

VOLUME I OF VI

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Lexington County

Honorable Eugene C. Griffith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KIERIN MARCELLUS DENNIS,

APPELLANT.

APPELLATE CASE NO. 2019-001486

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**FROM THE AUGUST 19-27, 2019 TRIAL: COURT’S EXHIBIT #2 (PHOTO
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**FROM THE NOVEMBER 17-19, 2014 IMMUNITY HEARING: STATE’S EXHIBIT #11
(VIDEO RECORDING), STATE’S EXHIBIT #12 (IPAD VIDEO), STATE’S EXHIBIT
#35 (VIDEO INTERVIEW), STATE’S EXHIBIT #39 (VIDEO RECORDING), AND
STATE’S EXHIBIT #41 (COOK-OUT VIDEO)**

**FROM THE AUGUST 22 & 24, 2017 IMMUNITY HEARING: STATE’S EXHIBIT #2
(CD), DEFENDANT’S EXHIBIT #2 (LEXINGTON PD 2/17/2014), DEFENDANT’S
EXHIBIT #3 (COMBINED VIDEO), AND DEFENDANT’S EXHIBIT #5 (LYNCH
INTERVIEW)**

1 State of South Carolina Court of General Sessions

2 County of Lexington

3 State of South Carolina) Transcript of Record

4)

5 vs.)

2014-GS-32-01440

6 Kierin Marcellus Dennis,)

2014-GS-32-01441

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November 17-19, 2014
Lexington, South Carolina

B E F O R E:

The Honorable Thomas Russo, Judge.

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

Richard S. Hubbard, III, Senior Deputy Solicitor

Shawn Graham, Deputy Solicitor

On behalf of the State of South Carolina

Todd Rutherford, Esquire

Simone Martin, Esquire

On behalf of the Defendant

Stacy S. Johnson, RPR
Circuit Court Reporter

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1 (The following proceedings were held November 17,
2 2014, beginning at 12:04 PM.)

3 **BAILIFF:** All rise. Court's now in session.
4 The Honorable Thomas Russo presiding.

5 **THE COURT:** Thank you, ladies and gentlemen.
6 Please have a seat.

7 All right. We are on the record now with the
8 State versus Mr. Dennis in Indictment 2014-GS-32-1440
9 and 1441. The State is represented by Mr. Hubbard
10 and Mr. Graham and Mr. Dennis is represented by
11 Mr. Rutherford, and this is a hearing to determine
12 the -- whether or not the Defendant is immune from
13 proceeding to be prosecuted under the -- under the
14 statute.

15 And so, Mr. Rutherford, I think, if I'm not
16 mistaken, this is obviously the defense's motion?

17 **MR. RUTHERFORD:** That's correct, Your Honor.

18 **THE COURT:** And I'm ready to proceed to hear your
19 case, sir.

20 **MR. RUTHERFORD:** Yes, sir, Your Honor. Thank you,
21 Your Honor. At this point we would call Keith Adams.

22 **THE COURT:** All right.

23 **MR. RUTHERFORD:** Your Honor, I believe he was one of
24 the witnesses that was here. I think the Solicitor's
25 Office has him in a room, but I just don't have access to

1 those rooms.

2 **THE COURT:** All right. If we could get Mr. Adams
3 out, please.

4 **THE CLERK:** Come on up here, sir. I need you to
5 place your left and raise your right.

6 (Whereupon, Keith Adams was duly sworn by the Clerk
7 of Court.)

8 **THE CLERK:** Have a seat up there, please, sir. Once
9 you're seated, I need you to speak up loud and clear.
10 State your full name. Spell your last on the record.

11 **THE WITNESS:** Keith Dominic Adams, A-D-A-M-S.

12 KEITH ADAMS,

13 having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. RUTHERFORD:

16 Q. Mr. Adams, how are you this morning?

17 A. Good. How are you?

18 Q. Good. Let me take you back, if I could. You are a
19 graduate of Lexington High School; is that right?

20 A. Correct.

21 Q. Okay. And you're how old?

22 A. Eighteen.

23 Q. And did you spend your entire life in Columbia?

24 A. No, sir.

25 Q. Okay. Can you tell us a little about -- a little bit

1 about your upbringing?

2 A. My dad was in the military, so I moved around a lot,
3 and I've lived several different places, sever -- several
4 different countries. That's about it.

5 Q. And what are you doing now?

6 A. Currently getting ready to go to basic training at
7 Fort Leonard Wood, Missouri.

8 Q. Okay. And so you're in the Army?

9 A. Yes, sir.

10 Q. Okay. Tell us, if you could -- I'm gonna take you
11 back to February 17th, and if you could tell us -- there
12 was a basketball game that name, correct?

