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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**Appeal from Dorchester County
Hon. Diane Schafer Goodstein, Circuit Court Judge**

Appellate Case No. 2020-000095

The State Respondent,

vs

Keunte D. Cobbs Appellant.

**RECORD ON APPEAL
VOLUME II**

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1 to happen with your notepads. That's why you have that
2 cover sheet. That cover sheet will act as a cover
3 sheet. And in just a moment, our bailiffs are going
4 to get those. And they're going to be secured over
5 the evening.

6 And in the morning, just before you come
7 out into the courtroom, they will help you reacquaint
8 yourself with your notepad, so you get your notepad.
9 And they'll do that -- they'll help you do that in
10 the morning. But they will be secured over the balance
11 of the evening. Have a terrific evening, and I cannot
12 wait to see you in the morning. Good night.

13 (The jury exits the courtroom at 4:51 p.m.)

14 THE COURT: Yes?

15 MR. SPEARS: Nothing from the State,
16 Your Honor.

17 MR. CHISHOLM: Nothing, Your Honor.

18 THE COURT: All right. We will be at ease.

19 (End of Transcript of Record)
20
21
22
23
24
25

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

COURT OF GENERAL SESSIONS
2016-GS-18-1267

State of South Carolina)

) TRANSCRIPT OF RECORD

-vs-)

) January 8, 2020 - Vol 3 of 4

Keunte Cobbs)

) St. George, South Carolina

B E F O R E:

The Honorable Diane Goodstein, Judge

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Circuit Court Reporter for the
First Judicial Circuit

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DIRECT EXAMINATION - MR. SPEARS

1 THE COURT: Please be seated. Good morning.
2 I understand you all have some ---

3 MR. SPEARS: Yes, Your Honor.

4 THE COURT: All right. Whatcha got?

5 MR. SPEARS: In regard to our motions for
6 Agent Smith, I will request to be able to put him on the
7 stand for a brief couple of questions, just a part of
8 final argument for clarification purposes. If I could
9 just elicit a little bit more testimony from Agent Smith
10 in regards to the shell casing and projectile.

11 THE COURT: Gotcha. Okay. All right.

12 MR. SPEARS: State calls Agent Smith.

13 THE COURT: Because he was on the stand
14 anyway, he's got to be back here whether he wants to
15 be or not. Good morning.

16 THE WITNESS: Good morning. How are you?

17 THE COURT: I'm so glad you made your way
18 back.

19 THE WITNESS: Yes, ma'am.

20 DIRECT EXAMINATION

21 BY MR. SPEARS:

22 Q. Agent Smith, I'm showing you what's been marked
23 as State's 69. This is the previously discussed
24 projectile.

25 MR. SPEARS: If I may approach, Your Honor?

CROSS-EXAMINATION - MR. LOY

1 THE COURT: You may.

2 BY MR. SPEARS:

3 Q. Is this the container -- the package that you
4 received that item in?

5 A. Yes, sir. The bullet was received in this Ziploc
6 bag.

7 Q. And in that bag, with the casing, is there
8 a note?

9 A. There is. It appears to be a posted note.

10 Q. What does that note say?

11 A. On one side it says IHOP 3242, shooting 6/5/2016,
12 case number 16005645, Detective Elmore, 843-693-4996.
13 That's the cell -- the cell number. On the other side
14 of the note it says found in men's room during cleanup
15 by district manager Chris Morris, 843-617-9113.

16 MR. SPEARS: That's all the questions
17 I have, Your Honor.

18 THE COURT: Sure.

19 CROSS-EXAMINATION

20 BY MR. LOY:

21 Q. Who wrote the note?

22 A. I could not tell you.

23 Q. And, essentially, it's got a case number,
24 which is the case number that law enforcement identified
25 -- you knew which bag to put it in. I mean, it arrived

CROSS-EXAMINATION - MR. LOY

1 and somebody decided this is the case we're looking at?

2 A. Correct. This was received with the other
3 evidence that I received for examination.

4 Q. So, basically, this confirms that it was received
5 with the other evidence, and that someone put a note in
6 there?

7 A. Correct. Other than what's, you know, submitted
8 with this ---

9 Q. As far as the authenticity of it, who wrote it,
10 whether it's accurate, when it was supposedly recovered,
11 by whom, or if the person who wrote the note even had
12 firsthand knowledge that that's what happened, or if
13 someone told them what happened, historically, you can't
14 clear anything up for us, except once the bullet got to
15 you, these are the procedures you performed and the
16 findings you received?

17 A. That's correct.

18 Q. Thank you.

19 THE COURT: All right. Let me go back
20 and ask this question. Specifically, what is it that
21 you are offering into evidence?

22 MR. SPEARS: Your Honor, simply we're trying
23 to offer the shell casing.

24 THE COURT: Okay.

25 MR. SPEARS: And the projectile.

1 THE COURT: Okay.

2 MR. SPEARS: Solely for the testimony that
3 they were not fired by the two victims' guns.

4 THE COURT: You're not trying to put this
5 note in?

6 MR. SPEARS: Your Honor, it's in the sealed
7 package, but I consent to having it taken out. It's in
8 the evidence bag and sealed.

9 THE COURT: Okay, okay.

10 MR. SPEARS: Yes, ma'am.

11 THE COURT: All right. Obviously, the note
12 is not going back to the jury for so many reasons.
13 All right. This will be the determination and the
14 reasoning. 69 and 70, because this expert has been able
15 to opine that these -- that neither of these exhibits
16 are associated, and I know this is a general term, but
17 he uses his technical terms, associated with the weapons
18 that were found in the proximity of the alleged victims,
19 I will allow him to testify as an expert regarding that.

20 I think that there is sufficient
21 authenticity offered, and I don't point to the note.
22 I point to the gentleman that testified. I think he's
23 the vice president of the IHOP, the gentleman that
24 testified, that delivered them, received them, delivered
25 them.

1 I have heard the testimony of this expert.
2 And what Agent Smith says is that he can testify within,
3 I gather, a reasonable degree of certainty. But as an
4 expert, he can testify that these casings, the
5 projectiles, were not associated with the two weapons
6 found in the proximity of the alleged victims.

7 And I do that, I make that determination so
8 everyone is clear, out of the discretion surrounding the
9 admissibility of evidence and the gatekeeping function.
10 And there's a whole litany of cases that point to that,
11 one is State v. White and State v. Anderson. There are
12 a number of cases that I could also point to.

13 Now, I do not believe that there is
14 sufficient foundation laid for this witness to opine
15 that -- on any kind of direct testimony to give an
16 expert opinion that these projectiles, casing, were
17 or were not associated with the Defendant's weapon,
18 or weapon found and associated with the Defendant
19 for this reason.

20 The temporal nature of the foundation
21 is unimportant with regards to the expert opinion
22 that I'm allowing in. It is critical with regards
23 to the Defendant. So -- and let me give an example.
24 If the projectile was -- or the casing that is
25 identified with the Defendant's weapon, if it was fired

1 yesterday, so tremendous importance and difference than
2 if it was fired on the 6th of June 2016. And that is --
3 that temporal element, while it is unimportant with
4 regards to the opinion, which is offered with regards
5 to the other two weapons, it is critical with regards
6 to the Defendant.

7 I do not believe that this foundation
8 sufficiently -- is sufficiently authenticated to allow
9 this expert to testify regarding the relationship
10 between 69 and 70 and the Defendant's weapon. Okay.
11 Done. All right, anything else?

12 MR. SPEARS: Your Honor, I believe the
13 defense has two other quick motions.

14 THE COURT: Okay. Yes?

15 MR. CHISHOLM: Thank you, Your Honor.
16 It's kind of an anticipatory, I guess, motion you would
17 say. My understanding is the State intends to call
18 Detective Mosier to the stand.

19 THE COURT: Okay.

20 MR. CHISHOLM: And my understand is that,
21 essentially, one of the witnesses from yesterday put
22 into evidence a picture of what they say is Mr. Cobbs
23 in the IHOP restaurant. A person was sitting at a table
24 that happens to be videoing. And I believe the State
25 would like to call Detective Mosier to come in and say

1 that he saw this photograph and recognized Mr. Cobbs
2 from, I guess, his background. And, therefore, that's
3 how they got him as a suspect, initially.

4 My concern would be, obviously, this gives
5 an inference that they've had prior law enforcement
6 contact with Mr. Cobbs. And also, I mean, we conceded
7 it in opening, and I'm going to go ahead and tip my
8 hand, I'm going to concede in closing that the guy
9 in the red shirt is Mr. Cobbs. I don't think it's
10 important for them to get in it at this point.
11 And I think it does cause concern -- the jury to be
12 looking at him, saying how does he know him.

13 THE COURT: Well, let me also remind you
14 that the -- and I apologize that I don't recall her
15 name, the young woman who testified who was in the
16 photo, who's the subject of the photo. She identified
17 that it was the Defendant who -- and don't young people
18 use the term photo bomb. Is that the new phrase when
19 someone appears in a photo, puts themselves in
20 somebody's else selfie?

21 MR. CHISHOLM: Yes, ma'am.

22 THE COURT: And I think she identified
23 him, which is really the best evidence. The photo
24 is the best evidence, and that would be a step away.
25 I understand your concern. Let me hear from you.

1 MR. SPEARS: Just briefly, Your Honor.

2 THE COURT: Okay.

3 MR. SPEARS: The nature of the testimony
4 is one, obviously, the identification, even though that
5 has been conceded. But the Defendant wasn't immediately
6 identified at this point in time until the video came
7 in. And Ms. Pulliam didn't even identify him at that
8 point in time. It was -- the first instance of Keunte
9 Cobbs being the man in the red shirt was when at the
10 time Detective Moiser identified that. That's the
11 jump-off point of the investigation. That would be
12 the nature of that.

13 THE COURT: Tell me why that matters?

14 MR. SPEARS: I think it would be important
15 for the jury to understand when he was initially
16 identified, Your Honor.

17 THE COURT: Okay. Let me say this. Let me
18 say this to you. Do not allow him to respond to that
19 question. I tend to agree with Mr. Chisholm. I'm not
20 going to allow him to intimate we know him because we
21 dealt with him. I'm a law enforcement officer, and I've
22 dealt with him, and I know him. We're not going there.
23 And there's -- number one, it's not an issue.

24 Number two, he's on video. Number three,
25 he's in a photo bomb, and that's just simply gentleman

1 in the red shirt is not an issue in this case.

2 And we are not going to interject other stuff.

3 MR. SPEARS: And, Your Honor, in abundance
4 of caution what I think I'll do is just strike him from
5 our witness list. I don't want any ---

6 THE COURT: I understand.

7 MR. SPEARS: --- accidental testimony.

8 Yes, ma'am.

9 THE COURT: Very well. Thank you.

10 What else you've got?

11 MR. CHISHOLM: The other issue I would have
12 relates to a State's witness. I believe it's Corporal
13 Nate Green. He's with the jail. He's in here right
14 now. But, basically, my understanding is the State
15 in the last trial and in this trial, they intend to
16 introduce a phone call that was made by Mr. Cobbs while
17 at the jail.

18 My concern would be this violates equal
19 protection, fundamental fairness, a variety of different
20 issues, and that basically the situation defendants find
21 themselves in is if they cannot bond out of jail because
22 they don't have the financial resources, as the case
23 here, he had a bond, he just couldn't make it. They are
24 in a situation where they have no contact whatsoever
25 with the outside world.

1 If they have somebody come and see them,
2 it's recorded. If they make a phone call, it's
3 recorded. They can talk to me, but as far as having
4 any contact with the outside world that isn't, you know,
5 surveilled, I guess you could say, they don't have that
6 opportunity. I will acknowledge, obviously, I believe
7 the phone calls when you make a call, it does say ---

8 THE COURT: Yes, it does.

9 MR. CHISHOLM: --- that you're
10 being recorded.

11 THE COURT: Yes, it does, a couple of times.

12 MR. CHISHOLM: The privacy rights.

13 I understand that. But, you know, my understanding is
14 they've got these in place for security purposes, you
15 know. If they have a threat that's, you know, rumored
16 to be on the outside, they can look into it, investigate
17 it. It's intended to be, basically, an extension,
18 just an arm of law enforcement to get extra information
19 on a defendant, which is how they basically routinely
20 use it.

21 THE COURT: And, yes, they do. Overruled.
22 I'm going to allow that in. Now if something has
23 absolutely nothing to do with this, and it's not
24 relevant, but I'm not just going to on that basis.
25 Overruled. Jail calls -- those jail calls, unless this

1 one is unique, and you want me to listen to it,
2 I'm excited and happy to listen to it. But I have
3 listened to many, many hours of jail calls, and without
4 exception, because they hire a company, and the company,
5 you know, you're told 45, no, no that's an exaggeration.
6 But you're told that it is recorded. You are told at
7 the beginning of the call, it's going to be recorded.
8 And the person who is being called is told that it is
9 going to be recorded.

10 So, I know -- it is my belief in all
11 the ones that I have listened to, and it's a lot,
12 individuals are told twice that the call is recorded,
13 both when it is initiated -- at initiation, and then
14 before the individual who is being called picks up.
15 So they also know. So for that reason ---

16 MR. CHISHOLM: No, I understand, Your Honor.
17 I would have a request. In this last trial, what they
18 did is they had a clip that was pulled out of, you know,
19 one phone call because there's a lot of stuff that went
20 into attorney/client privilege, and I think the State
21 conceded that. I would ask if the Court could hear
22 the call ---

23 THE COURT: Sure.

24 MR. CHISHOLM: --- to determine the
25 relevance, and make sure there's nothing else on it.

1 THE COURT: Sure. I'm happy to do that.

2 MR. SPEARS: Just for clarification,
3 Your Honor, the State didn't concede the attorney/client
4 privilege part of the last one. That's a part of what
5 we were trying to get in. But I'll happily play the
6 whole thing for you right now, Your Honor.

7 THE COURT: Okay. Absolutely. Would you
8 just tell the jury that we're not going to be long.
9 But there's a matter that I'm tending to, and will be
10 with them shortly. Enjoy that biscuit.

11 (Phone call played in open court.)

12 MR. SPEARS: That would be all, Your Honor.

13 THE COURT: Okay. Yes, sir.

14 MR. CHISHOLM: Your Honor, I mean, when it
15 comes to prejudice, I don't think you can be more
16 prejudicial than this. I mean, basically, the entirety
17 of the conversation is here's what I was talking about
18 with my lawyer. We're talking about our possible
19 defenses, issues to raise, and all of that. I mean,
20 the entirety of the conversation is the discussion that
21 we had. So, I think it should be kept out.

22 I mean, if he were to testify, and they
23 would offer in reply to rebut self-defense or something
24 like that, that would be another issue. But as far as
25 them just putting a witness up and hitting play without

1 that being the scenario, I think the prejudice is,
2 you know, pretty overwhelming. And I think it should
3 be covered by privilege.

4 THE COURT: Well, unfortunately, it's not
5 covered by privilege because it belongs to your client.
6 He can waive it, if he wishes to waive it. He clearly
7 waived it because I don't believe that is you with whom
8 he is speaking. I think it is someone else. It is a
9 female voice. And clearly I know your voice, and that
10 is not you. He clearly is having a conversation with
11 someone who is not a lawyer. Privilege belongs to him.
12 And he can waive it or not by having a conversation with
13 someone other than his attorney. He's clearly waiving
14 the attorney/client privilege.

15 Obviously, he is also having a conversation,
16 not only about self-defense, but he's having a
17 conversation about who's not going to testify in this
18 trial. Although, they know the solicitor is in need
19 of that testimony because he's already talked to him.
20 Tell me why that wouldn't be relevant?

21 MR. CHISHOLM: Your Honor, that was the
22 portion that they entered in the last trial to say that
23 -- so they can argue, you know, that he had been in
24 touch with them and all of that.

25 THE COURT: Yes.

1 MR. CHISHOLM: Which, obviously, I objected
2 to. But I think it was a different scenario than the
3 other stuff, about what we discussed, trial strategy,
4 self-defense, and all of that. I guess there's
5 ambiguity in there about -- I talked to him about
6 what he talked to them about and all of that. I mean,
7 I understand that it's up for interpretation.

8 THE COURT: It is. It absolutely is,
9 but it certainly is relevant. All right. Anything
10 further?

11 MR. SPEARS: I mean, just briefly, Your
12 Honor, in regards to prejudice. The State in their --
13 the defense in their opening has already raised the two
14 victims in this case, or the one victim with another
15 person as assassins, and said who's predator and who's
16 prey in this scenario. I think that clearly this
17 is required to come in -- allowed to come in because
18 it looks like a self-defense argument already.

19 MR. CHISHOLM: The last thing that I didn't
20 point out was not only the prejudice to him. I mean,
21 you know, how it all appears on the tape. But, I mean,
22 it pretty much cast us in a pretty poor light, in that
23 he's saying, basically, I'm trying to force him into
24 a strategic decision he doesn't agree with.

25 I mean, it casts the defense team in

1 a pretty bad light, which I think also causes kind of
2 a separate layer of prejudice. They're trying to make
3 me say this, or they're trying to make me go this
4 direction, which puts us in an odd spot.

5 MR. SPEARS: And, Your Honor, that's
6 completely understandable. The State is not trying
7 to cast any issues towards the defense team on this.
8 It's just simply what he was saying, and if there's
9 an argument about self-defense. He's literally at
10 one point in time said, "I don't know nothing about
11 self-defense. I didn't shoot nobody." That's it.

12 THE COURT: And that's his position.
13 I mean, his, you know -- in terms of that part of the
14 conversation, this would be my observation. It is the
15 Defendant's position that he had nothing to do with this
16 event. You're his attorney. Obviously, as you have
17 conversations in your representation of him, you have to
18 deal with the physical realities of what was occurring.
19 And based on the information that you had, I think,
20 quite frankly, it would have been malpractice for you
21 not to have examined fully that theory of law.

22 And it is -- for my mind, it was an
23 extraordinarily appropriate conversation for you to
24 have. You know, being charged with a serious crime
25 is a terribly frightening experience for human beings.

1 And lawyers are charged with a very difficult
2 responsibility to -- in the face of people who are
3 being frightened and have a position to begin to have
4 a conversation about the physical realities, and what
5 very well may have been going on.

6 You were not there. You looked at the
7 physical evidence. And as it has already been argued,
8 you have a gentleman that goes to the bathroom, you have
9 people that come in immediately, and they bypass the
10 hostess, and they immediately go to the bathroom.
11 It would have been malpractice for you not to have begun
12 a conversation with your client to explore, to
13 investigate. You know, I think it ---

14 MR. LOY: Can I just ---

15 THE COURT: --- takes pretty good lawyering.
16 But that's not his position, and he was very clear about
17 that. Yeah?

18 MR. LOY: If I could?

19 THE COURT: Yeah.

20 MR. LOY: Just as one more layer ---

21 THE COURT: Sure, sure.

22 MR. LOY: --- and that is, my understanding
23 would be self-defense is an affirmative defense, in that
24 there would be no charge. It wouldn't be before the
25 jury, et cetera, unless someone gets on the witness

1 stand and testifies as to some evidence of self-defense.
2 I don't think it's fair for the State to set up that
3 defense for us just for the purpose of knocking it down.
4 So unless there's some evidence of self-defense when
5 it was offered, they don't have to knock it down,
6 they don't have to beat it.

7 And in the last trial -- we've tried
8 this case once. The Defendant did not testify,
9 the defense didn't call anyone. No one else got up
10 and offered any evidence of self-defense. Again,
11 I don't think it's fair for them to be able to refute
12 just for prejudicial nature a defense that's not been
13 offered.

14 Again, if the defense were offered of
15 self-defense, that scintilla would get us the charge,
16 then obviously, they would be entitled to introduce
17 this. But at this stage, there is no evidence of
18 self-defense. Self-defense is not an issue in the case,
19 unless someone gets up and testifies.

20 Your Honor is not going to, I don't believe,
21 charge self-defense without the State -- without the
22 defense calling witnesses, someone to support it.
23 There's not anything in the State's case which I think
24 would substantiate a request for a self-defense charge.
25 We didn't get it last time, or asked for it, I don't

1 believe. And at this point, we're certainly not
2 entitled to it.

3 So if we're not entitled to it, there's not
4 going to be an instruction to the jury, nobody is going
5 to argue it at this point. I don't think they should be
6 able, again, to set it up just so they can knock it down
7 with this particular tape, Your Honor.

8 THE COURT: I'm with you. My concern
9 is that in the opening statement, as I recall, and y'all
10 correct me because there has been a lot of argument, and
11 there was conversation about the two assassins that came
12 into the bathroom. And that's in -- it's in the case.
13 And the reality is it's got to be dealt with by the
14 State. Yes?

15 MR. LOY: My understanding is the Court will
16 instruct the jury that opening as well as close are not
17 evidence, that they are to decide the case based on the
18 evidence that is presented ---

19 THE COURT: Already told.

20 MR. LOY: --- and that would be reiterated.
21 I have no reason to think the jury doesn't incorporate
22 that instruction and the rest of the Court's
23 instructions and apply it as they are instructed to do,
24 So again unless there is evidence of that, I don't think
25 there's any right on their part to refute a defense

1 that's not offered.

2 THE COURT: I understand. Got it.

3 All right, just a second.

4 (Pause.)

5 THE COURT: Very well. Noting the exception
6 of the defense, it comes in. I think that -- I don't
7 find it unduly prejudicial. It certainly can be
8 perceived that it is the defense's position he had
9 absolutely nothing to do with shooting these people,
10 that while his lawyer had a conversation about
11 self-defense, why would self-defense apply when he had
12 nothing to do with it. These were -- he says at one
13 point these were his friends. These were his homeboys.
14 These were his friends. Why would he -- he just didn't
15 have anything to do with it, and that's his position.

16 And the other part that I do think is
17 relevant is the portion where he says he made phone
18 calls to the witnesses, and I certainly think that's
19 relevant for this jury. So note your exception for
20 the record. All right. What else you've got?

21 MR. SPEARS: Your Honor, I think that's it.

22 MR. CHISHOLM: That's it, Your Honor.

23 THE COURT: Let me have the jury. And I'm
24 going to instruct him do not talk about that note.

25 MR. SPEARS: Yes.

1 THE COURT: If there's any conversation
2 about this bag, this seal having been broken, do not
3 talk about that.

4 THE WITNESS: Yes, ma'am.

5 (Jury enters the courtroom at 10:35 a.m.)

6 THE COURT: Hold on one second. Y'all come
7 here for a minute.

8 (Off-the-record conversation held at sidebar.)

9 (Back on the record.)

10 THE COURT: Yes, ma'am, Juror 102. I have
11 your note. I'm so sorry you're feeling -- I'm watching
12 you trying to walk. You need to go home, correct?
13 Thank you so much. I'm going to -- can you all let her
14 come on out. Thank you. Ease yourself. Do we need to
15 drive you home? Could we help you in any way?

16 THE JUROR: I've got to -- I'm sitting up.

17 THE COURT: We will help you. We will do
18 anything we can. We'll call an ambulance. I'll do
19 whatever you need. Do you want us to drive you home?

20 THE JUROR: I think I can drive. It's just
21 -- I don't know. It's like sharp pain. I don't know.
22 I can drive, but as long as I got my back sitting up
23 and stretching my muscles.

24 (Off-the-record conversation.)

25 (Back on the record.)

—DIRECT EXAMINATION - MR. SPEARS—

1 THE COURT: All right. Now please check
2 and be sure that you have your notepad. All right.
3 You may proceed.

4 MR. SPEARS: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. SPEARS:

7 Q. Good morning, Agent Smith.

8 A. Good morning.

9 Q. Now continuing from your testimony from
10 yesterday, if we could just clarify that you have made
11 comparisons with State's 78 and 77, correct?

12 A. Yes, sir.

13 Q. All right. Now, I'm showing you what's been
14 marked as State's Exhibits 69 and 70.

15 MR. SPEARS: If I may approach the witness,
16 Your Honor?

17 THE COURT: Yes.

18 BY MR. SPEARS:

19 Q. Do you recognize these items?

20 A. Yes, sir. This was a fired bullet and fired
21 cartridge case that I received for examination.

22 Q. And were you able to perform an examination in
23 comparing those to these firearms, State's 78 and 77?

24 A. Correct. I compared the two pieces of evidence
25 with the test fires from the firearms.

DIRECT EXAMINATION - MR. SPEARS

1 Q. And as to State's 69, were you -- within a
2 reasonable degree of scientific certainty, were you able
3 to determine if that was fired by either one of these
4 handguns?

5 A. I was able to conclude that State's Exhibit 69
6 fired bullet was not fired by either of the firearms
7 based on the differences of class characteristics.
8 Again what I was talking about yesterday, the number
9 of lands and groves, the type a rifling, the direction
10 of the twist of the rifling.

11 State's Exhibit 69 had six lands and groves,
12 with a right-hand twist, conventionally rifled.
13 And again the two firearms, the Smith and Wesson,
14 had five lands and groves, and the Glock had polygonal
15 rifling. So, I can negate those two guns from having
16 fired this fired bullet.

17 Q. And as to State's 70?

18 A. State's Exhibit 70 also was not fired by either
19 firearm based on class characteristics and/or individual
20 characteristics. It just had different characteristics
21 than what those two firearms would have.

22 Q. All right.

23 MR. SPEARS: Please answer any questions
24 the defense might have for you.

25 THE WITNESS: Okay.

CROSS-EXAMINATION - MR. CHISHOLM

1 THE COURT: Cross-examination.

2 MR. CHISHOLM: Thank you, Your Honor.

3 May it please the Court.

4 THE COURT: Yes.

5 CROSS-EXAMINATION

6 BY MR. CHISHOLM:

7 Q. Good afternoon, Mr. Smith.

8 A. Good morning.

9 Q. Good morning. All right. Obviously, you receive
10 items from law enforcement pretty routinely in your
11 position; is that correct?

12 A. Yes, sir.

13 Q. And when you get it, I mean, you kind of get what
14 you've got, in that you don't know the back story from
15 guns or bullets, projectiles, whatever the case may be.
16 You don't know the back story of what happened on
17 a crime scene, who was involved. Unless they put it
18 in their notes to you, you don't have any personal
19 knowledge of what happened; is that correct?

20 A. Correct. Typically, we have limited knowledge.
21 We could, I guess, investigate an incident report,
22 if there needs to be a certain question that needs
23 to be answered, or if law enforcement may give us
24 certain details. But, typically, we have limited
25 knowledge about what happens in a case. We just kind

CROSS-EXAMINATION - MR. CHISHOLM

1 of treat all evidence the same, you know, what we're
2 supposed to do with it as far as examination and
3 testing. So we just kind of go with that.

4 Q. But in a case like this, you wouldn't have any
5 firsthand knowledge of what happened at the scene of
6 the crime; is that correct?

7 A. Correct.

8 Q. I mean, obviously, you weren't there or anything
9 else. You pretty much get these items and test them
10 as you receive them?

11 A. Yes, sir.

12 Q. Okay. You mentioned something about checking for
13 function when you receive the firearm. Can you explain
14 that to me, what that means exactly?

15 A. Sometimes we get firearms that are not in so
16 great condition. They've been tossed out of a window or
17 a moving car or something like that, or they just might
18 not have been kept up with, have rust or broken parts.

19 So in order to -- first, to be able to test fire
20 a firearm, you have to see if it's going to work. Check
21 it over, see if there is any obvious defects. And then
22 we could, basically, just examine it. And the next step
23 would be to test fire it.

24 So, basically, it's just a step to see if
25 everything is working properly, if there's going to

CROSS-EXAMINATION - MR. CHISHOLM

1 be sort of problems test firing the gun, or, you know,
2 it could be unsafe to fire some guns. But the two
3 firearms I received were in working order.

4 Q. So, I guess, the simple version of my question
5 is you want to see if the gun will shoot, or if you can
6 make it shoot?

7 A. Correct.

8 Q. Okay. And do you have any knowledge when you get
9 a gun, can you look and say, well, I can see this gun
10 had problems in the past, or is it pretty much you're
11 looking to see if you can get it to fire so you can do
12 the examination?

13 A. Right. Yeah. We really don't know the history
14 behind these guns most of the time. Some of them may
15 have been found under a house or something, exposed to
16 moisture, expect to see rust, and some other corrosion.
17 But, typically, we just look at a gun, and see if we can
18 test fire it to see if it would work, and compare those
19 test fires with submitted cartridge cases or bullets.

20 Q. Okay. And could you please tell the jury, the
21 two firearms you received and the projectile -- I guess,
22 cartridges that you received. Can you tell if the guns
23 were filled to capacity? If you received, you know,
24 a full magazine, or if there were some missing? Do you
25 remember that? Is that in your report?

CROSS-EXAMINATION - MR. CHISHOLM

1 A. Yes. The firearms did come with magazines, which
2 -- the cartridges for firing. The Smith and Wesson
3 pistol, 40-caliber, had a magazine capacity of 14
4 rounds. So the magazine itself would hold 14 rounds.
5 But you can actually get another -- the full capacity
6 of the firearm would be 15 rounds. If you had one in
7 the chamber, and then the magazine was at full capacity,
8 it would be 15 rounds.

9 The Glock pistol 9-mm came with a ten-round
10 magazine. So again the magazine can hold ten rounds,
11 and you can have one in the chamber for the total
12 capacity of that firearm being 11 rounds.

13 Q. So neither gun was at capacity when you received
14 it?

15 A. Correct. The Smith and Wesson was received
16 with ten unfired cartridges. And the Glock was received
17 with eight unfired cartridges.

18 Q. And I'm guessing you couldn't say whether that's
19 because the gun had been fired and some cartridges have
20 been expelled, versus if it might have just been loaded
21 in the magazine without loading it fully; is that
22 correct?

23 A. Correct.

24 Q. And you can only examine what's turned in to you;
25 is that correct?

CROSS-EXAMINATION - MR. CHISHOLM

1 A. Yes, sir.

2 Q. So if I fired a revolver in here, and there would
3 be no casing for you to examine, unless I dumped it out
4 of the gun; is that correct?

5 A. Right.

6 Q. Same thing even with the semiautomatic.
7 If I shot a semiautomatic, and I got the shell casings,
8 or they got lost, or whatever the case may be, you would
9 have no way of knowing just from looking at the gun,
10 would you?

11 A. Correct. We can only examine what's received
12 for us to test.

13 Q. So it's hard for you to say how many shots were
14 fired on a crime scene. You can only look at the
15 evidence that's presented to you?

16 A. Correct.

17 Q. Okay. And the projectiles themselves in this
18 case, I think you previously told me that they all would
19 be consistent with a 38-caliber; is that correct?

20 A. Well, 38 is an umbrella class of projectiles.
21 But, more specifically, it was more consistent with
22 a 9-mm Luger, which falls under the 38-caliber umbrella.
23 So, specifically, it was consistent with 9-mm Luger
24 caliber bullets.

25 Q. And I'm trying to avoid getting too deep in all

CROSS-EXAMINATION - MR. CHISHOLM

1 of this.

2 A. Yes, sir.

3 Q. But I think in that same umbrella you referenced,
4 I mean, it could be a 9-mm, it could be a 9-mm Makarov.
5 There's a variety of specialized calibers out there that
6 it would be consistent with as well; is that correct?

7 A. Yes. Again, the 38 encompasses those calibers.
8 We're basically just giving our best guess as to what a
9 caliber could be based on the characteristics, weighing
10 it, and possibly measure the diameter, if it's not too
11 damage. So that's, basically, again our best guess
12 using what information is available to us.

13 Q. Okay. And it looks like as part of your
14 examination, you run -- you do all of your analysis,
15 you run it against the SLED database; is that correct?

16 A. We do have a database that was started by the
17 FBI. What they do is they put in the specifications --
18 rifling specifications of different guns. Again, going
19 back to the number of lands and grooves, direction of
20 the twist, caliber, whether it's conventionally rifled
21 or polygonally rifled, and also to the widths of those
22 lands and grooves.

23 So when we get a bullet that has the rifling
24 impressions on it, we can measure the land and groove
25 widths, and then put all that information into the

CROSS-EXAMINATION - MR. CHISHOLM

1 database to see what possible firearms could have fired
2 that projectile ---

3 MR. SPEARS: Your Honor, may we approach?

4 THE COURT: Sure.

5 (Off-the-record conversation held at sidebar.)

6 (Back on the record.)

7 THE COURT: Ladies and gentlemen, step to
8 your jury room. Do not discuss this matter, or allow
9 anyone to discuss it with you. There's a matter that
10 I need to hear outside of your presence.

11 (Jury exits the courtroom at 10:52 a.m.)

12 THE COURT: All right. Yes, sir. Your
13 concern, as I understand it, Mr. Spears -- your concern
14 is that because you cannot -- you've tried this case
15 before.

16 MR. SPEARS: Yes, Your Honor.

17 THE COURT: And your concern is that
18 the testimony that is about to be elicited might
19 go to a specific event; is that right?

20 MR. SPEARS: Yes, Your Honor.

21 THE COURT: Okay.

22 MR. SPEARS: Previously, it was testified
23 that this gun matched shell casings that are already
24 presented into AFIS from another event that was sent
25 to SLED. We don't know anything about that other event.

CROSS-EXAMINATION - MR. CHISHOLM

1 Honestly, I think it's just, you know, being put into
2 almost just kind of lay blame that, you know, those guns
3 have been used in multiple shootings, even though the
4 evidence in this case shows that it was not used here.
5 I think it shouldn't be allowed. The jury shouldn't be
6 allowed to hear it.

7 THE COURT: I understand.

8 MR. SPEARS: Thank you, Your Honor.

9 THE COURT: Just examine him. Go ahead.
10 Let me hear it. Just do your thing.

11 MR. CHISHOLM: Go ahead and examine him?

12 THE COURT: Yeah, yeah, yeah.

13 MR. CHISHOLM: Okay.

14 BY MR. CHISHOLM:

15 Q. Mr. Smith, you ran the firearm information that
16 you got when you do the examination. You ran it against
17 the SLED database in this case?

18 A. Okay. Are we talking about the database,
19 the IBIS database, or the database that gives you a list
20 of possible guns that could fire a particular bullet?

21 Q. I guess it would be the IBIS database that would
22 link it to possibly another case.

23 A. Right. That's IBIS.

24 Q. Okay.

25 A. We put the cartridge cases into IBIS, and it

1 searches against other images of cartridge cases
2 from other investigative cases to see if there's
3 a correlation between, you know, linking two incidents
4 together. But that's separate from what I thought
5 you were going with. If we don't have a gun that fired
6 a bullet, we can provide investigators with a list of
7 possible manufacturers ---

8 Q. That are consist?

9 A. --- of guns so they can be on the lookout for
10 certain guns, you know, if they come across it during
11 their investigation, that may have fired that gun.
12 Then, if they find one, they could submit it to us,
13 we can test fire it, then do a comparison under the
14 microscope to see if possibly it was fired by -- the
15 bullets were fired by that particular gun.

16 Q. Sure. I understand. My question would be about
17 IBIS. And, basically, my understanding is you do the
18 imaging and the markings, and all that kind of stuff.

19 A. Right.

20 Q. You do imagining, and you can run it against this
21 database. And if it hits a match -- a rough match to
22 another case, it will tell you that and say, basically,
23 you can link these cartridges, or these guns to another
24 case?

25 A. Correct. What will happen is, it's all

CROSS-EXAMINATION - MR. CHISHOLM

1 computerized. But it takes a digital scan of the breech
2 face surface of the cartridge case where all the
3 markings are, and then it saves it. It does some kind
4 of computer correlation against the other images that
5 are in there. Then it brings up a list. And I think
6 SLED looks at the top 25 or 30 correlations that it hits
7 against.

8 Then, our IBIS tech goes back, looks at images
9 to see if they look good compared to each other.
10 And, if they think it's a potential hit, they notify
11 both -- if there's two agencies involved, they notify
12 both agencies about what's going on. Then, they can
13 submit, you know, evidence that's already been returned
14 or whatever.

15 And then that examiner, such as myself, would
16 actually have to compare -- physically compare that
17 evidence with each other or test specimens with the
18 evidence to make a determination, you know, if it's
19 a possible match.

20 Q. Okay. Did you get, I guess, a hit, so to speak,
21 in this case with another case?

22 A. I did, I did.

23 Q. And could you tell me about that case; what the
24 charge was, the date of the incident, that kind of
25 thing?

CROSS-EXAMINATION - MR. CHISHOLM

1 A. It was an attempted murder charge from Dorchester
2 County. The offense date is listed as May 14, 2016.
3 There are three cartridge cases -- 40-caliber Smith
4 and Wesson cartridge cases that were submitted.
5 And I believe the investigators had some reason to
6 believe that these two cases were related before the
7 IBIS hit. Charleston County has their own IBIS system.
8 I think Dorchester County runs their stuff through
9 Charleston County. But I remember having some
10 correspondence. Give me one second, please.

11 Yes, apparently, when it came to SLED, it was
12 already cross referenced. Both cases were cross
13 referenced together. So, I knew ahead of time that
14 I needed to look at both of those cases together.
15 And I think the IBIS part may have happened outside
16 of SLED with Charleston County with their IBIS system.
17 So when I got both cases in, it was already noted that
18 they needed to be looked at together. And that's what
19 I did.

20 Q. There's a belief there's a link between the two
21 already?

22 A. Yes, sir, yes.

23 Q. Okay. And where did that take place,
24 the attempted murder?

25 A. I'm not sure I have it on the paperwork that

1 I have because all I have is a receipt from the SLED lab
2 that has some basic information; the agency case number,
3 the offense county, offense date. It's got the victim's
4 name. That's all the information that I have.

5 Q. Thank you.

6 MR. CHISHOLM: I have no further questions.

7 THE COURT: All right. You may examine him
8 on that.

9 BY MR. SPEARS:

10 Q. Honestly, aside from the potential, Agent Smith,
11 in regards to the correlation between the two cases,
12 do you have any other information about the other case?

13 A. No, sir.

14 Q. Who had the gun in that case?

15 A. No, sir.

16 Q. Is there a case number to that case?

17 A. There is a case number. Dorchester County
18 Sheriff's Office has an agency case number.

19 Q. What's that number?

20 A. It's 16004788.

21 MR. SPEARS: No more questions, Your Honor.
22 Your Honor, simply in regards to the testimony because
23 there's an IBIS link, it doesn't necessarily mean that
24 this extraneous information should be brought in as
25 a part of this case right here. We've got no

1 information about this other case, other than a charge.
2 And no information about who had the gun.

3 Although, we might know when it happened, no
4 parties are identified as a part of it. All it really
5 brings up is just simple conjecture. There's no solid
6 information that we have here. I think it's kind of
7 moving the target, Your Honor.

8 THE COURT: All right. What issue which
9 is of consequence to this litigation does this evidence
10 make more probable or less probable?

11 MR. CHISHOLM: Right. Well, and I think --
12 I'll start with the solicitor. I mean, what he was just
13 saying, I think it all could be addressed in closing
14 arguments. Basically, what we've got is, and I think
15 the testimony was there was -- his information, it
16 wasn't just an IBIS hit like he normally would get where
17 they could possibly look into it. There was information
18 that this case was linked to the other case.

19 And, basically, we're in a situation where
20 with the telephone evidence that you allowed to come in,
21 they are being allowed to refute self-defense. I think
22 we should be allowed possible evidence that goes towards
23 self-defense to show the violent nature of the alleged
24 victim, and how he could have acted in accordance with
25 that nature in this case.

1 And also I think I should be able to ask
2 him if they looked into this. They had the information
3 there's a link between the two. I would be curious
4 what it was, and I think I should be able to ask them,
5 did you look into it.

6 THE COURT: Well, I pondered that.
7 So here is where that becomes important, very important.
8 That evidence would -- I agree with you. It would be
9 very important because it could corroborate testimony,
10 for example, of someone who would say, look, I know that
11 this person is very violent, and this person cornered
12 me, and I knew they were violent. And I took the first
13 shot because I believe that my life was in danger, and
14 guess what, I knew that they were out there, and a month
15 earlier, blah, blah, blah, blah, blah. Corroboration.
16 Excellent corroboration.

17 Now if that's where this case is going,
18 just tell me. I need to know that. That's important.
19 But I don't know you can just throw it out there in
20 a vacuum. If it is corroborative of something that
21 is a part of self-defense, because as you know, if you
22 are afraid, if you have information that the victim
23 is someone who is violent and means you harm, you don't
24 have to wait to get shot. You can be the first
25 aggressor. So if that's where I'm going, just tell me.

1 MR. CHISHOLM: No, I understand that.
2 And I don't know that's our situation.

3 THE COURT: Okay.

4 MR. CHISHOLM: Talking about Mr. Cobbs
5 testifying and bringing this in, and kind of back up,
6 or other witnesses for self-defense.

7 THE COURT: That's right.

8 MR. CHISHOLM: I understand what you're
9 saying. But, again, I think it's kind of a unique
10 situation in that they're being allowed to refute
11 a self-defense argument that hasn't been made.
12 And I think in fairness, we should be able to -- if
13 that's the route they're allowed to go, we should be
14 able to present evidence on the other side. And, yeah,
15 we should both be able to talk about that.

16 THE COURT: Gotcha. Gotcha. You know,
17 and my concern at this point, at that point, is just --
18 at this point, is just, if you will, there isn't -- this
19 has to do with a gun. It doesn't have to do with the
20 individual at this moment. It has to do with this
21 particular weapon.

22 And at this moment, I do not believe that
23 it is admissible. In other words, I don't think that,
24 for these reasons, given where this testimony would be
25 at this moment, that testimony does not make an issue

1 that is of consequence to this litigation more probable
2 or less probable. It could. It may get there.

3 My concern is that, obviously, I have the
4 ability to conditionally admit it. I'm concerned about
5 doing that at this point. However, having said that,
6 he's not going to get released from his subpoena.
7 But we will let him go to Allendale and Aiken when
8 he's finished, but he may be coming back.

9 MR. CHISHOLM: Yes, ma'am.

10 THE COURT: Okay?

11 MR. CHISHOLM: I understand.

12 THE COURT: Thank you. All right, anything
13 else? No? Let me have the jury.

14 (Jury enters the courtroom at 11:07 a.m.)

15 THE COURT: Okay. All right. Thank you.
16 Mr. Chisholm, you may proceed.

17 MR. CHISHOLM: Thank you, Your Honor.
18 No further questions.

19 THE COURT: All right. And is there any
20 redirect?

21 MR. SPEARS: No redirect, Your Honor.

22 THE COURT: Very well. Happy travels.
23 You're not, however, released from your subpoena.

24 THE WITNESS: Okay.

25 THE COURT: But enjoy.

1 THE WITNESS: Thank you, Your Honor.

2 THE COURT: Call your next witness, please.

3 MR. SPEARS: Thank you, Your Honor.

4 State calls Hadley Harkins.

5 MS. HADLEY HARKINS, was called as a witness,
6 being duly sworn, was examined and testified as follows:

7 THE COURT: Good morning, and how are the
8 two of you?

9 THE WITNESS: Good. Very good. Thank you.
10 How are you?

11 THE COURT: Your witness.

12 MR. SPEARS: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MR. SPEARS:

15 Q. Good morning, Hadley. Can you just tell the jury
16 how old you are?

17 A. I'm 19.

18 Q. And where are you from originally?

19 A. Summerville, South Carolina.

20 Q. Okay. Are you employed currently?

21 A. I am, for now.

22 Q. I gotcha. How far along are you?

23 A. Nine months. I'm 38 weeks.

24 Q. Congratulations. But, Hadley, where did you work
25 back in 2016?

1 A. I worked at IHOP.

2 Q. All right. The one on Dorchester Road?

3 A. Yes.

4 Q. All right. Were you working the night of January
5 5th of 2016?

6 A. January?

7 Q. June 5th. Yeah, June 5th, 2016. I apologize.
8 The early morning of June 5th?

9 A. Yes.

10 Q. And can you just describe to the jury -- looking
11 at our slide here, can you just kind of describe to us
12 what you recall from that night while we're getting this
13 linked up?

14 A. Yeah. It was a really busy night. It was like
15 really early in the morning. The bar rush was coming
16 in. And there were so many people waiting up front,
17 taking to-go orders, trying to be seated. And right
18 here, I was about to seat a table, and I'm just waiting
19 for them to get their party together.

20 Q. And seating that table, what direction are y'all
21 going here?

22 A. We're going to the right, pass the, like,
23 front desk, the kitchen entrance to the booths.

24 Q. To the booths. Okay. So just the main dining
25 area?

DIRECT EXAMINATION - BY MR. SPEARS

1 A. Yes, sir.

2 Q. And what happened right after you went off screen
3 there? What do you recall happening?

4 A. I took off, yeah. After that, I'm pretty sure
5 a few gunshots went off, and everybody just scattered
6 and hid underneath tables.

7 Q. What did you do when you heard the gunshots?

8 A. I hid under the table. I didn't know where
9 it was coming from, couldn't really see anything.
10 Just -- naturally, just ran and hid.

11 Q. I understand. Now you say you're going off
12 to the right, you're going into the main dining area?

13 A. Yes.

14 MR. SPEARS: If I may approach up here,
15 Your Honor?

16 THE COURT: You may.

17 BY MR. SPEARS:

18 Q. If instead you went down in that direction,
19 where would that have led you?

20 A. It would have led to, like, the entrance to the
21 bathrooms. There's, like, a little hallway back there.

22 Q. So right here, that individual coming up that
23 way, and you're knowledge of that IHOP?

24 A. Yeah. Because if it was coming from the opposite
25 direction, in the lobby, -- but in the back, it would

1 just be the bathroom.

2 Q. All right. You said that would come from the
3 bathrooms, right?

4 A. Yes.

5 Q. All right.

6 MR. SPEARS: Hadley, please answer any
7 questions the defense might have for you.

8 THE WITNESS: Okay.

9 THE COURT: Cross-examination.

10 MR. CHISHOLM: No questions, Your Honor.

11 THE COURT: Very well. All right. Is this
12 witness free to leave?

13 MR. SPEARS: Yes, please, Your Honor.

14 THE COURT: Any objection?

15 MR. CHISHOLM: No objection.

16 THE WITNESS: Thank you.

17 THE COURT: Thank you. Good luck.

18 Take your time. Call your next witness, please.

19 MR. ALLEN: Louis Colon.

20 MR. LOUIS COLON was called as a witness,
21 being duly sworn, was examined and testified as follows:

22 MR. ALLEN: Good morning, Mr. Colon.

23 Please have a seat.

24 DIRECT EXAMINATION

25 BY MR. ALLEN:

DIRECT EXAMINATION - BY MR. ALLEN

1 Q. Mr. Colon, can you tell us where you're from?

2 A. I'm from Philadelphia, Pennsylvania. I reside
3 in Summerville, South Carolina.

4 Q. And how long have you lived in Summerville?

5 A. Since approximately 2005, I think.

6 Q. Okay. Tell us what do you do for a living?

7 A. I work for the Department of Defense.

8 Q. And how long have you done that?

9 A. Currently now, started as a contractor in '97,
10 and then changed over in 2013, I think. So it's been
11 a while.

12 Q. A long time, a long time. So do you recall the
13 evening of June 5th, 2016?

14 A. It's been quite some time.

15 Q. Of course. Do you recall going to a restaurant
16 that -- well, early that morning, I should say?

17 A. Yes.

18 Q. And do you recall which restaurant you went to?

19 A. IHOP.

20 Q. Sure. Just real briefly, what were you going
21 for?

22 A. We went out with some -- we met up with
23 some friends for a birthday and stuff like that.
24 Then decided to go get something to eat afterwards.

25 Q. How many were you?

DIRECT EXAMINATION - BY MR. ALLEN

1 A. There was four in the party total.

2 Q. I'm going to show you some video in a moment.
3 But before we do that, just real briefly talk to me
4 about what you recall when you first got to the
5 restaurant.

6 A. When we first arrived, there were some bikers and
7 stuff outside on the bench. We entered the restaurant.
8 I had to go to the bathroom. So the rest of my party
9 went to the table, and I went to use the restroom.
10 It's been so long, so I'm not sure if somebody walked
11 in front of me, or somebody was behind me.

12 I went in. Pretty much used the bathroom, didn't
13 talk to anybody or anything, came right back out, and as
14 soon as I sat down, pretty much just started hearing,
15 like, somebody was banging pots and pans. Come to find
16 out it was gunfire.

