THE COURT: Mr. Fox?

7 MR. FOX: No questions of this witness, Your Honor.

8 THE COURT: Solicitor?

9 MS. WALTER: Very briefly.

10 REDIRECT EXAMINATION

11 BY MS. WALTER:

12 Q So what happens if the sheriff's office gets a tamper
13 alert on a bracelet?

14 A We immediately do a callout, which means all deputies in
15 the, in the home detention unit respond to the area of the
16 device where it's last found or, or where the last track point
17 is. We attempt to locate the device. When we locate the
18 device then we exhaust all efforts to locate the person who
19 removed it.

20 Q So if you get a tamper alert it sounds like it's sort of
21 an all hands on deck?

22 A It is.

23 Q Would tampering with the GPS monitor be a violation of
24 the GPS program?

25 A It would be.

Robert Butler - Redirect by Ms. Walter

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1 Q Would that violation potentially subject the wearer of a
2 GPS monitor to some type of sanctions?

3 A Yes.

4 Q The same thing with failing to charge or letting the
5 monitor die as I believe Mr. McCoy said, part of the
6 monitoring program is there an agreement that the wearer of a
7 GPS monitor will keep it charged?

8 A Yes. There is.

9 Q If the wearer of a GPS monitor fails to keep it charged
10 is that also a violation?

11 A It is.

12 Q Are you able to track whether or not a monitor has run
13 out of charge?

14 A We are able to through the software to determine whether
15 or not the device is depleted in battery, yes.

16 Q If you recognize that a device's battery is depleted what
17 do you do?

18 A It's essentially the same exact response that a -- we
19 would have for a device be removed because at that appointment
20 we're no longer tracking the individual. So we would report
21 to the last known point of where the device is and then,
22 again, exhaust all measures to attempt to locate the
23 individual wearing the device.

24 Q So if anything stops your ability to gather information
25 from the GPS as, as you're tracking a person, it's all hands

1 on deck to locate the person who was supposed to be wearing
2 the GPS monitor; is that correct?

3 A Correct.

4 Q Okay. And then you, you talked about some speeds. Are
5 you able to, based on your experience, tell us -- how, how do
6 I want to say this -- give a more descriptive term? So I
7 don't know how fast I walk. I don't know whether some people would
8 probably say I walk five miles an hour, maybe two miles an
9 hour. Are you able to gauge whether someone is walking or
10 running based on those speeds?

11 A We can. Yes.

12 Q Okay. And so when Calvin Ford left -- are you able to
13 tell Calvin Ford's speed when he --

14 MR. MCCOY: Your Honor, objection, Your Honor. Not on
15 cross, nothing about speed was discussed on cross.

16 MS. WALTER: Actually, he said when Calvin fled the
17 scene.

18 MR. MCCOY: Has --

19 THE COURT: I'm going to give you leeway.

20 BY MS. WALTER:

21 Q So when -- are you able to tell Calvin Ford, the device's
22 speed, as it went to -- from White Street to Warren Street
23 arriving at 8:52?

24 A Yes.

25 Q What was that speed?

Robert Butler - Redirect by Ms. Walter

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1 A Are you asking when it arrived at Warren Street?

2 Q When it went from White Street and arrived at Warren
3 Street at 8:52 p.m.

4 A I don't have that recorded on here.

5 Q Okay.

6 A But it, it would have been recorded, yes.

7 Q What about when the GPS device left Warren Street at 8:58
8 and did its little run around the neighborhood?

9 A It did travel at speeds between two to five miles an
10 hour.

11 Q And what does that indicate to you?

12 A The individual is either walking fast or running.

13 Q Okay. And then Mr. McCoy had you sort of map where his
14 client went. I believe that when he left Warren Street you
15 testified that he sort of ran around this park?