13 A. Correct.

14 Q. And was anything out of the ordinary? Did anything
15 out of the ordinary happen at that basketball game?

16 A. No, sir, not at the game. When we were leaving the
17 game, we walked out through the doors and some person from
18 Dutch Fork --

19 Q. Now when you say "we" -- I don't mean to stop you.
20 When you say "we", who was "we"?

21 A. Well, all of us were leaving; me, Kierin, Will, Lucky.
22 Like everybody was leaving the game.

23 Q. And, if you could, state their last names because --

24 A. Kierin Dennis, Will Zander, Morgan Zander and Lucky
25 Cook.

1 Q. Okay. And so all of you-all were leaving the
2 basketball game?

3 A. Yes.

4 Q. Okay. I'm sorry. Go ahead.

5 A. And we all got mixed up in the crowd, so I don't know
6 where Kierin Dennis, Lucky Cook or Will or Morgan Zander
7 were at that time. I left the game. I left through the
8 front doors and all of the Dutch Fork people were supposed
9 to go out through the back and some didn't, they came out
10 through the front. As I was walking down the steps, some
11 guy --

12 Q. I'm sorry, let me stop you again. You said they were
13 supposed to go out the back. What do you mean they were
14 supposed to go out the back?

15 A. There's two entrances to the gym. There's the back
16 way by the old gym and then the main entrance for the new
17 gym, and they were supposed to go out the back way.

18 Q. Why is that?

19 A. I guess they didn't want anyone mixed up in -- or an
20 altercation.

21 Q. They didn't want the two teams mixing together -- the
22 fans from the two teams?

23 A. Correct.

24 Q. Okay. So go ahead. You-all went out?

25 A. And as I was walking down the steps, someone from

1 Dutch Fork said something, I don't recall what they said,
2 and I turned around and said something back and then I was
3 like "Look, I don't even care about this basketball game",
4 and he kept going on and on and then some officer grabbed
5 me and told me you need to go to your vehicle and I said
6 okay. And I parked over there by tech and he said you need
7 to walk all the way around and I said okay.

8 Q. Now when you say "tech", you parked by "tech", tell
9 the judge what that means.

10 A. When you go into Lexington High School, you come in
11 through the main parking lot and there's a breezeway.
12 There's two parking lots. If you go to the right, it's --
13 they call it the high school parking lot and the left is
14 the technology center and I parked over there by the
15 technology center, and the gym is straight back. So we
16 were coming out and then he let me go and I started walking
17 to my vehicle and I crossed the road and got into the
18 technology center parking lot. Once I got in the parking
19 lot, they kept following me and then I, like, turned around
20 and --

21 Q. When you say "they" kept following you, who was
22 following you?

23 A. The people from Dutch Fork.

24 Q. Okay.

25 A. And as I was in the tech parking lot, I like turned

1 around because there's sixty, seventy people behind me and
2 I didn't want someone coming up behind me, so I turned
3 around and I was like back-walking, and by that time there
4 was like a circle around me and that circle came around me
5 and they're like doing the Nae Nae and --

6 Q. Let me stop you. When you say there was a circle
7 around you, there was a circle around you of people asking
8 you to go to a game next week? What do you mean there was
9 a circle around you?

10 A. Like the guy that was following me into the tech
11 parking lot and then, I guess, him and everyone else he
12 was with started following me, too, and then I was like
13 backwards walking and they formed a circle around me.

14 Q. Okay. And what were they saying?

15 A. They were doing the Nae Nae and they were talking
16 junk.

17 Q. Let me -- let me stop you. When you say doing the
18 Nae Nae, that is -- can you describe to the judge what that
19 is?

20 A. It's a dance that --

21 **THE COURT:** I -- I have a young daughter. I know
22 what --

23 **MR. RUTHERFORD:** Okay. I won't try to -- I was
24 waiting to see how he was gonna do it.

25 **THE COURT:** Now he can dem -- demonstrate if he

1 wants, but I know what it is.

2 BY MR. RUTHERFORD:

3 Q. So they were doing the Nae Nae and --

4 A. Yelling.

5 Q. -- yelling stuff to you, saying stuff to you?

6 A. Yes. I don't recall what they were saying, but I do
7 remember what the person looked like who was sitting there,
8 who the main guy was.

9 Q. Would you like to describe him?

10 A. He was wearing a white shirt, a tie, jeans, and like
11 just tennis shoes.

12 Q. Okay.

13 A. And while I was in that circle, Will Zander like -- I
14 don't know where he was, he came out of nowhere like and
15 got in the circle beside me, and me and him were standing
16 side by side. And then Officer Grant came in toward that
17 same group with a Taser and everybody was like scattering,
18 and there was a group of people that were not corresponding
19 to Officer Grant and they -- Officer Grant got them to
20 their vehicle, but they weren't leaving, so like he was
21 like over there with them and another officer came up in
22 that circle also and then by that time I got in my vehicle
23 and we were leaving.

24 Q. So when Officer Grant came into the circle, what do
25 you think made him come into the circle? Had it gotten

1 hostile? What made him come into the circle?

2 **MR. HUBBARD:** Speculation, Your Honor.

3 **THE COURT:** Sustained as to the speculation.

4 BY MR. RUTHERFORD:

5 Q. So when he came into the circle, what did you -- what
6 were you perceiving from the circle around you?

7 A. What do you mean?

8 Q. What did you think they wanted to do to you, for you?

9 A. Trying to fight, hurt me, do something.

10 Q. Okay. And at this point you said Will Zander had come
11 into the circle with you?

12 A. Correct.

13 Q. And what was he doing?

14 A. He just came in and got right beside me.

15 Q. Okay. And so at this point, Officer Grant came in,
16 made the crowd disperse and you then got into your car?

17 A. Correct.

18 Q. Okay. And then what happened?

19 A. And then as we were leaving, I -- I saw Kierin pulled
20 over at the gas station and so I pulled into the gas
21 station and then Will and all them saw us over there and we
22 got to the gas station and we were all -- Will and Morgan
23 were hungry, so we decided we were gonna go eat.