17 Q. Sure, sure. And it was a long time ago,
18 so you're memory is not great. You can't tell us
19 with any specificity; is that correct?

20 A. Correct.

21 Q. Okay. Tell you what, why don't you -- can you
22 direct your attention to your screen there, and we could
23 just play this forward.

24 (Video played in the courtroom for the jury.)

25 BY MR. ALLEN:

DIRECT EXAMINATION - BY MR. ALLEN

1 Q. We can stop right there. These four people
2 walking in the door in the top right-hand frame, can you
3 -- do you recognize those people?

4 A. Yes.

5 Q. And the man in the blue shirt, do you recognize
6 him?

7 A. That would be myself.

8 Q. Okay. So the man in the blue shirt is you.
9 Can we play -- give us a moment to get to where we're
10 looking. Perfect. That's it right there. So, I guess,
11 while this is frozen, looking at the bottom left-hand
12 frame here, this is a little bit later, there's people
13 standing at the hostess stand. Is that your group there
14 again?

15 A. Yes, that is.

16 Q. Is that you in the blue, it looks like?

17 A. Yes.

18 Q. I guess, we'll call that maybe teal. So we'll
19 just play this forward for a bit.

20 (Video played in the courtroom for the jury.)

21 BY MR. ALLEN:

22 Q. Okay. So sort of break down what's happened
23 here. So, y'all walked off to the right-hand side of
24 that screen. Where were you all walking in to in terms
25 of geography of the restaurant?

DIRECT EXAMINATION - BY MR. ALLEN

1 A. As soon as you walk in, so on the right screen,
2 I think it was, like, the very last table closest
3 towards, we walked all the way down in through.

4 Q. Okay. So where you all were initially walking,
5 as you're passing the hostess stand there, I guess what
6 you're saying is that's where the dining area would be?

7 A. Correct, yes.

8 Q. Okay. And so when you returned to the screen
9 here, or perhaps I should do this first. On the screen
10 at the bottom center, we see the teal shirt again.
11 Is that you again?

12 A. Yes, that is.

13 Q. So where are you walking towards?

14 A. I'm walking towards the bathroom.

15 Q. Okay. And so this shows the part where you're
16 going to the bathroom. I think we can -- let me ask you
17 this, and you testified to this a moment ago, that you
18 have a poor memory of whether somebody came in or after
19 you; is that right? You don't really remember which?

20 A. Right.

21 Q. Okay. So for this section, I just want to walk
22 through it very slowly, and you can focus your attention
23 to the bottom left-hand screen, sort of stepping through
24 frame-by-frame here, and see that teal shirt on the very
25 bottom of the corner there. And I'll ask you, is that

DIRECT EXAMINATION - BY MR. ALLEN

1 you walking out of the bathroom there?

2 A. Yes, that is me walking out.

3 Q. And so the direction you're coming from was
4 the bathroom. And where were you going after that?

5 A. To the table to meet up with my party.

6 Q. Sure. And, I guess, we'll play forward a little
7 bit.

8 (Video played in the courtroom for the jury.)

9 BY MR. ALLEN:

10 Q. Direct your attention to the bottom right-hand
11 screen. I'm sorry. And so in the middle of the bottom
12 right-hand screen there, the teal shirt, is that you?

13 A. Yes, that is.

14 Q. So is that y'all's table?

15 A. Yes.

16 Q. Once you got back to your table, about how long
17 do you recall before you heard gunshots?

18 A. This sounded almost like it was, like, as soon
19 as I sat down, almost instantaneous.

20 Q. Sure, sure.

21 MR. ALLEN: That's all I have for you,
22 Mr. Colon. Please answer any questions the defense
23 might have.

24 THE COURT: Cross-examination.

25 MR. CHISHOLM: Thank you, Your Honor.

CROSS-EXAMINATION - BY MR. CHISHOLM

CROSS-EXAMINATION

BY MR. CHISHOLM:

Q. Good morning, sir.

A. Good morning.

Q. When you went back to the bathroom that night, I think you previously told me you weren't really paying attention to who was in there, who wasn't in there, anything like that; is that right?

A. Right.

Q. And the same for when you left. You said you weren't paying attention if anybody was in there or not, right?

A. Correct.

Q. And there's nothing back there that drew any suspicion, or seemed out of place, or odd when you went to the restroom. It was a normal trip to the restroom and out, right?

A. Correct.

Q. Thank you.

MR. CHISHOLM: No further questions.

THE COURT: All right. Any redirect?

MR. ALLEN: No, ma'am.

THE COURT: Is this witness free to leave?

MR. ALLEN: Yes, ma'am.

THE COURT: Is there any objection?

1 MR. CHISHOLM: No, ma'am.

2 THE COURT: Thank you. You're free to go.
3 Call your next witness, please.

4 MR. SPEARS: State calls Julie Creel.
5 Your Honor, may we approach?

6 THE COURT: Yeah.

7 (Off-the-record conversation held at sidebar.)

8 (Back on the record.)

9 THE COURT: We will take our morning break.
10 We will take ten minutes. I know you were all, like,
11 what, we haven't had a break. We didn't get one.
12 So we're going to take ten minutes. Please remember
13 do not discuss this matter, or allow anyone to discuss
14 it with you. Leave your notebooks in your seat.

15 (Jury exits the courtroom at 11:23 a.m.)

16 (Back on the record.)

17 THE COURT: All right. Anything from the
18 State?

19 MR. SPEARS: Nothing from the State,
20 Your Honor.

21 THE COURT: From the defense?

22 MR. CHISHOLM: No, Your Honor.

23 (Jury enters the courtroom at 11:38 a.m.)

24 THE COURT: All right. Yes, sir.

25 MR. SPEARS: Thank you, Your Honor.

DIRECT EXAMINATION - BY MR. SPEARS

1 State calls Julie Creel.

2 MS. JULIE CREEL was called as a witness,
3 being duly sworn, was examined and testified as follows:

4 THE COURT: Your witness.

5 MR. SPEARS: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MR. SPEARS:

8 Q. Good morning, Julie.

9 A. Good morning.

10 Q. Can you tell the jury where you live currently?

11 A. I live in Ridgeville.

12 Q. All right. And how long have you lived there?

13 A. About three and a half, four years.

14 Q. Where are you employed currently?

15 A. Carter's Fast Stop.

16 Q. Okay. And where were you employed back in June
17 of 2016?

18 A. IHOP on Dorchester Road.

19 Q. What was your job there?

20 A. Server.

21 Q. And about how long did you work there?

22 A. For about six and a half years.

23 Q. All right. And were you working there the night
24 -- the morning of June 5th, 2016?

25 A. Yes, I was.

DIRECT EXAMINATION - BY MR. SPEARS

1 Q. Okay. Can you just give the jury a brief summary
2 of your memory of that morning?

3 A. I got to work late. I was supposed to be there
4 at ten. I didn't get there until a quarter after one.
5 Probably around 2:10, 2:15-ish, I was leaving one table
6 going into the backroom. And all of a sudden, I hear
7 pop, pop, pop, pop, pop, pop, pop, pop. Couldn't see
8 nothing up front, nothing but smoke. Somebody said what
9 was that? They're dropping pots and pans. And I said,
10 y'all ain't from the hood, and I ran. That's exactly
11 what I said. I duck down and ran.

12 Q. All right. Now, Julie, looking at the security
13 footage, can you just -- as a waitress, did you have
14 a certain section that you took care of?

15 A. Yes.

16 Q. And on this screen, can you kind of tell us
17 if this was your section?

18 A. That night, my section was the tables over here
19 on this side. The ones right here out of the away,
20 and this one right here.

21 Q. And if you touch the screen, you can mark on
22 them.

23 A. Oh. These ones right here, these ones right
24 here, this one, and that one.

25 Q. All right. The one from the bottom right,

DIRECT EXAMINATION - BY MR. SPEARS

1 it looks like there's kind of something off camera
2 there. Is that still another booth?

3 A. Yeah. This right here is the back of the booth,
4 and then there's one right here, and then there's a long
5 -- this one connects onto this one. And then this is
6 a separate booth over here.

7 Q. And who was sitting at that booth that's off
8 camera there?

9 A. This one right back here?

10 Q. Yes.

11 A. The Hell's Angels.

12 Q. Gotcha. Now going forward a little bit, waiting
13 until it gets on screen. This individual sitting kind
14 of right around the top -- with a red shirt right there.
15 Do you know who that is?

16 A. I do.

17 Q. And how do you know him?

18 A. He's a regular at IHOP. I've waited on him
19 at least two or three times a week for about a year
20 and a half, two years.

21 Q. All right. And I'm showing you what's been
22 marked as State's 72, already in evidence. Is this
23 that same individual there in the red shirt?

24 A. Yes, it is, the one standing up.

25 Q. And you say you -- he was a regular.

DIRECT EXAMINATION - BY MR. SPEARS

1 You've taken care of him before?

2 A. Yes.

3 Q. As a regular, does he normally order something
4 there? When does he normally come in?

5 A. Usually after bars close. Between 2:15
6 and 2:30-ish, he comes in.

7 Q. Any specific days?

8 A. With me, I normally waited on him on Saturday
9 nights. During the week, occasionally, he would come
10 in.

11 Q. And so does he normally order specific things
12 when he comes in?

13 A. Most of the time, he would rotate between a steak
14 tip breakfast -- dinner and another meal, but I can't
15 remember what that meal was.

16 Q. Does he usually eat it there?

17 A. No, he takes it home.

18 Q. On this night, did he order anything?

19 A. No, he had not placed an order yet.

20 Q. Did you see him around the time when the shooting
21 happened?

22 A. I saw him right before the shooting happened.

23 Q. Was he sitting at the table when the shooting
24 happened?

25 A. When I saw him, he was still making his rounds

DIRECT EXAMINATION - BY MR. SPEARS

1 around the restaurant. Like, he was a social butterfly,
2 go from person to person, talking to everybody before
3 he would sit down. I went and got his drink. He was
4 at the table when I dropped the drink off, and that
5 was the last time I saw him.

6 Q. All right. Now on the bottom left screen right
7 here, I believe that's been previously identified as
8 Brannon Mack. Are you familiar with Brannon Mack?

9 A. Not as familiar as I am with the other gentleman.

10 Q. And had you seen him before?

11 A. Yes.

12 Q. Had you served him before?

13 A. I served him on Friday nights probably for about
14 maybe a year.

15 Q. Does he normally come in around the same time
16 as the Defendant does?

17 A. He had different times of coming in.

18 Q. Did you ever see them at the IHOP together at the
19 same time?

20 A. Not that I can recall, no.

21 Q. All right.

22 MR. SPEARS: Please answer any questions
23 the defense might have for you.

24 THE COURT: Cross-examination.

25 MR. CHISHOLM: Thank you, Your Honor.

CROSS-EXAMINATION - BY MR. CHISHOLM

1 THE COURT: Yes.

2 CROSS-EXAMINATION

3 BY MR. CHISHOLM:

4 Q. Good morning, I guess, it is.

5 A. Good morning.

6 Q. Ms. Creel, right?

7 A. Yes.

8 Q. And we had a chance to speak before, correct?

9 A. Yes.

10 Q. And I've got a few questions I'd like to go over
11 with you.

12 A. Okay.

13 Q. What you told me before is that you worked this
14 shift pretty often, is that right, back in 2016?

15 A. Uh-huh.

16 THE COURT: Is that a yes?

17 THE WITNESS: Yes, ma'am. Yes. Sorry.

18 THE COURT: That's okay.

19 BY MR. CHISHOLM:

20 Q. And you said you knew Mr. Cobbs because he was
21 in a couple of times a week; is that right?

22 A. Yes.

23 Q. So, I guess, you can call him a regular?

24 A. Yes.

25 Q. Nothing unusual to see him at this time on this

CROSS-EXAMINATION - BY MR. CHISHOLM

1 kind of day at all?

2 A. Not at all.

3 Q. Okay. And this is, I guess, you said the late
4 night shift, people come in after bars close?

5 A. Yes.

6 Q. Okay. And I'm guessing you've got a pretty good
7 rush around that time?

8 A. Yeah. Usually about 2:03, the parking lot was
9 full.

10 Q. Gotcha. And I think you told me before he would
11 always order the same thing, grapefruit juice?

12 A. Grapefruit juice, no ice.

13 Q. And I think you told me that he was such
14 a regular that when he would come in, you would pretty
15 much go ahead and get that for him. He didn't need
16 to order?

17 A. Nope, he never told me what he wanted. As soon
18 as I see him, I didn't even speak to him, I would go and
19 get his drink, bring it to him, and then speak to him.

20 Q. And I think you told me before, you know, you
21 would already automatically get his drink. And a lot
22 of times, he would just kind of hang around before he
23 ever ordered food?

24 A. Uh-huh.

25 Q. And I think you just said he was a social

CROSS-EXAMINATION - BY MR. CHISHOLM

1 butterfly. He would kind of make his rounds around
2 the restaurant?

3 A. Yep.

4 Q. That was pretty typical for him?

5 A. Yes, it was.

6 Q. And it wasn't anything different on this night.
7 He was doing the same thing he always does?

8 A. Same thing he always did.

9 Q. And it sounds like you told me you guys had
10 a pretty good relationship, and that you joke around,
11 that kind of stuff?

12 A. Yeah, we did.

13 Q. And I think what you told me -- I don't want
14 to misquote you. You can correct me. But I think
15 you told me that you thought he was a wonderful guy.
16 And when you heard he was being accused, you were
17 dumbfounded; is that correct?

18 A. I was.

19 Q. Okay.

20 A. The only problem we ever had out of him was
21 his steak tips came out bloody, and he's, like, oh,
22 no, no, no, I can't eat blood. I can't take the blood.
23 And he sent them back to be recooked.

24 Q. And even then he wasn't a jerk or violent
25 or anything like that?

1 A. No problem, no attitude, no lip.

2 Q. And you said you waited on him for quite a while.
3 Had you ever seen aggression or violence out of him?
4 I think you told me before you've never seen anything
5 like that?

6 A. No, no. I also didn't know him outside of IHOP
7 though.

8 Q. I understand. But as far as you knew from the
9 relationship ---

10 A. Right. From what I've seen him, I have never
11 seen any kind of temper, attitude, anything like that.

12 Q. Yes, ma'am. And you told me, I believe, he was
13 a good tipper?

14 A. Yes.

15 Q. Okay. And he would come in and hang out and have
16 a good time?

17 A. Yes.

18 Q. Okay. And I think you just -- you've testified
19 to this, just to make sure. On this night in
20 particular, as far as you're concerned, he was doing
21 the exact same thing he always does when he comes in?

22 A. Yes, sir.

23 Q. He wasn't acting any differently?

24 A. No, sir.

25 Q. Okay. And you said you might have known

REDIRECT EXAMINATION - BY MR. SPEARS

1 Mr. Mack. But you never saw him come in when Mr. Cobbs
2 was there that you recall?

3 A. Not that I recall.

4 Q. Okay. And ---

5 MR. CHISHOLM: May I have one moment?

6 THE COURT: All right.

7 MR. CHISHOLM: Thank you, Ms. Creel.

8 I don't have any further questions.

9 THE COURT: All right. Any redirect?

10 MR. SPEARS: Very briefly, Your Honor.

11 THE COURT: All right.

12 REDIRECT EXAMINATION

13 BY MR. SPEARS:

14 Q. And, Ms. Creel, this is just for me. What day
15 did you say that Mr. Cobbs usually comes in?

16 A. Mr. Cobbs usually came in on Saturdays.

17 Q. And you said Mr. Mack came in on ---

18 A. On Fridays.

19 Q. --- on Fridays, right? This was a Sunday night,
20 right?

21 A. It was Saturday night, Sunday morning.

22 Q. Sunday morning. All right. And if you can ---

23 MR. SPEARS: Court's indulgence, Your Honor.

24 THE COURT: Okay.

25 BY MR. SPEARS:

REDIRECT EXAMINATION - BY MR. SPEARS

1 Q. And was he sitting with someone that night,
2 Mr. Cobbs?

3 A. He was.

4 Q. All right.

5 A. Well, the gentleman sat down at his -- if
6 I remember correctly, the gentleman sat down at his
7 table. And then he got up and went to a different
8 table, if I'm not mixing nights up.

9 Q. Now ---

10 A. I would say that if I'm not mixing up nights.

11 Q. When you say different table ---

12 MR. SPEARS: May I approach up here,
13 Your Honor?

14 THE COURT: You may.

15 BY MR. SPEARS:

16 A. If I'm remembering correctly, they sat at,
17 I want to say, this one. He was sitting -- Mr. Cobbs
18 was sitting at this one. The gentleman joined him.
19 And then he got up and came to this one, if I'm not
20 mistaken.

21 Q. I believe we saw this footage earlier when you
22 were initially testifying. The gentleman in the white
23 shirt was sitting right here, and Mr. Cobbs just kind
24 of sat over in this booth beside him?

25 A. Right.

RECROSS EXAMINATION - BY MR. CHISHOLM

1 Q. Yeah. I mean, were their backs to each other,
2 or were they side by side talking?

3 A. I don't remember.

4 Q. Okay.

5 A. That part I don't remember.

6 MR. SPEARS: No more questions for this
7 witness, Your Honor.

8 THE COURT: Any recross?

9 MR. CHISHOLM: Yes, ma'am.

10 RECROSS EXAMINATION

11 BY MR. CHISHOLM:

12 Q. Okay. Just for clarification, I believe you
13 testified Mr. Cobbs normally comes in on Saturday
14 nights?

15 A. Yes, sir.

16 Q. And this was a Saturday night?

17 A. Yes, sir.

18 Q. And this was his typical time when you would
19 see him?

20 A. Yes, sir.

21 Q. So if you're looking to find Mr. Cobbs, you can
22 probably find him there on a Saturday night?

23 A. Yes, sir.

24 Q. And he always came in around the same time,
25 roughly?

1 A. Just about around the same time.

2 MR. CHISHOLM: Thank you. No further
3 questions.

4 THE COURT: All right. Is this witness free
5 to leave?

6 MR. SPEARS: Yes, Your Honor.

7 THE COURT: Any objection?

8 MR. CHISHOLM: No, Your Honor.

9 THE COURT: Thank you.

10 THE WITNESS: I do apologize for my absence
11 this morning. I do apologize for holding y'all up.

12 THE COURT: Thank you. We needed a morning
13 break anyway.

14 THE WITNESS: Well, good. I'm glad
15 I helped.

16 THE COURT: You did.

17 THE WITNESS: Y'all have a great day.

18 THE COURT: All right. Next witness,
19 please.

20 MR. SPEARS: Your Honor, State calls Mikell
21 Nelson.

22 MR. MIKELL NELSON was called as a witness,
23 being duly sworn, was examined and testified as follows:

24 THE COURT: Your witness.

25 MR. SPEARS: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. SPEARS:

Q. How old are you, Mikell?

A. Thirty-four.

Q. All right. And where are you from initially?

A. North Charleston.

Q. All right. Obviously, it's a stupid question.

Are you currently incarcerated?

A. Yes, I am.

Q. For what charges?

A. Bank robbery.

Q. All right. And, Mikell, do you know Keunte Cobbs?

A. I know him. I never had no dealings with him, but I know him.

Q. Say if you saw him at a bar or something like that, would you walk over and say, hey?

A. No.

Q. Gotcha. Did you know Brannon Mack?

A. Right.

Q. Same question. If you saw him at a bar or somewhere, would you go over and say hi?

A. Good friend of mine.

Q. All right. And can you tell us where you were the night of June 4th, 2016, or the early morning

DIRECT EXAMINATION - BY MR. SPEARS

1 of June 5th, 2016?

2 A. In Fairlawn.

3 Q. Where?

4 A. In Fairlawn, a subdivision on Ladson Road.

5 Q. Was the -- was Keunte Cobbs there also?

6 A. Correct.

7 Q. Did you speak with him at all?

8 A. No.

9 Q. Were there more people there?

10 A. Yeah.

11 Q. All right. Did he say anything?

12 A. Well, there was a bunch of us out there. We was
13 all in little separate groups. And long story short,
14 I guess, he got a phone call, and then he -- I heard
15 him say, I'm about to kill that nigga. Then he jumped
16 in the car and left.

17 Q. Was anyone in the car with him?

18 A. Yeah.

19 Q. Do you recall what he was wearing?

20 A. A red T-shirt and some black jeans shorts?

21 Q. Do you recall about what time that happened?

22 A. I would say from about 12:00 or 1:00.

23 Q. All right.

24 MR. SPEARS: Please answer any questions
25 the defense might have for you.

CROSS-EXAMINATION - BY MR. CHISHOLM

1 THE COURT: Cross-examination.

2 MR. CHISHOLM: Thank you, Your Honor.

3 THE COURT: Yes.

4 CROSS-EXAMINATION

5 BY MR. CHISHOLM:

6 Q. Good morning, Mr. Nelson.

7 A. (No response.)

8 Q. I've got a few questions for you. I'm going to
9 ask you a couple of things you just answered. You said
10 you're 34?

11 A. Yeah.

12 Q. You're from North Charleston?

13 A. Right.

14 Q. Okay. And you said you were good friends with
15 Brannon Mack?

16 A. Right.

17 Q. The alleged victim in this case; is that correct?

18 A. Correct.

19 Q. Okay. And you said you heard Mr. Cobbs make
20 this statement back in June of 2016; is that correct?

21 A. Correct.

22 Q. But you didn't come forward with this
23 information in 2016, did you?

24 A. No.

25 Q. Did you bring this up in 2017?

1 A. No.

2 Q. 2018?

3 A. Right.

4 Q. You brought it up in 2018?

5 A. '18 or '19. Could have been January of last
6 year, I think.

7 Q. Okay. January of 2019, that would be, then.
8 And you're currently incarcerated for bank robbery,
9 you testified?

10 A. Yeah.

11 Q. But you're charged federally; is that correct?

12 A. Right.

13 Q. And they're the ones that have a hold on you
14 right now?

15 A. Right.

16 Q. How many counts of bank robbery do you have?

17 A. Two.

18 Q. Two. You were formally charged at the state
19 level; is that correct?

20 A. Right.

21 Q. And you were prosecuted by the Dorchester County
22 Solicitor's Office?

23 A. The charges was dropped in Dorchester.

24 Q. Okay. And your case -- have you pled in your
25 case? Has it been to trial? Is it still pending?

1 What's the status of your case right now?

2 A. Waiting to get sentenced.

3 Q. Did you do a plea?

4 A. Right.

5 Q. So you did a plea in your case. When are you due
6 to be sentenced?

7 A. Sometime next month.

8 Q. Okay. When did you do your plea?

9 A. Last year in January.

10 Q. About the same time you came forward. Okay.
11 I'm guessing that timing isn't a coincidence, is it?

12 A. (No response.)

13 Q. Yes or no?

14 A. I don't understand what you're saying.

15 Q. Is it a coincidence that you came forward with
16 this information as you were doing your plea?

17 A. I guess, yeah.

18 Q. So it's unrelated to your plea completely?

19 A. Right.

20 Q. You didn't provide this information to the State
21 in expectation of getting consideration in your case?

22 A. No.

23 Q. You had no discussions about that whatsoever?

24 A. Not with them, no.

25 Q. You just came forward that same time you did

1 your plea ---

2 A. Right.

3 Q. --- as a coincidence? Fair enough. And this
4 stuff that you testified about, what you heard Mr. Cobbs
5 say, I understand you're saying that's what happened.
6 Would you agree with me, I mean, if you wanted to
7 completely make that up, you could, couldn't you?

8 A. I could, but I ain't.

9 Q. I understand that. And I'm assuming you've
10 met with some of the law enforcement or the solicitor's
11 office in Dorchester County prior to today, haven't you?

12 A. Sure.

13 Q. You discussed your testimony?

14 A. Told them what I know.

15 Q. Okay. Did they express concern that this
16 is something that could have been just completely made
17 up? Did they ask you to get information that would
18 corroborate your story or to verify it in some way?

19 A. They just told me to tell the truth.

20 Q. Okay. Did you tell them of other people that
21 were out there they could speak to?

22 A. I did.

23 Q. You did?

24 A. I don't know if they talked to them or not,
25 but yeah.

1 Q. You gave them that information? You don't know
2 if they're going to call them in or not though,
3 is that what you're saying?

4 A. (No response.)

5 Q. Okay. How many times have you met with the
6 police to discuss other cases?

7 A. None.

8 Q. This is your first time. Have you ever tried to
9 provide information on other cases where they weren't
10 interested?

11 A. No.

12 Q. No. Okay. Have you ever testified in court
13 in a proceeding such as this?

14 A. No.

15 Q. Did you ask that your interview with the police,
16 with the solicitor's office, that it be recorded?

17 A. No.

18 Q. Do you know if it was recorded?

19 A. (No response.)

20 Q. Okay. Are you aware that sometimes people come
21 forward with information like this because they're
22 trying to get a deal cut on their case?

23 A. Right.

24 Q. They're trying to get some consideration on the
25 back end. For example, you're being sentenced next

1 month; is that right?

2 A. Yeah.

3 Q. But it's your testimony today you've never even
4 discussed that with anyone, the possibility of getting
5 some favor in your case?

6 A. Yeah, I haven't.

7 Q. Okay. I would like to talk to you -- I mean,
8 you're obviously being held right now. But this isn't
9 your first time you've been in legal hot water, so to
10 speak, is it?

11 A. No.

12 Q. And, for example, it looks like you've been
13 convicted of giving false information back in 2010;
14 is that right?

15 A. (No response.)

16 Q. Been convicted of financial identity fraud back
17 in 2010? It looks like -- I don't know if this is the
18 same case. How many counts of financial identity fraud
19 -- this may be the same one here. Another giving false
20 information in 2015. And let's see what else we have
21 here.

22 MR. CHISHOLM: Beg the Court's indulgence.

23 THE COURT: All right.

24 BY MR. CHISHOLM:

25 Q. Looks like -- you've been convicted, it looks

CROSS-EXAMINATION - BY MR. CHISHOLM

1 like, on a federal -- U.S. Secret Service passing
2 counterfeit money case; is that correct?

3 A. (No response.)

4 Q. That was a federal prosecution as well.

5 A. Uh-huh.

6 Q. So you've been through the system before; is that
7 right?

8 A. Right.

9 Q. What is the charge that you're about to be
10 sentenced on? What does that carry?

11 A. My guideline is from 22 to 27 years.

12 Q. 22 to 27, so a minimum of 22, up to 27?

13 A. (Witness nods head.)

14 Q. Okay. And it's your testimony, your sworn
15 testimony here today, you're not hoping to get that
16 22 by coming in here?

17 A. Well, if it helps me then I'll be willing to get
18 it. But, I mean, if not, then, you know, it is what it
19 is.

20 Q. I understand.

21 MR. CHISHOLM: May I have one moment?
22 No further questions.

23 THE COURT: All right. Redirect.

24 MR. SPEARS: Very briefly, Your Honor.

25 REDIRECT EXAMINATION

1 BY MR. SPEARS:

2 Q. Mikell, just for clarification purposes, has the
3 State offered you anything for your testimony here
4 today?

5 A. No.

6 Q. All right. Thank you.

7 THE COURT: Recross.

8 MR. CHISHOLM: No, ma'am.

9 THE COURT: All right. All right, sir,
10 you can return. Call your next witness, please.

11 MR. SPEARS: Nate Green.

12 MR. LOY: Your Honor, can we have a moment?
13 (Pause.)

14 THE COURT: Call your next witness, please.

15 MR. ALLEN: He's on his way, Your Honor.

16 THE COURT: All right.

17 MR. NATHANIEL GREEN, was called as a
18 witness, being duly sworn, was examined and testified
19 as follows:

20 DIRECT EXAMINATION

21 BY MR. ALLEN:

22 Q. Good morning, Mr. -- good afternoon now,
23 Mr. Green. Is it corporal?

24 A. Yes, sir, corporal.

25 Q. Corporal, can you tell me where you work?

1 A. I work for the Dorchester County Detention
2 Center.

3 Q. And what do you do for the detention center?

4 A. I supervise and oversee the visitation system
5 and the phone system for the jail.

6 Q. So let's just kind of get right to it. So you
7 oversee the telephone system. Is that the telephone
8 system that inmates are allowed to use?

9 A. Yes, sir.

10 Q. And is there anything special about that phone
11 system that is different from, I suppose, everyday phone
12 systems?

13 A. Yes, sir. Each inmate when they're booked into
14 the Dorchester County Detention Center is issued a jail
15 ID number. And then with that jail ID number, they're
16 able to create a telephone account on the Pay-Tel
17 System.

18 Q. So in order to gain access to that system,
19 and, I guess, to be given a number -- they get the
20 ID number in order to use the system, is that what
21 you said?

22 A. That's correct.

23 Q. In order to get that number, do they have to do
24 anything special? Do they have to register or something
25 like that?

1 A. Yes, sir. When they're in the booking process --
2 the jail ID number follows the detainee throughout the
3 whole time he's housed at the detention center. And it
4 also correlates with his canteen account. And family
5 members can put money on the account, and the money can
6 be transferred onto their telephone account. The inmate
7 has the ability to do that when they come on the phone,
8 on the computer.

9 Q. Okay. And so, specifically, in order to have
10 access to the phone system, is there anything special
11 that they have to do to be eligible for that?

12 A. Yes, sir. They have to do voice recognition.
13 The voice recognition system that requires -- the
14 computer will require them to say a series of numbers
15 and letters and their name. And after that, it then
16 records that information, and then they have to use --
17 each time they make a phone call, they have to put in
18 their pin number. And they also put in their four-digit
19 ID number, their personal number, like you would with
20 your Facebook account or something like that.

21 Q. So, for example, if I'm an inmate making a call,
22 I put in my ID number; is that correct?

23 A. The jail ID number. Then you create a four-digit
24 pin to go with that jail ID number.

25 Q. Okay. And you push that number into the phone?

1 A. Right. And then it will tell you -- once it
2 comes on, then it will tell you did you dial your
3 number. And it says -- there's a recording that comes
4 on in front of every call that says this call is
5 monitored and recorded.

6 Q. And do they have to do anything to verify their
7 voice?

8 A. The computer does that automatically.

9 Q. I see. I see. So it's an automatic system that
10 verifies?

11 A. It recognizes the voice of the person.

12 Q. Recognizes the voice. And then that's based
13 on the sample that they had previously given?

14 A. That's correct.

15 Q. And I think you just said it, but are they
16 notified in any way that they're being recorded?

17 A. Yes, sir. When a phone call is made, it says
18 this call is being monitored and recorded. It says
19 that before they're allowed to connect the phone call.
20 So before they connect the phone call, it says this call
21 is monitored and recorded. And that's each and every
22 call. And that's our normal course of operation,
23 and it has been since we've had the Pay-Tel System.

24 Q. What about the person on the receiving end,
25 do they have any indication?

DIRECT EXAMINATION - BY MR. ALLEN

1 A. When the phone call is made from the detention
2 center by a detainee, the person on the other end their
3 phone rings. And it says -- it's a computer voice that
4 generates a message to them before they accept the call
5 and says, this is a call from the Dorchester County
6 Detention Center, so they know, and these calls are
7 monitored and recorded.

8 Q. Bear with me just one moment. Corporal,
9 I'm going to show you what has not yet been marked ---
10 (State's Exhibit No. 91 was marked for identification.)

11 BY MR. ALLEN:

12 Q. I'm going to show you what has been marked
13 for identification purposes as State's Exhibit 91.

14 A. Yes, sir.

15 Q. Do you recognize that disc? Feel free to take
16 it out of the jacket.

17 A. Okay. Yes, sir, this is a disc of phone calls.
18 These are disc -- Pay-Tel System when they request calls
19 they send out, and these are my initials and date on
20 this.

21 Q. Okay. And that was going to be my next question.
22 Have you listened to the contents of that disc?

23 A. Not totally. I don't generally listen to all
24 the contents. But I did listen to the initial part.
25 And it is a recording from the Dorchester County

1 Detention Center.

2 Q. So you've listened to enough of the record
3 to establish that it is from your system?

4 A. Yes, sir.

5 Q. And I believe you said a second ago -- are those
6 your initials?

7 A. Yes, sir, that's my initials and date.

8 Q. All right.

9 MR. ALLEN: Nothing further at this time,
10 Your Honor. Please answer any questions the defense
11 might have.

12 THE COURT: Cross-examination.

13 MR. CHISHOLM: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. CHISHOLM:

16 Q. Corporal Green?

17 A. Yes, sir.

18 Q. Good afternoon.

19 A. Good afternoon.

20 Q. And you just testified you guys have ways of
21 linking, saying, we know this is the person making this
22 call based on a variety of different facts?

23 A. Yes, sir. All calls -- we can identify calls,
24 yes.

25 Q. I'm assuming you don't record half the calls,

1 and the other half go unrecorded. You record them all?

2 A. Yeah. As a common course of practice, all calls
3 from inmates are automatically recorded and kept in
4 archives.

5 Q. Okay. So you've got access to all of them?

6 A. Yes, sir.

7 Q. Thank you.

8 MR. CHISHOLM: I have no further questions.

9 THE COURT: All right. Any redirect?

10 MR. ALLEN: No, Your Honor.

11 THE COURT: Is this witness free to leave?

12 MR. ALLEN: He is, Your Honor.

13 THE COURT: Any objection?

14 MR. CHISHOLM: No, Your Honor.

15 THE COURT: Thank you. You're free to go.

16 THE WITNESS: Thank you.

17 THE COURT: Call your next witness, please.

18 MR. SPEARS: Thank you, Your Honor. May we
19 approach briefly, Your Honor?

20 THE COURT: Sure.

21 (Off-the-record conversation held at sidebar.)

22 (Back on the record.)

23 MR. SPEARS: Your Honor, at this time,
24 State calls Dr. Lee Tormos.

25 THE COURT: All right. Very well.

1 Ladies and gentlemen, as you've just heard, the next
2 witness is a doctor. And as oftentimes happens,
3 you're going to be hearing -- this is not the doctor.
4 This is my law clerk. You met him. This is Gil Gatch,
5 my law clerk. He's a juris doctor. He's just not
6 a medical doctor. You don't want him to take your
7 temperature.

8 Now, we have the ability to have someone's
9 testimony be taken and then brought to a jury. It
10 happens from time to time. I'm going to share with you,
11 it oftentimes happens with doctors, not juris doctors,
12 medical doctors. And so that has been done. You're
13 about to hear the sworn testimony of Dr. -- is it Tomas?

14 MR. SPEARS: Lee Tormos, Your Honor.

15 THE COURT: Tormos. And it's like -- I know
16 all of you have had occasion to have been somewhere,
17 where the role, blah, blah, blah, this evening will
18 be played by blah, blah, blah. My law clerk is going
19 to be reading the responses of Dr. Tormos.

20 The reason that we do it that way is that
21 we just have learned over time that, question, blah,
22 blah, blah, blah, answer, blah, blah, blah, question,
23 blah, blah, blah. And jurors are like, whoa, whoa,
24 whoa, I can't keep it straight. That's the reason
25 that we call on someone to read the answers.

1 The lawyers typically will read their
2 questions, and then we'll have someone do the responses.
3 And the reason he's seated here, primarily, because
4 it's closer, and hopefully you can hear him a little bit
5 better. Why we use law clerks? Because it's real fun
6 for the judges to see if they can handle the big medical
7 words.

8 So this is Mr. Gil Gatch. He's going to be
9 reading the responses of Dr. Tormos. Mr. Spears will
10 read his questions. And then the defense, they'll read
11 theirs. That way you can just keep it -- kind of keep
12 it straight, okay, who's doing the question, who's doing
13 the answers.

14 So without further adieu -- it is important,
15 though, for you to know this is the sworn testimony of
16 Dr. Tormos.

17 MR. SPEARS: Page 2, Line 4 is the first
18 question.

19 THE WITNESS: Yes. Thank you.

20 (The reading of previous testimony from Dr. Tormos.)

21 MR. SPEARS: Your Honor, may I submit this
22 into evidence?

23 THE COURT: Is it still State's 87?

24 MR. SPEARS: Your Honor, it's actually,
25 at this point in time, State's 74.

1 THE COURT: All right. Any objection?

2 MR. CHISHOLM: No objection.

3 THE COURT: Very well.

4 (State's Exhibit No. 74 was admitted into evidence.)

5 (Continue to read previous testimony of Dr. Tormos.)

6 THE COURT: All right. That would conclude
7 the testimony. Thank you. All right, next witness.

8 MR. SPEARS: Your Honor, at this time,
9 we request the testimony be marked and entered into
10 evidence.

11 THE COURT: It will be marked for
12 identification.

13 MR. SPEARS: For identification.

14 THE COURT: Yes.

15 (State's Exhibit No. 92 was marked for identification.)

16 MR. SPEARS: Your Honor, at this time,
17 the State calls Detective Dwayne Peters.

18 DETECTIVE DWAYNE PETERS, was called as a
19 witness, being duly sworn, was examined and testified
20 as follows:

21 THE COURT: Your witness.

22 MR. SPEARS: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MR. SPEARS:

25 Q. Lieutenant Peters, can you please tell the jury

DIRECT EXAMINATION - MR. SPEARS

1 where is it that you're employed?

2 A. I'm employed by Dorchester County Sheriff's
3 Office.

4 Q. And how long have you been there?

5 A. Approximately 12 years.

6 Q. And do you have any prior law enforcement
7 experience before this?

8 A. I do. I started my law enforcement career in
9 March of 1995 with the Isle of Palms Police Department.
10 I worked there until 1999, when I joined the Summerville
11 Police Department. And I left the Summerville Police
12 Department in 2008 to go to the sheriff's office.
13 I'm also currently in the Reserves, United States Army,
14 as a special agent with criminal investigation.

15 Q. And what did you do prior to your law enforcement
16 career?

17 A. I was in the United States Marine Corps.

18 Q. During your -- during that time, did you become
19 familiar with firearms during the entire course of your
20 career?

21 A. I have. Basically, from the age of 17 to now,
22 I've carried a firearm.

23 Q. And going back to your current position, what is
24 your position at the sheriff's office?

25 A. I'm a lieutenant over the general investigations

1 unit, which falls under the criminal investigative
2 division. Criminal investigative division has three
3 different units -- actually four different units.

4 The first one is crime scene unit, which Sergeant
5 Berg is a member of. Then there's a narcotics unit,
6 which can basically conduct investigations on controlled
7 substances, drug police. School resource officers
8 also fall under the criminal investigation division.
9 And then what we call CID, our regular detectives.
10 We handle everything from larcenies to murders.

11 Q. And what was your position back in June of 2016?

12 A. At that time, I was a detective sergeant.

13 Basically, I was a sergeant. I was a day-to-day
14 supervisor over the unit. But I was a working sergeant
15 where I had my own caseload.

16 Q. You were one of the supervisors at the time?

17 A. Yes, sir.

18 Q. And after this incident occurred on June 5th,
19 2016, did you assign someone to investigate this case?

20 A. Detective Keith Elmore.

21 Q. Is Keith Elmore still a detective?

22 A. No, he's not.

23 Q. Where is he now?

24 A. He's presently a patrol deputy in our patrol
25 division. He actually left the sheriff's office in

DIRECT EXAMINATION - MR. SPEARS

1 20 -- December 2016 and joined the coroner's office.

2 And then he returned, I believe, last year. He returned
3 back to the sheriff's office.

4 Q. And who took over this case after he left?

5 A. After he left, I did.

6 Q. Okay. Were you familiar with the case prior
7 to that?

8 A. I had some working knowledge of it. I never
9 participated in any of the investigation. What I knew
10 about it was office talk that you hear between
11 detectives.

12 Q. And since you took it over, have you had the
13 opportunity to familiarize yourself with the case?

14 A. Yes, sir.

15 Q. Now, Detective Peters, where was Keunte Cobbs
16 arrested?

17 A. In North Charleston, the La Quinta Inn.

18 Q. All right. And how long after the incident was
19 that?

20 A. I believe it was a few months.

21 Q. In reviewing your file, did you find some
22 paperwork about cell phones being recovered at the time
23 of his arrest?

24 A. Yes, I did.

25 Q. And as a result of that, were you able to find

DIRECT EXAMINATION - MR. SPEARS

1 those cell phones?

2 A. There was no -- reviewing the file, the first
3 thing when you're assigned a case, you basically see
4 what's done, make a list of what needs to be done,
5 and all that. In there was a search warrant return that
6 was completed by Detective Elmore. And on it was three
7 cell phones that were seized from Mr. Cobbs at the time
8 of his arrest.

9 There was also a chain of custody filled out by
10 Detective Elmore that had three cell phones that were
11 seized at the time. But the chain was never signed.
12 That means he never turned it over to our crime scene
13 unit, Detective Berg's unit, and they never signed for
14 it.

15 Q. And as a result of this, have you made any
16 attempts to locate these cell phones?

17 A. We did. My first thing was, obviously, call
18 the crime scene unit. They're the evidence custodians.
19 Any time evidence is checked in, they log it into their
20 computer system, and that's how they track evidence.
21 They looked everywhere. They're no mention of it.
22 They could not find it.

23 We checked his desk. Even though he's been gone
24 about a year, we checked his desk. There's no signs
25 of cell phones. We checked the car. There's no signs

DIRECT EXAMINATION - MR. SPEARS

1 of cell phones. We talked to him. He had no idea where
2 the cell phones where at.

3 Q. So you have no idea where these cell phones are?

4 A. I do not.

5 Q. All right. Now in review of the case, did you
6 determine that there were any items that needed to be
7 sent to the state law enforcement division?

8 A. I did.

9 Q. All right. Ballistics, firearms?

10 A. Ballistics, firearms. And I know the blood was
11 sent up there, but it was never tested.

12 Q. And you heard testimony that, you know, blood was
13 picked up. Do you have any reason as to why it was
14 never tested?

15 A. I do not. It was sent back to us. I could have
16 easily sent it back up there for testing. I knew two
17 people were shot. I believe Mr. Spells suffered gunshot
18 wounds, and Mr. Mack suffered gunshot wounds. They were
19 the only two people injured, and they were bleeding at
20 the time.

21 Q. Now, in your experience with firearms, did you
22 become familiar at all with gunshot residue?

23 A. Yes.

24 Q. All right. Did you receive any training on when
25 to take gunshot residue samples?

DIRECT EXAMINATION - MR. SPEARS

1 A. Yes.

2 Q. Okay.

3 A. Any time that we take gunshot residue, SLED will
4 not test any substance or residue test after six hours.
5 That's their policy. About gunshot residue, a lot of
6 people believe just because of CSI, the TV and all that,
7 is if you have gunshot residue, you fired a weapon.
8 That is not the case. All gunshot residue is, is that
9 you're in close proximity to a weapon being fired.
10 It does not indicate whether you fired it or not.

11 Q. So if a suspect was arrested three weeks later,
12 would there be any purpose of taking gunshot residue?

13 A. No, sir.

14 Q. Okay. Now you heard this week the testimony of
15 Mikell Nelson. After the file became yours, did anyone
16 reach out to you in regards to him?

17 A. We were contacted by the Federal Bureau of
18 Investigation and the Assistant United States Attorney's
19 Office, Charleston district.

20 Q. And did you have the opportunity to meet with
21 Mr. Nelson?

22 A. I did.

23 Q. And did you attempt any followup from the
24 information he spoke with you about?

25 A. We took the information that he got, which was

DIRECT EXAMINATION - MR. SPEARS

1 very vague. And we tried to corroborate any of the
2 information, and it could not be corroborated.

3 Q. Now -- let me go back briefly because I missed
4 a question, I'm sorry, in regards to gunshot residue.
5 Basically, would there be any reason to take a gunshot
6 residual test on a victim of a shooting?

7 A. No, because he's -- obviously, he was in close
8 proximity of the gunshot. He's shot.

9 Q. All right. Now, I'm going to ask you a couple
10 of questions about Bradford Spells.

11 A. Yes.

12 Q. Are you familiar with him?

13 A. I am.

14 Q. All right. And we heard earlier that the EMT --
15 I'm sorry. I'm sorry. Are you aware -- have you had
16 the opportunity to watch the surveillance footage on
17 this case?

18 A. I have.

19 Q. Okay. Did you recognize him in the video?

20 A. I did.

21 Q. Did you reach out to him in regards to this case?

22 A. I have reached out to him. I have reached out
23 to his acquaintances to speak to him.

24 Q. Was he cooperative at all?

25 A. He is not.

DIRECT EXAMINATION - MR. SPEARS

1 Q. All right. Does the Dorchester County Sheriff's
2 Office monitor calls made from the jail?

3 A. We do.

4 Q. During your investigation, did you have the
5 opportunity to review any jail calls in regards to this
6 case?

7 A. Yes, sir, I did.

8 Q. All right. Now, I'm showing you what's been
9 marked as State's 75.

10 MR. SPEARS: If I may approach, Your Honor?

11 THE COURT: You may.

12 BY MR. SPEARS:

13 Q. I'm sorry. I gave you the wrong -- I gave you
14 the wrong piece of evidence. I'm sorry. I'm showing
15 you State's 91. I knew the number didn't sound right.
16 Do you recognize this?

17 A. I do.

18 Q. Okay. Now what is -- have you had the
19 opportunity to review this disc?

20 A. I have.

21 Q. And what is this?

22 A. This is a phone call that's made by Mr. Cobbs
23 on August 3, 2018.

24 Q. Is this -- how were you able to tell that this
25 was Mr. Cobbs?

DIRECT EXAMINATION - MR. SPEARS

1 A. He said his name, Keunte.

2 MR. SPEARS: Your Honor, at this point in
3 time, I would like to present State's 91 into evidence.

4 MR. CHISHOLM: May we approach, Your Honor?

5 THE COURT: You may.

6 (Off-the-record conversation held at sidebar.)

7 (Back on the record.)

8 THE COURT: All right. Ladies and
9 gentlemen, we've just got a little -- just a little work
10 that we need to accomplish. It's not going to take us
11 very long, however, it's about lunchtime. Ladies and
12 gentlemen, I'm about to dismiss you for your lunch.

13 I'm going to ask you to be back at two o'clock because
14 y'all got the culinary opportunities, like, you got it,
15 you're familiar with them in Saint George.

16 So, I'm thinking you can get your lunch,
17 and return to us by two o'clock. Do be mindful not to
18 discuss this matter. Do not let anyone discuss it with
19 you. Don't do any investigations. No Columbo. Don't
20 even look up a definition. You must receive all of the
21 information from which you will make up your mind here
22 in court while court is in session.

23 Remember to leave your cell phone or other
24 communication device somewhere other than the
25 courthouse. If it follows you back, please give it to

1 our bailiffs. Be mindful as you come and go from the
2 courthouse. You may have occasion to come within the
3 vicinity of folks who are associated with this matter.
4 They will not speak with you. They are not being rude.
5 If they should speak with you, however, or anyone tries
6 to talk to you about this case, please report that to me
7 upon your return. Have a good lunch. See you at two
8 o'clock.

9 (Jury exits the courtroom at 12:53 p.m.)

10 THE COURT: Of course, you're not to discuss
11 your testimony with anyone over the lunch break.

12 THE WITNESS: Yes, ma'am. Thank you.

13 THE COURT: All right. See everybody at
14 two.

15 MR. ALLEN: Thank you, Your Honor.

16 (Recess taken.)

17 (Back on the record.)

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

19 MR. SPEARS: Ready, Your Honor?

20 THE COURT: All right. Thank you.

21 (The jury enters the courtroom at 2:20 p.m.)

22 THE COURT: All right. You may continue.

23 MR. SPEARS: Thank you, Your Honor.

24 BY MR. SPEARS:

25 Q. Detective Peters, I'm showing you what's been

1 marked as State's Exhibit 93. Do you recognize this?

2 A. I do.

3 Q. And what is this?

4 A. This is a phone call from Mr. Cobbs that occurred
5 in August of 2018.

6 Q. And how were you able to tell that was Mr. Cobbs?

7 A. He stated his name.

8 Q. All right.

9 MR. SPEARS: Your Honor, at this point in
10 time, I would request State's 93 into evidence.

11 MR. CHISHOLM: Your Honor, I would ask the
12 Court to note my previous objection.

13 THE COURT: Very well and overruled --
14 sustained. Overruled on the basis previously stated.
15 (State's Exhibit No. 93 was admitted into evidence.)