16 A Yes.

17 Q So would that be consistent with throwing a gun in this
18 pond or lake in Futrell Park?

19 MR. MCCOY: Objection, Your Honor. There's been no
20 evidence about anybody throwing a gun in any park or anything
21 like that.

22 THE COURT: Sustained.

23 MS. WALTER: Your Honor, that's fine. It'll come in.

24 MR. MCCOY: Objection, Your Honor. Recross?

25 THE COURT: Yes, sir.

1 MR. MCCOY: Thank you, Your Honor.

2 RECROSS EXAMINATION

3 BY MR. MCCOY:

4 Q So would, would -- you've been -- how long have you been
5 working at -- over the GPS unit, home detention unit?

6 A Five years.

7 Q So you've seen a lot working over the home detention
8 unit; correct?

9 A Yes.

10 Q I'm not trying to trick you there, man. Well, and people
11 do let their ankle monitors die; correct?

12 A It has happened.

13 Q And people do cut their ankle monitors off; right?

14 A It has happened.

15 Q Off their ankle; correct?

16 A It has happened.

17 Q And after they have cut off their ankle monitors or let
18 them die people do commit crimes; correct?

19 A It has happened.

20 Q And they essentially cut off or let their ankle monitor
21 die to avoid detection of committing those crimes; correct?

22 A I, I don't know why they cut it off. Just the act alone
23 cutting off is a crime.

24 Q But if they, if they, if they think they're about to
25 commit a crime some of them cut them off; correct?

Nick Alter - Direct by Ms. Walter

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- 1 A I couldn't testify against that. I don't know.
- 2 MR. MCCOY: No further questions, Your Honor. Thank you.
- 3 THE COURT: Mr. Fox?
- 4 MR. FOX: No, Your Honor.
- 5 THE COURT: Is that it?
- 6 MS. WALTER: Yes, Your Honor.
- 7 THE COURT: Can he be excused?
- 8 MR. MCCOY: Yes, sir, Your Honor. Thank you.
- 9 MR. FOX: Without objection.
- 10 THE COURT: Thank you, Sergeant.
- 11 A Thank you, Your Honor.
- 12 MS. WALTER: Your Honor, the State would call Nick Alter
- 13 to the stand.
- 14 Whereupon, Nick Alter is called to the stand, duly sworn
- 15 by the Court and testified as follows:
- 16 MS. WALTER: Thank you, Your Honor.
- 17 DIRECT EXAMINATION
- 18 BY MS. WALTER:
- 19 Q Still good morning, Mr. Alter?
- 20 A Good morning.
- 21 Q Just for the record if you could tell us where you work?
- 22 A The Horry County Clerk of Court's Office.
- 23 Q What are some of your duties in your position?
- 24 A File keeping and working trials and courts.
- 25 Q Is the Horry County Clerk of Court's Office responsible

1 for keeping records of criminal convictions that occur within
2 Horry County?

3 A Yes, ma'am.

4 Q Are those records something that is kept in the ordinary
5 course of business?

6 A Yes, ma'am.

7 Q As part of your duties are you often called upon to
8 obtain a certified record of conviction?

9 A We are, yes, ma'am.

10 Q And then testify in court as to conviction that might be
11 relevant in a particular case?

12 A Yes, ma'am.

13 MS. WALTER: May I approach, Your Honor?

14 BY MS. WALTER:

15 Q I'm showing you what's been marked for identification
16 only as State's Exhibit 58 and 59. Are you familiar with what
17 those documents are?

18 A Yes, ma'am.

19 Q Are they, in fact, certified conviction records for the
20 Defendant Calvin Ford?

21 A They are. Yes, ma'am.

22 Q Do those records reflect that the Defendant has a
23 conviction for a violent offense?

24 A Yes, ma'am, they do.

25 Q Can you tell us when that conviction was, what the

Nick Alter - Direct by Ms. Walter

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1 sentence date was?