24 Q. Let me stop you quick. Who is in whose car?

25 A. I'm in my vehicle, Kierin Dennis is in his vehicle,

1 Will Zander, Morgan Zander and Lucky Cook are in Will
2 Zander's vehicle.

3 Q. And what kind of car do you drive?

4 A. A Nissan Armada.

5 Q. What kind of car does Will drive?

6 A. An Infiniti. I don't know the type.

7 Q. What color is it?

8 A. White.

9 Q. And what kind of car does Kierin drive?

10 A. A Ford Explorer.

11 Q. Okay. So at this point you-all were all in the
12 parking lot and then what happens?

13 A. And then we decided to go to Sonic to go eat because
14 Will wanted Sonic. We got to Sonic, it was crowded, Will
15 didn't want Sonic, so then we go to McDonald's. Will
16 really didn't want McDonald's and then he wanted Cook-Out
17 because he wanted a milkshake. So then we got to Cook-Out.
18 As we got to Cook-Out, I parked by the old Blockbuster,
19 which is now the new Petsmart, I backed into it, and Kierin
20 Dennis and Will Zander parked down by the car wash.

21 Q. Now you say you-all went to Cook-Out. Is Cook-Out
22 like the hangout spot for Lexington after games?

23 A. Yes.

24 Q. Is it a hangout spot for Dutch Fork students or is it
25 a hangout spot for Lexington?

1 A. Lexington.

2 Q. Okay. How close is it to Lexington High School?

3 A. Two miles down the road. Two, three miles maybe.

4 Q. Okay. So when you-all got there, you said you parked
5 in the old Blockbuster parking lot. Why didn't park next
6 to Cook-Out?

7 A. Because it was crowded. There was no parking spots
8 down there.

9 Q. So you park and then what happens?

10 A. And then when I parked, I was waiting for Kierin and
11 them to get out so we can like all like go inside, but I
12 didn't see them at first because they were still parking
13 and so I finally saw them like walking up and then I got
14 out of my vehicle and we were walking through the parking
15 lot together and we got inside. When we got inside,
16 someone from Dutch Fork stood up and said something and
17 Kierin said, "We're just here to eat", and when he said
18 that they didn't say anything.

19 Q. Do you remember what the person said when you walked
20 into Cook-Out?

21 A. No.

22 Q. And when they -- when they said it, they were talking
23 about the game? They were talking about school? They were
24 talking about homework? If you don't remember exactly what
25 they said, can you give me the gist of it?

1 A. I think he asked if we were still salty, I think. I
2 don't recall what exactly was said.

3 Q. Okay. So whether you-all were still salty about the
4 game, I take it?

5 A. Correct.

6 Q. And Kierin stated?

7 A. We're just here to eat.

8 Q. And then what happened?

9 A. And then Will Zander, Morgan Zander, Lucky Cook all
10 ordered and me and Kierin were all standing up at the front
11 and then these two girls came up and started talking to us
12 and we were just talking to them and then Kierin Dennis
13 received a phone call and so he walked outside.

14 Q. Now how much time has passed just guessing?

15 A. A minute, maybe two minutes. Not a long time. And --

16 Q. Who ordered food at this point? Did you order food?

17 A. No, sir, I did not. Morgan and Will did and Lucky
18 did, I think.

19 Q. What about Kierin?

20 A. No.

21 Q. Okay. So Kierin gets a phone call and what happens?

22 A. And he steps outside to receive it and he was standing
23 like right outside the door by the trash can and I didn't
24 want him to go outside by himself, so I just walked outside
25 and stood beside him.

1 Q. What do you mean you didn't want him to out by
2 himself?

3 A. There was -- there was a lot of people inside and when
4 we walked in and they asked us if we were still salty or
5 whatever they said and Kierin just said we're just hear to
6 eat, it seemed kind of tense, so I just went outside with
7 him.

8 Q. But I thought this was a hang out for Lexington High
9 School kids. So what do you mean it seemed kind of tense?

10 A. Like when all of them were inside, there was forty or
11 fifty of them inside.

12 Q. When you say forty or fifty of them, do you mean Dutch
13 Fork students?

14 A. Yes, sir.

15 Q. How many students from Lexington?

16 A. Ten, fifteen maybe.

17 Q. So about forty Dutch Fork children or kids and ten
18 Lexington kids. So when Kierin walked outside, you walked
19 outside with him?

20 A. Correct.

21 Q. And then what happened?

22 A. And then he was on the phone and I was just standing
23 there looking at my phone and right after that Morgan
24 Zander, Will Zander and Lucky Cook walked outside and we
25 were standing by the trash can and then some guy from Dutch

1 Fork walked outside and he walked past us and he asked if
2 we were still salty, I do remember that, and he -- he was
3 like walking away and saying it and then he stopped in the
4 parking lot and like turned around and like threw his hands
5 up and then I heard Will -- I think he called -- the guy
6 called Morgan a bitch and -- sorry, Your Honor.

7 **THE COURT:** That's all right.