16 MR. SPEARS: May I publish, Your Honor?

17 THE COURT: You may.

18 (Jail call played for the jury.)

19 BY MR. SPEARS:

20 Q. Now, Detective Peters, aside from some other
21 poignant statements on that call, he's referring to
22 Brad?

23 A. That's Mr. Spells.

24 Q. Detective Peters, I might have already asked this
25 before, and forgive me for repeating myself. Have you

DIRECT EXAMINATION - MR. SPEARS

1 had the opportunity to thoroughly review the security
2 camera footage in this case?

3 A. I have.

4 Q. All right. And in you reviewing it, were you
5 able to go through all of the gathered footage frame
6 by frame?

7 A. Yes, I was.

8 Q. All right. Now, I'm showing you what's been
9 marked as State's Exhibits 79 and 80. What are these
10 documents?

11 A. This is a Powerpoint -- State's Exhibit 80 is
12 a Powerpoint presentation of the video. And State's
13 Exhibit 79 is a printed out portion of the Powerpoint.

14 Q. And would these assist you in explaining to
15 the jury kind of where everyone was in this security
16 footage?

17 A. Yes, it would.

18 MR. SPEARS: Your Honor, at this time,
19 we would request 79 and 80 into evidence.

20 MR. CHISHOLM: Without objection.

21 THE COURT: Very well.

22 (State's Exhibit Nos. 79 and 80 were admitted into
23 evidence.)

24 BY MR. SPEARS:

25 Q. And, again, while we're waiting on this to load,

DIRECT EXAMINATION - MR. SPEARS

1 could you just kind of give us an idea of the purpose
2 of this Powerpoint?

3 A. This is going to show you who -- where everybody
4 was at, and that there was only three people in the
5 restroom at the time of the shooting, so Mr. Cobbs,
6 Mr. Mack and Mr. Spells.

7 Q. While we're waiting on that to load, I would
8 like to go back to the question I asked you in regards
9 to Mikell Nelson. You stated you were unable to
10 corroborate anything that he told you?

11 A. That's correct.

12 Q. Can you just explain to us why you were unable
13 to?

14 A. I went down to the initial interview, down at
15 the Assistant United States Attorney's Office downtown.
16 And the information that we got, he could not provide
17 us a good address where this occurred at. He could not
18 provide us with any proper names. We had generic street
19 names, and there's just no leads to follow up on
20 anything.

21 Q. So he provided names, but not like, driver's
22 license ---

23 A. Correct.

24 Q. Okay. If we could go to slide two here.

25 Now looking here at slide two, can you just kind of give

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1 us an idea of, one, what information we have on these
2 stills in regard to the time?

3 A. Okay. The stills are date stamped June 5, 2016,
4 approximately 1:49 and eight seconds. And, obviously,
5 it's IHOP 3242, and it's the outside of the front door.
6 The picture on the left is Mr. Cobbs, who's in a red
7 shirt, and an unknown male in a white shirt, who we have
8 not yet been able to identify.

9 The picture on the right, it was time stamped at
10 1:49:54 on the 5th. And you can see the gentleman that
11 Mr. Cobbs is with on the left, he's actually sitting
12 down at the desk and then Mr. Cobbs -- in the booth.
13 And Mr. Cobbs is standing up.

14 Q. So showing them walking in together and sitting
15 down together?

16 A. Yes, that is correct.

17 Q. All right. Now slide three kind of -- were you
18 able to listen to the audio and determine when the first
19 shot was fired to when the last shot was fired?

20 A. That is correct.

21 Q. All right. Kind of give us an idea.

22 A. The first shot was at 0215 and zero seconds.
23 And the shot ended at 0215 and four seconds.

24 Q. And you're kind of showing the lobby here,
25 shots fired?

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1 A. That's correct.

2 Q. All right. Now for the next few slides, kind of
3 give us an idea of, not only why we're looking at what
4 we're looking at, but what's happening on the left side
5 versus the right side.

6 A. All right. The left side is going to be during
7 the shooting incident. The right side is just before,
8 or when the shots are first fired, okay. And this is
9 how we're going to eliminate all the people inside,
10 what area was actually shooting, and the possible
11 shooter.

12 If you look at -- there's number one. There he
13 is running. That picture is taken at 0215, shots are
14 starting to fire right then. The second picture is at
15 2:15 and three seconds. So the shots are still going
16 on. There's two -- I'm sorry. I can't write. Those
17 three are, obviously, eliminated from being the shooter
18 because shots were still being fired during that time
19 frame.

20 Q. And let's go to slide five. All right.
21 Now looking at this one, who are we kind of trying
22 to determine in this one?

23 A. Well, you got -- let's see. This guy right here
24 is that person, okay. You look right there, her, she's
25 right there. And that occurred at 0125 and no seconds,

DIRECT EXAMINATION - MR. SPEARS

1 and there's 0215 and four seconds.

2 Q. And, in general, a lot of these people that
3 you were able to eliminate were they -- had they even
4 entered the lobby?

5 A. No, they haven't.

6 Q. All right. I mean, I assume there's some in
7 there. All right. Now for the next slide, I believe
8 on the right side?

9 A. Right here, and she is right there.

10 Q. All right. And for the next slide?

11 A. On this one, eliminated that person as that
12 person.

13 Q. And that person, before the shooting started,
14 was she initially visible in the lobby?

15 A. I can't ---

16 Q. I understand.

17 A. But the shooting is on the right-hand side.
18 It's 2:15:02. And then, obviously, on the left-hand
19 side it's 2:15:04. So she's present during -- while
20 the shots are fired.

21 Q. And on the next?

22 A. If you look right here, right in there, it's kind
23 of hard just because of the picture quality.

24 Q. All right. And this woman on the left we see
25 running out here, I mean, were you able to actually find

DIRECT EXAMINATION - MR. SPEARS

1 her in the lobby, or is she kind of stuck ---

2 A. She's kind of stuck. If you look -- you see
3 where my marking is? Right there at the very back,
4 the dark contrast, that's her right there. She's right
5 there.

6 Q. Now for the next slide, and then the next slide.
7 These individuals, were you ever able to see any of them
8 in the lobby also?

9 A. If you go back to the -- this one right here,
10 she's actually right here, okay. So she's in the lobby
11 at 2:15:03, and she's exiting at 2:15:06.

12 Q. All right.

13 A. And then right there, at 2:15:01, right next --
14 right there, and here they are at 2:15:07.

15 Q. All right. Now on the right-hand side --
16 obviously, we've got the gentleman in the white shirt
17 you mentioned before. But just above the hostess stand
18 on the right-hand side, what are we looking at there?

19 A. This is a couple right here and right here,
20 and they are right there. Actually, what happens
21 on this, we see on the video, is he kind of grabs her,
22 pulls her into a bear hug to get her out of the way.

23 Q. Out of the way of what?

24 A. People coming out. And I think you should
25 be seeing Mr. Cobbs come out here shortly.

1 Q. And so for the next six slides, just kind of deal
2 with the guy in the red shirt?

3 A. Yes.

4 Q. Now what are we showing here?

5 A. This is Mr. Cobbs where he was sitting at
6 2:12:02. He's walking towards the bathroom at this
7 time at 2:12:08.

8 Q. And on the right-hand side, what's on the shirt
9 there?

10 A. , I believe it was, like, a polo emblem.

11 Q. Oh, okay.

12 A. American flag, I think.

13 Q. All right. And next slide?

14 A. This is -- the slide on the left, if you can see
15 right here, that's Mr. Cobbs, bottom corner, at 2:12:17.
16 And you can see from the previous side, there's his polo
17 emblem.

18 Q. And on the left slide, where is he going?

19 A. It looks going towards the restroom.

20 Q. All right. And here, what's the focus of this
21 slide?

22 A. This is the unidentified male that was with
23 Mr. Cobbs. Mr. Cobbs is right back there, and here's
24 the unidentified male at 2:12:23 going towards the
25 restroom also.

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1 Q. Now in your investigation, did you take lengths
2 to try to identify this person?

3 A. Yes, we have.

4 Q. At any point in time, were you able to?

5 A. He's still unidentified.

6 Q. All right. Now whose that on the ground on the
7 right side?

8 A. Right here, that would be Mr. Spells. And if you
9 actually look on the left slide, you see Mr. Cobbs.
10 Dark space right here, that's Mr. Spells.

11 Q. All right. Now a couple of slides ago, we saw
12 the individual identified as Keunte Cobbs turning
13 towards the restroom. Where is he coming from on this
14 one?

15 A. He's coming from the restroom.

16 Q. What was the time on that?

17 A. That's at 2:12:17.

18 Q. All right. Go forward. When is he exiting?

19 A. 2:15:07.

20 Q. And when were the shots fired?

21 A. 2:15:00 through 2:15:04.

22 Q. Let's go to the next one. And I believe this
23 is still him exiting?

24 A. It is.

25 Q. And you kind of broached this one earlier in

DIRECT EXAMINATION - MR. SPEARS

1 regards to the couple where the individual was pulling
2 the other one. Can you kind of elaborate a little bit
3 on that? Who's he pulling that person from?

4 A. Mr. Cobbs was walking out, and you can see as
5 clear as day on the video, this gentleman right here
6 grabs whoever he's with and just basically bear hugs
7 and moves her out of the way.

8 Q. All right. Let's go to the next one. What time
9 -- again, who are these individuals?

10 A. It's Mr. Mack and Mr. Spells.

11 Q. What time did they enter into the IHOP?

12 A. At 2:14:35.

13 Q. And where did they immediately go?

14 A. Straight to the restroom.

15 Q. Okay.

16 A. And if you look down on the right-hand slide,
17 that gentleman right there, that's your unidentified
18 male at 2:14:51.

19 Q. All right. And here, what are we looking at?
20 If we could just look for Mr. Mack and Mr. Spells on
21 these.

22 A. Yes. This is Mr. Spells and then Mr. Mack.

23 Q. You said Mr. Spells is on the left. Where's
24 Mr. Mack? On the right?

25 A. On the right, right here.

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1 Q. And after they entered the restroom, is this the
2 first time you see them after they enter?

3 A. This is when they're coming out, yes. Actually,
4 Mr. Spells has been out because Mr. Cobbs ran passed
5 him.

6 Q. All right. Let's go to the next one. And just
7 a little general thing. What are we looking at here?
8 What happens on the left side when they exit the
9 building?

10 A. When they come out, they actually initially come
11 this way to the left. And then they turn back to the
12 left to go back to the right.

13 Q. When you say go back to the right, you mean just
14 kind of in front of the IHOP?

15 A. Right, correct.

16 Q. And I believe State's 84 that Adam Sutton
17 testified to, is that kind of the area which they went
18 to?

19 A. I believe so.

20 Q. Is this where one of the two collected handguns
21 was found?

22 A. Yes, it was.

23 Q. And what happens on the right side there?

24 A. I don't understand.

25 Q. On the right slide. I mean, do they come back

DIRECT EXAMINATION - MR. SPEARS

1 into view?

2 A. They do, and then they walk off.

3 Q. All right. Now you were present in the
4 courtroom, you heard Mr. Colon. On the left slide here,
5 what time does he enter into the men's room?

6 A. He entered in 2:11:34.

7 Q. All right.

8 A. He exited on the right at 2:13:50.

9 Q. Okay. And these next few we're probably not
10 going to go too in depth on them. But Ms. Creel
11 mentioned that Hell's Angels sit in that spot.

12 A. Correct.

13 Q. And you just tell us, you know, kind of where
14 they are on the right side?

15 A. They were in the very back of the restaurant
16 on the right-hand side. If you look at the picture
17 on the right, at 2:15:02, shots are actually starting.
18 The bikers actually just grab their party members and
19 get on the floor. And then once the shooting stop,
20 exited the business.

21 Q. Were you able to eliminate them as being around
22 the bathroom ---

23 A. Yes, I was.

24 Q. -- at the time of the shooting?

25 A. Yes, I was.

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1 Q. I just want to go over a few things from the
2 security video because I know these stills don't always
3 show the full story. I mean, what time are we looking
4 at right now?

5 A. This is at 2:14:59.

6 Q. And if you could just play that for a moment.

7 (Video played for the jury.)

8 BY MR. SPEARS:

9 Q. Rewind for me to right there. Let's go forward
10 frame by frame. I want to direct your attention to
11 the gentleman in the yellow shirt, Detective Peters --
12 in the red shirt.

13 A. Okay. I thought you said yellow.

14 Q. Right here. In your experience, are you able
15 to determine anything about the way he's running?

16 A. Yes.

17 Q. Now the nature -- the way he's running out in
18 the bottom left frame, and then I believe he's going
19 to appear in the top right frame, what can you tell by
20 that?

21 A. People that carry firearms concealed, they have
22 to carry the firearm somehow, all right. Either they're
23 -- the uncommon ones are they carry it on their ankle
24 or on the shoulder holster. Most people prefer to carry
25 a concealed firearm either in a waistband or the holster

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1 or in a pocket.

2 A firearm weighs -- it's heavy. It doesn't
3 matter what kind it is, and it's habit. I do this.
4 I know other officers that do this; I know military
5 personnel that do this. If you're carrying a firearm,
6 you're constantly aware of where that is.

7 Without reflex, you actually might touch it.
8 I do it. Whenever I sit down or anything, I'm touching
9 my handgun. If it's on my ankle, I'm using my other
10 ankle to make sure it's there. It's a natural reflex.
11 Whenever you're moving, and whether it's appendix carry,
12 which is basically your ---

13 THE WITNESS: Judge, may I stand?

14 THE COURT: You may stand.

15 BY MR. SPEARS:

16 A. Appendix carry is right here, or you can do it
17 on the small of your back. It appears that Mr. Cobbs,
18 when he's running or moving quickly, is to hold right
19 here. To me, that's indicative of carrying a firearm
20 right there, and he doesn't want to lose it, obviously.

21 Q. And you're kind of referencing that from about
22 right here?

23 A. Yes.

24 Q. All right.

25 A. And if you play it at full speed, you can

DIRECT EXAMINATION - MR. SPEARS

1 actually -- and then go frame by frame, you can actually
2 see it.

3 Q. Now let's go forward to about right here.
4 We were discussing a couple a little bit earlier,
5 and I believe we're going to see them appear in the ---

6 THE COURT: A what?

7 MR. SPEARS: A couple.

8 THE COURT: A couple.

9 BY MR. SPEARS:

10 Q. We referenced it in the Powerpoint. On the top
11 right, is this the couple you were referring to earlier?

12 A. Yes.

13 Q. And does he pull her in one direction or two?

14 A. Looks like one.

15 Q. And of all the people that you watched in this
16 video, after the shots were fired, was anyone not really
17 running?

18 A. Yes.

19 Q. Who would that be?

20 A. Actually, there's a lady in there when Mr. Mack
21 and Mr. Cobbs actually come out, she kind of looks
22 at them, and then she just walks right into the door.

23 Q. Well, actually before that, in the lobby area,
24 are there any individuals not running once the shots
25 are fired?

CROSS-EXAMINATION - MR. CHISHOLM

1 A. Oh, the unidentified male was not running.
2 He just simply walked out the front door.

3 Q. All right. Is this the lady you're referring
4 to on the top right?

5 A. It is.

6 Q. And those two individuals walking out are?

7 A. Mr. Cobbs and Mr. Mack.

8 MR. SPEARS: Detective, please answer
9 any questions the defense might have for you.

10 THE COURT: Cross-examination.

11 MR. CHISHOLM: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. CHISHOLM:

14 Q. It's Lieutenant, right?

15 A. Yes, sir.

16 Q. All right. Lieutenant Peters, you came to this
17 case fairly late; is that correct?

18 A. That is correct.

19 Q. I believe you testified that at the time of
20 the arrest up until, I guess, six months into the case
21 it was Detective Elmore that was the investigator?

22 A. That's correct.

23 Q. And I believe you testified that there had been
24 a six-month period after he left, roughly, before you
25 came onto the case; is that right?

CROSS-EXAMINATION - MR. CHISHOLM

1 A. Actually, I think it was more than a year.
2 I think he left in December of 2016, and I came on
3 January of 2018.

4 Q. So there's a pretty good gap?

5 A. Yes, sir.

6 Q. Okay. And the case was just kind of, I guess,
7 in flux at that point?

8 A. Correct.

9 Q. And by the time you got on the case, obviously,
10 the suspect that you guys were going with had already
11 been identified and all of that had already taken place;
12 is that right?

13 A. Yes, sir.

14 Q. But you had to catch up to speed. You had to
15 look at all the other officers' reports. I believe you
16 said you talked to Detective Elmore. And you looked at
17 all the evidence that had been collected. And you had
18 to make decisions on how to follow through, how to
19 follow up, which way to go; is that right?

20 A. Yes, sir.

21 Q. Okay. And in doing all that, you became familiar
22 with basically all the evidence in the case, right?

23 A. Yes, sir.

24 Q. All right. From your review of the case, you
25 weren't able to ever see where either of the alleged

CROSS-EXAMINATION - MR. CHISHOLM

1 victims ever picked Mr. Cobbs out of a lineup, were you?

2 A. No.

3 Q. Okay. And you've heard the EMS testimony
4 that neither Mr. Spells or Mr. Mack ever identified
5 Mr. Cobbs, right?

6 A. That's correct.

7 Q. And they never gave any information at all about
8 Mr. Cobbs, correct?

9 A. Correct.

10 Q. And you're aware that Detective Elmore went and
11 met with, I guess, both of these guys shortly after they
12 got to the hospital to try and get information from
13 them; is that correct?

14 A. That's correct.

15 Q. And they would not give him any information?

16 A. I wouldn't say they would not give him
17 information. I know they were being treated for their
18 injuries. I don't know if they were able to.

19 Q. But you weren't there, you don't know that that's
20 the case?

21 A. Correct.

22 Q. So the only thing you know is he went out there
23 to try to talk to them, and he didn't get information
24 back?

25 A. That's correct.

CROSS-EXAMINATION - MR. CHISHOLM

1 Q. And you're aware that Detective Elmore then
2 went back to the hospital later, again to speak with
3 Mr. Spells?

4 A. Yes.

5 Q. And, likewise, was unable to get any kind of
6 information from him about what he was doing out there,
7 what they were up to, why they had guns or anything
8 else, right?

9 A. Correct.

10 Q. And he tried to show them a photo lineup of
11 Mr. Cobbs, didn't he?

12 A. Yes.

13 Q. And I believe his notes would indicate he refused
14 to look at it?

15 A. Yes.

16 Q. Okay. And from our previous discussions,
17 it sounds like you've been familiar with Mr. Spells
18 for quite a while?

19 A. I have.

20 Q. Okay. In your professional capacity?

21 A. Yes, sir.

22 Q. And I believe you told me that you weren't
23 surprised to hear Mr. Spells didn't cooperated because
24 I think what you said, and I don't know if this is
25 a direct quote, is that he never cooperates in any

CROSS-EXAMINATION - MR. CHISHOLM

1 of his cases?

2 A. That's correct.

3 Q. And I believe you also told me that based on --
4 and I think you just testified to this -- the evidence
5 that the direction Mr. Spells ran when he came out
6 of the entrance to the IHOP, he ran to the right where
7 the gun was found in the bushes. That made you believe
8 that his gun ---

9 A. I believe the Glock 26 was Mr. Spells, yes.

10 Q. Okay. And you also said that based on your prior
11 interactions, you also weren't surprised at all to hear
12 that he might have had a gun that night; is that right?

13 A. That's correct.

14 Q. Okay. And you've testified you tried to reach
15 out to him multiple times, and you get nothing back?

16 A. That's correct.

17 Q. And you told me previously that it's not a matter
18 of you just having no idea where to look, you told me
19 that you believe he knows you're trying to get in touch
20 with him, he just ain't returning your calls?

21 A. He definitely knows that we're trying to get
22 in touch with him, yes.

23 Q. He's stonewalling?

24 A. He wants nothing to do with us.

25 Q. Okay. And you heard the testimony that

CROSS-EXAMINATION - MR. CHISHOLM

1 Mr. Mack's gun was actually found in the ambulance ---

2 A. That's correct.

3 Q. --- is that correct? And when you come back
4 to Mr. Spells' gun, the gun that was in the bushes,
5 you told me that this gun -- you previously told me
6 this gun had been reported stolen out of Summerville
7 in 2014?

8 A. That's correct.

9 Q. And in your role as an investigator, were you
10 ever a street cop, so to speak?

11 A. I was a long, long time ago.

12 Q. It's been a while?

13 A. Yes, sir.

14 Q. But you've been doing this a long time?

15 A. Twenty-five years.

16 Q. And in the course of your career, have you been
17 familiar with any scenarios where sometimes people
18 that intend to commit a crime will use a weapon that
19 has the serial number obliterated, or a stolen gun?

20 A. Yes.

21 Q. Sometimes, I guess, you can call it a burner gun.
22 They will take a stolen gun so it can't be traced back
23 to them?

24 A. That's correct.

25 Q. Okay. And I don't know how much of this to put

1 on you versus Detective Elmore, but you can never
2 tie Mr. Cobbs to the scene with forensics, the blood,
3 the DNA, whatever stuff was collected; is that correct?

4 A. No, the only -- I mean, fingerprint.

5 Q. But that was on the front door?

6 A. That was on the front door. Inside the restroom,
7 no.

8 Q. And search warrants were executed for Mr. Cobbs'
9 residence, car, his person, correct?

10 A. There were two search warrants executed, yes.

11 Q. And based on those search warrants, there was
12 never any evidence collected that connects him to this
13 case, was there?

14 A. Correct.

15 Q. Okay. And when you got this case, do you feel
16 like the investigation had been handled competently?

17 A. No.

18 Q. So when you got it, it was a mess, is that fair
19 to say?

20 A. I used different words.

21 Q. Okay. So you had to start fresh?

22 A. Yes, sir.

23 Q. I did have one question. These stolen phones,
24 which we'll talk about here in a minute. But Sergeant
25 Berg testified that he had never heard -- he's the

CROSS-EXAMINATION - MR. CHISHOLM

1 evidence custodian, I guess, is a simple way to call it.
2 He said he had never received any calls from anybody
3 looking for these phones?

4 A. I don't know who I -- I reached out to crime
5 scene. That was the first call. I mean, that's number
6 one. Maybe Detective Elmore didn't do the paperwork
7 properly in evidence. Whether I talked to Sergeant Berg
8 or Sergeant Scott or Lieutenant Gates [ph.], I don't
9 know. I called up there, and it wasn't there. Believe
10 me, if the phones were there, I would have breathed
11 a sigh of relief.

12 Q. Because you would want them same reason we would,
13 in that cell phones can give you all kinds of
14 information; is that right?

15 A. That's correct.

16 Q. They can tell you -- well, they could tell you
17 probably a lot more than anybody wants to be known about
18 them. But they can tell you if you've been
19 communicating with someone else specifically, correct?

20 A. Yes.

21 Q. And I would imagine as a detective on the case,
22 you would want to know was there contact between
23 Mr. Cobbs and these other two guys?

24 A. Yes. I'm looking for evidence that -- my role
25 as an investigator, I find facts. I'm not a person that

CROSS-EXAMINATION - MR. CHISHOLM

1 -- I don't decide on the facts. I just present them so
2 other people can actually make a decision based on those
3 facts.

4 Whether it exonerates somebody, great, if it
5 helps convict them, great. It's not my decision on
6 how to utilize that information, okay. So if there
7 was information that could exonerate Mr. Cobbs, I want
8 to see it. And if there's information that could hurt
9 Mr. Cobbs, I want to see it.

10 Q. Okay. And back to these phones, it's your belief
11 that Detective Elmore, based on the paperwork you got,
12 is the actual person that collected them?

13 A. Yes.

14 Q. And from there, the trail goes cold?

15 A. Correct.

16 Q. You have no idea where they are?

17 A. Yes, sir.

18 Q. He has no idea where they are either; is that
19 correct?

20 A. Yes, sir.

21 Q. And as far as you're aware, no one else ever
22 looked at them at all?

23 A. As far as I know, no one looked at them.

24 Q. Okay. Do you not have policies and procedures
25 that would apply, especially in a murder case, that

CROSS-EXAMINATION - MR. CHISHOLM

1 would prevent something like this from happening?

2 A. Yes, we do.

3 Q. And were they followed in this case?

4 A. Obviously not.

5 Q. Okay. Have you ever done this personally?

6 Have you ever lost items of evidence like this in
7 a case?

8 A. No.

9 Q. Okay. It's a pretty big mistake, would you
10 agree?

11 A. Yes. It would -- being in charge of the unit,
12 if that happened, or if it does happen, that person
13 would no longer be a detective. I can guarantee you
14 that.

15 Q. So you're put in a position where you don't have
16 any information about where they went?

17 A. I have none.

18 Q. You don't know if they were misplaced out
19 of negligence. You also wouldn't know if they were
20 misplaced intentionally?

21 A. Correct.

22 Q. You're in the dark as I am?

23 A. Yes, sir.

24 Q. Okay. Were you the head of investigations back
25 in 2016?

CROSS-EXAMINATION - MR. CHISHOLM

1 A. No, I was not.

2 Q. I guess I can rephrase my question. Were you
3 in a supervisory capacity over Detective Elmore?

4 A. Yes and no.

5 Q. Explain.

6 A. We handled, like, day-to-day questions, you know,
7 make accountability aspects of it. Each investigator
8 actually runs his own investigation. And at some point,
9 the lieutenant over the unit will actually be in charge
10 and oversee the investigation because the sergeants,
11 they're working on their own investigations.

12 They're working sergeants, so they have a
13 caseload, just as the detectives do. So that's why the
14 lieutenant doesn't carry -- I carry a small caseload,
15 but not nearly as much as the detectives. So, I can
16 actually follow along, get updated regularly, and follow
17 along with the investigation.

18 Q. Were policies and procedures changed at all
19 in light of these phones going missing? Do y'all
20 do anything different now than you did back then?

21 A. No.

22 Q. Okay. You're aware -- I believe you told me
23 that a phone that's been attributed to Bradford Spells
24 was found in the IHOP restaurant that night; is that
25 correct?

CROSS-EXAMINATION - MR. CHISHOLM

1 A. Yes, sir.

2 Q. And I believe you told me you're aware this
3 phone was examined and its contents were downloaded?

4 A. It wasn't downloaded. Once I realized that it
5 wasn't downloaded, we forensically downloaded it, yes.

6 Q. That's something that hadn't been done initially?

7 A. Correct.

8 Q. And after you did that, you didn't find anything
9 of evidentiary value that would connect Mr. Cobbs to the
10 crime, correct?

11 A. No. The only communication was between him
12 and his girlfriend.

13 Q. All right. So, obviously, you just said this,
14 but there's no communication between him and Mr. Spells
15 or Mr. Mack, obviously?

16 A. No.

17 Q. Okay. And I believe from the case, there's
18 no evidence that Brannon Mack had a phone that night,
19 correct?

20 A. Not as far as I know.

21 Q. Okay. You testified briefly about Mr. Nelson,
22 and you probably heard the question I asked him, how do
23 we know that you didn't just come in here and completely
24 make this up, and you said you tried to verify, but that
25 wasn't the case, but you were unable; is that right?

CROSS-EXAMINATION - MR. CHISHOLM

1 A. That's correct.

2 Q. Because, basically, he gave you street names?

3 A. Yes.

4 Q. He said you can go ask Slick, he lives
5 in Lincolnville, that kind of thing?

6 A. We had nothing to go on.

7 Q. Okay. And there's nothing else to show that
8 his testimony is accurate whatsoever?

9 A. No.

10 MR. CHISHOLM: May I have one moment,
11 Your Honor?

12 THE COURT: You may.

13 BY MR. CHISHOLM:

14 Q. Detective Peters, you've been in Dorchester
15 in the investigation unit for quite a while now?

16 A. Yes, sir.

17 Q. Been there with then Detective Elmore for quite
18 a while?

19 A. Yes, sir.

20 Q. Do you remember the case of State v. Devonte
21 [ph.] Johnson?

22 A. I think that was ---

23 Q. Do you remember another case where cell phones
24 were missing?

25 A. Yes, I do.

1 Q. Thank you.

2 MR. CHISHOLM: No further questions.

3 THE COURT: All right. Redirect.

4 MR. SPEARS: None, Your Honor.

5 THE COURT: All right. Come on back down
6 to the table.

7 THE WITNESS: Thank you.

8 THE COURT: Call your next witness, please.

9 MR. SPEARS: Your Honor, at this time,
10 I believe the State rests.

11 THE COURT: All right. Ladies and
12 gentlemen, you have now heard the witnesses and received
13 the evidence which you will from the State in the
14 State's case-in-chief. That signifies to me that there
15 are matters that I must take up outside of your
16 presence. So, I'm going to ask you to please step
17 to your jury room. Leave your notebooks in your seat.
18 Do not discuss this matter; do not allow anyone to
19 discuss it with you. And we will be with your shortly.

20 (Jury exits the courtroom at 3:01 p.m.)

21 THE COURT: All right. Motions?

22 MR. CHISHOLM: Thank you, Your Honor.

23 At this time, I will make a motion for a directed
24 verdict. Viewing the evidence in the light most
25 favorable to the State, I find that they have failed

1 to present evidence to convict the Defendant on the
2 basis of the case. It's almost entirely circumstantial,
3 and I just don't think it rises to the necessary level.

4 THE COURT: Thank you. Of course, as you
5 know, I'm not charged the responsibility of weighing
6 the evidence. That's the jury's determination.
7 I must ascertain whether or not there is evidence from
8 which this jury can make a determination, and that there
9 is evidence on each and every element. I find that
10 there is evidence on each and every element of the
11 offense. And on that basis, I would respectfully deny
12 your motion, noting your exception. Any additional
13 motions at this time?

14 MR. CHISHOLM: No.

15 THE COURT: All right. Very well. Y'all
16 ready to proceed? Yes? All right. And I just ask
17 at this time, will the Defendant testify?

18 MR. LOY: Your Honor, I assume the Court ---

19 THE COURT: I am going to need to examine
20 him. All right. If you'll place him under oath,
21 please, ma'am.

22 (Whereupon, Mr. Keunte Cobbs was duly sworn.)

23 THE COURT: Now, Mr. Cobbs ---

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: I am going to explain to you

1 certain of your rights. If you do not understand
2 anything that I say, please let me know. There are many
3 ways to explain any one thing. And if you want me to
4 explain anything in more detail, please let me know.

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Do you understand?

7 THE WITNESS: Yes, ma'am.

8 THE COURT: We've now reached the stage of
9 the trial where you may present your defense. You have
10 the right to claim the protections given to you by the
11 Fifth Amendment to the constitution of the United
12 States. This amendment states, in part, that no person
13 shall be compelled in any criminal case to be a witness
14 against himself.

15 This means that you cannot be required to
16 testify in this case. You have the right to testify on
17 your own behalf, however, no one can make you testify.
18 This is a personal right. And no one can waive this
19 right, except you. If you decide to testify, you'll be
20 subject to the same rules that govern other witnesses,
21 and you may be examined and cross-examined on any
22 relevant issue in this case.

23 In addition, if you have any convictions
24 involving dishonesty or false statement, or for crimes
25 punishable by imprisonment for more than one year,

1 and this Court determines that the probative value
2 of admitting this evidence outweighs its prejudicial
3 effect to you, the solicitor will be allowed to
4 introduce that part of your record to attack your
5 credibility.

6 If you decide to testify, this decision on
7 your part must be freely, voluntarily, and intelligently
8 made, with knowledge of the protections given to you
9 by the Fifth Amendment and the consequences of your
10 decision to testify.

11 If you decide not to testify, I will
12 instruct the jurors they cannot give the fact that
13 you chose not to testify any consideration whatsoever,
14 and that there is to be absolutely no prejudice to you
15 because you did not testify. The decision is left
16 entirely up to you whether or not you testify.

17 I expect, I want you to talk, I think
18 it is appropriate that you speak with your attorneys.
19 You may wish to talk to your family, trusted friends,
20 or anyone else whose advice you may choose to seek.
21 However, it's very important that you understand that
22 the final decision will be left entirely up to you.
23 Do you understand what I've just explained to you?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you have any questions about

1 what I have just explained to you?

2 THE DEFENDANT: May I talk to my attorney?

3 THE COURT: Absolutely.

4 MR. LOY: Your Honor, he's inquiring if we
5 could stand down for a moment to converse with us one
6 more time.

7 THE COURT: Believe it or not, you're ahead
8 because my next question is, do you wish to speak with
9 your lawyer or lawyers, I should say, any more? And you
10 just said, yes, and that would be okay.

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: You got it. All right. We will
13 certainly take that break, Mr. Cobbs, and y'all just let
14 me know.

15 MR. LOY: We will. Thank you, Your Honor.

16 THE COURT: All right.

17 (Recess taken.)

18 (Back on the record.)

19 THE COURT: All right. Have you all had
20 an opportunity to talk?

21 MR. LOY: Yes, ma'am.

22 THE COURT: All right. And, Mr. Cobbs,
23 do you wish to testify?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Very well. All right. Can you

—DIRECT EXAMINATION - MR. LOY—

1 tell me -- can you share with me approximately how many
2 witnesses y'all -- this is just for scheduling purposes.

3 MR. LOY: Three.

4 THE COURT: Three? Very well. Thank you
5 so much. We will have the jury.

6 MR. LOY: Can I have one moment?

7 (Pause.)

8 MR. LOY: Three's good.

9 THE COURT: All right. Thank you.
10 All right. Thank you all so much. All right,
11 let's have the jury.

12 (Jury enters the courtroom at 3:35 p.m.)

13 THE COURT: All right. Ladies and
14 gentlemen, at this time, we will turn to the defense.
15 Call your first witness, please.

16 MR. LOY: Thank you, Your Honor.

17 The defense calls the Defendant, Keunte Cobbs.

18 THE COURT: Yes, sir. Come along this way.

19 MR. KEUNTE COBBS was called as a witness,
20 being duly sworn, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. LOY:

23 Q. Good afternoon, Mr. Cobbs.

24 A. Good afternoon.

25 Q. Mr. Cobbs, certain rules apply here, one is that

DIRECT EXAMINATION - MR. LOY

1 -- you're doing good -- you have to answer with words.
2 You can't nod or shake your head, and you can't uh-huh
3 or uh-uh because the court reporter is taking down
4 everything you say.

5 A. Yes, sir.

6 Q. I understand you're nervous, but try to keep
7 that in mind, okay.

8 A. Okay.

9 THE COURT: And if you forget, we're right
10 here to remind you. Go ahead, Mr. Loy.

11 MR. LOY: If the court reporter throws a pen
12 at you that means you're not doing it right.

13 THE WITNESS: Okay.

14 BY MR. LOY:

15 Q. How old are you, sir?

16 A. I'm 38 years old.

17 Q. 38 years old?

18 A. Yes, sir.

19 Q. And where are you from?

20 A. From North Charleston. I reside in Ladson,
21 South Carolina.

22 Q. Okay. Have you lived most of your life in the
23 Lowcountry?

24 A. Yes.

25 Q. Around ---

DIRECT EXAMINATION - MR. LOY

1 A. I was a military brat, so I've lived a few
2 places, but predominantly here ---

3 Q. Okay.

4 A. --- in the Lowcountry, yes, sir.

5 Q. Where did you go to high school?

6 A. Fort Dorchester High School.

7 Q. Fort Dorchester. Are you married, sir?

8 A. No, sir, single.

9 Q. Do you have children?

10 A. Yes, sir, I do, two.

11 Q. How old are your kids?

12 A. My daughter is 14; my son is 12.

13 Q. Are you the type of guy who's involved in your
14 kids' life? Are you involved with your children?

15 A. Very much so. PTA meetings, sports, modeling
16 competitions, stuff like that.

17 Q. That sort of thing?

18 A. Yeah.

19 Q. What do you do for a living, sir?

20 A. My primary job is a club promoter. What we do
21 is we bring, like, local acts, and they're trying to get
22 a name for themselves. They come ask us to have a party
23 for them. They get paid to perform, and kind of, like,
24 brings clientele, so to speak, to the club to spend
25 money, and I get money from the door.

DIRECT EXAMINATION - MR. LOY

1 Q. Okay. So essentially you arrange the musical
2 acts, the booking ---

3 A. Yeah, the musicals and the promotion of the
4 musical acts, which is, like, putting them on a flyer,
5 or do Facebook or e-mails, or something like that.

6 Q. Okay. And how long have you done that sort
7 of work?

8 A. I have been in that business for roughly about
9 seven, eight years now.

10 Q. Okay. Now you said that's your primary source
11 of income. Do you have any other work?

12 A. Yes, I have two friends who own a -- one owns
13 a painting business, Kenny's [sp.] Painting Service.
14 And then I have another one who owns a hardwood floor
15 company called Imperial Floors. So, I do hardwood
16 floors and I paint. And that's just on some weekends
17 when they need me, or I might need some extra money,
18 and I'll call them, or however it works.

19 Q. But you do that sort of work also to supplement
20 your income?

21 A. Oh, yes, sir.

22 Q. Okay. Now we've heard some names in here through
23 the course of this trial, Brannon Mack and Bradford
24 Spells. Do you know those two guys?

25 A. Yes, sir.

1 Q. Okay. And when you say you know them,
2 how is it that you've come to know them?

3 A. I met them back in 2011. And they would come
4 around the neighborhood, and they would come to my
5 aunt's house. They were friends with a cousin of mine
6 named Marcus [sp.].

7 Q. Okay. And your cousin, is he roughly your age?

8 A. No, sir, none of them are. I'm older than all
9 of them by 15, 16 years, maybe.

10 Q. Okay. So when you say you knew them, did you
11 consider yourself their contemporary, or are they
12 somebody that knew your cousin?

13 A. Not at all, just little kids at my cousin's
14 house. They were around the same age, so.

15 Q. Okay. And they visited your cousin -- people
16 call a lot of people their cousin. You've got long
17 cousins, short cousins, close, whatever. Is his mother
18 your aunt?

19 A. Yes.

20 Q. Okay. So they visited in her home?

21 A. Yes. Well, I'm not going to tell you it was her
22 knowledge that they were there, but pretty much, yeah,
23 they visited when she was at work.

24 Q. Okay. And do you live close to your aunt's
25 house? Are you close -- are you all a close family?

DIRECT EXAMINATION - MR. LOY

1 A. Okay. You have adjoining neighborhoods.. One is
2 called Fairlawn subdivision, and the next other one is
3 Jamison Terrace. I lived in Jamison Terrace; she lived
4 in Fairlawn.

5 Q. Were you at your aunt's home often? Are you all
6 a close family?

7 A. I would go over there and check, you know,
8 to make sure everybody was all right and stuff like
9 that. And then -- yeah, I would go over there often,
10 probably once or twice a day. That was Ms. Robinson,
11 and she did, like, during the summertime ---

12 Q. All right. Right now, I'm just asking you about
13 your family.

14 A. Okay, okay, I gotcha.

15 Q. Okay. And you say you were a relatively close
16 family, you checked on your aunt's home regularly?

17 A. Yes.

18 Q. Okay. And these two fellows, Spells and Mack,
19 you say that's how you got to know them, they were
20 associates or friends with your nephew?

21 A. Yes, sir.

22 Q. Okay. And this continued for a period of time?

23 A. Yes.

24 Q. Okay. Did there come a time eventually where you
25 decided to discourage this relationship or this contact

DIRECT EXAMINATION - MR. LOY

there at your aunt's place between your nephew ---

A. Cousin.

Q. Your cousin and these two fellows, Spells and Mack?

A. Yes.

Q. And why was that?

A. Well, there were a number of incidents that happened throughout the time frame towards the end once they got older. When they were younger -- but once they got older, it started getting worser and worser.

Q. Is there anything that happened at your aunt's house by way of example you can talk about?

MR. SPEARS: Your Honor, may we approach?

THE COURT: Sure.

(Off-the-record conversation held at sidebar.)

(Back on the record.)

BY MR. LOY:

Q. I'm sorry, Mr. Cobbs. I think I was asking if there's anything in particular you could point to, problems at your aunt's, or reasons that you decided to try to carve these folks out of your family life?

A. Yes, sir. There were a number of incidents, but two offhand that I can remember.

Q. Let's do them one by one, one to start with which is?

DIRECT EXAMINATION - MR. LOY

1 A. The first one was a shooting incident where this
2 guy got shot in her yard.

3 Q. In your aunt's yard?

4 A. Yes, sir.

5 Q. What's his name?

6 A. Shaquille [ph.] White.

7 Q. How many times was he shot?

8 A. Like six or seven times.

9 Q. And was this reported to the sheriff's department
10 at the time?

11 A. They were aware of it, yes, sir.

12 Q. And they investigated it, police were called,
13 all that sort of thing?

14 A. Yes, sir.

15 Q. Okay. And you say this was part of what caused
16 the problem, or caused you to try to distance yourself
17 from these two fellows?

18 A. It was one of the incidents that happened.

19 Q. All right.

20 A. They were ---

21 Q. Hang on.

22 A. Okay.

23 Q. Why did this cause a problem between you and
24 these two guys? Why did you -- were they involved?

25 A. They were perpetrators.

1 Q. And how do you know that?

2 A. Firsthand knowledge. They told me.

3 Q. Okay. And so they told you that they did this,
4 in your aunt's yard I mean?

5 A. That's when I was, like, whoa, you know.

6 Why would you do that in my aunt's yard, like,
7 you know. And it was just a conversation. It wasn't,
8 like, any animosity. It was, like, did he threaten
9 you -- I was trying to figure out what was going on.
10 But that was kind of iffy, like, my little cousin
11 wanting to go that route. But he wants to keep hanging
12 around those people, you know.

13 Q. So did you tell them not to come back to your
14 aunt's house? What did you do?

15 A. Not at that particular time, no. There was
16 another incident, and then I eventually stepped in,
17 and told them, like, look, don't have them over here
18 because, you know, my aunt has her grand kids ---

19 Q. What was the other incident?

20 A. The other incident was there was another
21 shooting, but the bullets went in a car of the yard.
22 And it went through the window where she was washing
23 dishes one night after work. And then at that point,
24 I was like, well, you know.

25 Q. And was this after you've had the conversation --

DIRECT EXAMINATION - MR. LOY

1 shortly after you've had the conversation, saying ---

2 A. The first one where they told me that they did
3 whatever they did, you know. And I was, like, whoa,
4 you know, because the only thing about it is their
5 mothers are, or whoever they live with, didn't live
6 around there. And people, as well as them, they had
7 different beefs going on. People were retaliating ---

8 Q. At your aunt's?

9 A. --- there at my aunt's house, you know, so.

10 Q. Okay. Now you talked about roughly knowing
11 these fellows for about a five-year span. Over that
12 time, obviously, everyone gets older, they were growing
13 up, I suppose. Did they acquire any sort of particular
14 reputation around that neighborhood?

15 A. They were, like, I guess, what you want to call
16 enforcers, so to speak. They were definitely shooters,
17 you know.

18 Q. Do you know whether or not within the
19 neighborhood, either or both of them, had a reputation
20 for violence?

21 A. Yes.

22 Q. And what was that -- does that mean, yes,
23 their reputation was for violence?

24 A. Basically, yes.

25 Q. Okay. And is that -- by reputation, I mean what

1 people say about you. So, I'm asking is that what
2 people in the neighborhood would have said or thought?

3 A. People in the neighborhood, law enforcement,
4 whoever that knew them, you know. If they heard about
5 anything going on, those are the names that would have
6 came up, anything associated with violence in the
7 neighborhood.

8 Q. So people in the neighborhood, as well as law
9 enforcement and anyone else who knew them?

10 A. Yeah.

11 Q. Okay. Thank you very much. Now did you ever
12 have cause to become concerned about these fellows after
13 you tried to carve them out of the family, once you told
14 them don't be back at the house, and all of that stuff?
15 Did anything else arise to cause you concern about
16 yourself as it relates to them?

17 A. Yes, sir. There was two young ladies that came
18 to me, and they were, like, you know, I don't know what
19 you did or said, but, you know, you might want to be
20 careful because this guy keeps mentioning and keeps
21 bringing your name up in conversation, like, you know.
22 So, I didn't understand why, or I really didn't know
23 why. And then they told us about how he wasn't happy
24 about me telling him, you know, don't come back to my
25 aunt's house.

DIRECT EXAMINATION - MR. LOY

1 Q. And did you receive any sort of information
2 or threats from any other source?

3 A. Well, basically, I found out later, like --
4 I found out during that time that Brad wanted me to
5 help him get out of jail. And I told him, you know,
6 that wasn't going to happen, and he didn't like that,
7 so, you know.

8 Q. And did ---

9 A. Whatever ---

10 Q. Did anyone else come to you and convey a message
11 or a threat from either of these guys?

12 A. My cousin ---

13 MR. SPEARS: Your Honor, after a while,
14 it is hearsay.

15 MR. LOY: Your Honor, may we approach,
16 or I could make the argument?

17 THE COURT: Yes.

18 (Off-the-record conversation held at sidebar.)

19 (Back on the record.)

20 BY MR. LOY:

21 Q. So, Mr. Cobbs ---

22 A. Yes, sir.

23 Q. Moving on. But before we do, is it your
24 testimony today then that on more than one occasion
25 you had been warned to be afraid or be careful because

1 of these two guys?

2 A. Yes, sir.

3 Q. Thank you. Now on the night in question --

4 I mean, the solicitor keeps talking about a red shirt
5 and all that stuff, I mean, was that you?

6 A. Yes, sir, that was me.

7 Q. Okay. Now this was, a Saturday night,
8 Sunday morning?

9 A. Yes, sir.

10 Q. Okay. And about what time did you get to the
11 restaurant?

12 A. Actually, I got there early.

13 Q. About what time?

14 A. About 1:40, 1:50, something like that.

15 Q. You say that's a little early for you?

16 A. Yes. What happened is I left the club early
17 that night because my daughter was supposed to be in
18 a commercial and had to do something the next morning.
19 So, I know I left early, but it ended up being late.

20 Q. I understand. Did you -- up until things went
21 south, so to speak, that evening, had it been an
22 ordinary course of sort of evening? Had something gone
23 bad? Were you having a ---

24 A. No, absolutely not. It was pretty normal.
25 Everything was normal, except I left early from

DIRECT EXAMINATION - MR. LOY

1 the club.

2 Q. Okay. And when you got to the restaurant,
3 to the IHOP, I mean, were you in a good mood when
4 you got there?

5 A. Yeah, I mean, regular mood, you know. I try
6 to stay in a good mood all the time. As, you know,
7 the young lady said, every time I came in I just get
8 breakfast, and then I go to the house.

9 Q. The waitress said you're a social butterfly,
10 bouncing around, speaking to everybody at the restaurant
11 and all. Does that sound like you?

12 A. Yes, sir. You know, once you go somewhere
13 a lot, you get a rapport with people in the restaurant.
14 So, I knew more than her. But she was usually the main
15 one who came into my section, like, come over with me,
16 you know, whatever, yeah.

17 Q. Okay. Did you have a gun?

18 A. Yes, sir.

19 Q. Why?

20 A. Due to the fact that my cousin warned me
21 that they came to his house sometime in the evening,
22 and he told me that they ---

23 MR. SPEARS: Your Honor ---

24 BY MR. LOY:

25 Q. So you were warned. And part of the reason you

DIRECT EXAMINATION - MR. LOY

1 had a gun was because you had been warned to be careful
2 about these two guys?

3 A. Right.

4 Q. Were there any other reasons why you would have
5 been armed?

6 A. Well, no -- that and what the girls had said put
7 together is the reason why I was, like, okay, you know.
8 But other than that, I've been robbed a couple of times
9 because like I told you at my job I carry a lot of money
10 from the door. It's just cash. So some people watch,
11 and you might not be paying attention, then that might
12 happen.

13 Q. So you also carried a gun because you've been
14 robbed a few times ---

15 A. Sometimes ---

16 Q. --- and you carry cash?

17 A. Not on a regular basis. But during that period
18 of time, primarily, because of the threats by -- well,
19 the warnings by these two looking for me, you know.

20 Q. Okay. All right. And the -- I think we heard
21 testimony that you regularly arrived at this restaurant
22 the same nights of the week, same time?

23 A. Primarily. Depending on my appetite, or if I had
24 something from earlier, I would go, yeah.

25 Q. So if somebody were looking for you Saturday

DIRECT EXAMINATION - MR. LOY

1 night at two o'clock in the morning who knew you,
2 would they know where to look?