2 A It is dated August 11th, 2010.

3 Q Nothing further at this time.

4 THE COURT: Anything?

5 MR. MCCOY: Mr. Alter?

6 A Yes, sir.

7 MR. MCCOY: No questions, Your Honor.

8 MR. FOX: No questions, Your Honor.

9 THE COURT: You may step down. Thank you. Anything
10 else?

11 MS. WALTER: Well, Your Honor, our next witness would be
12 probably fairly lengthy. She's the lead investigator. We can
13 start her if Your Honor would like and break in the middle or
14 just break now.

15 THE COURT: How does our lunch stand?

16 THE CLERK: I'm seeing right now.

17 (Clerk and Court confer.)

18 THE COURT: Let's go ahead and break.

19 MS. WALTER: Okay.

20 THE COURT: The clerk's office has ordered lunch for you.
21 You all can step back to your room. Hopefully it'll be here
22 in a few minutes. We'll take an hour since we got to wait a
23 little while. I need Mr. Bilton to approach the bench with
24 counsel. The rest of you can step back.

25 (Whereupon, the following takes place outside the

1 Whereupon, Robert Campbell is called to the stand and
2 testified as follows:

3 DIRECT EXAMINATION - BY MR. HOLFORD

4 Q Is Aliga Campbell your cousin?

5 A Yep.

6 Q Did you give a statement to police involving this case?

7 A Listen, I don't remember nothing.

8 Q Do you remember giving a statement on September 5th, 2017?

9 A No.

10 Q Do you remember if that statement was recorded?

11 A No.

12 Q Do you remember in that statement telling police,
13 Detectives Beam and Amick [spelled phonetically] that you had
14 had a conversation with your cousin Aliga Campbell?

15 A No.

16 Q Do you remember telling police that Aliga admitted to you

17 --

18 MR. FOX: Objection, Your Honor. We're going to object
19 to any -- he said he doesn't --

20 THE COURT: Sustained.

21 Q Would it help refresh your recollection if you heard a
22 copy of that statement you'd given?

23 A No.

24 Q Are you saying to the jury that you don't remember giving
25 a statement or that you did not give a statement?

Robert Campbell - Direct by Mr. Holford

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1 A I don't remember period. I was on drugs, man. I don't
2 know what's going on.

3 Q And so if you heard your voice on this tape, on the tape,
4 would you be able to identify yourself?

5 A Probably not. Like I say, I was on drugs, man.

6 Q And what if you gave your name and address and phone
7 number, would you be able to identify yourself?

8 A No.

9 Q Are you telling the jury you did not have a conversation
10 with Aliga Campbell?

11 MR. MCCOY: Objection, Your Honor. Asked and answered
12 and now we're getting more into the hearsay.

13 MR. HOLFORD: Your Honor, it's not hearsay. It's a
14 statement made by a party opponent.

15 MR. MCCOY: Asked and answered.

16 MR. HOLFORD: Certainly it's got nothing to do with
17 Calvin Ford. It's Aliga Campbell that made the statement.

18 MR. FOX: And again, well, allegedly, and again, same
19 objection, and it has been asked and answered. He said,
20 "Don't remember any of that."

21 THE COURT: Sustained.

22 MR. HOLFORD: Your Honor, the State would seek to
23 introduce State's 60, recorded interview of Robert Campbell at
24 this time. He says he has no recollection of giving the
25 statement and the State seeks to introduce a prior

1 inconsistent statement to that that's on video or on audio.

2 MR. MCCOY: I'm going to object just because that is --

3 what -- nobody knows what any of this is except for Mr.

4 Holford. There's been absolutely nobody say that's, that's a

5 recording. I mean, that could be a Tony Rich project CD for

6 all we know. The guy said he doesn't even remember being

7 recorded, Your Honor. This is not properly the way you

8 introduce evidence.

9 MR. FOX: Same objection, Your Honor. The foundation

10 hasn't been laid at this time.