8 A. And Will replied, "Don't call my sister a bitch".

9 Q. So this is the same gentleman that you encountered
10 earlier that asked whether you were still salty or you
11 don't know?

12 A. Yes.

13 Q. Okay. So the same guy that had said something when
14 you walked in said something again this time when you-all
15 were outside?

16 A. Yes.

17 Q. And when you-all were outside, how many people at this
18 point are outside the Cook-Out?

19 A. It was me, Kierin, Will, Morgan and Lucky and then him
20 when he walked out.

21 Q. So when he walks outside and he says are you-all still
22 salty, who -- did anybody say anything back to him?

23 A. No. I mean, I think Morgan might have said something
24 to him or like "no" or just like a simple answer and then
25 he called her a "bitch" and Will said "Don't call my sister

1 a bitch", and he like turned around and threw his hands up
2 and when he threw his hands up, everybody out of Cook-Out
3 came outside.

4 Q. So was that like some type of call for them to come
5 outside or just when he did it --

6 **MR. HUBBARD:** Speculation, Judge.

7 **THE COURT:** He can testify to what he observed.

8 A. When he did it, everyone just came outside.

9 Q. Did he do it in a hostile manner or was he wondering
10 whether it was raining outside? How was he throwing his
11 hands up?

12 A. Like this. And then after he -- after he threw his
13 hands up, I told everyone let's just go, let's just leave,
14 and then we start making our way to our vehicles and
15 everybody out of Cook-Out started coming out and all of the
16 Dutch Fork people started like following us and then I got
17 in my vehicle.

18 Q. I'm sorry, wait a minute. So you-all are walking away
19 from Cook-Out?

20 A. Correct.

21 Q. And how many of you is it?

22 A. It's me, Kierin, Will, Morgan and Lucky.

23 Q. Okay. And you-all are being followed by how many
24 people?

25 A. Forty let's say.

1 Q. Okay. And so you-all are walking. Are you talking?
2 Are you saying anything?

3 A. No, sir, just walking away, going straight to my
4 vehicle.

5 Q. Well, why were you walking away? Cook-Out is a public
6 place. Why did you walk away?

7 A. Because all of them like rushed out of Cook-Out and
8 there was just a lot of them.

9 Q. Did you feel threatened?

10 A. Yes.

11 Q. So as you're walking away from Cook-Out and these
12 people are following you, you had a long way to go to your
13 car or it was a short distance or what?

14 A. Kind of a long way.

15 Q. Okay. And so did they follow you all the way to your
16 car?

17 A. No, sir, because I kind of like speed-walked to my
18 truck.

19 Q. So you were speed-walking?

20 A. Yes, sir.

21 Q. Why were you speed-walking?

22 A. Just trying to get out of there in a fast manner.

23 Q. And at this point what are you feeling as you're
24 speed-walking to your car? Were you trying to exercise,
25 were you --

1 A. No, I was just threatened, like scared.

2 Q. All right. And so when you get to your vehicle, was
3 anybody in the car with you?

4 A. No, sir.

5 Q. Okay. What happens to the other people that are with
6 you?

7 A. They start making their way to their vehicle.

8 Q. Okay. And then what happened?

9 A. And then after I got in my vehicle, Kierin, Will,
10 Morgan and Lucky, they were like -- there was like a little
11 gap in between Kierin, Will, Lucky and Morgan and the Dutch
12 Fork people, and when I got in my vehicle I like came up
13 like out of the parking lot and like put my truck in
14 between both those pe -- both of the group of people.

15 Q. Why did you do that?

16 A. So no one could like get in an altercation or anything
17 or they couldn't mess with any of us. Just kind of create
18 a barrier.

19 Q. You felt the need to create a barrier between the
20 Dutch Fork kids and the people that you came to Cook-Out
21 with?

22 A. Yes.

23 Q. Okay. And so once you put your truck there to create
24 this barrier, did the Dutch Fork kids stop approaching them
25 or stop following them?

1 A. Somewhat, yes.

2 Q. Okay. And so then what happened?

3 A. And then Kierin got in his vehicle, Will, Morgan and
4 like Lucky got in theirs, and Kierin came up out of the car
5 wash and parked side by side like this.

6 Q. With who -- or I'm sorry.

7 A. I was facing this way, Kierin was facing this way, and
8 then Will came all the way up and got behind me.

9 Q. All right. He came up in his car or he came up
10 walking?

11 A. In his car. We're all in our vehicles by that time.

12 Q. Okay. And then what happened?

13 A. And then me and Kierin were just sitting here side by
14 side talking and I was like what are you about to do and he
15 said, "I'm about to go home because I've got to get up at
16 five and go to work", and then he asked me what I'm gonna
17 do and I told him that I guess I'm just gonna go home since
18 he has to get up early. And I had recently moved by then,
19 so I had like a 45-minute, hour drive by that time, and so
20 we were just sitting there talking about that, and then
21 after that, I get ready to leave. Once I start pulling out
22 of the parking lot, I pulled out and I turned right going
23 towards Wal-Mart and the Interstate.

24 Q. And why didn't you go out the other way? Because were
25 the Dutch Fork kids where you were headed?

1 A. No, I was going -- I don't go to the light because it
2 takes forever to turn and I was just going out and going
3 right there.