3 A. Yeah, yes.

4 Q. Okay. And on this occasion, you were going
5 about your ordinary routine; is that right?

6 A. Yes, sir.

7 Q. And in the restaurant, I mean, did you order
8 food, do you recall?

9 A. I don't think that I made it to that point,
10 but I knew I had to use the bathroom real bad.
11 Like she said, she always brings me the grapefruit
12 juice.

13 Q. No ice.

14 A. Yes. I was just having a conversation with the
15 guy that approached or whatever. But, no, I don't think
16 I ordered anything yet.

17 Q. And did you go to -- you did eventually go to
18 the restroom?

19 A. Yes.

20 Q. Tell the ladies and gentlemen of the jury about
21 that.

22 A. Okay. Me going to the restroom, my second
23 time actually, within a matter of 30 minutes, I want
24 to say ---

25 Q. Well, let me ask you this. When you went to the

1 restroom, did you use the urinal? Did you go in the
2 stall? Where did you go when you went in the restroom?

3 A. I went in the stall because I think looking
4 at the urinal, I think it had pee or something.
5 But, anyway, I went in the stall.

6 Q. So you used the stall?

7 A. Yes, sir.

8 Q. And, obviously, you had to exit the restroom.
9 Eventually, when you went to exit the stall or open
10 the stall door, what did you see?

11 A. I saw Mr. Mack first, and then I seen Mr. Spells.

12 Q. Now we'll get to what happened next. When you
13 saw them, what was your reaction as far as feelings
14 or in your heart?

15 A. Well, I was kind of scared senseless, like,
16 isn't these the same two that they told me was looking
17 for me earlier, you know what I'm saying. So, I'm,
18 like, what the heck. Did they follow me, kind of,
19 sort to speak, and ---

20 Q. Your reaction was fear?

21 A. All the way. All the way.

22 Q. All the way, meaning what?

23 A. I was scared because -- only because it happened
24 so quick. They actually seen me.

25 Q. I understand. When you stepped out of the stall,

DIRECT EXAMINATION - MR. LOY

1 is there only one door into this restroom that leads
2 back out into the restaurant?

3 A. Yes, one exit. There's no other way out.

4 Q. Okay.

5 A. Just that one.

6 Q. Behind you was what?

7 A. A wall.

8 Q. Okay. And on both sides of you was what?

9 A. Walls.

10 Q. And was anyone blocking the door?

11 A. Yeah, both of them. They were just walking in.

12 Q. And what happened?

13 A. Upon seeing me, both of them started reaching.

14 Q. Now when you say they started reaching, I saw
15 your action, but what do you mean? They started
16 reaching where?

17 A. Their waistlines. I saw the gun that Mack
18 had first, seeing him first, because we made eye
19 contact first, and then Spells.

20 Q. And have you known these two -- have you seen
21 these two fellows with guns before? Not just what
22 you've heard, have you seen them with guns?

23 A. All the time, you know.

24 Q. They just, essentially, carry, is that what
25 you're saying?

A. Something of the norm for these guys.

Q. Okay. So you came out, and you said your reaction was fear. You saw both of them reaching for their waistbands. What happened next?

A. I guess I beat them to the punch because I pulled my gun out, and I started shooting because I was, like, well, you know, I know what they were going to do, or in my mind I assumed I know what they were going to do next. And I was basically just trying to exit and get out, you know. But they were in front of the door, so it was kind of hard for me to be, like, excuse me when you've got two guys pulling out weapons, like, that were looking for you.

Q. Were you concerned for your life?

A. Yes, very much so.

Q. Did you feel like you had any option, other than to do what you did, as far as to save your life?

A. No. Only knowing them and saying that, you know, like, I know that they don't play. And if you heard of any threat or any warning, don't take it as such, you know, dealing with these two individuals, you know.

Q. All right. And you essentially pulled the trigger until you can get out the door?

A. That's about accurate, yes.

Q. Did it seem like it happened quickly?

DIRECT EXAMINATION - MR. LOY

1 A. Fast, you know.

2 Q. Did it take a matter of three or four seconds,
3 something like that?

4 A. Yeah.

5 Q. Okay.

6 A. You know.

7 Q. Speaking of the tape that we -- and then when
8 you exited the bathroom, you left the premises?

9 A. Yes, sir.

10 Q. Now speaking of the tape, we also heard a tape
11 of what's purported to be a phone call that you made.
12 You recollect hearing that also?

13 A. Oh, yes, sir.

14 Q. Doesn't sound anything like what you're telling
15 us here today. Why is that?

16 A. At that time, I was in jail, and I was
17 incarcerated. And, you know, like I said, I was scared.
18 And I don't really -- like in that situation, it's hard
19 to explain because I've never been through anything like
20 that.

21 Q. What were you scared of?

22 A. Well, I was afraid of, you know, they know
23 a couple of people and have a couple of family members.
24 And I don't really know who are the people or anything
25 like that because, like I said, they isolated themselves

1 from, like -- and we didn't know about their family
2 members or anything. But they knew everything about
3 our family members.

4 Q. You were worried about some type of retaliation?

5 A. Or something like that, sort of speak.

6 Q. And do you recall what you were originally
7 charged with, and what they charged you with when
8 they put you in jail?

9 A. Murder and attempted murder.

10 Q. Okay. And those things there also, you say you
11 were scared. Are you scared about that, being in jail
12 on a murder charge?

13 A. Yes, sir, of course. You know, that's not of the
14 norm.

15 Q. So you were scared about that. And you spoke
16 with this person on the phone, and basically said,
17 I didn't have anything to do with it?

18 A. That's what I told that person, yes.

19 Q. And is that the reason, basically fear, and just
20 trying to distance yourself from the whole thing?

21 A. Yes, sir, and hoping in all hopes I'm in a bad
22 dream maybe, you know.

23 Q. I understand.

24 A. Like, I didn't want to hurt anybody or anything
25 like that, you know. Like, I just didn't want to be

DIRECT EXAMINATION - MR. LOY

1 hurt at the time. And I felt, like, that would have
2 been the outcome if I didn't do what I did.

3 Q. I understand. Just one moment. Detective --
4 Lieutenant made a point of talking about this white
5 shirt, some guy wearing a white shirt. Did you come
6 to the restaurant with any dude wearing a white shirt?

7 A. No, sir. I was approached by him.

8 Q. Okay. And did you leave with anybody wearing
9 a white shirt?

10 A. No, sir, I didn't leave with him.

11 Q. Was he essentially one of those folks like you
12 talked about in the restaurant, basically, just you
13 speak to anybody, and he spoke to you?

14 A. Well, actually, he approached me, but sort
15 of, kind of, yeah. I knew him from prior engagements,
16 but I never knew his name. But he seen me, you know,
17 at the club promoting. So a lot of people recognized
18 me.

19 Q. Okay. You're a club promoter, and you're not
20 quite an angel. You, in fact, got convicted once in
21 the past of assault and battery, didn't you?

22 A. Yes, sir, in 2006, I believe it was.

23 Q. Thank you.

24 THE COURT: All right. Cross-examination.

25 MR. SPEARS: Thank you, Your Honor.

CROSS-EXAMINATION - MR. SPEARS

CROSS-EXAMINATION

1
2 BY MR. SPEARS:

3 Q. Mr. Cobbs.

4 A. Yes, sir.

5 Q. I mean, obviously, you say you were there that
6 night, right?

7 A. Yes, sir.

8 Q. I'm curious. You say you've known Brannon Mack
9 and Bradford Spells for about five years, right?

10 A. Roughly, yes, sir.

11 Q. And -- but you didn't really know them.
12 They hung around with your cousin?

13 A. Yes.

14 Q. Okay. But they kind of had a dangerous
15 reputation?

16 A. Later on.

17 Q. All right.

18 A. Yes, during the later years.

19 Q. All right. As things progressed, they developed
20 a reputation?

21 A. Yes.

22 Q. All right. And then they participated in
23 a shooting, right?

24 A. Yes, sir.

25 Q. Okay. I believe you said the name was Shaquille

CROSS-EXAMINATION - MR. SPEARS

1 White was the person shot, right?

2 A. Yes, sir.

3 Q. And then they told you that they shot him,
4 is what you just said, right?

5 A. Well, indirectly, but yes, they told me. It was
6 one of those things where they say, well, he stole
7 something from me, not I shot him, but he shouldn't have
8 stole something from me, or something like that.

9 Q. So they didn't actually tell you?

10 A. Well, not them particularly. But he said he
11 stole something from him, and that's why that happened
12 to him.

13 Q. Okay. So ---

14 A. And then other people told me that they did it.

15 Q. So just heavily and right across the board that
16 they had shot this guy simply because he had stolen
17 something, right?

18 A. Supposedly, yes.

19 Q. But according to what you just said, these
20 two dangerous guys who have developed this reputation,
21 found out that they had shot someone, but you didn't
22 really step in then to them hanging around, right,
23 is what you just told the Court?

24 A. Yes, sir.

25 Q. You waited until, apparently, there was another

CROSS-EXAMINATION - MR. SPEARS

1 shooting, a drive-by shooting. And then you realized
2 that's the time for me to step in, right?

3 A. No, sir. The first shooting, I mentioned
4 something to them, and that's when he told me --well,
5 he stole something from me -- well, he shouldn't have
6 stolen something from me. And I'm, like, look, you
7 know, this is my aunt's house. She ain't do nothing
8 wrong to nobody. She don't deserve this.

9 And he was, like, we respect you, and you don't
10 got to worry about it again, basically. And then
11 I talked to my cousin, and he told -- you know, I was,
12 like, hey, be careful who you hang around and stuff like
13 that. But I did say something the first time, actually.

14 Q. Okay. So you said take it easy, stop shooting
15 people, all right?

16 A. Well, not in those words, but something like,
17 you know.

18 Q. And, apparently after that, according to what
19 you said, you stepped in again?

20 A. Yes, sir.

21 Q. And they took it personally?

22 A. I think they did this time, the second time,
23 because it was a little bit more, like, aggression
24 towards what I was trying to tell them.

25 Q. So suddenly then rumors are started and

CROSS-EXAMINATION - MR. SPEARS

1 everything, that you're in danger because you told them
2 not to come around your aunt's house anymore, or stop
3 shooting people in that area, right?

4 A. From what I was told, I didn't have a
5 conversation with them after that. I think Mr. Spells
6 was incarcerated, actually.

7 Q. Like I said, so the rumor is coming around that
8 you thought you were in danger and everything because
9 you told people to stop coming around. Now that night
10 at the IHOP you said you carried a gun, right?

11 A. Yes, sir.

12 Q. And a couple of reasons. Apparently, you're
13 afraid of these rumors, or also you've been robbed
14 a couple of times, and you had to protect the cash
15 on you, right?

16 A. From -- yes, from leaving work.

17 Q. Now you said you had to -- this individual
18 that approached you, that you walked in with ---

19 A. All right.

20 Q. You've seen the security camera footage, right?

21 A. Yes, sir.

22 Q. I assume -- you know, it's fair. You had
23 the opportunity to go over the evidence, right?

24 A. Um-hum.

25 Q. All right. Now, he walks in with you, and y'all

1 sit down together, right?

2 A. Yes, sir.

3 Q. All right. And you hang out for a while, right?

4 A. Yes, we talked.

5 Q. Then you get up together, right?

6 A. Um-hum.

7 Q. Head towards the lobby, right?

8 A. Well, hold on one second. I -- until my first
9 time seeing the actual video, I didn't know that he was
10 behind me, and that's what I told my attorney.

11 Q. Now you hang out with this guy for a while,
12 and he just happens to follow you to the bathroom,
13 right? Hang out just outside that area in the footage,
14 right?

15 A. Right, after seeing it, yes. Yes, sir.

16 Q. Okay. Now you're in there, a lot of rumors
17 going around, you're carrying a gun because you're
18 scared, and then you see these two people come in once
19 you exit the stall, right?

20 A. Yes, immediately.

21 Q. Okay. And, according to what you're telling
22 us today, you just drew quicker? You said you saw
23 Brannon Mack's gun, right?

24 A. Yes.

25 Q. Okay.

CROSS-EXAMINATION - MR. SPEARS

1 A. He pulled his. I saw his first, and then
2 Bradford eventually.

3 Q. So first ---

4 A. Both of them upon seeing me, pulled out -- well,
5 at least started trying to reach for their waistline.

6 Q. Pulled their gun, saw the gun, pulled your gun?

7 A. Yes.

8 Q. Shot?

9 A. Yes.

10 Q. Okay.

11 A. That's correct.

12 Q. And you managed in that instance to shoot Brannon
13 Mack in the left side a couple of times, right? You've
14 heard the testimony from the pathologist and all that,
15 right?

16 A. Yes, sir.

17 Q. Okay. Now ---

18 A. Well, particularly at that instant, I don't
19 know -- I mean, I know now from hearing the testimony
20 and watching the scene and all that. But I don't know
21 exactly where I was shooting. I was just scared and
22 trying to get out of the stall.

23 Q. I get it. I understand. I mean, you know where
24 the bullets hit him?

25 A. Yes, sir, now.

CROSS-EXAMINATION - MR. SPEARS

1 Q. Okay. And then you proceed forward, right?

2 A. To leave?

3 Q. To leave.

4 A. Yes.

5 Q. Now, I want to go over to State's 37, testified
6 to be the outside of the door to the bathroom, right?

7 You heard that testimony?

8 A. Outside of the door?

9 Q. Yes. This is the door to the bathroom, right?

10 A. Yes.

11 Q. Okay. Then a little towards the door has
12 a number of projectiles found right by the door,
13 right? So you shot -- you saw them, you saw them
14 pull, you pulled your gun, right?

15 A. No. They pulled -- they reached for their guns
16 first.

17 Q. Okay.

18 A. And then I pulled my gun.

19 Q. Okay. So they reached for their gun.

20 Brannon Mack reached for his gun, and you saw his
21 gun, right?

22 A. Yes.

23 Q. You saw Bradford Spells pull his second? You saw
24 it?

25 A. Yes.

CROSS-EXAMINATION - MR. SPEARS

1 Q. And you managed to pull your gun first, and shoot
2 Brannon Mack multiple times, right?

3 A. Yes.

4 Q. Okay. And Bradford Spells on his way out of the
5 bathroom, right?

6 A. No. He was -- I think he's trying -- in the
7 process of reaching for his gun, I don't think he could
8 have got it out. He didn't get it out fast enough
9 or something. But by the time he got to it and in his
10 hand, I already shot him as well.

11 Q. And at the same time as you exited the bathroom,
12 the guy who just happened to follow you there is just
13 kind of walking out when everyone else is running,
14 right?

15 A. I didn't ---

16 Q. You saw the footage?

17 A. Yeah, I saw the footage. But I didn't look to
18 see what he was doing or anyone was doing, for that
19 matter, man. I was just trying to really just get out
20 and get to safety, you know.

21 MR. SPEARS: Court's indulgence, Your Honor.

22 THE COURT: Yes.

23 BY MR. SPEARS:

24 Q. Now your testimony here is that you were scared
25 while you were in the jail. While you're in there,

CROSS-EXAMINATION - MR. SPEARS

1 you're worried about any type of -- some type
2 of retribution, right?

3 A. Yes. They had family members and friends,
4 you know.

5 Q. So your answer to that is to make a call and
6 speak about a conversation you had saying, "he's trying
7 to get me to say self-defense. I ain't stupid; I ain't
8 on drugs. I didn't shoot nobody." Right? We just
9 heard the call.

10 A. Yes.

11 Q. Okay. "These people want to make up a concept
12 of what happened. That means I shot my own homeboys.
13 I didn't know nothing about no self-defense." Right?

14 A. Yes, sir. Those were all deniables, man,
15 just not wanting the word to be that, you know ---

16 Q. And then you said you had told ---

17 MR. LOY: Your Honor, if he could complete
18 his answer.

19 MR. SPEARS: I apologize, Your Honor.

20 THE WITNESS: You can go ahead.

21 BY MR. SPEARS:

22 Q. And then you later mentioned you talked to Brad
23 and the rest of them in regards to Brad testifying,
24 right?

25 A. Yes, I did speak with him on the phone through

CROSS-EXAMINATION - MR. SPEARS

1 speakerphone, but with my cousin.

2 Q. Okay. So after this, you spoke with Bradford
3 Spells?

4 A. On the speakerphone.

5 Q. On a speakerphone?

6 A. Yes. He told me he wasn't coming to court,
7 so everything was all right. And, basically -- but
8 I don't know. He didn't say he was going to do anything
9 or anything like that. But he just said he wasn't going
10 to come to court.

11 Q. All right.

12 A. But he just happened to be at my aunt's house
13 talking to my cousin, and then he got on the phone.
14 It wasn't -- and they should have had that on the
15 recording too as well because it was from the county
16 jail.

17 Q. So Bradford Spells, the man you shot in the
18 bathroom, was hanging out at your aunt's house, and got
19 on the phone with you, and spoke with you?

20 A. After he got out, yes.

21 Q. Okay.

22 A. Yes.

23 Q. Okay.

24 MR. SPEARS: No more questions, Your Honor.

25 THE COURT: All right. Redirect?

DIRECT EXAMINATION - MR. LOY

1 MR. LOY: No, thank you.

2 THE COURT: All right. Call your next
3 witness, please.

4 MR. LOY: Your Honor, we will recall Dwayne
5 Peters to the stand.

6 THE COURT: As you know, you've already been
7 sworn in this matter.

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Your witness.

10 DIRECT EXAMINATION

11 BY MR. LOY:

12 Q. Lieutenant, it sounded like you know Mr. Bradford
13 Spells; is that correct?

14 A. That's correct.

15 Q. And do you know his reputation for violence and
16 criminal behavior within the community, law enforcement
17 or the neighborhood?

18 A. Yes, I do.

19 Q. And what is that reputation?

20 A. Exactly how Mr. Cobbs described it.

21 Q. For violent and criminal behavior?

22 A. Yes, sir.

23 Q. And Mr. Spells, do you know his reputation?

24 A. I was speaking of Mr. Spells. Mr. Mack, I do not
25 know.

DIRECT EXAMINATION - MR. LOY

1 Q. Oh, okay. I'm sorry. I meant to go to Mr. Mack.

2 A. Okay. Mr. Mack, I do not know his reputation
3 whatsoever. I know Mr. Spells, yes.

4 Q. And Mr. Spells, you've confirmed what we've
5 heard?

6 A. Yes.

7 Q. Thank you.

8 MR. LOY: No more questions.

9 THE COURT: All right. Cross-examination.

10 MR. SPEARS: None, Your Honor.

11 THE COURT: Thank you. You may come down.

12 All right. Call your next witness, please.

13 MR. LOY: Your Honor, we could approach,
14 or I can -- I have a matter of law I need to discuss,
15 either at bar or outside ---

16 THE COURT: All right.

17 MR. LOY: Either way.

18 THE COURT: Could I have a hint?

19 MR. LOY: Yes, ma'am.

20 THE COURT: Just come on forward.

21 (Off-the-record conversation held at sidebar.)

22 (Back on the record.)

23 THE COURT: Ladies and gentlemen, there is
24 a matter that I must take up outside of your presence.
25 Please step to your jury room. Do not discuss this

1 matter, or allow anyone to discuss it with you.

2 (Jury exits the courtroom at 4:20 p.m.)

3 THE COURT: The issue is that you want
4 to recall the SLED agent who's still under subpoena,
5 you know, and I think you're entitled to recall him.
6 I don't know where it goes beyond that, but he's still
7 under subpoena. If you want him to come back, you want
8 him to come back.

9 MR. LOY: Well, Your Honor, I can
10 essentially proffer the testimony and get a ruling.
11 I mean, I think the State objects. Do you object
12 to this testimony coming in?

13 MR. SPEARS: In part, yeah.

14 MR. LOY: If they object -- I don't mind
15 making the proffer, and I don't want to bring him back
16 down, and then the proffer -- and get told he can't do
17 it anyway.

18 THE COURT: That's very considerate of the
19 agent. But tell me what you think he has, and then we
20 will see.

21 MR. LOY: Your Honor, what I think he has,
22 and what I believe the transcript from the prior
23 proceeding would reflect, I think this testimony came
24 in, in the prior proceeding.

25 MR. SPEARS: Yeah.

1 THE COURT: Okay.

2 MR. LOY: If he testified consistent with
3 the prior, then the testimony would be that he received
4 these two firearms, as he has described earlier.

5 THE COURT: Right.

6 MR. LOY: That he went through the
7 procedures that he described, test fired them,
8 et cetera, that was for purposes of both matching
9 cartridges, as well as the projectiles.

10 THE COURT: Right.

11 MR. LOY: That at SLED they have a databank
12 where shell casings are entered, photographs or some
13 way or another, they are entered into this database
14 so that when new shell casings come in, they're entered
15 into the database. And they're essentially scanned,
16 and will tell you if they've got any other shell casings
17 from that gun in their database.

18 And that in this case, one of the guns,
19 I don't think it matters which one, but that one of
20 these guns that was recovered from the victims in this
21 case, when the shell casing was put into the database,
22 it got a hit on a shell casing that had been submitted
23 in an earlier investigation as recovered on the scene
24 of an attempted murder. That is the testimony.
25 And it is -- if I could ask, is that inaccurate

1 as far as ---

2 MR. SPEARS: So, I can just read to the
3 Court.

4 (Off-the-record conversation held at sidebar.)

5 (Back on the record.)

6 MR. LOY: I think we've resolved it,
7 Your Honor.

8 THE COURT: Yay.

9 MR. LOY: That is if we could put our
10 resolution on the record before Mr. Sorenson queers the
11 deal. Mr. Spears and I had looked at the transcript.

12 THE COURT: Okay.

13 MR. LOY: And I will publish this much for
14 you, Your Honor.

15 THE COURT: Okay.

16 MR. LOY: And it basically says, this is
17 on examination by Mr. Sorenson. It says, okay, I was
18 looking at this, I mean, this image. It looks like it
19 matches to me, but you said there's no matches in this
20 case; is that correct? And the answer from the expert
21 is, this specific image is actually from a test fire,
22 State's Exhibit 56, with cartridge cases that were
23 submitted under another case that they asked to be
24 compared to.

25 And Mr. Sorenson asked, so there's a match

1 between this gun -- I'm sorry. There's a match between
2 this gun and a gun in another case? Yes. Okay.

3 And I'm sorry, I'm doing this wrong. I'm reading the
4 captions, which says by Mr. Sorenson, but, in fact,
5 it's got both cross and direct.

6 THE COURT: Okay.

7 MR. LOY: But the testimony then -- our
8 conversation was Mr. Spears told me, well, if that's
9 all it's going to be, I'm okay with that, essentially
10 carving out the charge of attempted murder, and simply
11 saying there was a hit between this gun and another
12 criminal investigation.

13 THE COURT: Okay.

14 MR. LOY: I'm okay with that, too.

15 THE COURT: Are you okay with that?

16 MR. SPEARS: Your Honor, aside from the
17 idea that it's still basically character evidence.

18 THE COURT: Of the gun.

19 MR. SPEARS: I understand.

20 THE COURT: I mean, it's a bad act on the
21 gun without question. Okay. But, you know, if you're
22 fine, you know -- okay.

23 MR. SPEARS: All right.

24 THE COURT: So you're fine with him reading
25 that?

1 MR. SPEARS: And the subsequent question,
2 too.

3 MR. LOY: Your Honor, the language that
4 he's marked, I think is fine. It accomplishes our needs
5 also. I do think I would need to preface the reading
6 of this to the jury with the simple stipulation that
7 we have agreed that were the firearms examined or to
8 be recalled, and ask questions about test firing pistols
9 recovered and shell casings, he would testify, as he
10 did, in an earlier proceeding, and then read the
11 language that we have marked.

12 And the specific images are actually from
13 a test fire, State's Exhibit 56, with cartridge cases
14 that were submitted under another case that they were
15 asked to compare. So there's a match between this gun
16 in another case. Yes. And then follow up with Agent
17 Smith, Mr. Chisholm just showed you a photograph up
18 there, but that has nothing to do with this case;
19 is that correct? No, sir, other than again they wanted
20 a firearm in one case compared to cartridge case in
21 another case.

22 MR. SPEARS: And, Your Honor, again,
23 I understand the Court's argument that was in the
24 instance of the gun. But it's in the specific instance
25 of the conduct in regards to this matching another case.

1 The concern there is it's still just outside
2 evidence coming in, with really just -- I just don't
3 believe that this should come in, in regards to this
4 instance right here. We're talking about this day.
5 We're talking -- they're attempting to show implied
6 conduct of the victim in this case by saying a gun
7 he happen to have had a shell casing that matched
8 another shell casing from another instance somewhere
9 else, not putting it in his hand or anything like that.
10 It's just implying a lot to the jury.

11 MR. LOY: They could certainly make that
12 argument in close. But the fact is we have heard
13 testimony as to the character of the victims, as to
14 the reputation of them. And this is simply supportive
15 or corroborative of what we've heard, that, in fact,
16 yes, these are dangerous people who carry guns.

17 Now, he can argue certainly that guns are
18 transferable, anybody could have had it at some other
19 point in time. The jury -- and the jury could draw what
20 conclusions they choose from.

21 THE COURT: Let me tell you what my concern
22 is. As I understand the case law, the case law has --
23 it is reputation, opinion, and specific acts of people.
24 People. This might be a really bad gun. This gun might
25 be a bad gun. And this gun might be involved in a

1 number of specific bad acts.

2 My problem -- here's my problem. And the
3 reason that I offered that is because he testified.
4 He had two files. He had a criminal file. He had,
5 as I understand it -- and it did get a little bit
6 confusing because I wasn't clear if he had two files
7 from Dorchester County, or if he had one from North
8 Charleston and one from Dorchester County.

9 And so by the time he received the gun,
10 as I understand it, he had two files. What I was
11 anticipating that you were going to argue was that one
12 of the people that they were investigating, they were
13 concerned about, was Mr. Mack because, as I now
14 understand it, the gun that was recovered near Mr. Mack,
15 that's the one that we are talking about.

16 So, I just thought that it would be a bad
17 act. It doesn't have to be a conviction. A bad act
18 associated with Mr. Mack, that the gun found near
19 Mr. Mack was involved in an investigation a month
20 earlier of Mr. Mack. So do we have that? He has
21 a file.

22 MR. SPEARS: Your Honor, if I recall in his
23 testimony, there's nothing that -- from what he spoke
24 to us about earlier today, there's nothing in there that
25 attributed that gun to Brannon Mack. He even gave us

1 the case file number. It was simply a shooting with
2 no suspect. And he even testified that he generally
3 doesn't get that sort of information anyways.
4 He's simply a ballistics person. I don't believe
5 it's attributable.

6 THE COURT: I understand. Let me just tell
7 you -- Mr. Chisholm, Mr. Loy, I did not release Agent
8 Smith from his subpoena. I am not inclined to allow
9 that testimony in because the rules with regards to
10 character have to do with people and the connection,
11 and not specific acts involving guns. Unfortunately,
12 guns are -- I hadn't heard anything about this
13 particular gun being registered to anyone.

14 MR. LOY: I think it was stolen.

15 THE COURT: Well, there you go. And so my
16 concern is -- that really underscores my concern.
17 However, however, what I really anticipated that I was
18 going to hear was that there was an open investigation,
19 and that the suspect was Mr. Mack, and that's the reason
20 they were so interested in this particular gun, was
21 connected back to a shooting involving this gentleman.
22 Now that isn't a conviction, but it absolutely,
23 I believe, could qualify as a specific bad act.

24 MR. LOY: I don't have that, Your Honor.

25 THE COURT: Well ---

1 MR. LOY: I have -- the testimony that
2 I have is what I've proffered.

3 THE COURT: Let me be clear with you though,
4 Mr. Loy. He had two files. He remains under subpoena.
5 And what I do not want -- I just don't want you put in
6 a position because you did not look at whatever his
7 second file was. Don't want you put in that position.
8 Do you understand what I'm saying?

9 MR. LOY: I do.

10 THE COURT: Okay.

11 MR. LOY: Your Honor, I have proffered
12 the testimony that I would seek to elicit.

13 THE COURT: I understand.

14 MR. LOY: I have reviewed some documentation
15 here during the Court's ruling.

16 THE COURT: I understand.

17 MR. LOY: I am prepared -- I am not
18 requesting any further testimony or to recall a witness.
19 If the Court is prepared to rule on the admissibility
20 of what I've proffered based on the proffer.

21 THE COURT: Gotcha.

22 MR. LOY: Is that convoluted enough?

23 THE COURT: No, it isn't. I understand
24 exactly where you are. With regards -- I want to be
25 very clear. I will have him come back. I'm not keeping

1 you from having him come back. I told you that.
2 My concern is that under the rules with regards to
3 character, they have to be associated. The bad act has
4 to be those of individuals. The reputation, the opinion
5 has to be with regards to individuals.

6 My concern is, is that we very well may have
7 -- we may have a gun with specific bad acts. But if
8 there's nothing that can tie this weapon, which I must
9 also say that the weapon was found near the alleged
10 victim. And, obviously, there's been this presumption
11 throughout the trial that this weapon was associated
12 with this individual, as I understand, we're talking
13 about Mr. Mack.

14 MR. LOY: Your Honor, I have reviewed the --
15 briefly reviewed the incident report of the shooting
16 where the shell casing in question was discovered.

17 THE COURT: Yes.

18 MR. LOY: The one that is initially already
19 in the databank when these guns were found.

20 THE COURT: Right.

21 MR. LOY: It doesn't list the suspect;
22 it doesn't name anyone. And it basically says the case
23 is administratively closed unless something else comes
24 along.

25 THE COURT: All right.

1 MR. LOY: And, again, you're still under
2 oath, Detective; is that right?

3 THE WITNESS: Yes, sir.

4 THE COURT: Very well. Got it. That is not
5 a specific bad act.

6 MR. LOY: Thank you, Your Honor.

7 THE COURT: Very well.

8 MR. LOY: In this case, we'll rest when ---

9 THE COURT: When the jury comes back in.

10 MR. LOY: Yes.

11 THE COURT: All right. Will there be
12 a reply?

13 MR. SPEARS: No, Your Honor.

14 MR. LOY: Can we get a cup of coffee before
15 we do that?

16 THE COURT: Yes. Take a comfort break,
17 maybe a couple of minutes.

18 (Recess taken.)

19 (Back on the record.)

20 THE COURT: All right. Everyone is here.

21 (Jury enters the courtroom at 4:44 p.m.)

22 THE COURT: All right. Mr. Chisholm.

23 MR. CHISHOLM: Your Honor, at this time,
24 the defense rests.

25 THE COURT: Very well. Now will there

1 be any response?

2 MR. SPEARS: None, Your Honor.

3 THE COURT: All right. You have now heard
4 from the witnesses and received the evidence from both
5 sides, and you've received the evidence in this case.
6 What remains for us are the arguments of counsel and
7 my charge or instruction on the law.

8 Now, here's the reality. The reality
9 is there's an -- I don't even know who started it.
10 But I think judges must have started back in the 50s
11 or the 60s, that if you begin to argue and charge after
12 four o'clock, you can rest assured the jury is going
13 to be with you well up into the evening.

14 Now -- because here's the reality. By the
15 time you would get this case, it would be probably 6:30,
16 7:00 o'clock. Everybody is tired. I think it is a
17 better practice to begin in the morning. So we are
18 going to do that at 9:30 in the morning.

19 What will occur in the morning is you will
20 hear the arguments of counsel, and then my charge or
21 instruction on the law, and then you're going to receive
22 this case for your deliberations. So that is where we
23 are in the case.

24 Now you do realize -- now when you go home
25 you realize the curiosity is going to be through the

1 roof. But you cannot discuss this matter, or allow
2 anyone to discuss it with you because you're still
3 learning, you're still in the trial. It would be
4 inappropriate. It would be a violation of your oath for
5 you to discuss this matter, or allow anyone to discuss
6 it with you.

7 You're not prepared to deliberate. You have
8 not heard the arguments of counsel; you have not heard
9 my charge on the law. And you simply are not, are not,
10 ready to deliberate. So please remember that you must
11 not discuss this matter, or allow anyone to discuss it
12 with you.

13 Now -- and those of you that are my night
14 workers, continue not to work. I need you to rest
15 so you will be prepared to listen to the arguments
16 of counsel and then my charge or instruction on the
17 law. All the other admonitions, of course, remain.
18 No Columbo; no investigation. Don't go to the internet
19 looking for information to include looking up a
20 definition.

21 There's still information -- you have
22 not heard the arguments; you have not heard my charge.
23 And it would be inappropriate for you to seek out,
24 to receive information about this matter, other than
25 here in court while court is in session.

1 But that is how we are going to be
2 proceeding in the morning, in the morning. Please leave
3 your notebooks in your seats. Again, we will secure
4 them, and we will give them back to you in the morning.
5 Everybody, you got your notebook this morning, right?
6 Very well. Very well.

7 Ladies and gentlemen, we're going to convene
8 in the morning at 9:30. And please have a very pleasant
9 evening, and I look forward to seeing you in the
10 morning.

11 (Jury exits the courtroom at 4:48 p.m.)

12 THE COURT: All right. Now, I have -- we
13 have the charge. It's being printed out. We've had
14 a couple of changes in it in the last several minutes,
15 but I do have the verdict form. I do want you all to
16 have an opportunity to look at the charge, so we will
17 be ready to proceed in the morning.

18 MR. CHISHOLM: Your Honor, I think I need
19 to renew my previous motions.

20 THE COURT: Yes, you do. Go right ahead.
21 Do it.

22 MR. CHISHOLM: As to the directed verdict,
23 I mean, it's essentially the same argument, except now
24 you've heard the testimony of Mr. Cobbs. I don't think
25 there's sufficient evidence to give to the jury for them

1 to reach a verdict.

2 THE COURT: Thank you so much. And, again,
3 the question is, for me -- is there evidence on each
4 and every element, and there is. I don't weigh it.
5 I just have to ascertain if it exists. It does.
6 And I would respectfully deny your motion, noting your
7 exception thereto. All right. So, again, y'all come
8 and look at the verdict form.

9 (End of Transcript of Record)

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STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

COURT OF GENERAL SESSIONS
2016-GS-18-1267

State of South Carolina)

) TRANSCRIPT OF RECORD

-vs-

)

) January 9, 2020 - Vol 4 of 4

Keunte Cobbs)

) St. George, South Carolina

B E F O R E:

The Honorable Diane Goodstein, Judge

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

Mike Spears, Esquire
William Baker Allen, Esquire
Attorneys for the State

Ash Chisholm, Esquire
John Loy, Esquire
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Reported By:

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Circuit Court Reporter for the
First Judicial Circuit

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1 THE COURT: Good morning. Please be seated.
2 All right. Anything from the jury -- from the State
3 before we bring the jury out?

4 MR. SPEARS: Nothing from the State,
5 Your Honor.

6 MR. CHISHOLM: No, Your Honor.

7 THE COURT: Ready, ready?

8 MR. SPEARS: Ready, Your Honor.

9 THE COURT: My law clerk wanted me to just
10 share with you that he has added the part of the
11 self-defense, about the duty to retreat, that there is
12 unless you can't.

13 MR. SPEARS: Okay.

14 MR. CHISHOLM: Your Honor, I think what
15 we discussed with Mr. Spears, we were talking yesterday,
16 and I think he was going to delete all the language
17 about ---

18 THE COURT: Oh, yeah, yeah, absolutely.
19 Done.

20 MR. SPEARS: And I think we took out mere
21 presence also.

22 THE COURT: Yes.

23 MR. SPEARS: Thank you, Your Honor.

24 THE COURT: Thank you. I appreciate it.

25 (Jury enters the courtroom at 9:58 a.m.)

1 THE COURT: Good morning, ladies and
2 gentlemen.

3 THE JURORS: Good morning.

4 THE COURT: As I mentioned to you late
5 yesterday afternoon, what remains for us are the
6 arguments of counsel, and then my charge or instruction
7 on the law. And this is how we're going to be
8 proceeding.

9 You're first going to hear from Solicitor
10 Spears in his closing statement. You're then going to
11 hear from Mr. Chisholm in his closing argument on behalf
12 of Mr. Cobbs, and then you're going to hear reply
13 rebuttal argument from Mr. Spears. That will then
14 conclude the closing argument.

15 Then there's going to be a very short
16 self-explanatory break. And then I am going to deliver
17 to you the charge or the instruction on the law.
18 Then there'll be another short break that I will explain
19 to you. And then, ladies and gentlemen, you will
20 receive this case for your deliberation.

21 Now, ladies and gentlemen, I want you to
22 take a moment and be sure that your notepad is your
23 notepad. And then I ask at this time that you please
24 draw close as we listen to the closing argument.
25 Mr. Spears.

CLOSING ARGUMENTS - MR. SPEARS

1 MR. SPEARS: Thank you, Your Honor.

2 Good morning, ladies and gentlemen.

3 THE JURORS: Good morning.

4 MR. SPEARS: So just as the judge told you,
5 these are closing arguments. This is the first time
6 I can actually help y'all directly in regards to the
7 evidence that's been presented to you all week long.
8 And you know, as well as I do, that it's been a lot
9 of evidence.

10 I want to start, first off, just by thanking
11 you. I understand your attendance here is mandatory,
12 but for paying attention, for being involved in the
13 case, for listening to every bit of evidence. We've
14 noticed. It's truly appreciated. It's everything that
15 the entire court system could ask for from a jury.

16 Now what I'm going to do now is just give
17 you a brief preview of the law. The judge is going to
18 charge you with the law applicable to this case after
19 closing arguments are over. But I'm going to go over a
20 little of that, and it's going to help with the context
21 of our review of the evidence going forward.

22 So Keunte Cobbs has been charged with
23 murder. Murder is the unlawful killing of another
24 person with malice aforethought. Malice can be either
25 expressed or inferred, all right. Expressed malice

CLOSING ARGUMENTS - MR. SPEARS

1 is pretty simple, lying in wait or stating your intent.
2 I'm going to kill that guy, or hiding out and waiting
3 for a person.

4 Inferred malice is a little bit different,
5 all right. Now inferred malice, malice can be inferred
6 by conduct, showing total disregard for human life, all
7 right. It has the same quality as, you know, expressed
8 malice. It's just two different ways of malice being
9 shown. They're not two different types. That's just
10 it. Now conduct, showing a total disregard for human
11 life, a good example would be multiple shots into a
12 person using a gun.

13 You're also likely to be charged with
14 voluntary manslaughter. Voluntary manslaughter is
15 the killing of another human being in the sudden heat
16 of passion with proper legal provocation. And I believe
17 the judge is going to tell you that if you weigh the
18 evidence, and you find that the evidence does not prove
19 murder beyond a reasonable doubt, then you must take
20 that same evidence and weigh it to the charge of
21 voluntary manslaughter.

22 Now it's pretty obvious in this case at this
23 point in time that we're dealing with self-defense.
24 And you're going to be charged with the law of
25 self-defense, all right. There are three factors that

CLOSING ARGUMENTS - MR. SPEARS

1 go into that.

2 One is the person claiming it must not
3 have had a hand in bringing on the difficulty. Two,
4 they must have been in danger of serious bodily injury
5 or death, or actually in fear of serious bodily injury
6 or death. Now that's important. They must have
7 actually been in fear at that time that they were facing
8 serious bodily injury or death. Saying it a couple
9 of years later doesn't justify that.

10 And, lastly, they must have had no other
11 way to avoid the difficulty, all right. It's pretty
12 straightforward. I mean, it makes sense. I'm going
13 to go back to the second one. There's a number of ways
14 that the law will charge you to show that the person was
15 in fear of serious bodily injury or death.

16 We can look at the reputation of the victim,
17 or prior difficulties with the victim, victim's violent
18 reputation, prior violence by victim, threats by the
19 victim, and the Defendant's right to act on appearances.
20 And you're going to hear each one of those charged to
21 you and explained by the judge.

22 I would like to point out that the evidence
23 we have in this case, for all those factors, the only
24 bits of evidence we've got to justify those factors come
25 from that man standing right there, okay. One single

CLOSING ARGUMENTS - MR. SPEARS

1 source. And when we look at the rest of the evidence,
2 the source of that testimony just doesn't add up,
3 doesn't quite fit consistently across the board.

4 Now as Baker over here told you in opening
5 arguments, there are two different types of evidence.
6 There's direct evidence, and there's circumstantial
7 evidence, all right.

8 Direct evidence is simple. I can look out
9 that window and tell you right now that the sun is
10 shining outside. I can see it. It's what you sense.

11 Circumstantial evidence is a series of facts
12 put together to prove another fact. There's kind of
13 a pocky analogy for it. But if you take an empty room,
14 put a barrel of peanuts in the middle of it, and in that
15 room you've got an elephant and two mice. You close the
16 door, and there's no other way in or out that room.
17 You leave it for 15 minutes, and you open the door,
18 and that barrel of peanuts is empty. The circumstances
19 of the evidence we have show us that it was the elephant
20 that ate all the peanuts and not the two mice, all
21 right.

22 The State is charged with proving -- the
23 State's responsibility is to prove this case beyond
24 a reasonable doubt. That does not mean we have to prove
25 it beyond any and all doubt. It simply means that

CLOSING ARGUMENTS - MR. SPEARS

1 at the end of this case if you're firmly convinced that
2 the Defendant committed the alleged act, then you must
3 find him guilty. And now when it comes to self-defense,
4 the reasonable doubt standard applies, all right.

5 Now, I would like to start by us going
6 over the story we heard from Keunte yesterday, okay.
7 When he took the stand, he told us a number of things,
8 gave us a little history on the two people that Mr. Loy
9 called assassins. I think Keunte called them shooters.
10 He said that he'd known them for a while through his
11 cousin, I believe it was. He didn't quite know them,
12 but he knew them.

13 And these two guys started developing
14 a reputation. Suddenly, they started actually shooting.
15 They -- it wasn't quite clear. They shot out of
16 a window or towards a window. They had apparently,
17 actively fired at someone, and then Mr. Cobbs says that
18 he told them to stop. That's not cool, stop. And there
19 apparently wasn't a problem there, all right.

20 And then they did it again. He told us that
21 they shot again at another person, and then he told them
22 again to stop, more aggressively. But again at that
23 point in time, when he confronted these two shooters,
24 it wasn't a problem. Nothing actually happened there.

25 But following that, he started hearing

CLOSING ARGUMENTS - MR. SPEARS

1 rumors that now they're upset, instead of when he
2 confronted these assassins. Now he's hearing from,
3 he said, two ladies told him, or I believe it was either
4 his cousin or his nephew told him from another source
5 that now there's a problem.

6 So he starts -- now he starts worrying
7 for his safety. So June 5th, 2016, he shows up at
8 the IHOP earlier than usual, hangs out with this guy
9 who apparently just approaches him, walks in with him,
10 sits down with him, follows him to the bathroom, but
11 he doesn't really know his name. Never really got any
12 information about that guy.

13 Then he goes to the bathroom. The urinal
14 is dirty, so he goes into the stall instead. Then when
15 he walks out, he sees Brannon Mack and Bradford Spells,
16 and he sees them pull their guns. And in some wild west
17 fashion, he's able to pull his gun quicker and start
18 shooting to protect himself, and then he takes off.
19 Okay.

20 What I want to focus on here is this week's
21 worth of evidence that we've put together from multiple
22 sources. And I want to start with the clearest
23 evidence, the closest we have to direct evidence of
24 what happened in that bathroom, and that's the security
25 camera footage. It showed us everything that happens

CLOSING ARGUMENTS - MR. SPEARS

1 around it.

2 And I know you all have seen this a couple
3 of times already. We're going to be replaying it a few
4 times because if you notice there's kind of a lot of
5 chaos going on. There's a lot of chaos, and a lot of
6 moving parts that one would expect in a situation like
7 this. So we're going to focus on one person at a time,
8 watch that person's actions, and watch how other people
9 react to each of these people.

10 We're going to use a set of facts that
11 we have and see how things go from there, okay. Baker,
12 if you could start.

13 (Video played for the jury.)

14 MR. SPEARS: This would be Brannon Mack
15 and Bradford Spells. You see them coming this way after
16 they open the door for the lady. Focusing on Brannon
17 Mack, watch where he goes. Notice he actually goes this
18 way. He comes out here, looks in the direction that
19 Keunte went.

20 Now, remember, this guy was characterized
21 as a shooter, an assassin. Keunte Cobbs had just run
22 that way. Brannon Mack turns that way and turns back.
23 Cobbs told us that he had already drawn his gun in the
24 bathroom. This lady right here is standing there as
25 him and Bradford Spells come out, showing no reaction.

CLOSING ARGUMENTS - MR. SPEARS

1 There was just a shooting in that bathroom. She doesn't
2 run; she doesn't duck; she doesn't show any sign of fear
3 of Brannon Mack when he comes out there, all right.

4 The only way for that to work is if in that
5 bathroom we're to believe what Mr. Cobbs tells us, that
6 Brannon Mack pulled his gun, got shot multiple times,
7 holstered his gun, put it back, and then walks out here
8 because it's clear there's no reaction.

9 (Video continued to be played for the jury.)

10 MR. SPEARS: Obviously, he walked off this
11 way in front of the IHOP. These individuals right here
12 are watching them. They're not running from them;
13 they're not confronting someone. They are talking
14 to them, and here he goes. He goes down.

15 Again, there's more people that are in
16 the proximity of these two shooters that haven't run.
17 They don't know -- I submit to you that they don't know
18 that he's carrying a gun. The gun is found later in the
19 ambulance. You've heard William Mandeville tell us that
20 after they had him in the ambulance, cut off his
21 clothes, they didn't see it then, they just found it.
22 It had fallen out later. So it's, obviously, not in
23 front, somewhere around here. It's hidden.

24 So he managed to get shot, put his gun
25 back in a way that is not just not easily noticeable,

CLOSING ARGUMENTS - MR. SPEARS

1 but absolutely hard to see. We can tell that by the
2 reactions of the people around them, and the fact that
3 EMS didn't even see it when they were trying to sustain
4 him, all right.

5 So we're going to start over here, and this
6 time we're going to focus on Bradford Spells. So
7 there's Brannon Mack. Bradford Spells is right around
8 that point.

9 (Video continued to be played for the jury.)

10 MR. SPEARS: Now when they go in here,
11 we know what happens. We've seen that enough.
12 When he comes out, you will see him fall out right here.
13 In this video, the Defendant, the man in the red shirt,
14 Keunte Cobbs, jumps over him.

15 Keep in mind this is the guy that we've
16 heard from the defense that -- and law enforcement,
17 Dwayne Peters too -- he has had run-ins with Bradford
18 Spells before. He hadn't had anything with Brannon
19 Mack. You heard him say that after the defense put
20 him on the stand.

21 But Bradford Spells, this is another
22 shooter, this is another dangerous person, and he falls
23 right here. And the guy that just shot him in
24 self-defense, jumps over him. Watch what he does right
25 here.

CLOSING ARGUMENTS - MR. SPEARS

1 (Video continued to be played for the jury.)

2 MR. SPEARS: He's supposed to have already
3 drawn his gun, had his hands on his gun when him and his
4 friend get shot. Again, he apparently holsters again
5 also when he leaves the bathroom, and the man that just
6 shot him and his friend jumps over him. And what does
7 he do? He doesn't fire back. He hides around the
8 corner, and for the same as we just saw when he exits.

9 (Video continued to be played for the jury.)

10 MR. SPEARS: Curious as to what's going on,
11 no signs of fear. She turns her back to them. When
12 Brannon Mack -- Bradford Spells was right here. You can
13 see our Hell's Angels guys. You can see his head kind
14 of bobbling around. He had just turned the corner.
15 He's not trying to either restrain him, or get a gun out
16 of his hands or anything.

17 I want to touch on another thing that
18 we heard from Mr. Cobbs' testimony, and that's the man
19 in the white shirt, the guy that we've been unable to
20 identify. We heard Detective Peters -- Lieutenant
21 Peters, that they've tried. No idea who he is.
22 Apparently, the Defendant can't identify him either,
23 just walks up to him. We can play it.

24 (Video continued to be played for the jury.)

25 MR. SPEARS: The man in the white shirt

CLOSING ARGUMENTS - MR. SPEARS

1 is actually leaving. Immediately taken to the table,
2 taken directly to their seats. There's no, like, iffy
3 conversations of, like, hey, can I have a meal with you,
4 or anything like that. They're just taken straight to
5 their seats. That's them right there.