11 THE COURT: Laying aside that, I sustain the objection at

12 this point. Any other questions you would like to ask him

13 about testifying?

14 BY MR. HOLFORD:

15 Q Are, are you refusing to testify?

16 A I can't testify to something I don't know about, sir.

17 THE COURT: All right. Ladies and gentlemen of the jury,

18 if you all will step back to your room, please.

19 (Whereupon, the following takes place outside the

20 presence of the jury.)

21 THE COURT: That was a little unique situation. You did

22 answer a few questions, but overall, the overall picture is

23 that you're not going to testify. Ms. Pratt, anything you'd

24 like to add?

25 MS. PRATT: No, Your Honor. That is in accord with what

Robert Campbell - Direct by Mr. Holford

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1 he had told me, obviously, in our discussions, which when he's
2 saying exactly what he said he was going to say.

3 THE COURT: All right. So to -- let me make sure I get
4 all my T's crossed and I's dotted. The statements -- previous
5 statements made I am going to sustain the Defense's objection.
6 However, they will be made Court Exhibits in support of my
7 finding of, of Mr. Campbell in contempt.

8 MR. HOLFORD: Your Honor, Rule 803 exceptions against
9 rules of hearsay is recorded recollection, a record that is on
10 a matter the witness once knew about and now cannot recall
11 with enough to testify fully or accurately. He's saying he
12 doesn't recall. There is a CD here that's been turned over to
13 the Defense that has this recorded statement of Robert
14 Campbell on it, and so certainly the State would seek to
15 introduce it. It's an exception to hearsay. He's on the
16 stand. He's subject to cross-examination. He is an available
17 witness. This is not a declarant unavailable. He's
18 available. He's right here in court, and it's a recorded
19 recollection that says he can't recall now. It's his
20 statement.

21 THE COURT: All right. Mr. Fox, his partial testimony
22 here the State may have a point. It may have opened up a door
23 here with this partial testimony.

24 MR. FOX: Well, give me just a moment because there's
25 lots of parenthetical phrases, Judge, and lots of comments,

1 but Judge, he's saying he doesn't even remember making it.

2 THE COURT: You all approach just a minute.

3 (Whereupon, a bench conference is held.)

4 THE COURT: All right. After speaking with counsel, and
5 reviewing that, that rule, it appears from the black-and-white
6 reading of the rule that the State can play that to the jury,
7 but it cannot come in as an exhibit.

8 MR. HOLFORD: Yes, Your Honor.

9 THE COURT: Okay.

10 MR. FOX: Judge, and I understand the Court's ruling but
11 I need to make sure I, I make the record. We have objected.
12 We, we -- our position would be that rather than be a recorded
13 recollection to help refresh or quote from the rule, an
14 insufficient recollection at this point that, in fact, what
15 Mr. Robert Campbell did was refuse to testify and that that
16 makes him an unavailable witness to which none of the hearsay
17 exceptions apply, and therefore, we believe this evidence
18 should not be in this case -- a recorded interview he had with
19 police should not be -- the other -- admitted. The other
20 request we would make is he actually was interviewed twice by
21 law enforcement. My understanding is the State intends only
22 to bring in the first. There is a second one in which he
23 certainly suggests that he's looking for help and, you know,
24 assistance from law enforcement in exchange for whatever
25 statement he may give, and we believe that both should be

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1 available to the jury rather than just a portion of it. So
2 our request would be if they're going to play one, they should
3 -- in, in total they're both probably 30 minutes or so.

4 THE COURT: Well, but he gave partial testimony here when
5 I think everybody in the court assumed that there was going to
6 be no testimony. So that opened up the door according to that
7 rule. That's why I have just made that decision, but he will
8 still be on the stand and he will be subject to cross-
9 examination, too. So keep that in mind, yes, sir. I didn't
10 mean to cut you off.