4 Q. Okay. But that took you right by where the Dutch Fork
5 kids were, correct?

6 A. Correct.

7 Q. Okay. And so then what happened?

8 A. And then -- then I realized I was going the wrong way
9 because I needed to be on the Interstate to get -- get on
10 20 to go East towards Clemson Road, and when I did that
11 Kierin and Will, they were like following me, but they like
12 stopped and that's when I turned into Walgreen's.

13 Q. And you say they were following you, but they weren't
14 in the same car. So who was behind you, do you remember?

15 A. Will and then Kierin --

16 Q. Okay.

17 A. -- was behind me.

18 Q. And so you turned out onto the main road?

19 A. Correct.

20 Q. And then you realized you were going in the wrong
21 direction; is that --

22 A. Yes, because I didn't want to get on the Interstate
23 all the way down at Exit 61 all like past Target and all
24 that, so I was gonna go get on the interstate by the
25 sheriff's department on Number 6, so then I turned into

1 Walgreen's and then saw they were stopped and so then I
2 like turned on that side road and I was coming up that
3 side road and Kierin's vehicle stopped and Will's vehicle
4 stopped and then when I was coming up that side road, I see
5 Kierin take off.

6 Q. Now when you say stopped, were they stopped on the
7 main road? Were they stopped where you had left them?

8 A. They were stopped like on the main road from Cook-Out
9 I guess you could say.

10 Q. Okay. Now you're parked now at Walgreen's?

11 A. No, sir. I was -- I was still in the drive coming up.

12 Q. Okay. And so you're driving towards their location?

13 A. Correct.

14 Q. And then you see Kierin and Will stopped?

15 A. (Nods head.)

16 Q. And then you see Kierin take off?

17 A. Correct.

18 Q. Did you notice anything about -- when their cars were
19 stopped, did you see anybody around them?

20 A. Yes, there were twenty, thirty people. I -- I don't
21 know exactly how many. There were a lot of people around
22 his driver's side and then some along the front.

23 Q. And Will?

24 A. He was outside.

25 Q. Okay. What was Will doing outside?

1 A. Standing there, just -- he was just outside his car
2 standing there.

3 Q. Okay. Now let me take you back to the high school.
4 Did you ever entice or encourage or invite anyone from
5 Dutch Fork to come to the Cook-Out?

6 A. No.

7 Q. Did you ever entice, encourage or invite anyone to
8 fight you at the Cook-Out?

9 A. No, sir.

10 Q. Okay. Did you ever while you were in Cook-Out invite,
11 entice or encourage anyone to fight you while you were in
12 Cook-Out?

13 A. No, sir.

14 Q. When you were walking to your car after you left
15 Cook-Out, did you then encourage, entice or invite anyone
16 to fight you while you were walking to your car?

17 A. No, sir.

18 Q. Okay. Now at this point you're watching as Will -- as
19 Kierin drives off. What happens then?

20 A. After he drives off, Will drives off and then I'm like
21 following and I was trying to catch up to Kierin, but I
22 didn't want to speed and he wasn't speeding, so I didn't
23 want to break the law and then -- so we -- I turned on the
24 -- where the four-way is by the sheriff's department, I
25 don't know what the name of that road is --

1 Q. Okay.

2 A. -- and I called -- I called him and I asked him if he
3 stabbed anyone because I'd recently got a phone call from
4 Taylor Long.

5 Q. When you say recently, do you mean the day prior to or
6 do you mean --

7 A. No, like right as I was leaving Cook-Out and saying
8 your friend just stabbed someone and she like was going
9 off and yelling and so I hung up with her and then I called
10 Kierin and asked him if he stabbed someone and he said
11 "I'm not saying I did, I'm not saying I didn't", and then
12 that was the first phone conversation we had and then --

13 Q. Now Taylor Long goes to Lexington or goes Dutch Fork?

14 A. Dutch Fork.

15 Q. Okay.

16 A. And then I turned left at the four-way by the
17 intermediate school and I was driving down that road and I
18 see blue lights and an officer in the opposite direction.
19 The officer does a U-turn, gets behind me. I pull into the
20 intermediate school and he was behind me for a little bit
21 and then he made another U-turn and got back on the main
22 road and left, so then I just turned back around and left
23 the same way I was going and when I was going that way, I
24 saw him do another U-turn. By that time I made a right
25 onto Number 6. When I made that right, he was like right

1 behind me and so I pulled over into a -- like apartment
2 complex, I think it was, and he pulled me over, asked me if
3 I knew there was a stabbing. I told him "no" because, I
4 mean, I didn't know that a stabbing had happened and I
5 didn't want to lie to him and then -- so I got out of my
6 vehicle. He asked me if I had any weapons. I told him I
7 had a knife on my side, on my left side, and he told me to
8 keep my hands on the steering wheel and reach with my right
9 hand and grab it. I did that, put it on the dash. He
10 asked me why I had so many knives in my vehicle. I told
11 him I fish and hunt a lot. I had three knives in my
12 vehicle. I had my fillet knife, another knife that always
13 stays in there and a knife that I always carry. And then
14 he asked me why I had handcuffs and I told him that I was
15 in law enforcement in high school and I recently just got
16 out of high school or graduated from high school, so I
17 still had them in my vehicle, and by that time he let me
18 leave. I called Kierin back and I told him I just got
19 pulled over and I asked him if he stabbed anyone and then
20 he said "Yes". And then he asked me what he should do with
21 the knife, should he bury it or should he throw it in a
22 lake or pond, and I -- I said yes to the bury.