6 (Video continued to be played for the jury.)

7 MR. SPEARS: There's Mr. Cobbs, and there's
8 our unidentified man. Now not only do they come in
9 together, hang out, go to the bathroom when they both
10 get up and leave. But will note when Brannon Mack and
11 Bradford Spells walk in, look who's standing right
12 there, and he just watches them walk by.

13 Now watch his actions once these shots are
14 fired. We've seen everybody else run. We've watched
15 this enough over, everyone clears out. There's one man
16 that's not running here. And when he turns this corner
17 right here, and we see Keunte come up to his side and
18 pass him. Watch his reaction. He's been hanging out
19 with this guy for 30 minutes, came in with him.

20 They went to the bathroom. He's hanging out
21 from the bathroom. Shots are fired in this bathroom.
22 While he's walking out, his acquaintance, who is in this
23 bathroom, passes him. Watch his reaction.

24 (Video continued to be played for the jury.)

25 MR. SPEARS: They head off together in the

CLOSING ARGUMENTS - MR. SPEARS

1 same direction that they came from. So we heard from
2 Mr. Cobbs that in the bathroom he came out of the stall,
3 he saw these two guys, they pulled guns, he shot first,
4 all right.

5 We don't have direct evidence from
6 the State's side of what happened in that bathroom.
7 We have circumstantial evidence. We have a series
8 of facts we can put together to show what happened,
9 all right. One of those facts, which is pretty clear,
10 is what we just talked about with Brannon Mack and
11 Bradford Spells not having their guns drawn, okay.

12 Now, by the way, all of this that we've
13 placed into evidence is going back into the jury room.
14 Y'all will have plenty of time to review it. There's
15 about 50 photographs taken for the area for context.
16 But I'm showing you one right now that Sergeant Berg
17 took of the bathroom when he was surveying the area
18 and checking for evidence in there, okay.

19 What's important to note here is, one,
20 the location of the sink right here, all right, meaning
21 that if you're facing the sink, this wall -- the other
22 side of that wall is the lobby area. And in that
23 direction is the stall.

24 So if Brannon Mack walks into that bathroom,
25 puts his lanyard down on the sink, the one that he's

CLOSING ARGUMENTS - MR. SPEARS

1 carrying in his hand, you can see it in the video.
2 And we know this is Brannon Mack's lanyard because
3 Sergeant Berg testified to us that he took this key
4 and unlocked the door to Brannon Mack's car. So he
5 places his keys by the sink.

6 Now, ladies and gentlemen, this was State's
7 74. You heard the pathologist's testimony. This was
8 the diagram that she made that she referenced showing
9 the bullet locations of what happened to Brannon Mack.
10 Now in her testimony she said that while these are
11 labelled, that doesn't necessarily mean that one
12 happened before the other. She can't tell that.
13 It's just she has to start somewhere, okay.

14 What this does show us, and what you recall
15 from her testimony, that two shots went in here and in
16 here, on his left side. Keep in mind that he's standing
17 at the sink where he put his keys down. His left side
18 is this direction. And we'll note here there's two more
19 on his right leg, going in and to the right. So the
20 shot came from his left side.

21 And I know it was kind of confusing without
22 seeing the diagram when she spoke, but there is L here.
23 She referred to L as a shot that goes into the left leg
24 and up, all right. Meaning that, from what she said,
25 either someone was underneath him, or he had fallen

CLOSING ARGUMENTS - MR. SPEARS

1 on the ground. This is another piece of fact to show
2 as part of circumstantial evidence of what actually
3 happened in that bathroom.

4 Brannon Mack was shot in his left side.
5 Now as a part of Dr. Tormos' testimony, she said that
6 he got shot at the ten o'clock, all right. Now if you
7 take a clock like that, and you put it down in front,
8 nine, three, to the side, so ten about like that, okay.

9 He's at that sink. Someone comes out
10 of that stall with a gun and starts shooting. He's
11 going to turn towards him. There's your ten o'clock.
12 He's going to get shot, both on the left side, and then
13 on this side right here, also going to the left.

14 Now, ladies and gentlemen, I submit to you
15 right now that if he was trying to draw and shoot in
16 this direction, he's not going to keep his left shoulder
17 towards this person. Also we've heard the timing, and
18 we can review it if you need to. You're also going to
19 have that video player back there to watch the security
20 camera footage. You can review the timing in regards
21 to how long it takes before these shots are fired.

22 Somehow Brannon Mack has managed to go in
23 there, see Keunte, draw his gun, and get shot in his
24 left side multiple times without firing a single round
25 back. There's nothing over here. There are no

CLOSING ARGUMENTS - MR. SPEARS

1 projectiles over here. This is supposed to be
2 an assassin.

3 You've got all these shell casings that
4 were fired from a single gun. You've got all of these
5 projectiles. These casings and projectiles you heard
6 were not fired from either one of these guns. One of
7 them was picked up in the ambulance that Brannon Mack
8 was taken in. The other one was found in front of the
9 IHOP in the area that Bradford Spells walked over to.
10 I don't know 100 percent certain if that was Bradford
11 Spells' gun, but the assumption is there. We're still
12 able to eliminate it because it didn't fire any of
13 these.

14 One other thing I want to note about this
15 bathroom is Sergeant Berg's testimony on this shot
16 through the door. Remember, that door opens inwards.
17 Someone was -- that door was opened is what he testified
18 to when that shot was fired. Someone was getting out
19 of that bathroom running. There's three people in the
20 bathroom. Brannon Mack was on the ground being shot.
21 Bradford Spells, we saw him in the video falling out.
22 He was being shot at as he's running from that bathroom.

23 It doesn't fit an assassination. So, again,
24 in a self-defense situation, there are certain things
25 that can be used to show fear of great bodily injury

CLOSING ARGUMENTS - MR. SPEARS

1 or death. We just discussed prior difficulty,
2 victim's violent reputation, prior violence by the
3 victim, threats by the victim. And we've heard what
4 the Defendant had to say in regards to these things.
5 Miraculously, all of them are suddenly there, all right.

6 Now, I submit to you, ladies and gentlemen,
7 when reviewing -- it is the jury's ability to weigh
8 testimony or believability, all right. Just because
9 somebody said something doesn't mean it's true.

10 If I put Lieutenant Peters up on the stand, and he says
11 that the sun rises in the west, all right, you have the
12 opportunity to weigh his testimony and credibility,
13 okay.

14 And you've heard Lieutenant Peters talk
15 that he's charming. Charm does not equal authenticity.
16 And here's the thing. We heard what the Defendant has
17 to say about self-defense before. We've listened to it.
18 Back in 2018, we heard Lieutenant Peters testify when
19 those jail calls were pulled, we heard him talking about
20 self-defense.

21 Now, I don't really know who he's talking
22 to. But what we were told was that he was scared about
23 retribution, and that's why he said it. And I'm going
24 to go into that a little bit because at the same time --
25 first off, one of these people that the retaliation can

CLOSING ARGUMENTS - MR. SPEARS

1 come from is dead. Brannon Mack is dead at this point
2 in time.

3 The other one, in the same jail call,
4 he says that he's talked to Bradford Spells, his boys
5 have talked to Bradford Spells, and he ain't going
6 to testify. But he's apparently still scared of
7 retaliation. That's why he's telling us that he said
8 these things.

9 (Jail call played for the jury.)

10 MR. SPEARS: I submit to you, ladies
11 and gentlemen, what we're listening to there is not
12 a man who is pressured into saying this. He's talking
13 about his homeboys; he's talking about how his boys
14 already spoke with Brad. And then he's just yucking
15 it up about the case strategy.

16 This happened -- that conversation
17 happened back in 2019. And I submit to you now
18 that this change of heart didn't come from some sort
19 of divine inspiration. It came from the evidence.
20 There's a reason after opening when the defense told
21 us that it is him in the red shirt, it is him in the
22 bathroom.

23 We still spent two days littered
24 with testimony, some a lot more longer than others,
25 and I understand, but to show that it was him in the

CLOSING ARGUMENTS - MR. SPEARS

1 red shirt. Unequivocally, it's him. We had him pointed
2 out.

3 We had Lieutenant Peters go through every
4 individual around that bathroom and exclude him from
5 being in the bathroom. The proof is already there.
6 This claim that now he's suddenly scared of Brannon Mack
7 and Bradford Spells, and that miraculously they had this
8 reputation from -- that was told to from a bunch of
9 ladies, and that he bravely confronted them, but they
10 didn't do anything at that time, and now they're out
11 hunting for him, it doesn't hold water.

12 I submit to you this is just a Hail Mary
13 after he's been locked into that bathroom by all the
14 evidence available. I submit to you that it is a last
15 ditch effort because if you look at what he's telling
16 us, even that doesn't match.

17 So, I think I've been going on long enough
18 now. I just want to say go back to reasonable doubt,
19 all right. Beyond a reasonable doubt is the burden.
20 So if we're standing right here, and there's no evidence
21 in the case, none, the State hasn't proven anything,
22 because the State has to prove it. That's why all this
23 evidence is here. That's why you've heard all of this
24 testimony from the State. If you're standing here,
25 saying none of that existed, there's reasonable doubt,

CLOSING ARGUMENTS - MR. SPEARS

1 all right.

2 Now if we move over in this direction,
3 then there's some evidence. But it doesn't even really
4 paint a clear picture. It's just a bunch of hearsay,
5 and a bunch of just random allegations, no substantial
6 focus, I can't paint a clear picture, that's not beyond
7 a reasonable doubt. There's still doubts that could be
8 reasonable.

9 But if we stand here at the end, and we
10 have a case where we can show, through video, that he
11 is in this bathroom with three other people, we can show
12 ballistically all these were shot from one gun, we can
13 show that -- we can show that earlier in the night he
14 said, I'm going to kill that dude. We can show that
15 the two people who supposedly were pulling guns on him,
16 and he was scared for himself, are walking out free
17 and clear.

18 No one is running from them. There's
19 no fear of them or anything. This is the area where
20 we show that Keunte Cobbs shot and killed Brannon Mack.
21 This is where we show that he is guilty of murder.
22 Thank you.

23 THE COURT: Thank you. Mr. Chisholm.

24 MR. CHISHOLM: Thank you, Your Honor.

25 May it please the Court.

CLOSING ARGUMENTS - MR. CHISHOLM

1 THE COURT: Yes, sir.

2 MR. CHISHOLM: Good morning.

3 THE JURORS: Good morning.

4 MR. CHISHOLM: I appreciate you guys bearing
5 with us. I know this has been a long trial to sit there
6 as a jury. There's been a lot of technical testimony.
7 We've had to awkwardly read in testimony. I know it's
8 been a long week for you. I appreciate y'all paying
9 attention.

10 And you've been here pretty much a full
11 week. You've seen all the evidence that's been put in.
12 And it gets kind of laborious at some point. But after
13 all that's been put in, after all the witnesses took the
14 stand, after the solicitor just got up here and did his
15 closing argument, frankly, I still have no idea what
16 their theory of the case is.

17 If it's not self-defense -- sure,
18 they acknowledge these guys got shot in the bathroom,
19 and they're talking about the angles and all that stuff.
20 But what is their theory? Was this an ambush? I have
21 no idea because they haven't told us what their theory
22 is because they have no idea what happened in there.
23 And the only thing we have is what Mr. Cobbs told you.
24 And, incidentally, that's also what makes sense when
25 you watch the video.

CLOSING ARGUMENTS - MR. CHISHOLM

1 Mr. Loy, in the defense's opening argument,
2 he got up here. He telegraphed pretty well. This is
3 a self-defense case. If you were trying to draw up an
4 example of self-defense, you'd be hard pressed to find
5 a better example. Think about what we know in this
6 case. Mr. Cobbs is in the IHOP bathroom by himself.
7 There's one way in; there one way out. There's no door
8 behind him. He's surrounded by the walls. If he wants
9 to get out, he's got to get through that front door.

10 So what's the problem? Who's in the front
11 door? These two guys we've heard about, Mr. Mack and
12 Mr. Spells. And you've heard his history with them.
13 You've heard they were both armed, one of them with
14 a stolen gun. You've heard that he's aware these guys
15 are out there looking for him. And he knows exactly
16 what time it is, so to speak, when he sees them come
17 in that bathroom.

18 Mr. Spells. He told you, you know,
19 about that guy's reputation in the neighborhood,
20 about these other shootings, and how he's drawing
21 reprisals at his aunt's house and all of that.
22 You might remember Mr. Loy called Detective Peters
23 up to the stand at the very end, and said, well,
24 you're in law enforcement, what's your understand
25 of his reputation for violence and crime and that kind

CLOSING ARGUMENTS - MR. CHISHOLM

1 of thing? What did Detective Peters say, the law
2 enforcement witness? He said, it's exactly what
3 he told you.

4 That's the kind of guys that came in the
5 bathroom while Mr. Cobbs was in there by himself that
6 night, that had him in their cross hairs. And when
7 he saw them come in, he did what anybody that wanted
8 to get out the only door available would do. He got
9 out the way he had to, the only option he had, by acting
10 in self-defense.

11 This case is a little different than one
12 I would normally try. Normally, what I would like to do
13 is kind of go through witness by witness, and tell you,
14 okay, you might remember witness number one, her name
15 was Julie, and she told you this, and this is what she
16 put into evidence because in a longer case like this,
17 it's hard to remember what people said three days prior.

18 Luckily in this case, you guys have
19 notepads. I know you've been paying attention, taking
20 notes. So, hopefully, it's not, you know, something
21 I need to do. But to the larger point, all this stuff
22 in this case, doesn't really amount to a hill of beans.
23 I mean, we don't really need to talk about fingerprints
24 and everything.

25 And I will give the State this, they had

CLOSING ARGUMENTS - MR. CHISHOLM

1 done a wonderful job of proving beyond a reasonable
2 doubt that Mr. Cobbs is the man in the red shirt.
3 They had done a fantastic job of that. Now, I think
4 it's a fair question to ask yourselves if there's any
5 value at all in that since we told you he's the guy in
6 the red shirt in the very beginning.

7 They called all these witnesses to tell you
8 who is this here on the video? Do you recognize him in
9 the courtroom? Ms. Creel, you're a waitress. Do you
10 recognize this man? I mean, they brought in the
11 fingerprints and all this stuff. They spent 90 percent
12 of this trial telling you what we told you in the
13 beginning. It's him. He's in the bathroom.

14 And we told you in the beginning that --
15 they want a frame that says a two-question trial.
16 Who's the man in the red shirt, and was he in the
17 bathroom? That is not the question. The question
18 is what happened in there, and they have no idea.
19 And a large reason they only have a theory of it is
20 because the alleged victims in the case wouldn't tell
21 them what happened in there. We'll talk about that
22 a little bit more in a second.

23 So, I mean, obviously, we ask questions
24 when these witnesses get up here, and they talk about
25 the evidence, and they're talking about ballistics and

CLOSING ARGUMENTS - MR. CHISHOLM

1 all that stuff. And, frankly, a lot of it is asked out
2 of curiosity. I was curious how they lost three cell
3 phones in a case like this. I was curious how -- you
4 heard Detective Peters testify.

5 The same detective, Detective Elmore,
6 the guy who started this whole case off, that picked
7 Mr. Cobbs as a suspect and ran in that direction,
8 the same guy, he's lost phones in another case as well.
9 You can add whatever value you want to that.

10 But what it did in this case is we were
11 deprived the ability to come in here, show you these
12 phones and say, look, just like he said, he ain't
13 calling these guys, he ain't texting them saying, hey,
14 come out to IHOP so I can ambush you. There is no
15 communication. We can't show you that because they
16 lost the phones. I'm not going to go through all this,
17 except to say if you've been paying attention this was
18 a terrible investigation.

19 I mean, you've got evidence that was never
20 sent off, you've got the evidence that was sent off,
21 never got tested, nobody apparently checked on it, they
22 lost evidence. I mean, not the kind of investigation
23 anybody deserves, whether you're an alleged victim,
24 or especially, if you're on trial in a case like this.

25 So let's talk about what really matters

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1 here. Let's talk about what happened in the bathroom,
2 and let's talk about the parties. Mr. Cobbs, you heard
3 from him from the stand, and he told you he's a
4 promoter. He gets local acts to come into clubs, and
5 he gets these acts in there, and that draws in business.
6 People come in and have a good time, buy drinks, and
7 he gets paid in cash from the proceeds at the door.
8 He gets a cut, so to speak. And like a lot of people
9 in that scenario, jewelers, whatever the case may be,
10 they carry a lot of cash, he has a gun for protection
11 in that scenario.

12 I think he also told you he had a gun in
13 this case because he knew these guys were out there
14 looking for him, and that made sense. He's a creature
15 of habit. When the clubs close, he goes to IHOP.
16 Julie Creel, the waitress from IHOP, told you he's
17 also in here. He's in here a couple of times a week.
18 I've been waiting on him for a couple of years.
19 He always comes in on Saturday nights when the clubs
20 close, when his job ends.

21 This night he got there a little early, and
22 he told you why, but we're not talking an appreciable
23 difference. I think he probably got there 15 minutes
24 earlier than he normally does, but this is where you
25 would find him on this night, at this time. If you

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1 wanted to find this guy, that's where you would find
2 him. This night was no different.

3 Mr. Cobbs wasn't behaving differently at
4 all that night. You can watch the video. You'll have
5 the entire thing back there. I know they've showed you
6 a lot of clips. I don't know if you want to watch the
7 entire thing, but if you want to you can. You can also
8 watch any clips you need to see. You can watch him in
9 the restaurant. You can see him wondering around.
10 You can see -- Ms. Creel told you he acted that night
11 like he always does. He's an amicable guy. I mean,
12 you saw him on the stand. He's a social butterfly,
13 I think she said.

14 He walks around; he makes his rounds; he's
15 saying hello to everybody. He's doing what he always
16 does. She said he got his grapefruit juice. He doesn't
17 have to order it. She knows him that well that she just
18 automatically brings it. She said typically when he
19 comes in a lot of the times, he'll go, you know, 15
20 minutes or whatever it is, without even ordering food
21 because he's in there socializing. He usually takes his
22 food home. That's just part of his routine. This night
23 is no different.

24 He wasn't in there skulking around.
25 She said he wasn't in there angry. She said he's never

CLOSING ARGUMENTS - MR. CHISHOLM

1 angry. The only time he even acted angry -- he wasn't
2 even angry. The only time he was upset at all was when
3 his food wasn't cooked to the degree he wanted it.
4 And even then he wasn't a jerk about it. He says, oh,
5 I can't eat that. He got squeamish, if anything.
6 That's the far -- that's the closest thing to aggression
7 you got out of this guy from someone that knows him
8 pretty well.

9 Watch the video if you would like. See
10 if you see Mr. Cobbs peering out the window, acting
11 suspicious. I'll give you a hint. You're not going to.
12 The clips they showed you multiple times, I don't know
13 if you were paying attention to this as I was, but if
14 you weren't, you can see it again.

15 Contrast him walking into the restaurant
16 with Mr. Spells and Mr. Cobbs -- Mr. Mack. When they're
17 coming into the restaurant, what do they do? They're
18 looking to the left and looking to the right, looking
19 into the bushes where Mr. Spells ditched his gun,
20 ultimately. They're the ones that look suspicious when
21 they come in.

22 Let's talk about Mr. Spells and Mr. Mack
23 for a minute. I don't mean to denigrate the deceased.
24 I really -- that is not my intention. I'm not trying
25 to cause harm or pain to anyone. That's not my point.

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1 But I also have to represent Mr. Cobbs the best I can,
2 and to do that I've got to call a spade a spade.

3 These alleged victims were not victims.
4 These were criminals. You've heard the testimony.
5 You've heard law enforcement's understanding of these
6 guys. It's what we're dealing with here. This night,
7 they were the hunters. If you watch the video, you
8 watch them walk in, you can see that pretty plainly.
9 And, again, we never heard anything from them.

10 Mr. Spells, to this day, won't return
11 their calls, won't talk to them, won't tell them what
12 happened. Why do you think that is? If they just went
13 in there together, two guys, to use the restroom,
14 why wouldn't they say, I was going to use the restroom,
15 and I got shot out of nowhere. Why do you think they
16 wouldn't want to tell the police that?

17 And they're talking now. They're saying we
18 heard this phone call. They must have been threatened.
19 I mean, first off, these guys are always carrying guns,
20 shooting in the neighborhood. Do they seem like they're
21 squeamish to you? But, more importantly, they don't say
22 anything to EMS. They don't say anything to Detective
23 Elmore when he goes to the hospital. They don't say
24 anything when he goes back.

25 When Detective Elmore tries to show Bradford

CLOSING ARGUMENTS - MR. CHISHOLM

1 Spells a photo lineup of Mr. Cobbs in it, they won't
2 even look at it. Detective Peters, you know, he's
3 testified, he says, well, it could have been they were
4 medicated, but he has no idea. He wasn't in there.
5 Detective Elmore was.

6 He still works for Dorchester County.
7 They could have called him up to explain it, to say,
8 they were too medicated to give a statement. But they
9 didn't, and you can, you know, ask yourself why they
10 wouldn't do that. It's because they could have talked,
11 but they wouldn't talk.

12 Now, Detective Peters was able to
13 corroborate a lot of what Mr. Cobbs told you about
14 Bradford Spells. You've heard about the shootings in
15 the neighborhood. You've heard about all this stuff,
16 but Detective Peters agreed with them that he's not
17 surprised at all this guy is carrying a gun. That's
18 kind of his thing.

19 He's not surprised at all that he didn't
20 cooperate in this case because he never cooperates
21 in any of his criminal cases. To say that he's not
22 cooperating this time because of something Mr. Cobbs
23 said is ridiculous. He's never done it to begin with.

24 Mr. Cobbs, he testified about these guys,
25 how he knew them, how they came up, and all this stuff.

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1 And he testified that there was a shooting. He said
2 something to them, like, hey, why are you shooting
3 people in my aunt's yard. And then he said there
4 was another shooting, which I think he framed as more
5 of a reprisal. I think he was saying that these guys
6 were drawing heat to his aunt's house that had nothing
7 to do with any of the shenanigans. She almost got shot.
8 I think he said she was washing dishes when bullets came
9 in the house.

10 So, he talked to them again and said, look,
11 y'all got to get out of here. I'm not going to have
12 my aunt get killed because y'all are out here shooting
13 people in her yard. They didn't like that; they didn't
14 like being told what to do. These are the kind of guys
15 that aren't used to being told no, or being told to get
16 out of here, you have no right to be here because,
17 as Mr. Cobbs told you, these guys, they're shooters.
18 They're enforcers.

19 And when that came about, word got to him
20 pretty quickly that they're asking about him. They're
21 looking for him, and they're coming after him, which
22 is what we had in this case.

23 Now again, Mr. Cobbs went to the IHOP pretty
24 much every Saturday night, it sounds like. He was not
25 out of place. He wasn't acting differently. He was

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1 exactly where you would expect to find him, doing what
2 you would expect to see.

3 These guys were not the Saturday night
4 regulars. If you watch the video, they don't walk in
5 like somebody going to have a meal. They walk in like
6 mafia hit men, looking around the doors as they walk in.
7 They walk in, walk around a woman, on a beeline straight
8 to where he's alone in the bathroom. Again, both of
9 them armed, one with a stolen gun, the kind you might
10 want to use if you didn't want a crime traced back to
11 you. They go straight back, without hesitation.

12 They don't ask for a table; they don't ask
13 about the wait. They don't say, hi, how are you doing.
14 They go straight back to where he is in the bathroom by
15 himself. And you can watch, you can count the seconds
16 to do all that. But pretty shortly, thereafter, shots
17 are fired. Now again, I'm curious what their theory
18 is as to what they were doing in there that night.
19 We haven't heard it yet.

20 When Mr. Spells got shot, I think it's
21 pretty interesting how he responded. I mean, obviously,
22 he ran out of the restaurant. But what was his concern?
23 He ran out that front door, ran to the right, and
24 ditched his burner in the bushes. He just got shot,
25 mind you. His friend just got shot. That's what came

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1 to his mind, is I need to get rid of my gun. You can
2 ask yourself why that might be the case.

3 And you heard Mr. Cobbs' testimony,
4 everything that happened in the bathroom. He came out
5 of the stall, he locked eyes, he knew exactly why they
6 were there, he knew what time it was, he knew what they
7 were there to do, he saw them reach for guns.

8 And they're talking about is there bullets
9 in back of the bathroom? Of course, there's no bullets
10 in the back of the bathroom because he didn't say there
11 were bullets in the back of the bathroom. He didn't
12 say they shot at him. He said he locked eyes, he knew
13 why they were there, and when they reached for guns,
14 he reached first. And there's nothing to disprove that
15 in any of their diagrams, any of the testimony because
16 that's what happened. It's the only thing that makes
17 sense.

18 So the State, you know, they want to play
19 this jail call for you and say, well, he told you
20 himself it's not self-defense. It's right there in the
21 call. It's not self-defense, but he also said he didn't
22 shoot. And they had gone to pretty good lengths to show
23 you he's the only person that could have shot.

24 I mean, obviously, he's the shooter.
25 And he didn't tell the truth on the call, and he told

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1 you why. I think it was primarily because these guys
2 have friends. They've got family. They've got probably
3 associates, you can call it on the street, and in the
4 jail where he was when he made this call.

5 He doesn't know who they are. They might
6 know who he is. He didn't want his name in these guys'
7 paperwork talking to the police trying to get them
8 in any further trouble, which makes perfect sense.

9 So then from there, they brought in this
10 informant. Honestly, I have no idea why because with
11 all due respect they're scraping the bottom of the
12 barrel when they bring this guy because this guy,
13 he's the classic jailhouse snitch.

14 You hear them call it a rat sometimes.
15 And I saw in a movie the best description for that
16 on why it would be called a rat is because a rat will
17 do anything to survive, which is what this guy is doing.
18 I mean, he's looking at, you know, close to 30 years.
19 I get it. I think if they probably would have offer
20 him ten years off, he would probably come in here and
21 tell you I was the shooter, whatever he needs to say.

22 But consider his credibility when he says,
23 no, I've had no conversations about any kind of,
24 you know, consideration in my case. I don't expect
25 any benefit. I just came forward, I guess. Think about

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1 the timing. When did he come forward? Not the night
2 of the shooting, not in 2016 at all, not in 2017,
3 not in 2018.

4 I believe he testified he came forward
5 in January of 2019. I said, well, you got a couple
6 of pending federal bank robbery cases, right? Did you
7 plea to those? Yes. When did you plea? And I believe
8 he said January of 2019.

9 What an odd coincidence that as he's going
10 up to plea in his case, he suddenly comes forward with
11 this information. What an odd coincidence that he's
12 due to be sentenced, I believe he said, next week.
13 And he says that the timing of all this is completely
14 unrelated. I don't think anybody in the world would
15 believe that.

16 Beyond that, I asked him and Detective
17 Peters, I said, was there anything that would prevent
18 you from getting up here and just making this up,
19 just saying I heard this guy say he's going to shoot
20 somebody. I mean, anybody can say that. So, I said
21 is there anything to prevent him from saying that?
22 He said, no.

23 And I asked him, you know, well, did you
24 try to verify this guy's story? And he said he did,
25 and I believe him. And I also believe when he said

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1 basically everything this guy fed him was all smoke,
2 street names, nicknames, couldn't remember the address.
3 Nothing that could back up this guy's story.

4 So, I would ask you to take his testimony with the grain
5 of salt it deserves.

6 And then we're going to talk about the
7 bullet in the door and the shots in the left side
8 and all this stuff, and Mr. Cobbs -- what you've got
9 to remember is this. This happened fast, very fast.
10 I mean, this entire incident, you can watch the tape,
11 happened in a matter of seconds. So when it comes down
12 to the details, Mr. Cobbs comes out, finds himself in
13 a fight or flight situation, and flight ain't an option.
14 He's fighting for his life. If details are fuzzy,
15 it makes perfect sense.

16 They're talking about lanyards and all this
17 stuff. I doubt he's in there watching to see if this
18 guy tosses a lanyard, or whatever happens, and that
19 makes perfect sense.

20 So again, back to the State's theory.
21 I don't know what it is. I can only guess what it is,
22 so I'll do that. I'm assuming they're going to tell
23 you that this was some sort of ambush because I think
24 he might have referenced lying in wait at some point
25 in this case, you know, when he started his closing

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1 argument.

2 If this is an ambush, how was it done?

3 We know Mr. Spells, I believe it was, had a cell phone.

4 Mr. Mack did not. They looked at the one cell phone the

5 guys had between them, and there's zero communications

6 between Mr. Cobbs and them. Absent a carrier pigeon,

7 or something along those lines, how would he arrange

8 to have these guys come to the restaurant?

9 The alternative is if he didn't lure them

10 there, I guess, their other theory would be he's lying

11 in wait and just hoping beyond hope that if he goes

12 in the bathroom, these two guys will show up at this

13 restaurant, on this night, at this hour, and hopefully,

14 they'll just show up where I am, and I'll have a chance

15 to ambush them, which makes absolutely zero sense.

16 So, I have no idea what their theory is.

17 But whatever it is, doesn't match with what we've got

18 here. Ask yourself which scenario make more sense on

19 its face. That Mr. Cobbs somehow, without communicating

20 with anyone, and acting completely normal, was in the

21 bathroom waiting for these guys to show up so he could

22 ambush them, and shots come off quick, or what he told

23 you. That he's in there using the bathroom when these

24 guys come in, and he draws first. Which story on its

25 face makes more sense?

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1 Now, I'm going to wrap up here pretty
2 soon, I promise you. I appreciate you bearing with
3 me. I want to get into some of the, I guess, legal
4 terminology you'll be hearing in this case when the
5 judge gives her jury charge here in a few minutes.

6 Again, this is a self-defense case, which
7 is kind of a unique situation because self-defense
8 is what's called an affirmative defense, or a complete
9 defense. What that means is when self-defense is
10 asserted and charged to you, as it has been in this
11 case, the State has the burden of proving that this
12 was not self-defense.

13 We don't have to convince you. They have
14 to convince you it was not. And they don't have to
15 convince you to the degree that it could have been
16 self-defense, or it might have been self-defense, or it
17 probably wasn't self-defense. They have to convince you
18 beyond a reasonable doubt. A single reasonable doubt
19 that this was not exactly as Mr. Cobbs described,
20 a self-defense scenario. And that's a pretty high
21 hurdle for them, meaning, they're not going to be able
22 to do it in this case.

23 So let's talk about some of these charges.
24 Again, they have the burden of proving their case beyond
25 a reasonable doubt for murder. They have to show,

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1 first, that it was an unlawful kill. Mr. Loy told
2 you in his opening that you can have lawful killings
3 in several different scenarios, one of them is
4 self-defense.

5 So if you find this was self-defense, you
6 can stop your discussion because it's not an unlawful
7 killing. That's why they have to disprove self-defense.
8 If you get beyond that, you have to show there was
9 malice aforethought. And there's a lot of flowery
10 language I can never remember to explain what malice
11 aforethought means, a cold malignant heart, or a heart
12 bent on mischief. The judge will charge you on all that
13 stuff.

14 But, basically, I guess, it's the closest
15 equivalent we've had in common language, is
16 premeditation of some sort, which I submit to you in
17 this scenario, with this timing that you can hear with
18 the gunshots. I have no idea what their theory is of
19 how he would have had the ability to form malice
20 aforethought when this thing happened instantaneously.

21 The other option you've been given is
22 voluntary manslaughter, which again, the gatekeeping
23 role at the beginning here is you have to find for
24 voluntary manslaughter as well that this was an unlawful
25 killing. So again, if you find they haven't disproved

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1 self-defense, you can pretty much stop that discussion
2 because if he's acting in self-defense, or they can't
3 disprove it, it's not an unlawful killing.

4 If they got beyond that, what you have to
5 look for, I'm going to read some of this language to you
6 because I can't remember it, is that the Defendant took
7 the life of another in the sudden heat of passion based
8 on sufficient legal provocation. And they talked about
9 the heat of passion and things. What does that mean?
10 The kind of heat of passion that would make an ordinary
11 person unable to coolly reflect on his actions.

12 An example will probably clear that up for
13 you. I think the classic law school example is let's
14 say a guy gets home from work. He's had a long day
15 at the office. He walks in, kicks off his shoes.
16 He goes upstairs to his bedroom. He opens the door,
17 and lo and behold, there lies his wife in bed with
18 another man.

19 That's a pretty passionate situation.
20 It flows straight to his head. The anger, the
21 bitterness of how could this happen to me. He loses
22 his ability to coolly reflect on what's in front of him.
23 He pulls out a gun, and he shoots the man dead in his
24 bed. It's not a murder because he didn't have malice
25 aforethought. He didn't have premeditation or anything

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1 like that. But it is an unlawful killing.

2 I mean, you can't shoot and kill someone
3 in that scenario. That would be voluntary manslaughter,
4 a scenario like that where the passion is inflamed
5 in someone. We don't have that in this case either.

6 For self-defense, Mr. Spears mentioned
7 there's three things, and I think he kind of combined
8 them. But you have to show, first off, that the
9 Defendant was not part of bringing on the difficulty.
10 And I see this with my kids over and over, and you can't
11 go up to someone and then punch them. And then when
12 they hit you back, you escalate it, and hit them over
13 the head with a frying pan and say, I was acting in
14 self-defense. No, you weren't. You started the fight,
15 so to speak. We don't have that in this case. We've
16 got Mr. Cobbs in the restroom. That should be pretty
17 clear that he didn't bring on whatever happened to him.

18 Second, you have to show that the actor was
19 in a state where their life was in danger in this case,
20 or serious bodily harm, was an actual threat to them,
21 or that they believed they were in danger of serious
22 bodily harm or death.

23 You've heard the testimony. He comes out
24 of the stall. These two guys that he knows are after
25 him -- I'm not going to keep going over their

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1 background, but they're not good guys. And he knows why
2 they're there. He sees them draw a gun. Absolutely,
3 in that scenario you were going to believe that your
4 life is in danger.

5 And any reasonable person, which is the
6 third element -- that a reasonable person would also
7 feel the same way in his shoes, so to speak. And it's
8 clear, and he told you that was the case. He told you,
9 yeah, when they came in I was scared to death, and any
10 reasonable person was because here's how that works.

11 Let's say I'm sitting at the lunch table
12 with Mr. Loy, and he gets a pencil eraser, throws it,
13 and hits me in the chest. I can't pull out a gun and
14 shoot him, and then say, well, I thought he was going
15 to kill me because that's not a reasonable belief.

16 So it has to be a belief that somebody
17 else substituted in your place would also feel the
18 same way which given -- and you can take into account,
19 as Mr. Spears said, history between the parties,
20 the prior reputation for violence and all that stuff.
21 A reasonable person in that scenario would, obviously,
22 also feel like their life was in danger.

23 And the last thing, again, this is about
24 as textbook as you can get it, is that the Defendant
25 did not have an opportunity or an ability to retreat

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1 because if I see someone on the endzone of a football
2 field, and I'm on the other endzone, and they've got a
3 knife, I can't charge at them, pull out a gun and start
4 shooting at them at the 50-yard line, and say I was
5 acting in self-defense because I could have just gone
6 the other way.

7 In this case, we have almost the proverbial
8 cornered animal. He is in a bathroom with no way out,
9 except through them. There is no opportunity to retreat
10 whatsoever. So what does reasonable doubt mean?

11 If you think of guilt in a linear fashion,
12 I guess, kind of like a spectrum of guilt, so to speak,
13 down here on this end of the bar, you've got absolute
14 innocence. Down here, you've got absolute guilt.
15 Absolute innocence would be a situation where the State
16 has presented their side of the case, whatever the
17 charge may be.

18 And at the conclusion of their case,
19 you're saying to yourself they haven't proven anything,
20 or they've proven that he didn't commit the crime.
21 Absolute innocence. Down here, pretty rare a lot
22 of times in court.

23 You slide down the scale a little bit,
24 and you get to the situation where they presented
25 evidence, and you're telling yourself, yeah, they've

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1 made some points, I mean, some indication of guilt.
2 But, overall, I don't believe what they're telling
3 me at all. You've got a lot of between there.

4 Just to speed it up a little bit, when you
5 got around here, you get to the halfway mark between
6 absolute guilt and absolute innocence, which would be
7 they have presented enough evidence that I have no idea
8 what happened here, whether he's guilty or not.
9 It could go either way.

10 And you keep getting down here to where
11 you're saying to yourself, they have pretty much proven
12 this guy guilty. I mean, there's a few doubts left
13 or whatever, but, I mean, I'm pretty convinced of his
14 guilt.

15 Beyond a reasonable doubt reside down here
16 by absolute doubt. It's not absolute doubt, but it's
17 guilt that's been proven beyond a single reasonable
18 doubt. That's a high standard. That's the standard
19 they have to meet in this case.

20 Now to close, this is a case where it's hard
21 not to have anything but reasonable doubt. When you
22 listen to the history that these guys had, when you
23 understand the reputation for violence in the community,
24 when you understand that Detective Peters says he's not
25 surprised at all this guy was carrying a gun, how does

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1 that not cause reasonable doubt?

2 When you watch this video, if you choose to
3 watch it again, and you watch these guys as they enter
4 the restaurant, you watch them make a beeline straight
5 back to where Mr. Cobbs is all alone, how could that
6 not cause reasonable doubt? When you consider that the
7 alleged victims, the people they've pegged as victims
8 in the beginning for whatever reason, have never
9 cooperated.

10 To this day, Mr. Spells won't cooperate,
11 won't return their calls, wouldn't look at a lineup,
12 has done nothing to explain their side of the story
13 because I would tell you it would incriminate them.
14 Does that not cause reasonable doubt?

15 Ladies and gentlemen, these men didn't
16 act like your typical victims. And that's because they
17 were not victims at all. As Mr. Loy told you at the
18 beginning of this case, they were the predators, he was
19 the prey. Thank you.

20 THE COURT: Thank you, Mr. Chisholm.
21 Mr. Spears.

22 MR. SPEARS: Thank you, Your Honor. Y'all
23 I know we've been talking to you a lot. I've only got
24 a few things to touch on here, and then let you go.
25 Turn that on for me again, please. I'm first going to

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1 touch on maps, all right. Mr. Chisholm said something
2 about premeditation of the -- about premeditation being
3 required. And, honestly, I didn't explain it that well
4 at first.

5 Malice does have to exist before and during
6 the act, okay. There is no requirement though on how
7 long before the act that malice must exist. Malice
8 can be formed in an instant, in a snap of a finger,
9 or in a moment of recognition. It can be formed like
10 that, and that's important to note.

11 Now, what is the State's theory of the case?
12 I think he was asking for a motive. If you listen to
13 the law when the judge charges you, you will note there
14 is no requirement to prove motive.

15 Now if the evidence showed it, that would
16 be one thing, but it doesn't. There's a lot of things
17 that sometimes just go unsaid. And, honestly, the only
18 person I submit to you who knows the motive of what
19 happened that day is sitting right there. But we've
20 already heard him tell us multiple stories. I wouldn't
21 expect to get an honest answer out of that.

22 So we heard that we would have a hard time
23 drawing up a better case of self-defense. It hits every
24 single factor that the law would say you can use
25 self-defense for. When just a year prior, he didn't

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1 know nothing about self-defense.

2 But, suddenly, this story that's going to
3 be corroborated by two ladies or a cousin, never got
4 any names on there about reputation and threats and
5 all that. Suddenly, the story comes out this week
6 perfectly, hitting -- painting a picture of the most
7 straightforward self-defense case ever. But the stuff
8 that we see in our evidence doesn't directly corroborate
9 the story.

10 Now, I want to touch on Mr. Mack and
11 Mr. Spells walking in. They're making a beeline
12 into the restaurant and looking through the windows.
13 And we've seen them walk in a couple of times. You saw.
14 They looked to the left when they come in. Play that
15 for me.

16 (Video played for the jury.)

17 MR. SPEARS: Here's our unknown man and
18 Mr. Cobbs. They're looking to the left too. I don't
19 know what they're looking at. It looks like both
20 of them, whether it's Mack and Spells or Cobbs and
21 Mr. Mysteria, it looks like they're just looking at
22 the side of the building. It's hard to say. But that
23 doesn't prove that Mack and Spells are assassins when
24 they walk in.

25 And, apparently, Brannon Mack makes a

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1 beeline to the bathroom for some sort of assassination.
2 But then he immediately just puts his keys on the sink,
3 sits right here, and then gets shot in the side.
4 According to Mr. Cobbs, this is supposed to be a trained
5 shooter. It does not fit, ladies and gentlemen.

6 Harping on Bradford Spells, how he's
7 known -- you know, how he goes out and hides his gun.
8 We've seen the video. He doesn't have his gun drawn.
9 He hides from the person who just shot him. And then
10 he goes over there, and we assume the gun in the bushes
11 is his. It's a stolen gun.

12 Dwayne told us that he's not best person in
13 the world, so he throws away his stolen gun. What about
14 Brannon Mack? He doesn't throw away anything. That gun
15 isn't registered stolen. They're both still holstered.
16 They're not drawn like we've been told. Mr. Cobbs
17 didn't like both of these guys shooting people in his
18 aunt's yard, but yet he still confronts them about it.
19 He didn't get shot in his aunt's yard. He just heard
20 rumors about it.

21 Ladies and gentlemen, I can go through
22 all this all day. I don't want to hit you with another
23 closing. This was not some old west shootout in a
24 bathroom. The evidence shows us that Mr. Cobbs' story
25 doesn't work. His own call shows us that he's come

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1 up with this story.

2 Ladies and gentlemen, please review the
3 evidence, look through it, show how that story does
4 not work. I'm confident you'll come back with a verdict
5 of guilty. Thank you.

6 THE COURT: Thank you very much. All right.
7 Ladies and gentlemen, that first break, it's going to be
8 a short break. Here it is, just stand up. Feels great.
9 Why do I want you to stand? I need you to be able to
10 pay attention to me. I need oxygen flowing. Anybody
11 need to take a comfort break? Don't be shy. It's going
12 to take me a bit to deliver the charge. Yes? All
13 right.

14 Let me tell you'll what you'll do. Leave
15 your notepad. Do not discuss this matter. Do not allow
16 anyone to discuss it with you. Here's what we're going
17 to do. Take your comfort break. When you're ready to
18 return, knock on the door, and you all will come back
19 in then. It won't be a set time. It will be whatever
20 period you need.

21 (Jury exits the courtroom at 11:15 a.m.)

22 (Recess taken.)

23 (Back on the record.)

24 (Jury enters the courtroom at 11:33 a.m.)

25 THE COURT: All right. Ladies and

1 gentlemen, it is now my duty to instruct you regarding
2 the law applicable to this case. Ladies and gentlemen,
3 the indictments in this matter charges the Defendant,
4 Mr. Cobbs, with murder.

5 This offense is one which, of course,
6 is alleged by the State, in which the State has the
7 burden of proof. And I will define that offense for
8 you, and there is a lesser included offense that I will
9 talk to you about as well. And a defense, which has
10 been raised, which must be disproved by the State.
11 The burden of proof applicable to the State is beyond
12 a reasonable doubt.

13 Ladies and gentlemen, I'm going to get into
14 this in just a moment. But a defendant -- no matter the
15 seriousness of the charge, a defendant is never required
16 to prove him or herself not guilty. The burden is and
17 remains on the State to prove guilt beyond a reasonable
18 doubt.

19 I remind you that the fact that the
20 Defendant, Mr. Cobbs, and if I say Defendant, I mean
21 Mr. Cobbs. If I say Mr. Cobbs, I mean the Defendant.
22 They are interchangeable. I remind you that the fact
23 that Mr. Cobbs was arrested, charged, and indicted
24 in this case is not evidence in this case. It cannot
25 be considered by you as evidence of guilt in this case,

1 nor does it create any presumption or inference
2 of guilt.

3 Ladies and gentlemen, an indictment is,
4 first of all, a piece of paper. It's a notice document.
5 It gives a citizen notice that the State maintains that
6 that citizen has violated one or more of the criminal
7 laws of the state of South Carolina. And to this
8 indictment, Mr. Cobbs has pled not guilty. And that
9 plea places upon the State to prove him guilty beyond
10 a reasonable doubt.

11 Ladies and gentlemen, a person charged with
12 committing a criminal offense in South Carolina is never
13 required to prove himself not guilty. And I charge you
14 that it is an important rule of the law that a defendant
15 in a criminal trial, no matter what the seriousness of
16 the charge may be, those people will always be presumed
17 to be innocent of the crime for which the indictment
18 was issued, unless guilt has been proven by evidence
19 satisfying you of that guilt beyond a reasonable doubt.

20 Ladies and gentlemen, Mr. Cobbs is presumed
21 to be innocent of the crime for which the indictment
22 was issued, unless guilt has been proven by evidence
23 satisfying you of that guilt beyond a reasonable doubt.

24 This presumption of innocence does not end
25 when you begin your deliberation. But it accompanies

1 the Defendant throughout the trial until you reach
2 a verdict of guilt based on evidence satisfying you
3 of that guilt beyond a reasonable doubt.

4 The presumption of innocence is like a robe
5 of righteousness placed about the shoulders of the
6 Defendant, which remains with him, with Mr. Cobbs, until
7 it has been striped from him by evidence satisfying you
8 of his guilt beyond a reasonable doubt. The presumption
9 of innocence is not a mere legal theory. It is not just
10 a legal phrase. It a substantial right to which every
11 Defendant is entitled, unless you, the jury, are
12 satisfied from the evidence of the Defendant's guilt
13 beyond a reasonable doubt.

14 What then is reasonable doubt in the law?
15 A reasonable doubt is the kind of doubt that would cause
16 a reasonable person to hesitate to act. Some of you may
17 have served as jurors in civil cases where you were told
18 that it is only necessary to prove that a fact is more
19 likely true than not true, such as by the greater weight
20 of the preponderance of the evidence.

21 In criminal cases, the State's proof must be
22 more powerful than that. It must be beyond a reasonable
23 doubt. Proof beyond a reasonable doubt is proof that
24 leaves you firmly convinced of the Defendant's guilt.
25 There are very few things in this world that we know

1 with absolute certainty. And in criminal cases, the law
2 does not require proof that overcomes every possible
3 doubt.

4 If, based on your consideration of the
5 evidence, you are firmly convinced that the Defendant is
6 guilty of the crime charged, you must find the Defendant
7 guilty. If, on the other hand, you think there's a real
8 possibility that the Defendant is not guilty, you must
9 give the Defendant the benefit of the doubt and find him
10 not guilty.

11 Ladies and gentlemen, I remind you that you
12 and I have had certain duties to perform during this
13 trial. As the trial judge, it is my responsibility
14 to preside over the trial of this case. And I also have
15 the duty to rule on the admissibility of the evidence
16 offered during the trial. I have the additional duty
17 to charge you regarding the law applicable to this case.
18 As the presiding judge, I am the sole judge of the law
19 of this case. And it is your duty as jurors to accept
20 and to apply the law as I now state it to you.

21 If you have already any idea as to what the
22 law is, or what it ought to be, and it does not agree
23 with what I tell you now the law is, you must abandon
24 your preconceived idea because you are sworn to accept
25 the law and apply the law exactly as I state it to you.

1 Now in every case tried in this court before
2 a jury, the jury becomes the sole and exclusive judge
3 of the fact. A trial judge cannot intimate, state,
4 comment on, or make any statement to a trial jury about
5 the facts in a case.

6 Since you, the jury, are the sole judge
7 of the facts in this case, you are not to infer from
8 what I have said during the progress of this trial,
9 in ruling on the admissibility of evidence or otherwise,
10 or anything that I say to you now during the course
11 of this instruction to you that I have any opinion
12 about the facts in this case. The law does not allow
13 me to have an opinion about the facts in this case.
14 This is a matter solely for you to determine.

15 As jurors, it is your duty to determine the facts
16 and to decide whether the State has met its burden
17 of proof of beyond a reasonable doubt.

18 Now, ladies and gentlemen, necessarily then,
19 you must determine the credibility of the witnesses who
20 have testified in this case. You must decide the
21 credibility of the testimony, the sworn testimony,
22 presented in this trial.