11 MR. MCCOY: So, no, no, no. It's okay, Judge. So he
12 did say, "I refuse to testify," though.

13 MS. WALTER: He didn't.

14 THE COURT: Any further. He said, "I refuse to testify
15 any further," but he did open the door with those answers he
16 gave that he was -- I can't remember exactly. He said
17 something about he was on drugs or whatever and he couldn't --
18 yeah.

19 MR. MCCOY: Right. So what happens if he says, "I refuse
20 to testify any further now?" I guess we'll just cross that.

21 THE COURT: Yeah.

22 MR. MCCOY: Okay. Thank you.

23 THE COURT: All right. Sheriff.

24 MS. PRATT: May I make a statement for the record, Your
25 Honor?

1 THE COURT: Hold, hold up, Sheriff. Ms. Pratt.

2 MS. PRATT: Your Honor, while you were having the bench
3 conference I had called Ms. West to find out the status that
4 Mr. Campbell was in at the time he made the statement. He had
5 been arrested by Myrtle Beach for a failure to stop for a blue
6 light. He had not yet been assigned an attorney and no
7 application had been sent. I represented him by appointment
8 in December. So at the time that these statements were made
9 it's my understanding he would not have had the benefit of
10 counsel. I don't know if that's important in the mix but I
11 think the Court needs to know that information.

12 THE COURT: Okay.

13 MS. PRATT: And I think he may want to talk to me now,
14 but I don't know if the Court wants to let me.

15 THE COURT: You, you want to talk to her?

16 MR. ROBERT CAMPBELL: Yes, sir.

17 THE COURT: Hold them up.

18 MS. PRATT: Yes, Your Honor.

19 THE COURT: Everybody keep in mind, now, the jury is
20 coming in. Things may totally change. I don't know what the
21 conversation was about.

22 (Whereupon, the following takes place in the presence of
23 the jury.)

24 THE COURT: All right, Solicitor.

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

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1 seek to publish State's 60, a recorded recollection, by
2 reading it into the record by way of playing the audio without
3 entering it as an exhibit.

4 MR. FOX: Your Honor, our, our objection is -- I'm
5 familiar with the rule and the basis of this under Rule 803.
6 However, I think there still has to be some sort of
7 authentication for the actual disc that the Solicitor seeks to
8 play, that this is a true and accurate recording, is a
9 complete recording, nothing has changed about it. So there's
10 going to need to be some testimony in that regard, I
11 believe.

12 MR. HOLFORD: Your Honor, the State's clearly tried to
13 lay the foundation with Mr. Campbell. He says he doesn't
14 remember making this statement. That's the reason why this
15 recorded recollection is going to be played is because he says
16 he can't remember.

17 MR. FOX: Then he will have no way of being able -- I'd
18 assume the follow-up question will be, "Is this -- do you
19 recall making this statement now," and he's -- he doesn't
20 remember, how is he going to say, "Yeah. That was accurate
21 back in 2017"?

22 THE COURT: We'll just have to see. All right. The
23 objections are noted but you may proceed.

24 MR. FOX: Yes, sir.

25 (State's Exhibit Number 60 played in open court.)

- 1 BY MR. HOLFORD:
- 2 Q Mr. Campbell, does that refresh your recollection of the
3 conversation you had with Myrtle Beach Police?
- 4 A No, man.
- 5 Q All right. So you're telling -- what are you telling
6 this jury then?
- 7 A That ain't me.
- 8 Q That's not you?
- 9 A Yeah. I ain't said nothing like that to nobody, man. I
10 was in prison when that happened. How can I testify to
11 something like that?
- 12 Q Do you have brown eyes?
- 13 A You got blue eyes?
- 14 Q I'm asking you
- 15 A I'm asking you.
- 16 MR. HOLFORD: Your Honor, I'd ask you to instruct the
17 witness to answer the question.
- 18 THE COURT: The witness please answer the question.
- 19 A Your Honor, I got brown eyes.
- 20 THE COURT: Okay.
- 21 BY MR. HOLFORD:
- 22 Q Did you live at [REDACTED] White Street?
- 23 A Do I live there?
- 24 Q Did you?
- 25 A No. My parents stay there.