23 Q. Okay.

24 **MR. RUTHERFORD:** Begging the Court's indulgence.

25 **THE COURT:** Yes, sir.

1 | **MR. RUTHERFORD:** No further questions at this time.

2 | **THE COURT:** Mr. Hubbard.

3 | **MR. HUBBARD:** Yes, sir, Your Honor.

4 | CROSS-EXAMINATION

5 BY MR. HUBBARD:

6 Q. Keith, we've met one time?

7 | A. Correct.

8 Q. When you met with me, Detective Brent Carter was there
9 as well?

10	A. Correct.

11 Q. And you mentioned as you and your friends were leaving
12 the high school game, this fella in a white shirt or
13 whatever asked if you're salty, right?

14 | A. Yes.

15 Q. What does that mean?

16 A. It's like a slang term for like are we still mad about
17 the game.

18 Q. All right. And does he attack you at that time?

19 | A. No.

20 Q. He just asked you are you still mad about the game?

21	A. Correct.

22 Q. When you walk outside and you say there's this group
23 following you, well, isn't it true, it's a parking lot,
24 they're all going to the parking lot?

25 | A. Correct, but not where I was parked.

1 Q. So no one else was parked over at the technology
2 center?

3 A. Yes, other people were parked there, but not as far
4 back as where I was parked.

5 Q. So you were off alone at the technology center?

6 A. Yes, I was in the last parking space all the way in
7 the technology parking lot.

8 Q. When you're walking --

9 **MR. RUTHERFORD:** Your Honor, I don't mean to
10 interrupt his flow, but I think he's asking one thing
11 and he's answering another. I think he's talking about
12 the Cook-Out and he's answering --

13 **MR. HUBBARD:** I'm talking about the school.

14 **MR. RUTHERFORD:** -- but he's answering --

15 **THE COURT:** I think they're on the same page. I
16 think --

17 **MR. RUTHERFORD:** Okay. No problem.

18 **THE COURT:** -- Mr. Hubbard's referring to the school
19 parking lot and Mr. Adams is -- is responding to the
20 school parking lot.

21 **THE WITNESS:** That's correct.

22 **MR. RUTHERFORD:** I'm sorry.

23 BY MR. HUBBARD:

24 Q. You said something about a group of people follow you
25 and they form a circle. Now isn't it true the Dutch Fork

1 kids were out there singing and dancing in that parking
2 lot?

3 A. Correct.

4 Q. Isn't it true they were doing the Nae Nae?

5 A. Correct.

6 Q. Isn't it true that you and your friends were the ones
7 that actually walked into the circle while they're doing
8 the Nae Nae?

9 A. No.

10 Q. So you say you walked in it by yourself?

11 A. No, sir. I was back-walking to my vehicle because
12 they were following me --

13 Q. Uh-huh.

14 A. -- and they were like fast-walking towards me,
15 running, like a slight jog, and then they formed a circle
16 around me.

17 Q. So it just forms around you?

18 A. Correct.

19 Q. Why you?

20 A. I could not tell you.

21 Q. So out of all the Lexington kids that were at that
22 game you get picked?

23 A. Correct.

24 Q. And you didn't do or say anything to draw attention
25 from the Dutch Fork crowd?

1 A. No, sir, not from when we walked out the door and that
2 Dutch Fork guy said something to me.

3 Q. And you didn't respond back?

4 A. I did respond.

5 Q. What did you say to him?

6 A. I said "I don't care about this dumb-ass game".

7 Q. And that's it?

8 A. Yes.

9 Q. And from that this guy follows you with a crowd and
10 they form a ring around you?

11 A. Yes.

12 Q. And you said something about Will coming in and saving
13 you?

14 A. Correct.

15 Q. Now do you recall -- now your attorney asked if you
16 ever did anything to encourage or entice anybody or ask
17 them to fight. Isn't it true somebody in your group did do
18 it that in that parking lot?

19 A. What do you mean?

20 Q. Isn't it true that one of the guys you were with did
21 tell that crowd let's fight?

22 A. I don't recall, but I do remember saying to the guy
23 that he wasn't going to do anything so he could, like, get
24 in his truck and leave.

25 Q. Do you not recall telling Officer Carter when we met

1 on November 5th that Will told these kids "Let's meet
2 somewhere to fight"?

3 A. He did not say to fight, but I do remember him saying
4 let's meet. I don't know if he was talking to the crowd
5 or talking to me, Kierin, Will, Lucky and Morgan.

6 Q. Do you not remember telling this officer that he was
7 talking to the crowd and that your impression of it was he
8 was asking them to go fight? Do you deny that?

9 A. No, Your Honor. I mean, no, sir.

10 Q. So you did tell this officer that?

11 A. I told him exactly what I said; that Will did say
12 that, but he did not say let's meet somewhere and fight.

13 Q. What did he say then?

14 A. What I heard him say, let's meet somewhere, and I
15 cannot tell you where he said it.

16 Q. And do you remember telling that officer that your
17 impression at that time was he wanted to fight?

18 A. I don't remember.

19 Q. You don't remember just this month telling that
20 officer just a few weeks ago that that was your impression
21 of Will's statement?