23 Ladies and gentlemen, credibility simply
24 means believability. Who do you believe? It becomes
25 your duty as jurors to analyze and evaluate the

1 evidence, and to determine which evidence convinces you.
2 In determining the believability of witnesses who have
3 testified in this case, you may believe one witness
4 over several witnesses, or several witnesses over one
5 witness.

6 You may believe a part of the testimony of
7 a witness and reject the remaining part of the testimony
8 of that same witness. You may believe the testimony of
9 a witness in its entirety, or you may reject the
10 testimony of a witness in its entirety. You may
11 consider whether any witness has exhibited to you any
12 interest or bias or prejudice or other motive in this
13 case. You may also consider the appearance and the
14 manner of a witness while on the witness stand.

15 Now, ladies and gentlemen, in this matter
16 there have been witnesses who have been deemed to be
17 expert witnesses. Our rules of evidence ordinarily
18 do not permit witnesses to testify regarding their
19 opinions, or the reasons for those opinions.

20 An exception to this rule exists for
21 witnesses deemed to be expert witnesses. And those are
22 witnesses who, by education and experience, have become
23 an expert in some art, science, professional calling.
24 And those witnesses may state opinions or an opinion
25 as to relevant and material matters in which the witness

1 claims to be an expert. And they may also state
2 the reasons for those opinions.

3 You should consider any expert opinion
4 received in evidence in this case, and like any other
5 evidence, give it the weight that you think it deserves.
6 If you decide that the opinion of an expert witness
7 is not based on sufficient education and experience,
8 or if you conclude that the reasons given in support
9 of the opinion are not sound, or that the opinion is
10 outweighed by other evidence, you may disregard the
11 opinion entirely.

12 An expert witness's testimony is to be given
13 no greater weight than that of other witnesses simply
14 because the witness is an expert. And you're not
15 required to accept an expert's opinion, even though
16 it is not contradicted.

17 Now, ladies and gentlemen, there are two
18 types of evidence which are generally presented during
19 a trial. One is called direct evidence; the other is
20 called circumstantial evidence. I am going to define
21 these terms for you, and then I am going to give you
22 an example.

23 Direct evidence is the testimony of a person
24 who claims to have actual knowledge of a fact, such as
25 an eyewitness. It is evidence which immediately

1 establishes the main fact to be proved.

2 Circumstantial evidence is proof of a chain
3 of facts and circumstances indicating the existence
4 of a fact. It is evidence which immediately establishes
5 collateral facts from which the main fact may be
6 inferred. Circumstantial evidence is based on inference
7 and not on personal knowledge or observation.

8 Now, I want to give you an example of each.
9 Direct evidence. It's February. It is cold, snow
10 is forecasted. You walk outside, you look up, it's
11 snowing, and snow is everywhere. You see it snowing.
12 Snow might actually hit you in the eye. When you walk
13 back inside and you say, it's snowing outside, you're
14 an eyewitness. You might literally be an eyewitness
15 if the snow got in your eye. You saw it. You perceived
16 it. You saw it. You are an eyewitness when you come
17 in and say, it's snowing outside. It's based on direct
18 information, direct perception. You're an eyewitness.
19 So when you come in and say, it's snowing outside,
20 you're immediately establishing that main fact to be
21 proved it's snowing outside.

22 Now, let's talk about circumstantial
23 evidence. I'm going to give you an example.
24 We're staying in February, still cold outside, and snow
25 is forecasted. You might even be looking forward to

1 a snow day. Well, just before you turn in for the
2 night, you look outside, and all you see is your poor,
3 brown, crunchy grass. It's not snowing. You look out,
4 no snow. You go to sleep. You wake up in the morning,
5 and the sun is shining, but snow covers everything.
6 You go wake up folks in your household, and you say,
7 it snowed last night.

8 Well, did you see it snow last night?

9 No. Do you know it snowed last night? Yes, through
10 inference because here's what you do know. You know
11 it's February, you know it's cold, you know snow is
12 forecasted, you know when you went to bed there was
13 no snow, when you awoke the sun was shining, but snow
14 covered everything. What you know by inference is that
15 it snowed overnight.

16 The things that you do know point to through
17 inference, and they point consistently and together that
18 it snowed overnight. You know it snowed overnight
19 through inference. That's circumstantial evidence.

20 Our law makes absolutely no distinction
21 between the weight or value to be given to either direct
22 or circumstantial evidence, nor is a greater degree
23 of certainty required of circumstantial evidence than
24 of direct evidence. You should weigh all of the
25 evidence in the case. And after weighing all of

1 the evidence, if you're not convinced of the guilt
2 of the Defendant beyond a reasonable doubt, you must
3 find the Defendant not guilty.

4 Now, I'm going to talk about criminal
5 intent. In order to establish criminal liability,
6 criminal intent is required. For example, the mental
7 state to be proven by the State as an element of a
8 particular crime might be purpose or intent, knowledge
9 or recklessness, and the like.

10 Criminal intent must be proven by the State
11 beyond a reasonable doubt. Criminal intent is always
12 a matter that must be determined by a jury from the
13 circumstances shown to have existed and surrounding
14 the situation. There's no way to prove intent to a
15 mathematical certainty. And there's no way that medical
16 science can dissect a person's brain and determine what
17 the person had in mind. So the law says that criminal
18 intent may be inferred from the circumstances shown
19 to have existed.

20 This is how you make a determination of
21 whether or not the element requiring intent was present.
22 It is not necessary to establish intent by a direct and
23 positive evidence. But intent may be established by
24 inference in the same way as any other fact, by taking
25 into consideration the acts of the parties, and all the

1 facts and circumstances of the case.

2 Criminal intent is a mental state, a
3 conscious wrongdoing. It is up to you to determine what
4 the Defendant intended to do based on the circumstances
5 shown to have existed.

6 Now, ladies and gentlemen, I am now going
7 to talk to you about the indicted -- I'm going to read
8 to you the allegations of the indictment. Then, I'm
9 going to go over the law regarding murder, which is the
10 indicted crime. And then I'm going to talk to you about
11 a lesser included offense. And I'm going to tell you
12 what that means in a minute, define that for you.
13 So that's how we're going to be proceeding.

14 Now, ladies and gentlemen, indictment
15 2016-GS-18-1267 alleges that in Dorchester County,
16 on or about June the 5th of 2016, with malice
17 aforethought, the Defendant, Keunte D. Cobbs, did kill
18 one Brannon Mack by means of shooting the victim.
19 The victim did die as a proximate result thereof.
20 This offense made in violation of the common law
21 in Section 16-310 of the South Carolina Code of Laws
22 as amended.

23 Now, ladies and gentlemen, the State has
24 the burden of proving each and every element of the
25 offense of murder before the Defendant could be found

1 guilty of murder, and then we're going to talk about
2 lesser included offense. I, again, wish to remind
3 you that to the indictment, the Defendant has pled
4 not guilty.

5 Now, ladies and gentlemen, the State must
6 prove beyond a reasonable doubt that the Defendant,
7 Mr. Cobbs, killed another person with malice
8 aforethought. What is malice? I am going to define
9 that for you. Malice is hatred, ill will, or hostility
10 towards another person. It is the intentional doing
11 of a wrongful act without just cause or excuse, and with
12 an intent to inflict an injury, or under circumstances
13 that the law will infer an evil intent.

14 Malice aforethought. Malice aforethought
15 does not require that malice exist for any particular
16 time before the act is committed. But malice must exist
17 in the mind of the Defendant just before and at the time
18 the act is committed. Therefore, there must be a
19 combination of the previous evil intent and the act.
20 Malice, the evil intent, aforethought must exist just
21 before and at the time the act is committed.

22 Now malice aforethought may be expressed
23 or inferred. These terms, expressed and inferred,
24 do not mean different kinds of malice, but merely the
25 manner in which malice may be shown to have existed,

1 meaning by direct evidence or by inference. I call your
2 attention to the discussion we just had about direct
3 evidence and circumstantial evidence. Now malice
4 aforethought may be shown to have existed by direct
5 evidence or through inference from the facts and
6 circumstances which are proved to have existed.

7 Ladies and gentlemen, I'm finished defining
8 for you murder. There is a lesser included offense
9 of murder, and it is called voluntary manslaughter.
10 Voluntary manslaughter. And this lesser included
11 offense really exists through the common law. What does
12 that mean? That means the law as it has developed
13 through case law, and it's developed through hundreds
14 of years. So through our common law, voluntary
15 manslaughter exists as a lesser included offense
16 of murder.

17 One of the ways that I think about lesser
18 included offenses, and we've just come through the
19 holiday season, I think they're called Russian dolls.
20 It's like the little dolls, and you take one off,
21 and there's one underneath it, you take one off -- yeah,
22 okay, I'm getting some nods. You know what I'm talking
23 about.

24 Lesser included offense -- you have murder,
25 and then the lesser included would be encompassed within

1 murder. It exists as a lesser included offense,
2 as I've stated, through the common law.

3 Now this is how lesser included offenses
4 are to be considered by juries. Based upon your
5 findings of fact and your consideration of the evidence,
6 if you find that the State has failed to prove beyond
7 a reasonable doubt that the Defendant committed murder,
8 then you consider whether the State has proved beyond
9 a reasonable doubt the lesser included offense of
10 voluntary manslaughter.

11 To prove voluntary manslaughter, the State
12 must prove beyond a reasonable doubt that the Defendant
13 took the life of another person in the sudden heat of
14 passion based on sufficient legal provocation.

15 Ladies and gentlemen, malice, whether it
16 is expressed malice or implied malice, is not an element
17 of voluntary manslaughter. However, both heat of
18 passion and sufficient legal provocation must be present
19 at the time of the killing to constitute voluntary
20 manslaughter. And let me say again that malice is not
21 an element of voluntary manslaughter.

22 Sudden heat of passion may, for a time,
23 affect a person's self-control and temporarily disturb
24 a person's reason. The sudden heat of passion must
25 be the type that would make an ordinary person unable

1 to coolly reflect on his or her actions and would produce
2 an uncontrollable impulse to do violence.

3 Sufficient legal provocation must be the
4 type that would make a person of ordinary reason and
5 ordinary caution to become enraged and to lose control
6 temporarily. The provocation needed for voluntary
7 manslaughter must come from some act of, or related
8 to the victim or victims.

9 Now words alone, however vulgar and
10 insulting, are not enough to be legal provocation.
11 When death is caused by the use of a deadly weapon,
12 the words must be accompanied by some overt threatening
13 act which could have produced the heat of passion.
14 The exercise of a legal right, no matter how offense
15 it is to another, is never sufficient legal provocation
16 for voluntary manslaughter.

17 If the heat of passion had cooled, or if
18 there was enough time between the provocation, if any,
19 and the killing for the passion of a reasonable person
20 to cool, the killing would not be voluntary
21 manslaughter.

22 In deciding whether a reasonable person
23 would have had enough time to cool off, you should
24 consider all the circumstances surrounding the killing.
25 You may consider the nature of the provocation, if any,

1 the Defendant's mental and physical state, and the
2 circumstances and relationship between the parties.

3 Now, ladies and gentlemen, in this case,
4 the defense has been raised of self-defense.
5 Now self-defense is a complete defense. If there is
6 self-defense, you must find the Defendant not guilty.
7 I'm going to give you the -- I'm going to define for
8 you self-defense.

9 The State has the burden of disproving
10 self-defense by proof beyond a reasonable doubt.
11 If you have a reasonable doubt of the Defendant's
12 guilt after considering all the evidence, including
13 that of self-defense, then you must find the Defendant
14 not guilty.

15 If, on the other hand, you have no
16 reasonable doubt of the Defendant's guilt after
17 considering all the evidence, including that of
18 self-defense, you must find the Defendant guilty.

19 Now here are the elements of self-defense.
20 The Defendant must be without fault in bringing about
21 the difficulty. If the Defendant's conduct was the
22 type which was reasonably calculated to and did provoke
23 a deadly assault, the Defendant would be at fault in
24 bringing on the difficulty and would not be entitled
25 to an acquittal based on self-defense.

1 Next, the Defendant was actually in imminent
2 danger of death or serious bodily injury, or that the
3 Defendant actually believed he was in imminent danger
4 of death or serious bodily injury. If the Defendant was
5 actually in imminent danger, it must be shown that the
6 circumstances would have warranted a person of ordinary
7 firmness and courage to strike the fatal blow to prevent
8 death or serious bodily injury.

9 If the Defendant believed he was in imminent
10 danger of death or serious bodily injury, it must be
11 shown that a reasonably prudent person of ordinary
12 firmness and courage would have had the same belief.

13 In deciding whether the Defendant actually
14 was, or believed he was, in imminent danger of death or
15 serious bodily injury, you should consider all the facts
16 and circumstances then and there existing, including
17 the physical condition and the characteristics of the
18 Defendant and the victim.

19 Now, ladies and gentlemen, the Defendant
20 does not have to show that he was actually in danger.
21 It is enough if the Defendant believed he was in
22 imminent danger, and a reasonably prudent person of
23 ordinary firmness and courage would have had the same
24 belief. A Defendant has the right to act on
25 appearances, even though the Defendant's beliefs may

1 have been mistaken.

2 It is for you to decide whether the
3 Defendant's fear of imminent danger of death or serious
4 bodily injury was reasonable, and would have been felt
5 by an ordinary person in the same situation. Evidence
6 of prior difficulties between the Defendant and the
7 victim may be considered in deciding whether a threat
8 existed, whether the Defendant had a reason to believe
9 a threat existed, and how serious that threat was.

10 The reputation of the victim as a violent
11 person may be considered in deciding whether there was
12 a need for force, whether the Defendant had reason to
13 believe there was a need for force, and whether deadly
14 force was reasonably necessary.

15 And prior instances of violence by the
16 victim may be considered in deciding whether a Defendant
17 actually believed he was in imminent danger of death
18 or serious bodily injury, or was actually in imminent
19 danger. Threats made by the victim may be considered
20 in determining whether a Defendant was, or believed
21 he was in imminent danger.

22 Now, the last element of self-defense is
23 that the Defendant had no other probable way to avoid
24 the danger of death or serious bodily injury than to
25 act as the Defendant did in this particular instance.

1 A person cannot be required to make an exact calculation
2 as to the degree or amount of force which may be needed
3 to avoid death or serious bodily harm.

4 Therefore, in self-defense, the Defendant
5 has the right to use the force needed to avoid death
6 or serious bodily harm. The force used in self-defense
7 does not have to be limited to the degree or amount of
8 force used by the victim. The Defendant has the right
9 to use so much force as appeared to be necessary for
10 complete self-protection, in which a person of ordinary
11 reason and firmness would have believed to be needed
12 to prevent death or serious bodily harm.

13 And if the Defendant is justified in
14 defending himself in firing the first shot, then the
15 Defendant is also justified in continuing to shoot until
16 it is apparent that the danger of death or serious
17 bodily injury has completely ended.

18 Now, ladies and gentlemen, a Defendant has
19 no duty to retreat if by doing so the danger of being
20 killed or suffering serious bodily injury would
21 increase. Ladies and gentlemen, the State has the
22 burden of disproving self-defense by proof beyond
23 a reasonable doubt.

24 Now, ladies and gentlemen, I want to go
25 over the verdict form with you. There are two things

1 that I want you to keep in mind. Firstly, your verdict
2 must be unanimous. Majority doesn't rule; no one of you
3 rules. This verdict must be the verdict of each and
4 every one of you.

5 Secondly, ladies and gentlemen, for the
6 indicted offense of murder and the lesser included
7 offense, on the verdict form I have listed the two
8 possible verdicts. There's no hidden meaning in which
9 the order of these possible verdicts have been placed on
10 paper, and you should not take there to be any comment,
11 intimation or hint as to what ought to be your verdict.

12 Ladies and gentlemen, it is just reality.
13 If you're going to put two things on a piece of paper,
14 one's got to be first, and the other has got to be
15 second. So please don't take any hidden meaning in
16 which the order of the possible verdicts have been
17 placed on paper. I think -- can you all see?
18 Obviously, this is going to be with you in your jury
19 room.

20 Ladies and gentlemen, the top part is just
21 the caption. It's the title of the case, and then there
22 are instructions. It says circle the appropriate
23 verdict below and follow the accompanying instructions
24 carefully. And number one says, as to the charge of
25 murder, we, the jury, unanimously find the Defendant,

1 and there are two possible verdicts. One is guilty,
2 and the other is not guilty. Irrespective of what is
3 the unanimous verdict of this jury, I need you to circle
4 it. It needs to be very clear.

5 Now in the event that you do not believe
6 that the State has met its burden of proof of beyond
7 a reasonable doubt for the offense of murder, then you
8 consider the lesser included offense of voluntary
9 manslaughter, and you would consider voluntary
10 manslaughter.

11 And number two states, as to the lesser
12 included charge of voluntary manslaughter, we, the jury,
13 unanimously find the Defendant, and then again you would
14 consider the possible verdicts of guilty or not guilty.
15 And whichever is found to be -- if you reach this point,
16 whichever is found to be the unanimous verdict of the
17 jury, you would simply circle that so it's very clear
18 which is the unanimous verdict of this jury. And then
19 stop and end your deliberations. And when you have
20 completed your deliberations, you will sign the verdict
21 form as the presiding juror. And you will date the
22 verdict form, and today is Thursday, January the 9th.
23 You will date it.

24 Now, ladies and gentlemen, obviously,
25 if you find with regards to number one, if you find

1 the Defendant -- unanimously, you find the Defendant
2 guilty, obviously, you do not consider number two,
3 which is voluntary manslaughter. You would simply
4 sign at that point and date the verdict form.

5 Now, ladies and gentlemen, in just a moment,
6 I'm going to ask you to step to your jury room with this
7 instruction. Do not discuss this matter, or allow
8 anyone to discuss it with you. And I am going to tell
9 you what is going to go on because in all right, based
10 on what I've told you, you ought to be expecting now
11 that I'm going to tell you to begin your deliberations.
12 So, I'm going to tell you exactly what is going to
13 happen.

14 When you step back to your jury room on
15 this next occasion, I'm going to ask these lawyers two
16 questions. Have I given this jury all the law that they
17 may need for their deliberations, and have I stated it
18 for them correctly? Ladies and gentlemen, these lawyers
19 will then help me know if I've left something out that
20 you may need.

21 So in the event that I need to bring
22 you back out because I have failed to give you an
23 instruction that you may need for your deliberations,
24 I'm going to ask you right now, please don't consider
25 that instruction with any emphasis. Just know I have

1 to give you all the law that you might need.

2 Now in the event that I have made an error,
3 these lawyers will help me know that. And in the event
4 that I need to bring you back out because I have made
5 a mistake, I'm going to ask you in advance, please allow
6 me to correct my error in your minds because, you see,
7 this is my one chance to get this right, to give you
8 all of the law that you may need for your deliberations,
9 and to state it for you correctly.

10 Now, ladies and gentlemen, in the event that
11 I do not need to bring you back out, you will be brought
12 the exhibits, which have been admitted into evidence,
13 the verdict form, and an instruction to begin your
14 deliberations.

15 And, ladies and gentlemen, we have been --
16 I've been doing this a long time with the folks here,
17 our clerks and our bailiffs, and let me share with you
18 that you may be the very first jury in 22 years that
19 they haven't said begin your deliberations. I don't
20 think you will be. But you will not have the verdict
21 form and the exhibits unless it's time to begin your
22 deliberations.

23 And let me say to you that all 12 of you
24 must be present to deliberate. So if you need to take
25 a comfort break, stop your deliberations, take your

1 comfort break, and then reconvene your deliberations
2 when all 12 of you are together again. That really
3 does make sense if you think about it because you need
4 to have everybody hear all of the discussion. You don't
5 need one juror to miss something because that might be
6 the thing. That's the reason that we instruct jurors
7 to all be together when they deliberate.

8 Now, ladies and gentlemen, let me talk to
9 you about your notes. When you step back to your jury
10 room, I am going to ask you to leave your notes in your
11 seats. When the time for you to deliberate has begun,
12 you're going to be brought those notes. Your notes are
13 for -- what was the James Bond movie -- your eyes only.
14 Those notes are not to be shared, but they are for you,
15 to allow you to refresh your recollection to assist you
16 in your deliberations. So please keep that in mind as
17 well.

18 Ladies and gentlemen, at this time,
19 I'm going to ask you to please step to your jury room,
20 remembering do not discuss this matter, or allow anyone
21 to discuss it with you. And leave your notepads in your
22 seat.

23 (Jury exits the courtroom at 12:30 p.m.)

24 THE COURT: Exceptions? Additions?

25 MR. SPEARS: None, Your Honor.

1 MR. CHISHOLM: None, Your Honor.

2 THE COURT: All right. If you all would do
3 this for me. Please look at the verdict form, and
4 please look at each of the exhibits that's going back to
5 the jury. Be sure that what is going back to them is
6 what is supposed to go back to them. And what are we
7 going to do about allowing them the ability to play the
8 disc?

9 MR. SPEARS: Yes, Your Honor, we have the
10 same laptop from the last time.

11 THE COURT: All right. Now you all want to
12 look at my laptop?

13 MR. CHISHOLM: Is this the clean version
14 that we got? I haven't seen it yet.

15 MR. SPEARS: Yeah.

16 THE COURT: And if you want to look at it
17 and make sure it's wiped, please feel free.

18 (Recess taken.)

19 (Back on the record.)

20 (Jury enters the courtroom at 1:48 p.m.)

21 THE COURT: All right. Now, here's what I'm
22 going to do. I'm going to charge you the elements of
23 murder and then voluntary manslaughter because that's
24 what I understand the request is. So murder first, and
25 then the lesser included offense of voluntary

1 manslaughter.

2 I want to give you an overview though
3 because voluntary manslaughter is a lesser included
4 offense of murder by virtue of what's called the common
5 law. The elements are different. But by the common
6 law, voluntary manslaughter is a lesser included offense
7 of murder. Now, first, I'm going to define murder, and
8 then voluntary manslaughter.

9 Ladies and gentlemen, the State must prove
10 beyond a reasonable doubt that the Defendant killed
11 another person with malice aforethought. That is the
12 definition. Malice is hatred, ill will or hostility
13 towards another person. It is the intentional doing of
14 a wrongful act without just cause or excuse, and with
15 the intent to inflict an injury or under circumstances
16 that the law will infer an evil intent.

17 Malice aforethought, the defined really
18 aforethought, does not require that malice exists for
19 any particular time before the act is committed. But
20 malice must exist in the mind of the Defendant just
21 before and at the time that the act is committed.
22 Therefore, in order for there to be malice aforethought,
23 there must be a combination of the previous evil intent
24 and the act.

25 Malice aforethought may be expressed or

1 inferred. These terms, expressed or inferred, do not
2 mean different kinds of malice, but merely the manner in
3 which malice may be shown to exist.

4 We talked about direct evidence and
5 circumstantial evidence. Direct evidence is the
6 evidence, like, and eyewitness, as opposed to
7 circumstantial evidence, which is by inference.

8 Malice aforethought may be expressed or
9 inferred. These terms, expressed and inferred, do not
10 mean different kinds of malice, but merely the manner in
11 which malice may be shown to exist. That is either by
12 direct evidence or by inference from the facts and
13 circumstances which are proved.

14 Murder. If you find that the State has
15 failed to prove beyond a reasonable doubt that the
16 Defendant committed murder, you may consider whether the
17 State has proved beyond a reasonable doubt that the
18 Defendant committed voluntary manslaughter.

19 To prove voluntary manslaughter, the State
20 must prove beyond a reasonable doubt that the Defendant
21 took the life of another in the sudden heat of passion
22 based upon sufficient legal provocation. Both heat of
23 past and sufficient legal provocation must be present at
24 the time of the killing to constitute voluntary
25 manslaughter.

1 Voluntary manslaughter is defined as the
2 unlawful killing of another without malice, without
3 malice, expressed or inferred. In other words,
4 voluntary manslaughter does not have the element of
5 malice.

6 Now sudden heat of passion may, for a time,
7 affect a person's self-control and temporarily disturb
8 a person's reason. The sudden heat of passion must be
9 the type that would make an ordinary person unable to
10 coolly reflect on his or her actions, and would produce
11 an uncontrollable impulse to do violence.

12 Sufficient legal provocation must be the
13 type that would make a person of ordinary reason and
14 caution become enraged and to lose control temporarily.
15 The provocation needed for voluntary manslaughter must
16 come from some act of, or related to the victim.

17 Words alone, however vulgar or insulting are
18 not enough to be legal provocation. Where death is
19 caused by the use of a deadly weapon, the words must be
20 accompanied by some overt threatening act, which could
21 have produced the heat of passion.

22 The exercise of a legal right, no matter how
23 offensive it is to another, is never sufficient legal
24 provocation for voluntary manslaughter. If the heat of
25 passion had cooled, or if there was enough time between

1 the provocation, if any, and the killing for the passion
2 of a reasonable person to cool, the killing would not be
3 voluntary manslaughter.

4 In deciding whether a reasonable person
5 would have had enough time to cool off, you should
6 consider all the circumstances surrounding the killing.
7 You may consider the nature of the provocation, if any,
8 the Defendant's mental and physical state, and the
9 circumstances and relationships between the parties.

10 Ladies and gentlemen, I have defined for you
11 murder and voluntary manslaughter. If you need any
12 additional instruction, you need only let me know. If
13 you'll please step to your jury room and continue your
14 deliberations.

15 (Jury exits the courtroom at 1:57 p.m.)

16 THE COURT: All right. Exceptions?
17 Additions?

18 MR. SPEARS: None, Your Honor.

19 MR. CHISHOLM: None, Your Honor.

20 THE COURT: We will continue to recess
21 in your case until we hear from the jury.

22 MR. SPEARS: Thank you, Your Honor.

23 (Recess taken.)

24 (Back on the record.)

25 THE COURT: All right. It's my

1 understanding that the jury has reached its verdict.
2 Anything before we bring the jury out from the State?

3 MR. SPEARS: Nothing, Your Honor.

4 THE COURT: All right.

5 MR. CHISHOLM: Nothing, Your Honor.

6 THE COURT: Very well. Let's have the jury.

7 (Jury enters the courtroom at 2:35 p.m.)

8 THE COURT: All right. It is my
9 understanding that the jury has reached its verdict;
10 is that correct?

11 THE FOREPERSON: Yes, ma'am.

12 THE COURT: All right. Yes, ma'am,
13 if you will publish the verdict.

14 THE CLERK: The state of South Carolina
15 versus Keunte Cobbs, indictment number 2016-GS-18-1267,
16 as to the charge of murder, we, the jury, unanimously
17 find the Defendant not guilty. As to the lesser
18 included offense of voluntary manslaughter, we,
19 the jury, unanimously find the Defendant guilty.
20 Signed by presiding juror, Mr. Forsyth, January 9, 2020.

21 THE COURT: I think it was Mr. Washington.
22 That's okay. All right. Very well. Ladies and
23 gentlemen, if this was your verdict in your jury room,
24 and it continues to be your verdict here in the
25 courtroom, if you would please indicate by raising

1 your right hand. Let me observe for our record.
2 All of our jurors have their hands raised. Thank you
3 so much. Anything from the State before we dismiss
4 our jury?

5 MR. SPEARS: Nothing, Your Honor.

6 THE COURT: And from the defense?

7 MR. CHISHOLM: No, Your Honor.

8 THE COURT: Very well. Ladies and
9 gentlemen, I want to thank you for your service on this
10 jury. I can promise you that your service on this jury
11 has been absolutely essential to our system of justice.
12 And I'm so very, very grateful for your time. We have
13 one additional matter that we are about to try, but I
14 do believe we have sufficient jurors -- I think we have
15 sufficient jurors to select our jury for that trial,
16 and so, I'm about to dismiss you for the balance of the
17 week.

18 Now, I do need to give you some
19 instructions. Remember, I promised you that we would
20 talk about your ability to discuss this matter.

21 Ladies and gentlemen, you are now at liberty
22 to discuss this case, if you wish. If you want to talk
23 about it, that is perfectly fine. If you do not want
24 to talk about it, that is perfectly fine. The practice
25 of law is an art and not a science. Sometimes,

1 particularly young lawyers, want to know what was
2 helpful, what could they improve, and you all are kind
3 of the best folks to ask that question of. And if they
4 call you, and you want to talk about it, it's fine.
5 If you don't, just tell them. They're not going to
6 persist.

7 Now, I am in the process of doing a little
8 letter that you can take with you, so if you could not
9 go to work at night, be mad at me, not you. My law
10 clerk is working on that now, and so we'll prepare it,
11 and I'll be able to sign that. And you'll have that
12 with you.

13 And, in addition, if you'll go down to
14 the clerk's office, you'll have the normal, you know,
15 whatever it is, the sheet that they give in the clerk's
16 office that says you served on jury duty. Probably
17 would be good for you to have both, but you're certainly
18 going to get a letter from me in just a few moments.

19 Ladies and gentlemen, I used to tell folks
20 that the check was in the mail. And then Ms. Graham
21 said, don't tell them that. It's not in the mail.
22 Stop. The check for your jury service is not in the
23 mail, but it will be shortly. And that's because of
24 our case management system. But our big trip to Tahiti,
25 it will get you to Jetburg. It is a very small --

1 obviously, it's a small token of all that you have given
2 to our system of justice, our way of life, and that is,
3 of course, your dear and precious time. And for each
4 and every tick of the clock, I want you to know how
5 grateful we all are. And I thank you on behalf of all
6 of us.

7 Now, ladies and gentlemen, at this time,
8 you are, of course, free to go. Sometimes jurors want
9 to know if they can remain for sentencing. I'm going
10 to proceed to sentencing. Completely up to you if you
11 wish to remain or if you wish to go. If you wish to
12 remain, you're fine where you are. If you wish to go
13 and exit, that is absolutely perfectly fine. And just
14 know that you take lots of thank you, lots of gratitude
15 from all of us to you for all of your dear and precious
16 time that you've given. Thank you again so very much.
17 Okay. Now motions.

18 MR. SPEARS: None from the State,
19 Your Honor.

20 THE COURT: All right.

21 MR. CHISHOLM: No, Your Honor.

22 THE COURT: Very well. Your sentencing
23 sheet.

24 MR. SPEARS: Yes, Your Honor.

25 THE COURT: All right, Mr. Spears, I need

1 to hear about any record that Mr. Cobbs has. And then,
2 of course, I am happy to hear from the victim's family
3 members.

4 MR. SPEARS: Yes, Your Honor. He has a 2000
5 possession of a stolen vehicle, along with a hit-and-run
6 with property damage. And in 2003, there was a driving
7 under suspension. In 2004, malicious injury to personal
8 property, and an assault and battery of a high and
9 aggravated nature from 2006.

10 Your Honor, there is a 2008 failure to stop
11 for a blue light, and a 2018 assault and battery of
12 a high and aggravated nature, which also stem from this
13 trial. And I believe Ms. Cobb, without an S, who is
14 Brannon Mack's mother, does wish to speak.

15 THE COURT: I am delighted to hear from her.
16 (Pause.)

17 THE COURT: All I need you to do is identify
18 yourself for our record, and I am listening to you.

19 MS. COBB: I am Michelle Cobb, Brannon's
20 mother -- Brannon Mack's mother. And, of course, I felt
21 that I am not agreeing with the charge. But because
22 of that -- my reason for that is because my son was
23 murdered. And nine bullets, nine shots, that's malice.

24 He's not coming back. Of course, I want
25 him to get the maximum charge of the manslaughter charge

1 because his kids, his family, can come visit him.
2 I have to go to the grave to visit my son. He was
3 only 22, and there's nothing in life that warrants that.
4 And taken temporaries -- you know, temporary actions
5 and making them permanent is not, you know, is not --
6 it's inhumane.

7 And, I mean, it's a good thing I'm not God.
8 And I'm glad I'm not because it's a huge responsibility
9 because we can get in the flesh because we are -- we
10 have feelings and emotions. But I clearly say that the
11 Defendant, Mr. Cobbs, throughout this whole time did not
12 show any type of remorse. He didn't seem remorseful at
13 any time for what he did to my son. And I really beg
14 you, and this Court, to please when you give your
15 sentence and your ruling, please the maximum, please.

16 THE COURT: Thank you for being here.

17 MS. COBB: Thank you.

18 THE COURT: I know that you have been here
19 throughout.

20 MS. COBB: Yes.

21 THE COURT: I know how difficult that has
22 been.

23 MS. COBB: It has been because you're
24 reliving it.

25 THE COURT: I know.

1 MS. COBB: It was tough the first time,
2 but this was, you know, even harder.

3 THE COURT: I know. I know.

4 MS. COBB: But, I mean, you've been fair.
5 You've shown that, and I appreciate it. I really do.

6 THE COURT: It's tough.

7 MS. COBB: It is tough.

8 THE COURT: And very difficult for you,
9 I know. And these people who are with you, are these
10 your family members?

11 MS. COBB: Yes. This is my fiance, Anthony,
12 and my cousin, Kelvin.

13 MR. SPEARS: And, Your Honor, I believe
14 Kelvin also wants to speak when the time is appropriate.

15 THE COURT: It's appropriate. And are you
16 ready for Kelvin to speak?

17 MS. COBB: My fiance wants to say something.

18 THE COURT: He wants to say something.

19 UNIDENTIFIED SPEAKER: Yes, Your Honor.
20 My name is Anthony. I just want to address that it's
21 been pretty rough for my fiance. Just to say that the
22 aftermath of seeing her struggling and trying to get her
23 life going, it's pretty hectic.

24 We've stayed together as a family, support
25 one another. I actually don't know this young man right

1 here, and I'm pretty sure he has kids and has family,
2 too. So to actually go through this and all this,
3 I just want the fairness done on my part of the family.
4 That's all I got to say.

5 THE COURT: Well, I'm delighted that she
6 has you to lean on.

7 UNIDENTIFIED SPEAKER: Thank you.

8 THE COURT: Yes, sir.

9 MR. WILLIAMS: My name is Kelvin Williams.
10 I'm Brannon's first cousin. And on behalf of my auntie
11 and my cousin, you know, we will live the rest of our
12 lives through Brannon's memories. And it's just an
13 unfortunate thing that we had to witness here in court.
14 But, nevertheless, you know, God will see us through
15 our pain, and see us through the memories that Brannon
16 has -- that we have for Brannon.

17 THE COURT: Well, you know, you rely so
18 much on family. I'm just delighted that you are here
19 because, you know, you can lean on each other moving
20 forward. And I know that you will be a great source
21 of comfort for Brannon's mom. So, I'm delighted that
22 you're here today. I'm so grateful that you'll be there
23 for her in the future.

24 MR. WILLIAMS: Yes, we will.

25 THE COURT: All right. Thank you so much.

1 MS. COBB: Thank you.

2 THE COURT: Mr. Chisholm.

3 MR. CHISHOLM: Thank you, Your Honor.

4 May it please the Court.

5 THE COURT: Yes, sir.

6 MR. CHISHOLM: You heard from the stand
7 Mr. Cobbs' biographical information. You have a lot
8 more information than you normally do in a setting
9 like this. He does have children, and his daughter
10 is present. He's got several friends and loved ones
11 here on his right, the third and fourth rows.

12 And you also heard the companion charge in
13 this case. He's currently serving an 18-year sentence,
14 Broad River up in Columbia. And he's been incarcerated
15 since June 27th, I believe, of 2016.

16 Obviously, I would ask the Court to give
17 him any consideration that you feel that you can.
18 I'm not going to argue with the verdict of the jury.
19 But I'll just add I don't feel it was a frivolous
20 defense that we put up. And I do have a couple of
21 family members that would like to speak.

22 THE COURT: Certainly. Happy to hear from
23 them.

24 MS. ROBINSON: Hi.

25 THE COURT: I just need you to identify

1 yourself for our record.

2 MS. ROBINSON: Angela [ph.] Robinson.

3 THE COURT: Yes, ma'am.

4 MS. ROBINSON: And under, you know,
5 bad circumstances -- I still love him.

6 THE COURT: Of course.

7 MS. ROBINSON: He is a great aspect to our
8 family. And because of what happened -- my condolences
9 goes out to his family. But it's, like, we can't forget
10 both sides. Nobody won. We're losing our family
11 member, and they lost a family member.

12 We still have to -- I mean, your sentence,
13 I wish you will be compassionate to us because we still
14 love him. He's very -- it's just that y'all seen this
15 side. This is not him. And the record that they read,
16 he changed from that. So that should not be held
17 accountable for what he did when he was younger.
18 He's grown up. He's matured, you know. So, I'd just
19 like to ---

20 THE COURT: Thank you.

21 MS. ROBINSON: You're welcome.

22 THE COURT: Thank you so much.

23 MR. COBBS: Hi. I'm his uncle.

24 THE COURT: And your name?

25 MR. COBBS: Robert Cobbs.

1 THE COURT: Yes, sir, Mr. Cobbs.

2 MR. COBBS: He has never given me no problem
3 in the younger days. I mean, kids are going to be kids;
4 boys are going to be boys. But he has never given me
5 no problem like this. My condolences to the family,
6 too. And I appreciate if you can be lenient on him --
7 on this sentence because that's not him. I just don't
8 feel it in my heart and my soul. I could feel it,
9 it's not him.

10 THE COURT: Thank you so much.

11 MR. COBBS: All right, thank you.

12 THE COURT: Thank you, Mr. Cobbs.

13 MR. CHISHOLM: And I believe Mr. Cobbs
14 would also like to address Your Honor.

15 THE COURT: Absolutely. Happy to hear from
16 Mr. Cobbs. Yes, sir.

17 THE DEFENDANT: How is everybody doing?
18 I just wanted to say, basically, I am very remorseful
19 because I was raised better than what I displayed.
20 And I never intended or wanted to hurt anybody ever
21 in my life.

22 But at that moment, you know, I know for
23 a lot of people it will never happen, and I can't really
24 explain it because everything happened so fast. I want
25 to apologize to that lady because I never felt in my

1 heart, even as a child, a parent should have to bury
2 their child because I've got kids of my own. And I
3 can't see how that lady feels. I can't tell how she
4 feel because I've never experienced it. But I only
5 can imagine because I get upset if my daughter gets
6 a scratch on her or something, or falls when she was
7 a child or whatever. She goes through something,
8 I feel it.

9 So, I can't imagine what she's going
10 through. But I want her to know that it's only human
11 nature to feel remorse for something that you know
12 that you did wrong. But, again, it's, like -- I realize
13 it now. But at that time I didn't, you know -- I don't
14 live like that, you know what I'm saying. I wish the
15 best for the family.

16 I hope she's able to overcome it.
17 And I know if she believes in God, like she says she do,
18 hopefully, one day, you know, if she ever wants to reach
19 out to me, we can sit and talk and have a conversation
20 because the crazy part about it is I knew her son for
21 the little couple of years. But you build a
22 relationship with people, and they got a lot of values
23 in them that remind you of you when you were younger,
24 so you take a liking. And I started to, you know,
25 take a liking to them at one point in time.

1 So, you know, like, I really wanted the best
2 for her son as well as Mr. Spells, you know, all of the
3 little kids in the neighborhood. That's why I do a lot
4 with the community and stuff like that, just to stay
5 and prevent stuff like this from happening.

6 Just at the time, like I said, I didn't know
7 what to do. And I don't want her to think that I just
8 go around, you know, do stuff like this because that's
9 not who I am, you know. I just wish that I had a chance
10 to meet her before any of this. We could have sat down
11 and have a conversation, and then she would understand
12 a lot better who I am as a person, you know. It's just
13 bad luck.

14 But, hopefully, God will fix everything.
15 I know he will. So, I'm going to leave it in his hands,
16 but I really apologize to the family. I want to
17 apologize for basically wasting your time. God bless
18 everybody.

19 THE COURT: Thank you. Anything further
20 from anyone?

21 MR. SPEARS: Nothing, Your Honor.

22 MR. CHISHOLM: No, Your Honor.

23 THE COURT: All right. Mr. Cobbs, I'm going
24 to commit you to the state department of corrections for
25 a period of 30 years. This sentence can run concurrent

1 with the one you're currently serving, and you're given
2 credit for the time that you have served. Good luck
3 to you, sir.

4 MR. SPEARS: Thank you, Your Honor.

5 MR. CHISHOLM: Thank you, Your Honor.

6 (End of Transcript of Record)

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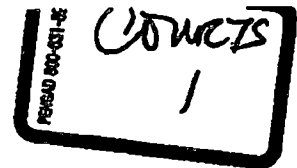
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STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER	)	
	)	Warrant/Indictment Nos.:
STATE OF SOUTH CAROLINA	)	2016a1810300321; 2016a1810300547;
	)	2016a1810300548; 2016a1810300549
Plaintiff,	)	
V.	)	
	)	
KEUNTE DONTRELL COBBS,	)	MOTION FOR DISMISSAL
	)	
	)	
	)	
Defendant.	)	
	)	

Comes now the The Defendant, Keunte Cobbs by and through his attorney, Ash Chisholm, on a motion to dismiss the above-listed indictments for Possession of a Sawed-off Shotgun, Murder, Attempted Murder and Possession of a Weapon During the Commission of a Violent Crime due to a violation of Defendant's right to a speedy trial.

In State v. Hunsberger, our Supreme Court reiterated that Defendants are entitled to a speedy and public trial. State v. Hunsberger, 418 S.C. 335 at 342 (2016) (citing U.S. Const amend. VI and S.C. Const. art. I § 14). The court was clear that the remedy for a speedy trial violation is dismissal of the charges. Id. at 342.

Hunsberger states "to trigger a speedy trial analysis, the accused must allege that the interval between accusation and trial has crossed the threshold dividing ordinary from 'presumptively

prejudicial" delay, since, by definition, he cannot complain that the government has denied him a 'speedy' trial if it has, in fact, prosecuted his case with ordinary promptness." *Hunsberger*, 418 S.C. at 342, 343. It was held in *State v. Langford* that a twenty-three month delay was presumptively prejudicial. *State v. Langford*, 400 S.C. 421 at 442-443 (2012).

Hunsberger instructs that upon a finding of presumptive prejudice, a court must look to the following factors to determine whether a Defendant's right to a speedy trial has been denied: (1) length of delay; (2) the reason for the delay; (3) the accused's assertion of his right to a speedy trial; and (4) whether the delay prejudiced the accused. *Hunsberger*, 418 S.C. at 343.

In this case, Defendant was arrested June 27, 2016 and charged with Murder, Attempted Murder and Possession of a Weapon During a Violent Crime. Defendant was subsequently served an outstanding warrant for Possession of a Sawed-off Shotgun on June 28, 2016. Defendant has remained in custody since June 27, 2016, a period of over twenty-five months (787 days as of August 20, 2018.)

Defense counsel was appointed on June 12, 2017. Defendant has not requested a continuance in this case at any point of his incarceration.

A speedy trial motion was heard by the Honorable Judge Maite Murphy on December 14, 2017. Judge Murphy's order stated that the motion for a speedy trial was granted and that if the trial wasn't

1

scheduled during the week of January 16, 2018, bond would be revisited (see: enclosed order.) This case was not called to trial during the week of January 16, 2018 and on January 19, 2018, the Honorable Judge Maite Murphy granted Defendant a \$400,000 surety bond (see: enclosed.) Defendant has remained unable to secure his release with this bond.

On June 18, 2018, the Honorable Judge Maite Murphy heard a Defense motion to grant a personal recognizance bond pursuant to S.C. Code §17-23-90 and a renewal of Defense motion for a speedy trial. These motions were denied.

Defendant argues that he has asserted his right to a speedy trial, that he has not caused any delays in his case and that his twenty-five month delay prior to trial is presumptively prejudicial and he is entitled to above-requested relief.

Respectfully submitted,



Ash D. Chisholm
Assistant Public Defender
107 W. 6th North Street
Summerville, SC 29483
(843) 821-9800 Office
(843) 871-0523 Facsimile
ATTORNEY FOR DEFENDANT

Summerville, South Carolina
This 20th day of August, 2018.

1 STATE OF SOUTH CAROLINA

2 GENERAL SESSIONS COURT

3 COUNTY OF DORCHESTER COUNTY

4 -----x
5 STATE OF SOUTH CAROLINA,)

6 vs.)

Transcript of Record
2016-GS-18-01268

7 KEUNTE D. COBBS,)

8 Defendant.)

9 -----x

10 June 18, 2018

11 DEFENDANT'S MOTION TO AMEND BOND

12 B E F O R E:

13 The Honorable Maite Murphy, Presiding Judge

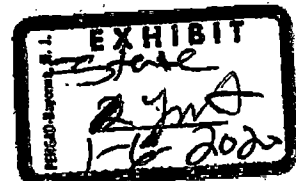
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15 A P P E A R A N C E S:

16 Michael E. Spears, Esq.
Attorney for the Plaintiff

17
18 Ashley Chisholm, Esq.
Attorney for the Defendant

19
20
21
22
23
24 Court Reporter: Hilda Jordan

25 Transcribed by: Bobbi Fisher, RPR, CET



I N D E X

PAGE

Motion

3

E X H I B I T S

(None.)

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P R O C E E D I N G S

{Whereupon, the following proceeding commenced:}

MR. SPEARS: May it please the Court, Your Honor.

THE COURT: Yes, sir.

MR. SPEARS: Judge, standing before you is Keunte Cobbs. He is represented by Mr. Chisholm. He is present under four separate indictments: 2016-GS-18-1266, charging him with possession of a sawed-off shotgun; 1267, for murder; 1268 for attempted murder; and 1269 for possession of a weapon during the commission of a violent crime.

Judge, this is a motion by the defense to amend the bond. Briefly, some factual background on this case, these events occurred on June 5th. The State is alleging that defendant, in an IHOP within Dorchester County, actually shot a Mr. Brandon Mack and a Mr. Bradford Spells (ph). Mr. Mack later died of his injuries. He was hit with approximately seven to nine rounds from a gun. Mr. Spells received two rounds to him. He survived his injuries.

This event stemmed from the possibility of the defendant being robbed of a certain amount of money by one of the two victims, allegedly. Since then, the defendant was arrested on June 27th, 2016. He didn't retain counsel, Mr. Chisholm, until June 14th, 2017.

Judge, earlier, at the end of 2017, in December, this case was before Your Honor when Mr. Glen Justice was

1 prosecuting the matter in regards to a speedy trial motion by
2 the defense. Your Honor, the order that was in the clerk's
3 file states that, if the case was not tried during the week of
4 January 16, then he shall receive a bond. The wording on it
5 is about the defendant's motion for a speedy trial is granted,
6 but the order later states that, if it's not tried, then he
7 can revisit the bond situation.

8 That case was not tried in January, and on January 19th,
9 the following order states that he was to receive a \$400,000
10 surety bond for the charges against him. Following that,
11 Judge, Mr. Justice no longer works at our office. The case
12 has come to me. I have been in contact with Mr. Chisholm
13 about my further investigation in this case. The victim's
14 family is present today.

15 Judge, the State fully intends -- and has expressed this
16 to everyone -- fully intends to try this case in August,
17 whether it's the 20th or the 27th. I believe those are the
18 two terms we have in August. I can double-check to make sure
19 that I have got those, but either of the terms in August is
20 when the State intends to call this for trial. We would
21 consent to anything. We, obviously, don't have to consent to
22 an order from the judge, but that's what we intend to do.

23 Because of that, we would request that the defendant's
24 bond remain the same. He's only just now at the end of the
25 six months from when he received the bond, and in two months,

1 the case is going to be called. Due to the nature of these
2 charges and the danger to the community and letting him out
3 for a simple two months before going to trial on attempted
4 murder and murder, I would argue the potential for a risk of
5 flight because of that.

6 The victim's family of Mr. Mack, the deceased victim,
7 she -- his mom is present in the courtroom today and would
8 like to address the Court at the appropriate time.

9 THE COURT: Yes, sir.

10 MR. SPEARS: Other than that, Your Honor, that would be
11 the State's argument against the motion.

12 THE COURT: Mr. Chisholm?

13 MR. CHISHOLM: Thank you, Your Honor. May it please the
14 Court, Did you want to hear from Mrs. Mack first or do you
15 want me to go ahead?

16 THE COURT: You can go ahead and then I'll hear her.

17 MR. CHISHOLM: Okay. Thank you, Your Honor. And we came
18 last week -- I believe it was last Wednesday and went before
19 Judge Goodstein, and it was basically a motion to remove my
20 speedy trial motion as well as reduce bond. And the order
21 that the Solicitor referenced from December, it's worded that
22 the speedy trial motion was granted.