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- 1 Q Okay. Are you cousins with Aliga Campbell?
- 2 A I answered that already in the beginning.
- 3 Q Is there another Robert Campbell?
- 4 A It's a few Robert Campbells.
- 5 Q That's Aliga's cousin?
- 6 A I don't know.
- 7 Q But you want this jury to believe that that's not you on
- 8 the --
- 9 A No. That's not me. I was, I was incarcerated in SCDC.
- 10 Q At -- on September 5th, 2017, when you gave the statement?
- 11 A No. Whenever this went on I was incarcerated. So I have
- 12 no knowledge of, of what happened or how it happened. I never
- 13 said that he said anything to me about no murders, no none of
- 14 that, no.
- 15 Q Okay. So, so you want them to believe that's not you on
- 16 the tape?
- 17 A I can't tell them what to believe. The only thing I can
- 18 tell is the truth.
- 19 Q But you would agree that person on the tape said they
- 20 were cousins with Aliga Campbell and their name was Robert
- 21 Campbell?
- 22 A Would you agree to that?
- 23 Q I would.
- 24 A Oh.
- 25 Q Would you?

1 A I ain't got nothing else to say. I said what I had to
2 say, man.

3 Q And it's true that on there you said that you weren't
4 present that night, just what you're telling them here today?

5 A Your Honor, I ain't got nothing else to say.

6 Q But that everything you had was information you got
7 directly from the Defendant Aliga Campbell?

8 A Listen, I was locked up. I don't know what happened. I
9 don't how it happened. I don't know when it happened, and
10 that's all I got to say.

11 Q You just know what Aliga told you?

12 A That man ain't told me nothing.

13 Q And do you remember saying you were willing to testify
14 and get on the stand? Do you remember saying that? Are you
15 scared? Is that why you don't want to cooperate?

16 A Is you scared?

17 Q No.

18 A Okay.

19 Q Is that why you don't want to cooperate?

20 A I ain't got nothing else to say, man.

21 Q Did someone make threats to you?

22 A Your Honor, I'm through. I ain't got nothing else to say
23 to this guy.

24 THE COURT: All right.

25 CROSS EXAMINATION

Robert Campbell - Cross by Mr. McCoy

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1 BY MR. MCCOY:

2 Q Good morning, Mr. Campbell, afternoon. I'm Jonny McCoy.
3 I'm Calvin Ford's lawyer. At the end of this tape -- Josh,
4 you mind if I play it since we got these speakers right here?
5 Just the very end of it, is that okay with you? You got it
6 here. We're going to go to the end of this tape. Okay, man?
7 You don't have to answer any of my questions yet. You don't
8 got to answer any of them ever. You're a grown man. Hang on
9 one second. How do I get to the end of it? You got to play
10 the whole thing or can I just fast forward it? All right.
11 We're going to go to the very end of the tape. Let's listen
12 to something real quick. What's going on? Is that not how
13 this thing works?

14 MR. HOLFORD: Just play.

15 MR. MCCOY: And it's right here. Is the volume up?
16 Huh? Thank you. The Court's indulgence, Your Honor.

17 THE COURT: Sure.

18 MR. MCCOY: All right.

19 (Portion of State's Exhibit 60 played in open court.)

20 BY MR. MCCOY:

21 Q Speaking of threats and promises, what, what kind of
22 things do detectives offer you when they come to see you in
23 prison or jail to get you to give them a statement?

24 A Well, like I said, I ain't give them no statement.

25 Q But what kind of things do detectives normally come and,

1 and tell you? They threaten if you don't, if you don't give
2 them information that you're going to be locked up?