22 A. It could have been. I honestly don't remember.

23 Q. Do you recall hearing Kierin -- or Kierin telling
24 students "Let's meet at Cook-Out, I've got something for
25 you there"?

1 A. No, sir. I did not -- I had no idea where Kierin was
2 at this time.

3 Q. Now you said the Cook-Out is a Lexington hangout. It
4 was a fairly new restaurant, correct?

5 A. Yes.

6 Q. A fairly popular restaurant?

7 A. Yes.

8 Q. Particularly for young people?

9 A. Yes.

10 Q. Fairly normal for kids from all schools to go there
11 after the game, correct?

12 A. I do not know because I've never seen other students
13 at that but Lexington.

14 Q. And when you got there were Lexington students there?

15 A. Yes, I saw a couple.

16 Q. A couple? Well, did you see Maverick Bishop?

17 A. No, but I heard that he was there.

18 Q. Bender Braxton?

19 A. No.

20 Q. Joshua Brooks?

21 A. Yes, I saw him.

22 Q. David Clouter?

23 A. Cloutier?

24 Q. However you say it.

25 A. Yes.

- 1 Q. It must be French. Ryan Huff?
- 2 A. I don't know who that is.
- 3 Q. Austin Sanders?
- 4 A. Yes.
- 5 Q. Aubrey Walker?
- 6 A. Yes.
- 7 Q. So they're -- when you got there, were they fighting
- 8 anybody?
- 9 A. No.
- 10 Q. Everything seemed fine with them?
- 11 A. Yes, sir.
- 12 Q. Well, let's talk about why you went there. You say
- 13 Will's hungry and y'all meet up at the gas station across
- 14 the street from the high school?
- 15 A. Yes.
- 16 Q. To side -- to decide where to go?
- 17 A. Where to eat, yes, sir.
- 18 Q. Okay. First it's Sonic?
- 19 A. Correct.
- 20 Q. Lot of kids go to Sonic to eat?
- 21 A. Correct.
- 22 Q. Then it's McDonald's, but y'all don't want to eat
- 23 there?
- 24 A. Correct.
- 25 Q. Finally, y'all choose Cook-Out?

1 A. Correct.

2 Q. And it's so Will can eat?

3 A. Yes, he wanted a milkshake.

4 Q. Eat or have a milkshake?

5 A. He said he was hungry.

6 Q. But he was just interested in a milkshake?

7 A. Correct.

8 Q. Y'all get there and there's a crowd of cars, correct?

9 A. Correct.

10 Q. In fact, you can't even park in the parking lot it's
11 so crowded, right?

12 A. Correct.

13 Q. Now y'all have just left the game where you've
14 described all this tension and of all the places to go
15 y'all walk in here to a place where it's very obvious
16 there's Dutch Fork kids.

17 A. We did not know that from the outside.

18 Q. Do you recall telling Officer Carter that you were the
19 first one of your group to get there and you parked over at
20 the old Blockbuster?

21 A. Yes.

22 Q. Do you recall telling him you had to wait on Kierin
23 and Will to get there?

24 A. Yes.

25 Q. Do you recall telling Officer Carter that when they

1 got out of the car it took a while?

2 A. Yes.

3 Q. And when you met up with them, Kierin said something
4 to you?

5 A. Yes.

6 Q. He said something about those Dutch Fork kids were
7 rocking the car of one of your Dutch Fork buddies. Do you
8 remember that?

9 A. I do not have a Dutch Fork buddy, but --

10 Q. I mean, a Lexington High School buddy. Excuse me.

11 A. Yes.

12 Q. What -- what person was that?

13 A. Austin Sanders.

14 Q. And that that had happened at the Cook-Out?

15 A. In the drive-thru he said.

16 Q. So this is when -- before y'all even walk into
17 Cook-Out, right?

18 A. Yes, we were walking through the parking lot almost to
19 the door.

20 Q. So the fact is you did know as you're walking through
21 the parking lot that Dutch Fork kids were there?

22 A. Yes, but we did not know how many or that many.

23 Q. And you didn't know if that statement was true or not,
24 whether that had really happened, did you?

25 A. Yes. Correct.

1 Q. But you walk in anyway, y'all go in, and a guy asks
2 you what?

3 A. Are we still salty.

4 Q. Do you remember hearing the words -- relaying "Is that
5 all y'all brought"?

6 A. No, but it could have been said.

7 Q. Now if you guys are walking in, y'all have just had a
8 confrontation at the basketball game, you've just heard of
9 an incident out in the parking lot and you're walking in,
10 is that all you've brought, what did y'all do? Turn around
11 and leave?

12 A. No, I did not hear that, but Kierin said "We're just
13 here to eat", and he sat down and didn't say any --
14 anything else.

15 Q. And it got calm?

16 A. Correct.

17 Q. Nobody attacked y'all in that restaurant, did they?

18 A. No.

19 Q. Everybody was there just enjoying their mood -- their
20 food, right?

21 A. Correct.

22 Q. At no time did anybody walk up to your group and say
23 let's go outside and fight?

24 A. No.

25 Q. So it wasn't so bad in there?

1 A. No, sir.

2 Q. All right. Now you say at some point Kierin gets a
3 phone call and he walks outside?

4 A. Correct.

5 Q. And you said something about Will's big, he can take
6 care of himself, but I want to go outside because of
7 Kierin?