23 But, at any rate, in reading through the State vs.
24 Hunsberger case, which is 418 S.C. 335, it's become an issue,
25 especially in this case, it mentions that, when the defendant

1 asserts a right to a speedy trial, when it's renewed. It was
2 an issue in that case. So just to be safe, I wanted to have
3 on that on the record that I am renewing that motion.

4 Mr. Cobbs is 36 years old; He is single. He has two
5 children. He's a high school graduate. He's taken business
6 classes at Trident Tech. He's worked as a club promotor.
7 He's a painter. He's done flooring work. He's from the area.
8 And our position would be that he's not a flight risk and he's
9 not a danger to the community. He has been in since June 27
10 of 2016, so he is right at almost exactly two years at this
11 point he's been waiting for his trial.

12 It's an interesting case in that there's a shooting in an
13 IHOP. There's video that catches some of the scene but not
14 all of it. And particularly, since it's in a restroom, you
15 don't have a video that shows exactly what happened. There's
16 no forensic evidence that links Mr. Cobbs to the case. The
17 victims in this case were asked at the hospital if they knew
18 who shot them. They said they did not. And I think we can
19 provide, you know, proof that they actually do know Mr. Cobbs.

20 When I was here before, when I asked for a bond before, a
21 \$400,000 bond was granted in January, and since then, in
22 reading this Hunsberger case, I have come across a statute
23 which I believe would apply here. And I have provided a copy
24 to Your Honor, and I believe to the Solicitor as well, which
25 is S.C. Code 17-23-90. And this is a statute that's

1 referenced in the Hunsberger case, is kind of how it was
2 brought to my attention. And the latter portion of which
3 states, "If any persons committed as aforesaid upon his prayer
4 of petition in open court the first week of the term to be
5 brought to his trial, shall not be indicted and tried the
6 second term after his commitment or, on his trial, shall be
7 acquitted. He shall be discharged from his imprisonment."

8 And the way they read that, Your Honor, is that, if you
9 enter a request for a speedy trial, as Mr. Cobbs has done here
10 back in December, if the case has not been tried to terms from
11 that point, then he should be discharged from the jail. It's
12 been more than two terms. It's been six or seven months at
13 this point since he made that request.

14 And, Your Honor, I believe I have a copy of the
15 Hunsberger case that I could pass up if you'd like and made
16 reference to it.

17 THE COURT: I think I have a copy.

18 MR. CHISHOLM: You have a copy?

19 In my copy, it looks like, on page, I guess, 358, this is
20 actually in the dissent of that case under Section C, the
21 accused's assertion of the right to a speedy trial.

22 THE COURT: Where are you reading that?

23 MR. CHISHOLM: This is -- it says page 358. It's under
24 Section C, "Accused assertion of the right to a speedy trial
25 in the dissent." Yes, ma'am.

1 THE COURT: All right.

2 MR. CHISHOLM: Two or three sentences in, it says, in the
3 parenthetical here, that, in that case, there's a denial of a
4 speedy trial claim where this code section I'm referencing
5 provided for release if not indicted and tried within a
6 certain time frame, not dismissal of the charge.

7 Essentially, what's going on in, in prior cases, people
8 have argued that this is -- this would be a basis for a motion
9 to dismiss; that this 17-23-90 would provide an affidavit to
10 have the case dismissed.

11 And what it's saying in this case as well as in State v.
12 Campbell is that what this code does is it addresses whether
13 someone should be granted bail in this situation where they
14 have asserted their right to a speedy trial in a certain time
15 frame, which I believe would be two terms of court past if
16 their case has not been tried.

17 I think this case, along with the statute, makes it
18 pretty clear that bail should be granted according to the law.
19 I have got a copy of State v. Campbell, which I can pass up,
20 Your Honor, which is the case that's referenced in Hunsberger.
21 I figured there's a question as to what constitutes bail,
22 because he did receive the \$400,000 bond back in January. But
23 if you read this case, it's a pure (indiscernible) of opinion
24 from -- looks like 1982 at 277 S.C. 408, State v. Campbell.
25 If you read this, it basically lays out what that means. It

1 says the statute -- it's three paragraphs in, about halfway
2 through. It says the statutory reference to discharge is
3 interpreted as requiring the prisoner -- and then it's got
4 quotations -- be as unrestrained as if upon his trial he was
5 acquitted. And it says this phrase "merely in the case, the
6 prisoner should be released without bail, not discharged from
7 further prosecution," which is essentially what we're here
8 asking for today, Your Honor. I guess the equivalent would be
9 a personal recognizance bond per the statute.

10 MR. SPEARS: And, Your Honor, if I may.

11 THE COURT: Yes, sir.

12 MR. SPEARS: First and foremost, Judge, I mean, this has
13 been quoted in the dissent of Hunsberger. The finding case
14 law for Hunsberger would lead us to the potential for a --
15 addressing these factors that Hunsberger has set forth in
16 regards to a speedy trial if the State fails to try the case
17 at a certain amount of time. If Hunsberger is activated, then
18 the State is subject to these four points to determine
19 prejudice to the defense.

20 This Campbell case, it's quoting an indictment that is
21 based off of a case from, I believe, it said 1852 on the
22 back -- 1892. I don't think it would apply here. I don't
23 think that if a case is not indicted or tried by the second
24 term thereafter someone requests a speedy trial, in modern
25 standards, it's physically possible,

1 At this point in time, Judge, the State -- he has been
2 granted a bond due to the failure of the State to try him
3 within a certain amount of time determined by the judge. Even
4 though he hasn't been able to make that bond, he has been
5 granted one. At this point in time, the State is saying on
6 the record that we will be going forward on this case in
7 August. We are not displaying any sort of prejudice. It was
8 simply further an investigation of gathering witnesses,
9 finding information, getting further reports, particularly
10 witnesses that are involved in this case. There is a witness
11 in Florida that states the defendant actually admitted to her
12 what happened on that day.

13 Hunsberger itself tells us that gathering a witness or
14 trying to find a witness is a legitimate reason for a
15 continuance on trial. If Your Honor orders us for a date
16 certain in August, I just don't see how we -- any sort of
17 prejudice is enough, even under Hunsberger. I mean, we are at
18 the two-year mark right now. There are other cases on our
19 docket that we are attempting to try. Multiple ones,
20 actually. This is the sixth from the top.

21 I do not think that an old statute, based on an 1800
22 case, referenced in the dissent of a recent case, warrants a
23 PR bond in this situation when the State is willing to go
24 forward and ready, and there's no display of prejudice or any
25 sort of deliberate attempt to hamper the defense in regards to

1 the delay.

2 THE COURT: And I understand the victim wishes to be
3 heard.

4 MR. CHISHOLM: Yes, Your Honor.

5 And may I respond, Your Honor, at the appropriate time?

6 THE COURT: Yes. You can go ahead and respond.

7 MR. CHISHOLM: Thank you, Your Honor. I'm quoting the
8 State v. Hunsberger, you know, the dissent from that case, but
9 that's a case -- the majority is basically writing about the
10 denial of the right to a speedy trial. That is a motion I
11 anticipate making in the future, a motion to dismiss based on
12 this case. That's not what I'm doing here today.

13 In the dissent, the reason they're talking about that is
14 because the judge is saying that the Court -- the appellate
15 court rightfully rejected the right -- the dismissal based on
16 the speedy trial right, and they said they did the right thing
17 in that they granted a PR bond in that case to this guy in the
18 Hunsberger case.

19 So that's why it's in here. She's saying they shouldn't
20 have dismissed it. Here's what they should have done,
21 according to the statute, is what they did. They granted him
22 a personal recognizance bond.

23 You know, we're not at a point where we're getting to the
24 factors that are discussed in Hunsberger because that all goes
25 to the denial of a speedy trial. I'm simply bringing that up

1 because it references the statute. It's pretty on point with
2 what the statute should mean.

3 And I do have family members here or friends and family
4 of Mr. Cobbs that I neglected to mention would like to speak
5 at the appropriate time, Your Honor, and I assume we could go
6 forward.

7 THE COURT: Thank you, Mr. Spears.

8 Yes, ma'am.

9 MS. COBB: Good afternoon.

10 THE COURT: Tell me your name first.

11 MS. COBB: My name is Michele Cobb. I am the mother of
12 the victim, Brandon Mack. Your Honor, I have suffered a
13 tremendous loss. My son got murdered at the age of 22 years
14 old, and since his death, I suffer with anxiety. I have
15 countless sleepless nights. And the fact that the defense is
16 living within close proximity of my mom and myself and he is
17 aware of our address, I really don't feel safe. With him
18 being released would be -- I feel like I would be at risk for
19 my parents -- my family and myself would be at risk.

20 And I see nothing stopping him -- with the court being in
21 August -- anything stopping him from being a flight risk,
22 although his defense says that he's no -- he's not one. But
23 it's -- I understand he has children that are going through
24 different type of -- they suffer from a different type of
25 instances, and I understand that, but his children can come

1 visit him. My son is buried, and I'll never see him again.
2 He's not coming back.

3 So his release will cause me and my family, you know, a
4 huge -- a huge issue for our safety and him -- I just don't
5 feel that, with it being so close to the possible court
6 hearing, that it would be -- you know, there's nothing keeping
7 him from leaving. And, I mean, I'm sorry that what his
8 children are suffering and, you know, may God be with them. I
9 mean, bless their hearts; they didn't ask to be -- and they're
10 innocent in the matter.

11 But like I said, my son, he's never coming back, and it's
12 not -- my family is suffering is huge void. I mean, it's not
13 fair to us.

14 THE COURT: Thank you.

15 Anything further from your side?

16 MR. SPEARS: Judge, just briefly. The defendant's record
17 has a 2000 hit and run with property damage; a 2000 possession
18 of a stolen vehicle, less than 5,000; 2001, possession of
19 Schedule I or a cocaine first offense.

20 Judge -- and I have spoken with defense about this
21 previously. There is a 2002 watercraft operator/failure to
22 render aid with death that was timed served. It's an
23 unfamiliar charge for the State's side on that.

24 A 2004 malicious injury to personal property; a 2007
25 assault and battery of a high and aggravated nature; and a

1 2008 failure to stop for a blue light.

2 THE COURT: Any family wishing to speak?

3 MR. CHISHOLM: Yes, Your Honor. Mr. Cobbs' minister,
4 Melvina Robinson, would like to address the Court.

5 MS. ROBINSON: Hello. Melvina Robinson.

6 THE COURT: Yes, ma'am.

7 MS. ROBINSON: I want to speak on behalf of Keunte Cobbs.
8 I'm also a spiritual advisor with him, where they hang out at.
9 I know the victim's mom, and I also knew him. I always saw
10 goodness come from him. He always was a supporter for the
11 neighborhood kids. I would, like, always pray with them when
12 I saw them doing -- going towards the wrong way. So I feel
13 like he won't be a flight if he is released, so he can support
14 his daughter, who is going through also -- of her dad being in
15 here.

16 Like I say, my condolence go out to her. But I lived in
17 that neighborhood for seven years. I have seen things,
18 Prayed. I walked the neighborhood. He's a good kid. I have
19 known him almost over 20 years.

20 THE COURT: Thank you, ma'am.

21 MS. ROBINSON: Yes, you're welcome.

22 THE COURT: I'm certainly familiar with Mr. Cobbs' case
23 because I do recall him coming for the original motion in
24 which the Court did set the trial date for the week of January
25 16th of 2018. In that order, it says motion for a speedy

1 trial. The Court does get a lot of form orders and it was the
2 Court's intent to certainly to set the case for trial pursuant
3 to Langford and not pursuant to Hunsberger in any way that
4 dismissal should that case not be tried.

5 And I understand that the defense understands that.
6 That's certainly not the motion here before the Court today.
7 The defense has asserted its right to a speedy trial, and
8 based upon it not being done and taking effect on January
9 16th, 2018, I did set a bond on January 18th of '18.

10 I understand it's been six months, and considering all
11 the factors relevant to whether or not to set a bond, I
12 certainly understand your argument, Mr. Chisholm, and the
13 dissent, but in looking at the factors that it was -- mainly
14 the fact which I'm considering, certainly whether the delay
15 would prejudice the accused and the time of the delay and the
16 reason for the delay, I think it's important to still consider
17 those factors and whether or not he's a flight risk and/or a
18 danger to the community.

19 I did consider those things in setting the \$400,000 bond,
20 and your bond for me to reconsider or to now set a PR bond on
21 the matter on a case that will be tried in August.

22 MR. CHISHOLM: Yes, Your Honor.

23 THE COURT: Whatever the term of court is available in
24 August, your motion is respectfully denied.

25 MR. CHISHOLM: Thank you, Your Honor.

1 CERTIFICATE OF TRANSCRIBER

2 CASE/NO.: State vs. Keunte D. Cobbs

3 2016-GS-18-01268

4 DATE OF PROCEEDING: June 18, 2018

5
6 I, Bobbi J. Fisher, do hereby certify that the
7 foregoing transcript is a true and correct record of the
8 recorded proceedings; that said proceedings were transcribed
9 to the best of my ability from the audio recording and
10 supporting information; and that I am neither counsel for,
11 related to, nor employed by any of the parties to this case,
12 and I have no interest, financial or otherwise, in its
13 outcome.

14
15 *Bobbi Fisher*

17
18 _____
19 Bobbi J. Fisher, RPR, CET

20 NCRA Registered Professional Reporter (RPR)

21 AAERT Certified Electronic Transcriber No. CET-1148

22 Prepared: November 6, 2019

23

24

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1 THE COURT: You may step down.

2 (The witness complies.)

3 THE COURT: Take a seat, Counsel. Let me hear from
4 the State.

5 MR. CHISHOLM: Your Honor, I was going to call
6 another witness.

7 THE COURT: You have another witness?

8 MR. CHISHOLM: Yes, sir.

9 THE COURT: All right. Who is it?

10 MR. CHISHOLM: Detective Dwayne Peters.

11 THE COURT: Call your witness.

12 THE CLERK: If you'll place your left hand on the
13 Bible and raise your right hand and state your name for
14 the record.

15 THE WITNESS: Dwayne Robert Peters.

16 THE CLERK: If you'll spell your last name for the
17 record.

18 THE WITNESS: P-e-t-e-r-s.

19 DWAYNE ROBERT PETERS, after
20 having first been duly sworn testifies as follows:

21 THE COURT: State your full name, spell your last
22 name for the court reporter.

23 THE WITNESS: Dwayne Robert Peters, P-e-t-e-r-s.

24 THE COURT: Your witness, Counsel. Direct
25 examination.



DIRECT EXAMINATION BY MR. CHISHOLM - DWAYNE ROBERT PETERS46

1 MR. CHISHOLM: Yes, sir.

2 DIRECT EXAMINATION

3 BY MR. CHISHOLM:

4 Q Detective Peters, can you please outline for the
5 Court your involvement with this case?

6 A Basically, sometime -- and I don't know the exact
7 month honestly -- of 2018, we were getting ready to -- Mr.
8 Spears approached our office about assisting in an
9 investigation since Detective Elmore was no longer with
10 the Sheriff's Office. And I just basically took it over
11 for him.

12 Q As the lead detective you say?

13 A Correct.

14 Q Okay. And as the lead detective, I'm assuming you
15 had all -- access to all the records that were available -

16 --

17 A Yes, sir.

18 Q --- prior to you taking it over?

19 A Yes, sir.

20 MR. CHISHOLM: And I'll try to condense this as much
21 as possible, Your Honor.

22 Q Were you aware of any cell phones being seized in
23 this case?

24 A Yes, I was.

25 Q How many cell phones were ---

DIRECT EXAMINATION BY MR. CHISHOLM - DWAYNE ROBERT PETER\$47

1 A There was three.

2 Q --- seized total? Three total?

3 A Yes.

4 Q Where were they seized from?

5 A Those were seized, according to the search warrant
6 returned, from a hotel in the City of North Charleston. I
7 don't have my notes, so I can't tell you the exact hotel.

8 Q Well, could you just lay out kinda what they were
9 seized in conjunction with?

10 A It was at the time of the arrest of Mr. Cobbs.

11 Q Okay. So phones were taken at his arrest.

12 A Correct.

13 Q Are you aware of another phone being found in this
14 case from the IHOP?

15 A Yes.

16 Q Okay. And were you able to determine whose phone
17 that was?

18 A That was Mr. Spells'.

19 Q And that phone was seized, cosrrect?

20 A It was taken into evidence the day of the incident.

21 Q Was that phone ever forensically examined?

22 A Yes, it was.

23 Q Can you tell me why you would do that in this case?

24 A We actually wanted to see whose phone it -- I wanted
25 to see whose phone it was and what information was on it.

DIRECT EXAMINATION BY MR. CHISHOLM - DWAYNE ROBERT PETER\$48

1 Q Did you want to see whether Mr. Spells had been
2 communicating with Mr. Cobbs?

3 A I didn't know exactly whose phone it was, and so the
4 main purpose is to find out whose phone it was and to see
5 if there was actually any evidentiary value of it.

6 Q Upon determining whose phone it was, did you -- were
7 you able to figure out, from the records, whether there
8 was communication between the two parties?

9 A Yes. There was none.

10 Q There was none? And that's one of the things you
11 were looking for after you figured out whose phone it was.

12 A Correct.

13 Q Okay. Now, this was Mr. Spells's phone -- I'm
14 sorry, didn't mean to confuse you -- correct?

15 A That was Mr. Spells', yes.

16 Q The other three phones that were seized -- I believe
17 you said during Mr. Cobb's arrest -- were those phones
18 ever forensically examined?

19 A No, they weren't.

20 Q Can you please tell the Court why they were not
21 examined?

22 A I don't know where they're at honestly. Detective
23 Elmore had them, and I don't know where they're at.

24 Q So Detective Elmore had the phones, and you don't
25 know where they're at?

1 A Correct.

2 Q Do you know when he lost the phones?

3 A No, I do not.

4 Q So you don't know if it's a month in versus last
5 month?

6 A Correct.

7 Q Okay. And you have no idea what's on the phones?

8 A Correct.

9 Q If you were able to examine them, would you be
10 looking for the same kind of information you looked for in
11 Mr. Spells' phone?

12 A Yes, sir.

13 Q And you were unable to do that because the phones
14 were lost; is that correct?

15 A Correct.

16 Q Thank you. I have no further questions.

17 THE COURT: Cross-examination?

18 MR. SORENSON: Just real briefly, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. SORENSON:

21 Q And -- and you testified, Detective Peters --
22 Lieutenant Peters, that the phones -- the chain of custody
23 indicated that -- that Detective Elmore was the -- the
24 last person to be in custody of those?

25 A Yes, sir. He's the one that actually filled out the

- 1 chain of custody on it.
- 2 Q You've been unable to locate them anywhere. Is ---
- 3 A Correct.
- 4 Q --- that correct? When did -- when did he leave the
- 5 Sheriff's Office?
- 6 A January -- it was at the end of the last of -- of
- 7 the last election --
- 8 Q So it'd be January --
- 9 A -- of coroner's --
- 10 Q If he started in January of 2017, after ---
- 11 A I think -- I -- I believe so.
- 12 Q --- after Mr. Brothers was elected coroner, is ---
- 13 A Yes, sir.
- 14 Q --- that correct, in 2000 -- all right. So he -- he
- 15 couldn't have just lost them within the last month; is
- 16 that correct?
- 17 A Correct.
- 18 Q I mean, that would've been pre-January of 2017.
- 19 A Correct. I think he actually put in his notice in
- 20 December.
- 21 Q Okay. So somewhere between June of 2016 and
- 22 December of 2016, those phones went missing.
- 23 A Yes, sir.
- 24 Q You've never had them in your possession?
- 25 A No, sir.

REDIRECT EXAMINATION BY MR. CHISHOLM - DWAYNE PETERS 151

1 MR. SORENSON: That's all, Your Honor.

2 THE COURT: Redirect?

3 MR. CHISHOLM: Yes, sir, briefly.

4 RE-DIRECT EXAMINATION

5 BY MR. CHISHOLM:

6 Q When did you notice that the phones were missing?

7 A As -- when I -- when I pulled the case file to start
8 going over it.

9 Q When would that be roughly?

10 A I'm going to give you -- it was this year.

11 Q This year?

12 A I don't know if it was March -- this year.

13 Q So that's ---

14 A I don't know if it was March or April --

15 Q Okay.

16 A -- but it was this year.

17 THE COURT: Of this year?

18 A Yes, sir.

19 Q March or April of this year. Prior to that, no one
20 realized the phones were missing.

21 A Correct.

22 Q Thank you. I have no further questions.

23 THE COURT: Re-cross, limited to re-direct.

24 MR. SORENSON: No, sir.

25 THE COURT: You may step down.

1 THE WITNESS: Thank you, sir.

2 ((The witness complies.))

3 MR. CHISHOLM: Your Honor --

4 THE COURT: That's it, Counsel, unless you got
5 another witness.

6 MR. CHISHOLM: I don't have ---

7 THE COURT: We'll hear from the State. I've heard
8 your argument.

9 MR. CHISHOLM: Well, I was going to get into
10 prejudice. It's one of the things you asked me.

11 THE COURT: Pardon?

12 MR. CHISHOLM: One of the things you asked me was
13 what kind of prejudice has Mr. Cobb suffered.

14 THE COURT: Yes, sir. And you've answered that
15 question. Take a seat.

16 Let me hear from you, Solicitor.

17 MR. SPEARS: Your Honor, in looking over the
18 Defense's questions, I mean, basically in regards to the
19 *Baker* [sic] factors. There's the amount of the delay ---

20 THE COURT: I agreed with Mr. Chisholm in that I
21 believe that there is a basis upon which the Court should
22 look at the *Barker* factors. And obviously there is a
23 delay between the arrest here and the trial. So I think
24 it meets threshold requirements for a speedy trial claim,
25 and requires an analysis of the four *Barker* factors which

Weight:
Length:
Temp:
Pulse:
Respiratory:
Scler hair:
Facial hair:

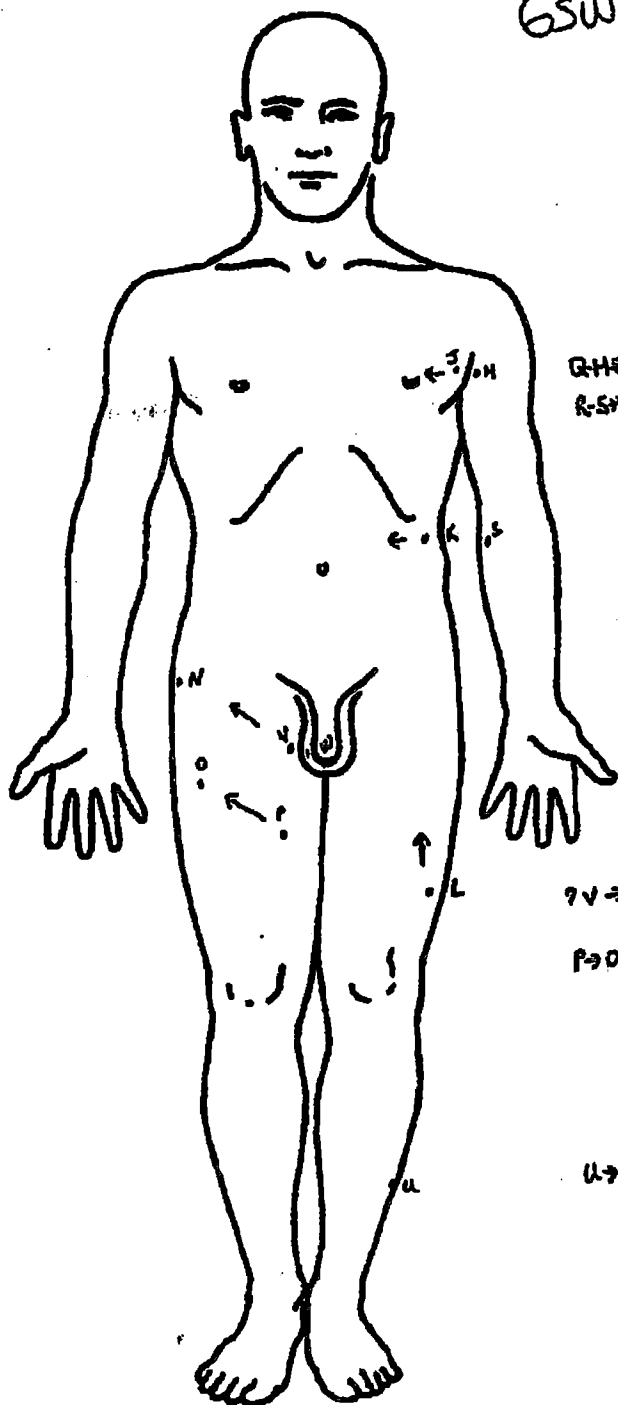
Eyes:
Ears:
Nose:
Teeth:
Neck:
Abdomen:
Genitalia:



FA16-412
06/10/2016

ADOR.
MACK, BRANNON
A- Autopsy

GSWS

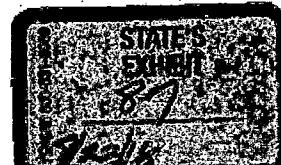
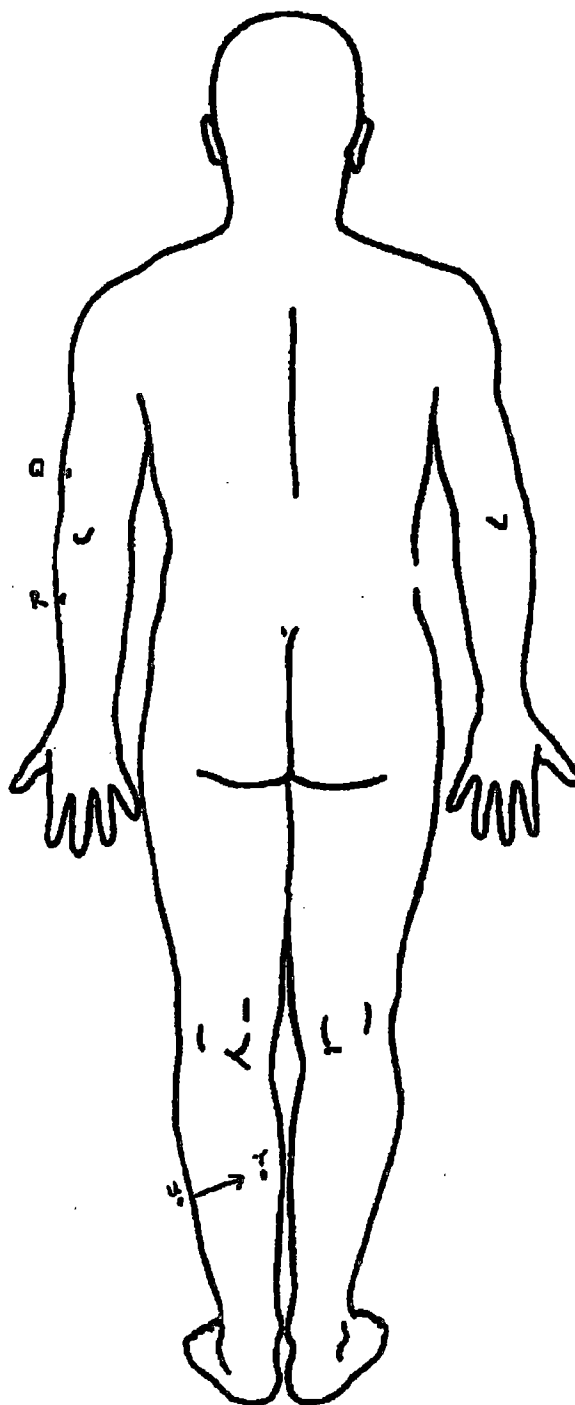


G-H-S
R-S-M

9V → N

P → D

U → T



1 MR. CHISHOLM: No, Your Honor.

2 THE COURT: Mr. Shaw, you may step down and you're
3 excused from the trial of this case. If you'll give that
4 document back to Mr. Spears right there. He handed it to
5 you. And you're excused from the trial.

6 Call your next witness.

7 MR. SPEARS: Your Honor, the State calls Dr. Marie
8 Tormos.

9 (WHEREUPON, Lee Marie Tormos was
10 sworn to tell the truth)

11 THE COURT: Have a seat. Good afternoon.

12 THE WITNESS: Good afternoon.

13 THE COURT: That microphone is going to amplify
14 your voice. You don't have to get right up next to it, but
15 you need to speak up like I'm doing right now so my jury can
16 hear you and the parties can hear you in the courtroom.
17 Will you do that for you?

18 THE WITNESS: I will do that.

19 THE COURT: Please. My court reporter would like
20 for you now to state your first and your last name and spell
21 both your first and last names for the record.

22 THE WITNESS: My name is Lee, L-E-E, middle name
23 Marie, Last name Tormos, T-O-R-M-O-S.

24 THE COURT: Your witness, counsel. Direct
25 examination.

1 MR. SPEARS: Thank you, Your Honor.

2 LEE MARIE TORMOS - DIRECT EXAMINATION

3 BY MR. SPEARS:

4 Q Dr. Tormos, where are you employed?

5 A I currently work at the Palm Beach County Medical
6 Examiner's Office in Florida.

7 Q And where were you employed in 2016?

8 A In 2016, I was at MUSC in Charleston.

9 Q And what was the nature of your employment there?

10 A I was forensic pathologist at MUSC and I was also
11 (inaudible)director.

12 Q Now, how long were you employed there?

13 A I was employed at MUSC from 2010 to 2017.

14 Q And when did you leave -- well, no, I'm sorry.

15 A That's all right.

16 Q Can you please tell the court and the jury some of your
17 educational background?

18 A Absolutely. I am originally from Puerto Rico and I did
19 my pre-med studies in Puerto Rico, followed by medical
20 school, which is four years. And then I did my anatomical
21 and clinical pathology in Puerto Rico. Then I worked as a
22 medical examiner for two years in Puerto Rico and one year
23 in private practice. In 2009 I moved to Charleston to
24 complete my sub-speciality training in forensic pathology.
25 And shortly after arriving they asked me to stay. So I did

1 and I stayed for a total of seven years. During my time at
2 MUSC I was the attending pathologist so my job was to teach
3 resident and medical students and people their fellowships.
4 By the time I left, there was a fellowship director as well.

5 Q Now, have you had any specialized training for your
6 career?

7 A My specialized training is my sub-specialty in forensic
8 pathology. I am board certified in anatomical and forensic
9 pathology. I also keep up with my continuing medical
10 education.

11 Q And how many autopsies have you performed?

12 A Over two thousand.

13 Q Have you ever testified in general sessions court about
14 an autopsy that you've performed?

15 A Yes.

16 Q And have you ever been qualified as an expert in
17 general sessions?

18 A Yes.

19 MR. SPEARS: Your Honor, at this time I would like
20 to submit Dr. Tormos as an expert in forensic pathology.

21 THE COURT: Counsel, any objection as to
22 qualifications?

23 MR. CHISHOLM: No, Your Honor.

24 THE COURT: Ladies and gentlemen of the jury,
25 recalling my earlier instruction to you concerning expert

1 witnesses, this witness is qualified without objection in
2 the field of forensic pathology. You may proceed, counsel.

3 MR. SPEARS: Thank you, Your Honor.

4 BY MR. SPEARS:

5 Q Dr. Tormos, did you have an opportunity to perform an
6 autopsy on a Brandon Mack?

7 A Yes, I did.

8 Q When did you perform that autopsy?

9 A I performed the autopsy on June 10th, 2016 at 11:30 in
10 the morning.

11 Q Can you go over the -- some of your findings during
12 that autopsy?

13 A Absolutely.

14 Q Actually, doctor --

15 MR. SPEARS: And I apologize to the court. Let me
16 ask a different question, if it pleases the Court.

17 BY MR. SPEARS:

18 Q Doctor, I'm going to show you what's been marked as
19 State's Exhibit 87.

20 MR. SPEARS: May I approach the witness, Your
21 Honor?

22 THE COURT: You may.

23 BY MR. SPEARS:

24 Q Do you recognize this?

25 A Yes. This is a diagram that I did during the autopsy

1 marking down the position of the gunshot wounds I saw on the
2 outside of the body.

3 Q Doctor, is that diagram a fair and accurate
4 representation of the diagram that you wrote during -- after
5 your autopsy of Brandon Mack?

6 A Yes, it is.

7 MR. SPEARS: Your Honor, may I submit it into
8 evidence.

9 THE COURT: As to State's 87, counselor?

10 MR. CHISHOLM: No objection.

11 THE COURT: Ladies and gentlemen of the jury,
12 State's Exhibit No. 87 will be admitted into evidence in the
13 trial of this case without objection. You may publish to
14 the jury.

15 (State's Exhibit No. 87, diagram,
16 was marked and entered)

17 BY MR. SPEARS:

18 Q Now, Doctor, using this to help, can you describe to
19 the jury your findings in your autopsy?

20 A Absolutely. There are several gunshot wounds to the
21 body. Is his touchscreen?

22 MR. SPEARS: Yes.

23 THE WITNESS: Okay.

24 THE COURT: You can touch it.

25 THE WITNESS: It'll light up, okay.

1 A The first wound that I am going to describe is the
2 lethal wound; however, keep in mind that I cannot tell the
3 order in which these gunshot wounds were sustained. So I'm
4 just describe them top to bottom, but don't assume that they
5 were sustained top to bottom, okay? The first wound is this
6 wound, which starts here at Q and goes -- that's the back of
7 the arm and it goes through the armpit and it enters the
8 chest cavity, okay? That wound places the arm -- in order
9 for the holes to line up, it places the arm sort of around
10 uh -- I don't know, maybe a forty-five degree angle, maybe
11 less. The shoulder is scrunched forward and the bullet
12 enters the back of the arm, where the arm ended. In the
13 back of the arm, it comes under the armpits and it re-enters
14 the chest right at the armpit and it goes through a left
15 lung, causing internal bleeding into the left chest cavity.

16 Q And Doctor, which arm did that bullet go into?

17 A The left. The left arm. So you can see here --
18 discussing it at Q, it's kind of hard to visualize, because
19 we're thinking a round human and put them in three
20 dimensions, so the proportions can be a little off. But you
21 can see that it goes in the back of the arm, out the armpit,
22 in the other side of the armpit and enter the chest. And
23 then it goes through the lung and it goes into the muscles
24 of the back. And it's recovered in the muscles of the back.

25 The second one I'm going to describe is the gunshot

1 wound to the forearm. Again, the diagram is an anatomical
2 position, but the true placement for the trajectory still
3 lining up is that the arm needs to be pretty much in front
4 of the abdomen. And it goes through the back part of the
5 arm. It does fracture the ulna, so it does fracture the
6 smaller of the two bones in the forearm. It comes out of
7 the medial aspect and then it goes into the abdomen. And,
8 again, once it goes into the abdomen it really is muscular
9 trajectory and the bullet is also recovered in the soft
10 tissues of the back. So those are the first two.

11 There is a tangential wound to the scrotum, which given
12 the fact that I wasn't able to examine the clothing, I am
13 pretty sure that it just a graze wound in association with
14 trajectory D to N. So this grazed wound to the scrotum
15 actually is in a rightward direction and it grazes the
16 scrotum right before entering the medial aspect of the right
17 thigh. And the bullet comes out a little bit higher up in
18 the hip, in the right hip. The trajectory of the
19 (inaudible) is pretty parallel to the one that's higher up
20 and it also goes right to left through the thigh.

21 Now, a potentially fatal gunshot wound and this one is
22 the hardest one to delineate because he survived the initial
23 shooting. He was taken to the hospital. He was surgically
24 intervened and so I am seeing a lot of surgical artifact.
25 For sure, I can tell you that this bullet entered the left

1 thigh and is traveling upward through the soft tissues. It
2 hits the spermatic cord in the groin and then it also enters
3 the pelvis from the bottom up. And I can place that bullet
4 via CT scan right around the left prostate area. And I have
5 a contusion to the thigh that tells me that the bullet
6 (inaudible) there. Now, there are two findings that I
7 cannot say if they are associated to this trajectory or they
8 are surgical artifact. One is a laceration to the
9 (inaudible) and one is a laceration to the very edge of the
10 liver. It can be due to this bullet traveling upward and
11 then eventually falling back down right into the rectal area
12 or it can be due to the doctors opening up the abdomen
13 surgically and retracting the tissues, causing tears. So,
14 again, I cannot tell you whether muscle tears and the
15 lacerations to the liver that were surgically repaired were
16 due to the doctors themselves or they were due to this
17 trajectory.

18 The last one would be this trajectory that -- this is
19 backwards, this is the left leg. So it's still, that
20 trajectory towards the right. So all the shots are left to
21 right. And this one just go through the calf in a left to
22 right trajectory. Okay.

23 Q Doctor, you said all of these trajectories are left to
24 right?

25 A All of them.

1 Q Briefly looking at the first top trajectory, you stated
2 that it went through the left arm -- out the left arm and
3 into the chest cavity?

4 A Correct.

5 Q How can you tell the difference between like an
6 entrance and an exit wound?

7 A Okay. When the bullet leave these muzzle of a weapon,
8 it usually flies through the air pretty much the same way as
9 a well-tossed football. So you'll see that it has some
10 rotation, some spinning to it as it's traveling through the
11 air. When the bullet hits the skin and hit any intermediate
12 objects it leaves an abrasion color around the entrance.
13 And this bullet in particular it leaves an abrasion
14 entrance, then as it hit the tissues, it starts tumbling.
15 Just like when a football hits the floor, it's no longer
16 traveling in that spinning trajectory. It starts tumbling
17 inside the tissue. So when it comes out it leaves lacerated
18 irregular exits.

19 Q Now, Doctor, looking at the two bullet wounds in the
20 right thigh --

21 A Uh-huh. (Affirmative response).

22 Q -- you stated that those are still left to right?

23 A Left to right because they're coming in the inner
24 aspect of the right thigh and they're coming out the lateral
25 aspect of the right thigh.

1 Q Now, when you're looking at the trajectory of bullet
2 wounds in the body, are you able to determine the
3 positioning of the body towards the bullet pathway?

4 A I can only tell you how the muzzle of the weapon would
5 line up. Pretty much, it's drawing a straight line. Now,
6 when I describe a trajectory I am describing the trajectory
7 in terms of the anatomic position. We use exactly what
8 you're seeing here. Someone standing up straight with their
9 palms facing forward. But when people are shot, they are
10 not standing in an anatomic position. So that is why we
11 have to think of how the body could move to have, for
12 example, these outward deviation into the thigh. So you
13 have to look at the scene and you have to look at the
14 (inaudible) and figure out what positioning of the body
15 explains why this bullet, even though it's right to left, is
16 also traveling a little upward.

17 Q Doctor, you stated that you can testify to the location
18 of the muzzle of the firearm?

19 A Uh-huh. (Affirmative response)

20 Q What direction would the muzzle be to this individual
21 when it comes to the highest two bullet holes?

22 A Okay. So to get into consideration that by lining up
23 the holes, I am able to tell the position of the left arm
24 only. The left arm for the first one is slightly lifted and
25 sort of scrunched forward to allow for lining up of the exit

1 and reentry. However, because the bullet is traveling
2 slightly downward -- if the bullets they were traveling
3 horizontal to the ground, which is an assumption, then this
4 person had to be leaning towards where the weapon is a
5 little bit. And that's one thing, but we don't know whether
6 the weapon is shooting horizontal to the ground, whether the
7 shooter is higher up or lower on the ground. So you have to
8 take everything into consideration. The top most trajectory
9 has a slight, very slight downward trajectory to it, which
10 could be explained if the person is leaning just a little
11 bit towards the left.

12 Q All right. And the two lower bullet trajectories, same
13 question. Were you able to identify the direction of the
14 muzzle?

15 A Okay. Well, the one to the forearm that one is
16 horizontal, completely horizontal. So the one to the
17 forearm is just going, you know, kind of straight back. And
18 then the muzzle is sort of in the 10:00 o'clock position in
19 relation to the person. So that's the direction that it's
20 coming in, into the arm and into the abdomen and is going in
21 a straight line towards the back.

22 Q And now the L bullet wound?

23 A Okay. The L bullet wound enters the left thigh and
24 it's actually just above, just a smidge higher than I drew
25 it on my diagram. And this one is traveling upward and then

1 to the left. Now, you have to think that, again, people are
2 in motion and not necessarily are the standing in an
3 anatomic position, so there's two reasonings behind this:
4 one, the person is to 11:00 o'clock or the 10:00 o'clock
5 position. The muzzle is at a 10:00 o'clock position and
6 lower and they're shooting from the gun, from the bottom up;
7 or, the person has lifted up their leg and that also would
8 account for the upward trajectory; or, they are seated on
9 the floor and then someone is shooting down when they're on
10 the floor. So there's multiple scenarios placed on what you
11 see in the body. So you have to take into account that.
12 And in generality the muzzle of the weapon is mostly kind of
13 like the 10:00 o'clock position on the left. So they're all
14 coming that way. And then you see it more slightly here and
15 there they seem to be going kind of in the same direction.

16 MR. SPEARS: Court's indulgence, Your Honor.

17 BY MR. SPEARS:

18 Q Now, Dr. Tormos, during the course of your autopsy did
19 you recover any bullets out of the body?

20 A I recovered three bullets.

21 MR. SPEARS: May I approach the witness, Your
22 Honor.

23 THE COURT: You may.

24 BY MR. SPEARS:

25 Q Doctor, do you recognize these?

1 THE COURT: Refer to the exhibit number for the
2 record.

3 MR.. SPEARS: I apologize, Your Honor.

4 BY MR. SPEARS:

5 Q Do you recognize Exhibit 78?

6 A Yes, I do.

7 Q Now, what is that?

8 A It's the three bullets that were recovered from the
9 decedent?..

10 Q And which of these bullet pathways were these bullets
11 recovered from?

12 A Well, the bullet number one is the one that goes
13 through the arm. It goes through the arm and doesn't hit
14 bone. It goes through the arm. Again, it just into the
15 muscle. So in the middle there is soft tissues and the
16 bullet is pretty pristine. The second bullet that I
17 recovered, I recovered in the right chest cavity. I think
18 that is an artifact of resuscitation because there was no
19 entrance to the chest cavity. It just was there. And,
20 again, that is the one that went up the side and into the
21 abdomen for the trajectory. And then the third one is the
22 one that goes through the bone of the forearm and it also
23 goes through (inaudible). Because that one hit bone twice,
24 that bullet is flattened.

25 Q Now, Doctor, with these bullet pathways, how many

1 pathways were you able to find on this individual?

2 A Well, it would be -- assuming that the grazed one to
3 the scrotum is connected to the adjacent trajectory through
4 the side, it would be six.

5 Q Now, Doctor, were you able to formulate a professional
6 opinion as to whether these wounds were lethal?

7 A Yes.

8 Q And within a reasonable degree of medical certainty,
9 were you able to come a conclusion as to the manner of
10 death?

11 A Yes.

12 Q And what was that?

13 A It's a homicide.

14 MR. SPEARS: Court's indulgence, Your Honor.

15 BY MR. SPEARS:

16 Q And what would be the cause of death?

17 A The cause of death is the gunshot wounds to the torso.

18 Q Please answer any questions the Defense might have for
19 you.

20 THE COURT: Cross-examination.

21 MR. CHISHOLM: Thank you, Your Honor.

22 LEE MARIE TORMOS - CROSS-EXAMINATION.

23 BY MR. CHISHOLM:

24 Q Good afternoon, Doctor?

25 A Hi.

1 Q And I guess I'll start -- the cause of death in this
2 case, I'm a little bit confused. From reading the report it
3 looks like Mr. Mack passed away after a surgery on his elbow
4 area?

5 A That's correct?

6 Q Was it a complication from the surgery that caused the
7 death?

8 A It was a complication for the treatment of his multiple
9 gunshot wounds, yes.

10 Q But I was just curious how the surgery on the elbow
11 would lead to the death, if you could answer that?

12 A He was not medically stable.

13 Q Okay. So that was -- I'm sorry.

14 A But he was not medically stable they did the surgery.
15 He had a lot of organ damage secondary to blood loss?

16 Q Okay. So this was ongoing treatment, but the elbow
17 might have had nothing to do with the actual cause of death;
18 is that what you're saying?

19 A Can you repeat that?

20 Q The surgery on the elbow might have not been what
21 caused the death. He was already heading that way to begin
22 with?

23 A Everything is stemming from the treatment of his
24 multiple gunshot wounds. The repair to the elbow is the
25 repair from a fracture from the gunshot wound. So it was

1 very difficult without the medical records available to
2 determine exactly what the information was.

3 Q Okay. I think I understand. And you've had a lot of
4 training to be a pathologist -- I guess in the study of
5 ballistics -- what happens when bullets enter the body, that
6 kind of thing?

7 A Yeah, that's one of the training of forensic
8 pathologist.

9 Q Okay. But for clarification and I think you spoke to
10 this a little bit, despite, you know, all the education and
11 the knowledge and the training that you have, you can't say
12 exactly what happened at the shooting; is that correct? As
13 far as -- in this case, this involves a shooting in a
14 bathroom at the IHOP. From your examination, you wouldn't
15 be able to tell what happened in the bathroom; is that
16 correct?

17 A I can only tell you about what has entered his body.

18 Q Correct?

19 A Yes.

20 Q And that's what I'm getting at. You can see where the
21 bullet entered, where it went, where it exited, but you have
22 no idea what happened in there. You weren't there?

23 A Yes.

24 Q I've also heard that -- is it true that bullets kind of
25 do weird things once they enter the body sometimes?

1 A Yes.

2 Q And that can be based on the clothing you're wearing,
3 if it hits a bone or not, things it deflect off, organs I
4 guess?

5 A Not organs, but they can deflect on bone and they love
6 traveling through fat. So sometimes not exactly in a
7 straight line.

8 Q I got you. And when you're looking at a case like this
9 -- and I'm assuming it's easier for you to -- doing your
10 work, you can a bullet path through the body probably fairly
11 easily as opposed to figuring out trajectories of where a
12 bullet came or entered a body?

13 A Can you repeat that?

14 Q Sure. When you get a case --

15 A Uh-huh. (Affirmative response)

16 Q -- and during the autopsy you can pretty well this is
17 the entrance wound, this is the exit wound, if there is one.
18 Here's the path of the bullet within the body.

19 A That's correct, yes.

20 Q But as far as -- I think the Solicitor's kind of
21 touched on, I guess, angles of gunfire --

22 A Uh-huh. (Affirmative response)

23 Q -- is that tougher to do for you?

24 A It is very tough. Thankfully the bullets travel in a
25 straight line, so it makes it a little bit more logical.

1 But, you know, I'm only taking into consideration
2 (inaudible) the scene (inaudible).

3 Q And as far as the Solicitor was asking you about the
4 muzzle, where it was in relation to the entrance wounds and
5 that thing -- I mean, that's essentially speculation. Would
6 you agree with me that you can say it's consistent with
7 certain angles, but you can't tell exactly how it happened?

8 A I pretty much can tell you where it was coming from
9 based on lining up the holes.

10 Q I'm sorry. I'm not explaining myself. Let's put it
11 this way. I think I could probably rephrase it with an
12 example. Someone was laying in front of me?

13 A Yes.

14 Q Their head away from me and they're laying on their
15 back on the floor. If I shot them in the chest, you would
16 have an entrance wound in the chest. And say in this
17 example, say there's an exit wound in the back. And if I
18 shot them from here, it would be an upward trajectory; is
19 that correct?

20 A Yes.

21 Q If I was laying on my back -- which I never do -- but
22 if I was laying on my back and someone was standing in front
23 of me and I shot them in the chest, you would have an
24 entrance wound in the chest, possibly an exit wound in the
25 back. And that would also be an upwards trajectory; is that

1 correct?

2 A Absolutely, yes.

3 Q Okay. So it's hard to say exactly where people were --

4 A And that's why I'm saying I can only describe pretty
5 much the general position of the muzzle or the weapon, but I
6 cannot tell you the position of the people --

7 Q Right.

8 A -- holding the weapon. Absolutely not. That's what I
9 was trying to convey.

10 Q And I think you did. And I just wanted to make sure
11 that I had it right; didn't have it mixed up.

12 A Yes.

13 Q I'd like to ask you about toxicology in this case. Can
14 you explain what toxicology is?

15 A Yes. Toxicology we draw blood from most autopsies, and
16 in this particular case we did not do a toxicology because
17 there was a survival. When we do toxicology we like to show
18 the substance that that (inaudible) was not in someone's
19 body at the time that the incident happened. Because there
20 was a survival time of four days, when we did the autopsy,
21 the samples that we would have drawn at that time would not
22 reflect what was going on in the body four days prior. So
23 in this particular case we did not do toxicology.