3 A From what I hear, man, they all type of things. I ain't
4 sure, but all type of things.

5 Q They promise you stuff if you give them information about
6 people?

7 A I mean, you know that as well as I do.

8 Q Come on, man. Is that true or not?

9 A You know that.

10 Q Detectives offer you things if you say something that may
11 help their case?

12 A Of course. You know that.

13 Q And in, and in this case did Detective Beam offer you
14 anything to say anything against your cousin?

15 A I ain't made no statement.

16 Q If I played your second statement, just a few seconds of
17 it, maybe that might help refresh your recollection on whether
18 or not Agent Beam promised you some things and whether or not
19 you thought he could deliver on those promises, maybe. Let's
20 just play it. Okay. It may not be you. Turn it all the way
21 up.

22 (Portion of State's 60 played in open court.)

23 BY MR. MCCOY:

24 Q Now, does that refresh your recollection of you saying,
25 "I mean, Detective Beam did do what he said he was going to

Robert Campbell - Cross by Mr. Fox

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1 do," or is that -- that's not you on the -- or are you still
2 saying that's not you on this?

3 A Yeah, still, yeah, sir, that's not me, man.

4 Q Whoever was on there Agent Beam did something for them;
5 right?

6 A Yeah. That's what it sound like.

7 Q That sounds like it. And then Agent Beam said, "No, no,
8 no, no, no. Let's get this on the tape. We're not allowed to
9 offer you anything. Let's make sure that we have this all
10 right. We're not allowed to give you anything. That's
11 illegal"; right? He broke it all the way down to whoever that
12 was; right?

13 A Yeah.

14 Q By the way, Calvin's name didn't come up on whoever that
15 was; right?

16 A Not that I heard.

17 Q No further questions. Thank you.

18 CROSS EXAMINATION

19 BY MR. FOX:

20 Q All right. Mr. Campbell, I'm Aliga's lawyer. You all
21 aren't first cousins. You're like second or third cousins;
22 right?

23 A Yes, sir.

24 Q Okay. So you're not like close, I mean, you know him, but
25 this isn't like your first cousin, my momma is your daddy's

- 1 sister, that kind of thing; right? It's some distance?
- 2 A Okay.
- 3 Q Okay. So you agree with that. Now, I want to clarify
- 4 what you said to the Solicitor. You said this, "Didn't say
- 5 that, didn't do that because I was locked up." Right? Do you
- 6 remember saying that?
- 7 A Yes, sir. I was in prison.
- 8 Q And you're talking about you were in prison. In fact,
- 9 you're in prison again now; right?
- 10 A Yeah. I'm in prison right now.
- 11 Q All right. Doing a five-year sentence?
- 12 A Yes, sir.
- 13 Q Pled last month?
- 14 A Yes, sir.
- 15 Q Okay. In this courthouse; correct?
- 16 A Yes, sir.
- 17 Q Prosecuted by this Solicitor's Office?
- 18 A Yes, sir.
- 19 Q Okay. On a burglary charge; correct?
- 20 A Yes, sir.
- 21 Q Facing 10 years?
- 22 A Yes, sir.
- 23 Q Got a five-year sentence?
- 24 A Yes, sir.
- 25 Q Okay. And but on a separate charge back in 2016 you were

Robert Campbell - Cross by Mr. Fox

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- 1 in the Department of Corrections?
- 2 A Yes, sir.
- 3 Q And your testimony is in July and August of 2016 you were
- 4 in prison; is that right?
- 5 A Yes, sir.
- 6 Q Okay. So if you're in prison --
- 7 A No. I was in prison. I got out of prison in May of '16.
- 8 Q May of 2016?
- 9 A Yes, sir.
- 10 Q Went back into the department of -- back at J. Reuben
- 11 Long at any time over that summer?
- 12 A I can't remember.
- 13 Q Okay. Now, you have a history, I think you've already
- 14 admitted, to burglary. You have a history. That was a petit
- 15 larceny enhancement that sent you to prison in 2016; correct?
- 16 A Yes, sir.
- 17 Q For stealing. The burglary you're in prison for now, I
- 18 don't have time. You've got a history of certain criminal
- 19 activity; correct?
- 20 A Yes, sir.
- 21 Q Okay. You have a history of drug use; correct?
- 22 A Yes, sir.
- 23 Q Okay. Fair to say you've been a drug addict at times in
- 24 your life?
- 25 A Yes, sir.