24 Q Okay. And as you just said, I mean, the toxicology
25 report you'll be able to tell if someone was under the

1 influence of alcohol, narcotics, that kind of the thing at
2 the time --

3 A Absolutely. Absolutely. We would have been able to
4 say both what was there and what wasn't there. But in this
5 case it had not value because we wouldn't be reflecting what
6 was going on after blood transfusions and administration of
7 fluids and administration of medications in the hospital.

8 Q Do they typically take blood samples, whatever is taken
9 for analysis, do they typically do that when someone gets to
10 the hospital or is it typical that they would --

11 A Yes.

12 Q -- take the specimens four days later?

13 A No. The moment someone goes in the hospital, most
14 people get a basic labs drawn and those basic labs are
15 usually provided if left-over.

16 Q That wasn't done in this case?

17 A There was left-over. They throw the samples away on
18 the third day and he died on the fourth.

19 Q So based on that, you would have no way to know whether
20 he was -- had alcohol in his system, any kind of drugs or
21 anything because it wasn't drawn?

22 A It wasn't drawn because it couldn't be done, yes.. I
23 have no way of knowing.

24 Q I understand.

25 MR. CHISHOLM: Okay. One moment, Your Honor.

1 Q Thank you, Doctor. I don't have any more questions.

2 THE COURT: Redirect?

3 MR. SPEARS: Briefly, Judge.

4 LEE TORMOS - REDIRECT EXAMINATION

5 BY MR. SPEARS:

6 Q Very briefly, doctor, just to clarify a question I had
7 in my mind. Looking at the bullet pathway in a person, can
8 you tell the side of a person that the muzzle was on when
9 the bullet entered them?

10 A Yes..

11 Q Okay. And on this autopsy, what side was that?

12 A The left side.

13 MR. SPEARS: No more questions, Your Honor.

14 THE COURT: Recross, limited to redirect?

15 MR. CHISHOLM: None, Your Honor.

16 THE COURT: As to this witness, Solicitor?

17 MR. SPEARS: Your Honor, may she be excused?

18 THE COURT: Any objection?

19 MR. CHISHOLM: No objection.

20 THE COURT: Doctor Tormos, you may step down and
21 you're excused from the trial of this case and you may leave
22 the witness stand.

23 THE WITNESS: Thank you.

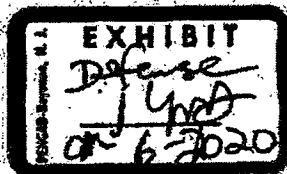
24 MR. SPEARS: Your Honor, may we approach?

25 THE COURT: Counsel approach.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER	)	THE FIRST JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA	)	Warrant/Indictment Nos.:
	)	2016a1810300321; 2016a1810300547;
	)	2016a1810300549
Plaintiff,	)	
V.	)	
KEUNTE DONTRELL COBBS,	)	MOTION FOR DISMISSAL
	)	
Defendant.	)	

Comes now the The Defendant, Keunte Cobbs by and through his attorney, Ash Chisholm, on a motion to dismiss the above-listed indictments for Possession of a Sawed-off Shotgun (Indictment No. 2016GS1801266), Murder (Indictment No. 2016GS1801267) and Possession of a Weapon During the Commission of a Violent Crime (Indictment No. 2016GS1801269) due to a violation of Defendant's right to a speedy trial.

In State v. Hunsberger, our Supreme Court reiterated that Defendants are entitled to a speedy and public trial. State v. Hunsberger, 418 S.C. 335 at 342 (2016) (citing U.S. Const amend. VI and S.C. Const. art. I § 14). The court was clear that the remedy for a speedy trial violation is dismissal of the charges. Id. at 342.



Hunsberger states "to trigger a speedy trial analysis, the accused must allege that the interval between accusation and trial has crossed the threshold dividing ordinary from 'presumptively prejudicial' delay, since, by definition, he cannot complain that the government has denied him a 'speedy' trial if it has, in fact, prosecuted his case with ordinary promptness." *Hunsberger*, 418 S.C. at 342, 343. It was held in *State v. Langford* that a twenty-three month delay was presumptively prejudicial. *State v. Langford*, 400 S.C. 421 at 442-443 (2012).

Hunsberger instructs that upon a finding of presumptive prejudice, a court must look to the following factors to determine whether a Defendant's right to a speedy trial has been denied: (1) length of delay; (2) the reason for the delay; (3) the accused's assertion of his right to a speedy trial; and (4) whether the delay prejudiced the accused. *Hunsberger*, 418 S.C. at 343.

In this case, Defendant was arrested June 27, 2016 and charged with Murder, Attempted Murder and Possession of a Weapon During a Violent Crime. Defendant was subsequently served an outstanding warrant for Possession of a Sawed-off Shotgun on June 28, 2016. Defendant's case was called to trial on August 20, 2018 before the Honorable Judge Perry Buckner for the charges of Murder and Attempted Murder. The Possession of a Sawed-Off Shotgun charge and the Possession of a Weapon During the Commission of a Violent Crime charge were not called to trial at that time. The jury could not

reach a verdict on the Murder charge and the Defendant was found guilty of Assault and Battery of a High and Aggravated Nature as a lesser included charge of Attempted Murder. Defendant received a sentence of eighteen years.

At the time of the first trial, Defendant had been in custody from June 27, 2016 until August 20, 2018, a period of over twenty-five months (787 days as of August 20, 2018.) As of January 6, 2020, these charges have been pending for over forty-two months (1287 days.) The Murder charge was pending for over twenty-five months prior to trial and has been pending approximately sixteen additional months since trial. Of note, the Possession of a Sawed-Off Shotgun charge and Possession of a Weapon During the Commission of a Violent Crime charges have been pending without being called to trial since June 27th and June 28th of 2016.

Defense counsel was appointed on June 12, 2017. Defendant has not requested a continuance in this case at any point of his incarceration.

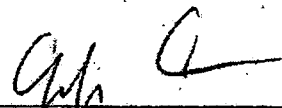
A speedy trial motion was heard by the Honorable Judge Maite Murphy on December 14, 2017. Judge Murphy's order stated that the motion for a speedy trial was granted and that if the trial wasn't scheduled during the week of January 16, 2018, bond would be revisited (see: enclosed order.) This case was not called to trial during the week of January 16, 2018 and on January 19, 2018, the Honorable Judge Maite Murphy granted Defendant a \$400,000 surety bond

(see: enclosed.) Defendant remained unable to secure his release with this bond.

On June 18, 2018, the Honorable Judge Maite Murphy heard a Defense motion to grant a personal recognizance bond pursuant to S.C. Code §17-23-90 and a renewal of Defense motion for a speedy trial. These motions were denied.

Defendant argues that he has asserted his right to a speedy trial, that he has not caused any delays in his case and that these pretrial delays are presumptively prejudicial and in violation of his Constitutional right to a speedy trial and that he is entitled to above-requested relief.

Respectfully submitted,



Ash D. Chisholm
Assistant Public Defender
107 W. 6th North Street
Summerville, SC 29483
(843) 821-9800 Office
(843) 871-0523 Facsimile
ATTORNEY FOR DEFENDANT

Summerville, South Carolina
This 6th day of January, 2020.

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN THE COURT OF GENERAL SESSIONS
THE FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

WARRANT NO.: 2016a1810300321;
2016a1810300547; 2016a1810300548;
2016a1810300549

v.

KEUNTE DONTRELL COBBS,

ORDER

FILED-RECORDED

12-14-2017

Cheryl Graham
Clerk of Court
Dorchester County

THIS MATTER is before me pursuant to the Defendant's Motion for Speedy trial. The Defendant is presently incarcerated on Warrant Nos.: 2016A1810300321; 2016A1810300547; 2016A1810300548; 2016A1810300549. After careful consideration of this matter, I hereby grant the motion for speedy trial and find that if the trial is not scheduled during the week of January 16, 2018, bond shall be revisited; and

IT IS SO ORDERED!

Marti Murr
PRESIDING JUDGE OF THE COURT
OF GENERAL SESSIONS FOR THE
FIRST JUDICIAL CIRCUIT

St. George, South Carolina
This 14 of December, 2017.

FILED-RECORDED

01-18-18

SW

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

Cheryl Graham
Clerk of Court
Dorchester County

THE COURT OF GENERAL SESSIONS
THE FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

WARRANT NO.: 2016a1810300321;
2016a1810300547; 2016a1810300548;
2016a1810300549

v.

KEUNTE DONTRELL COBBS,

ORDER

THIS MATTER is before me pursuant to the Defendant's Motion to Set Bond. The Defendant is presently incarcerated on a Weapons/Articles Regulating Use, Possession Of Machine Guns, Sawed Off Shotguns, Rifles; Weapons/Poss. Weapon During Violent Crime; Warrant Nos.: 2016A1810300321; 2016A1810300549 with a \$65,000.00 surety bond and Murder; Assault/Attempted Murder; Warrant Nos.: 2016A1810300547; 2016A1810300548; with no bond set. After careful consideration of this matter, I find that the Defendant's bonds shall be consolidated and set at a \$400,000.00 surety bond; and,

FURTHER, Defendant must be placed on GPS monitoring, and must have no contact with victims and victims' family and he is not allowed to go within a 1 mile radius of the victims' residence;

IT IS SO ORDERED!

Marte' Mung
PRESIDING JUDGE OF THE COURT
OF GENERAL SESSIONS FOR THE
FIRST JUDICIAL CIRCUIT

St. George, South Carolina
This 19 of January, 2018.

ARREST WARRANT

2016A1810300321

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
 Dorchester

THE STATE
 against
 Kenneth D Cobbs

Address: 117 Barbara Dr
 Ladson, SC 29456-4851

Phone: [REDACTED]
 Sex: M Race: B Height: 6 3 Weight: 215
 DL State: SC DL #: [REDACTED]
 DOB: [REDACTED] Agency Off #: SC0180200

Prosecuting Agency: Summerville Police Department
 Prosecuting Officer: Robert Barrington - 8835
 Charges: Weapons / Articles regulating use, possession of machine guns, sawn off shotguns, rifles

Offense Code: 0552
 Code/Ordinance Sec: 23-31-0330

The warrant is RETURNED FOR [REDACTED] BY [REDACTED]
☐ County/ ☐ Municipality of

It is to be executed and brought before me to be
 clerk with according to the law.

Signature of Judge [REDACTED]
 Date: [REDACTED]

RETURN
 A copy of this arrest warrant was delivered to
 defendant: Kenneth D Cobbs
 on 1755 06/18/2016

Signature of [REDACTED]
 RETURN WARRANT TO:

General Sessions
 5200 E. Jim Edson Blvd.
 St. George, SC 29477

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
 Dorchester

Personally appeared before me the agent
 being duly sworn deposes and says that defendant
 did within the county and state on or about 3/2/2016

State of South Carolina for ordinance of [REDACTED]
 in the following paragraph:

DESCRIPTION OF OFFENSE: Weapons / Articles regulating use, possession of machine guns, sawn off shotguns, rifles

I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

On March 02, 2016 Detectives with the Dorchester County Sheriff's Summerville PD Metro Narcotics Unit, executed a search
 warrant at 117 Barbara Drive, located in the County of Dorchester. During the execution of the search warrant, Detectives located
 in the closet of the master bedroom, Remington 12 gauge shotgun, (model 6670 and serial SC976438A). The shotgun barrel and the
 stock had been sawed-off. Detectives also located multiple pieces of paperwork bearing the Defendant's name, Kenneth Cobbs, in the
 closet next to the firearm. Also some of the paperwork is bearing the Defendant's name was also addressed to 117 Barbara Drive.
 Detective Barrington met with a Confidential Informant to identify the Defendant from a SLED Photo Line-up. The CI positively
 identified the Defendant from the SLED Photo Line-up. The Affiant believes from his training and experience, the sawed-off
 shotgun belongs to the Defendant. This being in violation of S.C. State Statute 23-31-0330.

Signature of Affiant: R. Barrington

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
 Dorchester

Affiant Address: 300 West 2nd North Street
 Summerville, SC 29483
 Affiant's Telephone: (843) 671-2463

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
 on or about 3/2/2016 defendant Kenneth D Cobbs
 did violate the criminal laws of the State of South Carolina for ordinance of [REDACTED] as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Articles regulating use, possession of machine guns, sawn off shotguns, rifles

Having read the above affidavit and the above affidavit having been sworn before me, you are empowered and directed to arrest the said defendant and bring him or
 her before me forthwith to be arraigned according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of the execution, or as
 soon thereafter as is practicable.

Signature of [REDACTED]
 Peter Barrington Sheriff
 Judge Clerk: 7173

ORIGINAL

AFFIDAVIT
 ORIGINAL

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
 Dorchester

Signature of Affiant: R. Barrington

Affiant Address: 300 West 2nd North Street
 Summerville, SC 29483
 Affiant's Telephone: (843) 671-2463

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
 on or about 3/2/2016 defendant Kenneth D Cobbs
 did violate the criminal laws of the State of South Carolina for ordinance of [REDACTED] as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Articles regulating use, possession of machine guns, sawn off shotguns, rifles

Having read the above affidavit and the above affidavit having been sworn before me, you are empowered and directed to arrest the said defendant and bring him or
 her before me forthwith to be arraigned according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of the execution, or as
 soon thereafter as is practicable.

Signature of [REDACTED]
 Judge Clerk: 7173

ORIGINAL

Signature of [REDACTED]
 Judge Clerk: 7173

ORIGINAL

ORIGINAL

ARREST WARRANT
2016A1810300547
STATE OF SOUTH CAROLINA
☒ County ☐ Municipality of
Dorchester
THE STATE
against
Keonte D Cobbs
Address: **206 Sandra Lane**
Summerville, SC 29483
Phone: **803**
Sex: **M** Race: **B** Height: **6** 3 Weight: **215**
DL State: **SC** DL #: **SC0180000**
DOB: **01/01/1980**
Presenting Agency: **Dorchester County Sheriff**
Presenting Officer: **Keith Elmore - 0669**
Offense: **Murder / Murder**
Offense Code: **0116**
Case/Arrest No: **16-03-0010**
This warrant is ☐ County ☐ Municipality of
is to be executed and brought before me to be
dual with according to the law.

RETURN
A copy of this arrest warrant was delivered to
defendant **Keonte Cobbs**
on **6/27/16**
RETURN WARRANT TO:
General Sessions
5268 E. Jim Allen Blvd.
St. George, SC 29477

ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA
☒ County ☐ Municipality of
Dorchester
AFFIDAVIT
Personally appeared before me the undersigned **Keith Elmore**
being duly sworn deposes and says that defendant **Keonte D Cobbs**
did within this county and state on or about **6/9/2016** violate the criminal laws of the
State of South Carolina (for evidence of ☒ County ☐ Municipality of **Dorchester**)
the following particulars:
DESCRIPTION OF OFFENSE: **Murder / Murder**

I further state that there is probable cause to believe that the defendant named above did commit
the crime and facts and that probable cause is based on the following facts:
June 9, 2016 at approximately 4pm, while at Trident Hospital Brandon Mack died, from gunshot wounds he received on June 5,
2016 while at 9975 Dorchester Rd, Summerville, SC, county of Dorchester. KEUNTE COBBS AKA "KEY", AKA "KEITH", shot
Brandon Mack 7-9 times while inside the IHOP bathroom. Cobbs was identified by Det. Moser from a witness's cell phone video
inside of the IHOP. June 10, 2016 a witness provided a written statement stating that "KEITH", admitted to doing the shooting at the
IHOP because the victim robbed him of \$20,000. The witness also positively identified Keonte Cobbs as "KEITH" from a SLED
photo array.

Signature of Affiant **Det. Keith P. Elmore 77**
STATE OF SOUTH CAROLINA
☒ County ☐ Municipality of
Dorchester
Affiant's Address: **100 Sears Street**
Saint George, SC 29477
Affiant's Telephone:

ARREST WARRANT
TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
I appearing from the above affidavit that there are reasonable grounds to believe that
on or about **6/9/2016** defendant **Keonte D Cobbs**
did violate the criminal laws of the State of South Carolina (for evidence of ☒ County ☐ Municipality of **Dorchester**) as set forth below:
DESCRIPTION OF OFFENSE: **Murder / Murder**
Having found probable cause and the above stated having been before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of his detention, or as
soon thereafter as is practicable.
Given under my hand and official seal this **27th** day of **June**, 2016.
Judge's Address: **Trey Knight Judicial Complex**
Summerville, SC 29483-4707
Judge's Telephone: **(843) 832-0370**
Hearing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

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ARREST WARRANT

2016A1810300548

STATE OF SOUTH CAROLINA

☒ County ☐ Municipality of

Dorchester

THE STATE

Keonte D Cobbs

Address: 203 Sandra Lane

Summerville, SC 29483

Phone: **604-215-215**

Sex: **M** Race: **B** Height: **6 3** Weight: **215**

DL Date: **SC** DL#: **SC0180000**

DOB: **01/10/1980** Agency ID#: **SC0180000**

Processing Agency: **Dorchester County Sheriff**

Processing Officer: **Keith Elmore - 6563**

Charge: **Murder / Attempted Murder**

Offense Code: **3410**

Code/Ordinance Sec: **16-03-0029**

The warrant is **RETURNED FOR SERVICE** in the

☐ County ☐ Municipality of

The accused

is to be arrested and brought before the

court with according to the law.

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant **Keonte D Cobbs**

on **6/23/16**

Signature of Court Clerk

RETURN WARRANT TO:

General Sessions

5200 E. Jim Bilton Blvd.

St. George, SC 29477

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County ☐ Municipality of

Dorchester

Personally appeared before me the officer **Keith Elmore**

being duly sworn depose and says that defendant **Keonte D Cobbs**

did within the county and state on or about **6/23/16**

State of South Carolina (or ordinance of ☒ County ☐ Municipality of **Dorchester**)

the following offense:

DESCRIPTION OF OFFENSE: Murder / Attempted Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

June 5, 2016 at approximately 0215 hours while at 9978 Dorchester Rd Summerville, SC, county of Dorchester, **KEUNTE COBBS**, AKA "KEY", AKA "KEITH", shot Bradford Spells twice in the stomach. Facts are while in the bathroom of the IHOP restaurant Keonte shot Bradford Spells twice after shooting Brandon Mack 7-9 times. Keonte was positively identified from a witness's cell phone video by Det. Mosier. June 10, 2016 a witness provided a written statement stating that "KEITH", admitted to doing the shooting at the IHOP because the victim robbed him of \$20,000. The witness also positively identified Keonte Cobbs as "KEITH" from a SLED photo array.

Signature of Agent **Det. Keith P. [Signature]**

STATE OF SOUTH CAROLINA

☒ County ☐ Municipality of

Dorchester

Witness's Address **100 Sears Street**

Saint George, SC 29477

Witness's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR JURISDICTION OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about **6/23/16** defendant **Keonte D Cobbs**

did violate the criminal laws of the State of South Carolina (or ordinance of ☒ County ☐ Municipality of **Dorchester**) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Attempted Murder

Having found probable cause and the above affidavit being sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before the court with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

on **6/23/16**

Signature of Judge **Peter Brandt Shegerson**

Judge's Address **Troy Knight Judicial Complex**

Summerville, SC 29483-4787

Judge's Telephone **(843) 832-0370**

Sealing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

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ARREST WARRANT

2016A1810300549

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
 Dorchester

THE STATE
 of South Carolina
 Sheriff's Office
 Dorchester County

Keonte D Cobbs
 Address: 208 Sandra Lane
 Summerville, SC 29483-

Phone: [REDACTED]
 Sex: M Race: B Height: 6 3 Weight: 215
 DL State: SC DL#: [REDACTED]
 DOB: [REDACTED] Agency ID#: SC0180000
 Processing Agency: Dorchester County Sheriff
 Processing Office: Keith Elmore - 0668
 Charge: Weapons / Possession of weapon during violent
 crime, if not also sentenced to life without parole or
 death

Offense Code: 0549
 Code/Offense Desc: 16-23-0390

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

is to be served and brought before me to be
 dealt with according to the law.

(P.S.)

Signature of Judge

Date

RETURN

A copy of this arrest warrant was delivered to
 defendant Keonte D Cobbs
 on 6/3-7/16

Signature of Defendant

RETURN WARRANT TO:
 General Sessions
 5200 E. Jim Hilton Blvd.
 St. George, SC 29477

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
 Dorchester

Personally appeared before me the undersigned
 being duly sworn deposes and says that defendant Keonte D Cobbs
 did within this county and state on or about 6/3/2016
 violate the criminal laws of the
 State of South Carolina (for entrance of ☒ County/ ☐ Municipality of Dorchester)
 in the following particulars:
 DESCRIPTION OF OFFENSE: Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole or
 death

I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

June 5, 2016 at approximately 0215 hours while at 9974 Dorchester Rd Summerville, SC, county of Dorchester; KEIRNTE COBBS,
 AKA "KEY", AKA "KEITH", while armed with a handgun shot Bradford Spells and Brandon Mack. Facts are while in the
 bathroom of the IHOP restaurant Keonte shot Bradford spells twice and Brandon Mack 7-9 times. June 9, 2016 Brandon Mack died
 from the gunshot wounds. Keonte was positively identified from a witness's cell phone video by Det. Mosier. June 10, 2016 a
 witness provided a written statement stating that AKA "KEITH", admitted to doing the shooting at the IHOP because the victim
 rubbed him of \$20,000. The witness also positively identified Keonte Cobbs as AKA "KEITH" from a SLED photo array.

Signature of Affiant Det. Keith P. [Signature]

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
 Dorchester

Affiant's Address: 100 Sears Street
 Saint George, SC 29477-

Affiant's Telephone:

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
 on or about 6/3/2016 defendant Keonte D Cobbs
 did violate the criminal laws of the State of South Carolina (for entrance of ☒ County/ ☐ Municipality of Dorchester) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole or
 death

Having found probable cause and the above stated having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
 her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of his execution, or an
 attempt to do so.

on 6/3/2016

Signature of Judge [Signature] (P.S.)

Judge's Address: Troy Knight Judicial Complex
 Summerville, SC 29483-4707

Judge's Telephone: (843) 832-0370

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

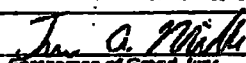
WITNESSES

Robert Barrineau

Summerville Police Department
16-001024**ARREST WARRANT NUMBER**

2016A1810300321

Arrested: June 30, 2016

ACTION OF GRAND JURY

 Foreperson of Grand Jury
 Date: March 8, 2018
VERDICTForeperson of Petit Jury
Date:

DOCKET NO. 2016GS18-1286

**The State of South Carolina
County of DORCHESTER****COURT OF GENERAL SESSIONS**

March 12, 2018 TERM

**THE STATE
vs.**

Keunte D Cobbs

Indictment forArticles Regulating Use, Possession of
Machine Guns, Sawn off Shotguns;
Rifles

SC Code: 23-31-330

After being fully advised as to my legal
rights, I hereby waive presentment to the
Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. AND G.S.

 2018 MAR - 9 PM 12:55
 CLERK OF COURT
 DORCHESTER COUNTY

**STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER**

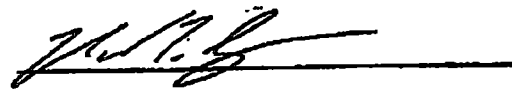
**INDICTMENT
2016GS18-1266**

As a Court of General Sessions, convened on March 8, 2018 the Grand Jurors of DORCHESTER County present upon their oath:

**ARTICLES REGULATING USE, POSSESSION OF MACHINE GUNS, SAWN OFF
SHOTGUNS, RIFLES**

That in Dorchester County, South Carolina, on or about March 2, 2016, the Defendant, Keunte D Cobbs, did unlawfully store, keep, possess, or permit another to store, keep or possess a machine gun or firearm commonly known as a machine gun, military firearm, sawed-off shotgun, or sawed-off rifle with a barrel less than 18 inches in length and/or an overall length of less than 26 inches long. This offense in violation of Section 16-23-230 of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Michael Spears, Solicitor

WITNESSES

Keith Elmore

Dorchester County Sheriff
18-005845

ARREST WARRANT NUMBER
2016A1810300547

Arrested: June 28, 2016

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: September 1, 2016

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016GS18-1267

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

September 6, 2016 TERM

THE STATE
vs.

Keunte D Cobbs

Indictment for

Murder

SC Code: 16-3-10

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED - RECORDED
2016 SEP - 1 PM 2:49
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

**STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER**

**INDICTMENT
2016GS18-1267**

As a Court of General Sessions, convened on September 1, 2016 the Grand Jurors of DORCHESTER County present upon their oath:

MURDER

That in Dorchester County on or about June 9, 2016, with malice aforethought, the defendant, Keunte D Cobbs did kill one Brannon Mack by means of shooting the victim. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Glenn P. Justis, Solicitor

WITNESSES

Keith Elmore

Dorchester County Sheriff

16-005645

ARREST WARRANT NUMBER

2016A1810300547

Arrested: June 28, 2016

ACTION OF GRAND JURY

TRUE BILL

Jan C. Nith
Foreperson of Grand Jury
Date: August 16th 2018

VERDICT

Foreperson of Petit Jury
Date:

AMENDED

DOCKET NO. 2016GS18-1267

**The State of South Carolina
County of DORCHESTER**

COURT OF GENERAL SESSIONS

August 20th 2018 TERM

THE STATE
vs.

Keunte D Cobbs

Indictment for

Murder

SC Code: 16-3-10

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CLERK OF COURT
DORCHESTER COUNTY

2018 AUG 16 PM 12:05

FILED

513

AMENDED

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

INDICTMENT
2016GS18-1267

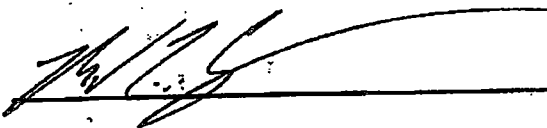
As a Court of General Sessions, convened on August 16th 2018 the Grand Jurors of DORCHESTER County present upon their oath:

MURDER

That in Dorchester County on or about June 5, 2016, with malice aforethought, the defendant, Keunte D Cobbs did kill one Brannon Mack by means of shooting the victim. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

FILED



Michael Spears, Solicitor

WITNESSES

Keith Elmore

Dorchester County Sheriff
16-005645

ARREST WARRANT NUMBER
2016A1810300548

Arrested: June 28, 2016

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: September 1, 2016

VERDICT

Guilty of Assault and
Battery of a High and
Aggravated Nature

Foreperson of Petit Jury

Date: 8/23/2018

RANDY D. EUDY

DOCKET NO. 2016GS18-1268

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

September 6, 2016 TERM

THE STATE
vs.

Keunte D Cobbs

Indictment for

Attempted Murder

SC Code: 16-3-29

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED - RECORDED
2016 SEP - 1 PM 2:49
CHERYL EMMETT
CLERK OF COURT
DORCHESTER COUNTY

515

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

INDICTMENT
2016GS18-1268

As a Court of General Sessions, convened on September 1, 2016 the Grand Jurors of DORCHESTER County present upon their oath:

ATTEMPTED MURDER

In that the defendant, Keunte D Cobbs, did in Dorchester County on or about June 5, 2016 with the intent to kill, attempt to kill one Bradford Spells with malice aforethought by shooting the victim twice. This offense being in violation of Section 16-3-29, of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Glenn P. Justis, Solicitor

WITNESSES

Keith Elmore

Dorchester County Sheriff
16-005545**ARREST WARRANT NUMBER**
2016A1810300549

Arrested: June 28, 2016

ACTION OF GRAND JURY**TRUE BILL**Foreperson of Grand Jury
Date: September 1, 2016**VERDICT**Foreperson of Petit Jury
Date:**DOCKET NO. 2016GS18-1269****The State of South Carolina**
County of DORCHESTER**COURT OF GENERAL SESSIONS**

September 6, 2016 TERM

THE STATE
vs.

Keunte D Cobbs

Indictment forPossession of a Firearm or Knife During
the Commission of a Violent Crime

SC Code: 16-23-490

After being fully advised as to my legal
rights, I hereby waive presentment to the
Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. AND G.S.

2016 SEP - 1 PM 2:48
CLERK OF COURT
DORCHESTER CO. SC

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

INDICTMENT
2016GS18-1269

As a Court of General Sessions, convened on September 1, 2016 the Grand Jurors of DORCHESTER County present upon their oath:

**POSSESSION OF A FIREARM OR KNIFE DURING THE COMMISSION OF A
VIOLENT CRIME**

That in Dorchester on or about June 5, 2016, the defendant, Keunte D Cobbs, did visibly display or have in his possession a pistol during the commission of a violent crime as defined by Section 16-1-60, Code of Laws of South Carolina, 1976, as amended, to wit: murder and/or attempted murder, thereby violating Section 16-23-490, Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Glenn P. Justis, Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Dorchester
 STATE VS.
Keunte D Cobbs

AKA:
 Race: BLACK Sex: M Age: 38
 DOB: SS#
 Address:
 City, State, Zip:
 DL#: SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Voluntary Manslaughter

INDICTMENT/CASE#: 2016GS18-1267
 A/W#: 2016A1810300547
 Date of Offense: 6/5/2016 - 1/1/1753
 S.C. Code § 16-3-10
 CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-3-50 of the S.C. Code of Laws, bearing CDR Code # 0217
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Spears, Michael 102370 SC Bar# Defendant Chisholm, Ash 76426 SC Bar#
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
 which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: Sentence currently serving

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
 Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____
☐ Set by SCDPPPS

Recipient: _____

*Fine:
 §14-1-206 (Assessments 107.5 %) \$
 §14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100
 §14-1-211(A)(2) (DUI Surcharge) \$100 \$
 §56-5-2995 (DUI Assessment) \$12 \$
 §56-1-286 (DUI Breath Test) \$25 \$
 Proviso (Public Def/Probation) \$500 \$
 §14-1-212 (Law Enforce. Funding) \$25 \$ 25
 §14-1-213 (Drug Court Surcharge) \$150 \$
 §50-21-114(BUI Breath Test Fee) \$50 \$
 §56-5-2942(J) (Vehicle Assessment) \$40/ea \$
 3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk Cheryl Graham

Court Reporter: Yvette Torres

SCCA/217 (04/2018)

Obtain GED ☐
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling ☐
 Random Drug/Alcohol testing ☐
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

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JAN 21 2020

SC Court of Appeals

☐ Appointed PD or appointed other counsel
 Proviso requires \$500 be paid to Clerk during
 probation and shall be collected before any other
 fees.

Presiding Judge Dane S. Scott
 Judge Code: 9112
 Sentence Date: 1-9-2020

General Sessions Tracking Sheet
Indictment # 0000GS18

Name: Cobbs, Keunte D

Warrant/Ticket #: 2016A1810300547

AKA:

Date of Arrest: 06/28/2016

Addr:

Date of Offense: 06/09/2016

Date Rev by Clerk 07/07/2016

Magistrate: Clerk Of Court C P, G S, And Family Court

Counts: Code: 0116/Murder / Murder

SSN#

Sex: M Race: B

DOB:

DL#

Indictment #

0000GS18

2016-1267

Disposition Information

1. Transmitted to SOL & SCCA:
2. Disp Received by Clerk:
3. Date of Disposition: 1/9/20

Disposition

- ☒ 1. Guilty plea ~~Voluntary manslaughter~~
☒ 2. Trial -- guilty ~~Voluntary manslaughter~~
☐ 3. Trial -- not guilty
☐ 4. Dism/Not Pros/Pros Ended Explain: _____
☐ 5. Judicial Commitment Explain: _____
☐ 6. Judicial Dismissal
☐ 7. Remanded Explain: _____
☐ 8. Dismissed at Prelim
☐ 8. No Bill
☐ 9. Failure to Appear Explain: _____
☐ 10. Other Explain: _____

Judge: Goodstein

Court Reporter: Torres

Defense Atty: Chisholm / Loy

Solicitor: [Signature]

Counts: Code:

Sentence:

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JAN 21 2020

SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF Dorchester
STATE VS.Keunte D Cobbs

AKA:

Race: BLACK Sex: M Age: 36DOB: [REDACTED] SS# [REDACTED]Address: 208 Sandra LaneCity, State, Zip: Summerville, SC 29483DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Assault / Assault and Battery of a High and Aggravated Naturein violation of § 16-3-600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 102370 [Signature] 76426
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 18 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the SCDOC.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk [Signature]Court Reporter: Hilda Jordan

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

519

INDICTMENT/CASE#: 2016GS18-1268A/W#: 2016A1810300548Date of Offense: 6/5/2016S.C. Code § : 16-3-29CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.Presiding Judge [Signature]Judge Code: 2122Sentence Date: 8/23/18

General Sessions Tracking Sheet
Indictment # 0000GS18

Name: Cobbs, Keunte D

AKA:

Addr:

SSN#

Sex: M Race: B

DOB:

DL#

Warrant/Ticket #: 2016A1810300548

Date of Arrest: 06/28/2016

Date of Offense: 06/05/2016

Date Rcv by Clerk 07/07/2016

Magistrate: Clerk Of Court C P, G S, And Family Court

Counts: Code: 3410/Murder / Attempted Murder

Indictment #

~~0000GS18~~ 2016-1268

Disposition Information

1. Transmitted to SOL & SCCA:

2. Disp Received by Clerk:

3. Date of Disposition: 8/22/18

- Disposition
- ☐ 1. Guilty plea
 - ☒ 2. Trial -- guilty *ANHAN*
 - ☐ 3. Trial -- not guilty
 - ☐ 4. Dism/Not Pros/Pros Ended
 - ☐ 5. Judicial Commitment
 - ☐ 6. Judicial Dismissal
 - ☐ 7. Remanded
 - ☐ 8. Dismissed at Prelim
 - ☐ 8. No Bill
 - ☐ 9. Failure to Appear
 - ☐ 10. Other

Explain: _____

Explain: _____

Explain: _____

Explain: _____

Explain: _____

Judge: *Goodstein*

Defense Atty: *Chisblom / Loy*

Counts: _____ Code: _____

Sentence: _____

Court Reporter: *Torres*

Solicitor: *[Signature]*

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JAN 21 2020

SC Court of Appeals

General Sessions Tracking Sheet
Indictment # 0000GS18

Name: Cobbs, Keunte D

AKA:

Addr:

SSN#

Sex: M Race: B

DOB:

DL#

Warrant/Ticket #: 2016A1810300549

Date of Arrest: 06/28/2016

Date of Offense: 06/05/2016

Date Rcv by Clerk 07/07/2016

Magistrate: Clerk Of Court C P, G S, And Family Court

Counts: Code: 0549/Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole or death

Indictment # 0000GS18 2016-1269

Disposition Information

1. Transmitted to SOL & SCCA:

2. Disp Received by Clerk:

3. Date of Disposition: 1/10/20

- Disposition
- ☐ 1. Guilty plea
 - ☐ 2. Trial -- guilty
 - ☐ 3. Trial -- not guilty
 - ☒ 4. Dism/Not Pros/Pros Ended
 - ☐ 5. Judicial Commitment
 - ☐ 6. Judicial Dismissal
 - ☐ 7. Remanded
 - ☐ 8. Dismissed at Prelim
 - ☐ 8. No Bill
 - ☐ 9. Failure to Appear
 - ☐ 10. Other

Explain:

Explain:

Explain:

Explain:

Explain:

Judge:

Defense Atty:

Counts: Code:

Sentence:

Court Reporter:

Solicitor:

RECEIVED

JAN 21 2020

SC Court of Appeals

General Sessions Tracking Sheet
Indictment # 0000GS18

Name: Cobbs, Keunte D

AKA:

Addr:

SSN#

Sex: M Race: B

DOB:

DL#

Warrant/Ticket #: 2016A1810300321

Date of Arrest: 06/30/2016

Date of Offense: 03/02/2016

Date Rev by Clerk 07/07/2016

Magistrate: Clerk Of Court C P, G S, And Family Court

Counts: Code: 0552/Weapons / Articles regulating use,
possession of machine guns, sawn off shotguns,
rifles

Indictment #

~~0000GS18~~

2016-1246

Disposition Information

1. Transmitted to SOL & SCCA:
2. Disp Received by Clerk:
3. Date of Disposition: 1/6/20

Disposition

1. Guilty plea
2. Trial -- guilty
3. Trial -- not guilty
4. ☒ Dism/Not Pros/Pros Ended
5. Judicial Commitment
6. Judicial Dismissal
7. Remanded
8. Dismissed at Prelim
8. No Bill
9. Failure to Appear
10. Other

Explain:

NR

Explain:

Explain:

Explain:

Explain:

Judge:

Goodstein

Defense Atty:

Chisholm / Loy

Counts:

Code:

Sentence:

Court Reporter:

Torres

Solicitor:

[Signature]

RECEIVED

JAN 21 2020

SC Court of Appeals

JAIL W/ SCDC

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTERIN THE COURT OF GENERAL SESSIONS
FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

ORDER OF APPOINTMENT OF LEGAL
COUNSEL FOR INDIGENT DEFENDANT

VS.

Keunte Cobbs
Defendant.

SSN#

Age: 35 Birthdate: [REDACTED] Race/Sex: B/M Date of Arrest: June 27, 2016 ?Address: [REDACTED] (Mother - Tangelia Matthews)
Address/Friend or RelativeCity: Ladson State: SC Zip: 29456City: (843) 343-2519 (Michael - Dad) State: SC Zip: (843) 270-5947 (Tangelia - mom)
Telephone TelephoneOffense: Murder
Magistrate: _____ Warrant No.: 2016A1810300547Bond: \$ No bond Type: Signature Recog Property Bondsman: _____
*****Offense: Att Murder 2016A1810300548
Magistrate: _____ Warrant No.: 2017A1810300547Bond: \$ No bond Type: Signature Recog Property Bondsman: _____
*****Offense: Possession of weapon during violent crime
Magistrate: _____ Warrant No.: 2016A1810300549Bond: \$ \$5000 ?? Type: Signature Recog Property Bondsman: _____
*****→ Possession of a saved off shotgun also ? 2016A1810300321
The defendant contends that he is indigent and in need of services of an attorney as contemplated by law.THEREFORE, Ash Chisholm Attorney at Law,
is appointed as counsel for the defendant.This 12th day of June
at 3:20 (am - pm)White - Clerk of Court
Green - Attorney
Canary - Criminal Justice Coordinator
Pink - Solicitor
Goldend - Defendant

Criminal Justice Coordinator

6/12/17 - Appointed by Judge Goodstein

Att. murder victim
Bradford Spells - MW

17-975

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN THE COURT OF GENERAL SESSIONS
THE FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA
Plaintiff,

Warrant/Indictment Nos.:
2016a1810300321; 2016a1810300547;
2016a1810300548; 2016a1810300549
Weapons / Articles regulating use,
possession of machine guns, sawn
off shotguns, rifles; Murder /
Murder; Assault / Attempted
Murder; Weapons / Poss. weapon
during violent crime

v.

KEUNTE DONTRELL COBBS,
Defendant.

MOTION FOR DISCOVERY
AND INSPECTION
(Rule 5 and Rule 6)

2017 JUN 19 AM 11:11
CLERK OF COURT
DORCHESTER COUNTY

NOW COMES the Defendant by and through his undersigned counsel of record, pursuant to Rule 5 of the Rules of Criminal Practice in the Circuit Court, and moves the prosecution to permit Defendant to inspect and copy or photograph, including but not limited to, the following, the expressed provision that the duty of disclosure be a continuing one in the event that any such materials come into existence or become available after the initial disclosures:

(a) Any written or recorded statements made by the Defendant or copies thereof, within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution;

(b) The substance of any oral statements which the Prosecution intends to offer into evidence of the trial made by Defendant, whether before or after arrest, in response to interrogation by any person then known by Defendant to be a Prosecution State agent;

(c) A copy of Defendant's prior driving and or criminal record,

if any, as is within the possession, custody, or control of the Prosecution, the existence of which is known, or by the exercise of due diligence may become known to the Attorney for the Prosecution;

(d) All books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are in the possession, custody, or control of the Prosecution, and which are material to the defense, or are intended for use by the Prosecution as evidence in chief at the trial, or were obtained from or belonging to the Defendant;

(e) All results of reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are in the possession, custody, or control of the Prosecution, including any blood alcohol tests or other tests which were conducted by the State, the existence of which are known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution, and which are material to the preparation of the defense or are intended for use by the Prosecution as evidence in chief at the trial; and

(f) The statement of any witness or prospective Prosecution witness, the existence of which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution.

(g) Any and all audio and/or video recordings in the custody of the Prosecution, or may come into the possession of the Prosecution; including, but not limited to:

(1) interviews of victim(s), defendant(s), witnesses and/or any other party related in any way to the matter at hand;

(2) surveillance footage of any type and/or format related

to this case or investigation;

(3) any "dash-cam" footage or any other recorded footage.

Defendant further moves that compliance with the foregoing request be made within ten days from the service of this motion, and upon failure of the Prosecution to so comply, Defendant will move before the Presiding Judge of this Circuit by Notice and Motion, for an Order prohibiting the Prosecution from introducing at trial evidence not disclosed, and if the foregoing is denied, an Order permitting the discovery and inspection requested, or a continuance of the trial, or other such Order as the Court in its discretion deems just under the circumstances. For the purposes of this motion, Defendant asserts that any item requested in paragraphs (a), (b), (c), (d), (e), (f) and (g) above is material to the preparation of the defense in this case.

Additionally, pursuant to Rule 6 of the South Carolina Rules of Criminal Procedure, Defendant objects to the introduction of any chemist's or analyst's report and demands the appearance, in Court of all chemists or analysts, as well as all persons within the chain of custody.

Respectfully submitted,

By: 
Ash D. Chisholm
Assistant Public Defender
107 West 6th North Street
Summerville, SC 29483
Attorney for Defendant
(843) 821-9800

Summerville, South Carolina
This 14th day of June, 2017.

CERTIFICATE OF SERVICE

The undersigned certifies that the pleading or paper to which this certificate is affixed was served on Glenn Justis, Esquire, Assistant Solicitor, First Circuit Solicitor's Office, 140 North Main Street, Suite 102, Summerville, South Carolina, 29483 by either depositing a copy of same, enclosed in a first class, postage paid wrapper, properly addressed, in a post office or official depository under the exclusive care and custody of the United Postal Service or via the Dorchester County Courier this 14th day of June, 2017.



U.S. DISTRICT COURT
GLENN JUSTIS
DORCHESTER COUNTY

2017 JUN 19 AM 11:46

REC'D

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

STATE OF SOUTH CAROLINA)

Plaintiff,)

v.)

KEUNTE DONTRELL COBBS,)

Defendant.)

IN THE COURT OF GENERAL SESSIONS
THE FIRST JUDICIAL CIRCUIT

Warrant/Indictment Nos.:

2016a1810300321; 2016a1810300547;
2016a1810300548; 2016a1810300549

MOTION FOR SPEEDY TRIAL

FILED-RECORDED
2017 DEC 15 PM 4:19
CLERK OF COURT
DORCHESTER COUNTY

The Defendant, by and through his undersigned attorney, should show
this Honorable Court:

1. That the Defendant is presently awaiting trial on the charge of Weapons/Articles regulating use, possession of machine guns, sawn off shotguns, rifles; Murder; Assault/Attempted Murder; Weapons / Poss. weapon during violent crime, brought against the Defendant by the State of South Carolina;
2. That the Defendant is informed and believe that he is entitled to a speedy trial and does hereby demand such, as provided in the Sixth Amendment in the United States Constitution and Article 1, Section 9 of the South Carolina Constitution.

Respectfully submitted,



Ash D. Chisholm
Assistant Public Defender
107 W. 6th North Street
Summerville, SC 29483
(843) 821-9800 Office
(843) 871-0523 Facsimile
ATTORNEY FOR DEFENDANT

Summerville, South Carolina
This 13th day of December, 2017.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER	)	
	)	Warrant/Indictment Nos.:
STATE OF SOUTH CAROLINA	)	2016a1810300321; 2016a1810300547;
	)	2016a1810300548; 2016a1810300549
Plaintiff,	)	
V.	)	
	)	
KEUNTE DONTRELL COBBS,	)	MOTION FOR SPEEDY
	)	
Defendant.	)	

FILED-RECORDED
 2018 JUN -8 PM 3:59
 CLERK OF COURT
 DORCHESTER COUNTY

The Defendant, by and through his undersigned attorney, hereby shows this Honorable Court:

1. That the Defendant is presently awaiting trial on the charge of Weapons / Articles regulating use, possession of machine guns, sawn off shotguns, rifles; Murder; Attempted Murder; Poss. weapon during violent crime, brought against the Defendant by the State of South Carolina;
2. That the Defendant is informed and believe that he is entitled to a speedy trial and does hereby demand such, as provided in the Sixth Amendment in the United States Constitution and Article 1, Section 9 of the South Carolina Constitution.

Respectfully submitted,



Ash D. Chisholm
 Assistant Public Defender
 107 W. 6th North Street
 Summerville, SC 29483
 (843) 821-9800 Office
 (843) 871-0523 Facsimile
 ATTORNEY FOR DEFENDANT

Summerville, South Carolina
 This 6th day of June, 2018.

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN THE COURT OF GENERAL SESSIONS
THE FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA
Plaintiff,

) Warrant/Indictment Nos.:
) 2016a1810300321; 2016a1810300547;
) 2016a1810300548; 2016a1810300549
) Weapons / Articles Regulating Use,
) Possession Of Machine Guns, Sawn
) Off Shotguns, Rifles; Murder /
) Murder; Assault / Attempted
) Murder; Weapons / Poss. Weapon
) During Violent Crime, If Not Also
) Sentenced To Life Without Parole
) Or Death

v.

BOND MOTION

KEUNTE DONTRELL COBBS,
Defendant.

CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

2018 JUN -8 PM 3:58

FILED RECORDED

YOU WILL please take notice that the undersigned will move on behalf of the Defendant for an Order setting, reducing, and consolidating the Defendant's bond[s] on the 11th day of June, 2018, or as soon thereafter as the matter may be heard.

Respectfully submitted,


Ash D. Chisholm
Assistant Public Defender
107 West 6th North Street
Summerville, SC 29483
Attorney for Defendant
(843) 821-9800

Summerville, South Carolina
This 6th day of June, 2018.

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM DORCHESTER COUNTY
Court of General Sessions

Diane S. Goodstein, Circuit Court Judge

Case No. 2016-GS-18-1267

The State, ...Respondent.

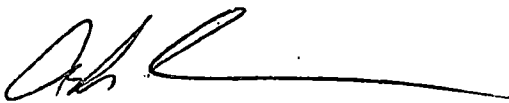
v.

Keunte D. Cobbs, ...Appellant.

NOTICE OF APPEAL

Keunte Dontrell Cobbs, appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Diane S. Goodstein, on January 9, 2020. This appeal is filed at the request of Defendant Keunte Cobbs.

January 17, 2020



Ash D. Chisholm
107 West 6th North Street
Summerville, SC 29483
(843) 821-9800
Attorney for Defendant

RECEIVED

Other Counsel of Record:

Michael Spears
Assistant Solicitor
101 Ridge Street
St. George, SC 29477
(843) 871-2640

JAN 21 2020
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Appeal from Dorchester County
Hon. Diane Schafer Goodstein, Circuit Court Judge

JUL 07 2021

SC Court of Appeals

Appellate Case No. 2020-000095
Lower Court Case No. 2016A1810300547

The State Respondent,

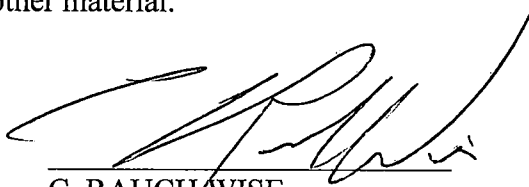
VS

Keunte D. Cobbs, ... Appellant

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

June 24th, 2021



C. RAUCH-WISE
Attorney at Law
305 Main Street
Greenwood, SC 29646
(864) 229-5010
S.C. Bar No. 6188

Attorney for Appellant