1 Q Fair to say that that makes you sometimes desperate?

2 A No. Not desperate enough to tell on my people.

3 Q Okay.

4 A Especially on something I don't know.

5 Q Something you don't know. Now, you heard what your
6 request or whoever this mystery person was on this audio to
7 make sure Detective, Detective, Detective Team -- Beam did do
8 what he said he would do; right? You heard that?

9 A That's what I heard.

10 Q Okay. And that would suggest that there was something
11 that would be -- whoever was talking, whether it was you or
12 not, that there was something that help was requested and
13 Detective Beam delivered; correct?

14 A I don't know if he delivered or not because that wasn't
15 me, sir.

16 Q That wasn't you, and in your -- now, there were two
17 interviews. Mr. McCoy played a second interview with this
18 unknown person; right? You heard that; right? So the State
19 played just one, but in that second one the person on that
20 second, this mystery person, said, "I'm not sure if you all
21 can help me or not." The person clearly asked for help. Do
22 you remember telling the police that?

23 A (Indicating.)

24 Q Okay. And --

25 THE COURT: What was the answer?

Robert Campbell - Cross by Mr. Fox

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- 1 A No, sir.
- 2 Q Just a no, sir. You weren't present on Warren Street
- 3 when the shooting happened?
- 4 A No, sir.
- 5 Q You didn't see anybody shoot anybody?
- 6 A No, sir.
- 7 Q You don't know what happened on Warren Street?
- 8 A No, sir.
- 9 Q You have no idea?
- 10 A No, sir.
- 11 Q All right. And your testimony is you don't remember
- 12 nothing about nothing?
- 13 a No, sir.
- 14 Q Okay. And the -- and you -- do you remember telling the
- 15 police in your second interview about five days after the
- 16 first that, "No, Aliga didn't tell me he ever shot anybody"?
- 17 Do you remember saying that to the police?
- 18 A I never --
- 19 Q "Aliga did not tell me he shot anybody"?
- 20 A I --
- 21 Q And then that's when the officer says, "Whoa, whoa, whoa,
- 22 that doesn't help me," what you just heard Mr. McCoy play for
- 23 you; right, where the officer says, "Wait. Don't give me a
- 24 contradictory statement. That doesn't support our theory of
- 25 the case here." You remember that? You hear that; right?

1 You heard that?

2 A I heard that.

3 Q Okay.

4 A But like I said, sir, it wasn't me.

5 Q Wasn't you. Okay. Thank you. I have no further
6 questions of this witness.

7 MR. HOLFORD: Your Honor, I have no further questions for
8 Mr. Campbell. I would ask that our next witness, Jeremiah
9 Beam, at least be able to see Mr. Campbell before he leaves
10 the courtroom as he'll be able to identify that that's the
11 person he talked to.

12 MR. FOX: Your Honor, I apologize. There is something --
13 I know I said I had no further, but we're not taking the next
14 step, I do, in fact, have another question or two to ask.

15 THE COURT: Sure. Go ahead.

16 MR. FOX: I apologize because I --

17 THE COURT: That's all right.

18 MR. FOX: Since we haven't moved to the next step.

19 BY MR. FOX:

20 Q Mr. Campbell, you were recently incarcerated at J. Reuben
21 Long on this, a failure to stop for a blue light charge;
22 right, 2017?

23 A Yes, sir.

24 Q All right. And that's, and that's where, okay, so a
25 failure to stop, and then when were you arrested on the