8 A. Correct.

9 Q. You didn't want him to be by himself?

10 A. Correct.

11 Q. What threats were made to Kierin in the restaurant
12 that you heard that he would need that kind of protection
13 from you?

14 A. None, but I just didn't want him by himself outside.

15 Q. There's nobody else outside.

16 A. I know, but I didn't know if someone was gonna come
17 outside or not.

18 Q. So in your mindset, you were in a defensive mode. I'm
19 gonna protect my friend because there might be trouble.
20 That's what you're thinking?

21 A. No, but it was just because Kierin was outside by
22 himself and Will, Morgan and Lucky were inside and they
23 just ordered. And Will was a big guy, so like if anyone
24 said anything to him, he's fine.

25 Q. And you walked outside to protect your friend even

1 though nobody's out there?

2 A. I just walked outside to stand beside him.

3 Q. A while ago you said because you didn't want him to be
4 alone.

5 A. Correct.

6 Q. Because you were concerned?

7 A. Correct.

8 Q. And you would be protecting him?

9 A. Correct.

10 Q. Okay. Now while y'all were standing outside, does
11 Will and the rest of the crew come out with you?

12 A. After they received their food.

13 Q. You keep saying food. It's just -- they got
14 milkshakes?

15 A. Milkshakes.

16 Q. Yeah. Now Kierin didn't get any milkshakes, did he?

17 A. No, sir. Neither did I.

18 Q. So the only ones -- and y'all didn't go through the
19 drive-thru. You-all had to go inside to do this?

20 A. Yes, sir, we always go inside. We never go through
21 the drive-thru.

22 Q. All right. Y'all have been there plenty of times?

23 A. Correct.

24 Q. You're coming outside and you say some other kid comes
25 out and passes by y'all and says something about are y'all

1 still salty?

2 A. Correct.

3 Q. Is that all that's said?

4 A. To my knowledge, yes, when he walked by.

5 Q. Do you remember telling Officer Carter that Morgan and
6 Will were exchanging words with him?

7 A. Yes, after he walked about by and said that because he
8 -- he called Morgan a bitch and Will said, "Don't call my
9 sister a bitch".

10 Q. Okay. Just unprovoked he just looked at her and
11 called her a bitch?

12 A. I couldn't tell you why, I was not listening, but
13 that's all I heard.

14 Q. And then they start having it out arguing, right?

15 A. Correct.

16 Q. Nobody ever comes out and beats up your friends?

17 A. No.

18 Q. But they do come outside, right?

19 A. Correct, after he threw his hands up.

20 Q. And isn't it true when he did that you and your group
21 walked towards him?

22 A. I was making my way to my vehicle.

23 Q. But it just happened to be on the other side of the
24 guy you're walking towards?

25 A. Correct, it was directly behind him.

1 Q. Now Will and Kierin's wasn't directly behind him, was
2 it?

3 A. It was diagonal below.

4 Q. But they're walking towards him, too, right?

5 A. Correct.

6 Q. One guy that y'all were walking towards, right?

7 A. Correct. I was walking toward my vehicle.

8 Q. And everybody comes out at that point, correct?

9 A. They started coming out after he threw his hands up
10 and when he threw his hands up, I was like come on y'all,
11 let's just leave, because as soon as he threw his hands up
12 everyone was like outside in a hurry.

13 Q. And when everyone comes out there's a big fight,
14 right?

15 A. No.

16 Q. That's right. Nothing happens, right?

17 A. Correct.

18 Q. No punches are thrown, right?

19 A. Correct.

20 Q. It's just name calling, right?

21 A. Correct.

22 Q. And some of the name calling's coming from your group,
23 right?

24 A. Correct, they're exchanging words.

25 Q. And as y'all walk off, nobody follows you all the way

1 to your car, do they?

2 A. No, sir.

3 Q. Y'all are safe, right?

4 A. Yes, sir. I had to create a barrier.

5 Q. Why? Nobody's walking over that way.

6 A. They were following them.

7 Q. I'll have you look at this. Does this show the
8 Cook-Out parking lot and the old Blockbuster parking lot
9 that's now a pet store?

10 A. Correct.

11 Q. Can you see where you were parked?

12 A. In one of those parking spaces.

13 **MR. HUBBARD:** Your Honor, I'll go ahead and offer
14 this into evidence.

15 **MR. RUTHERFORD:** Without objection.

16 **THE COURT:** All right. That will be State's 1.

17 (State's Exhibit Number 1, a photo enlargement, was
18 marked and admitted into evidence.)

19 BY MR. HUBBARD:

20 Q. Now looking at State's 1, you say you were parked
21 where?

22 A. In one of those two parking spots. No -- yes, sir,
23 one of those.

24 Q. Okay. These kids that are coming out of this
25 restaurant, up here's the door; is that right?

1 A. Correct.

2 Q. They're not over here in the parking lot with you, are
3 they?

4 A. No.

5 Q. Now Kierin and Will, they parked on down at the car
6 wash --

7 A. Correct.

8 Q. -- which you can't see on this. Nobody's walking down
9 there after them, are they?

10 A. They were making their way out towards the parking lot
11 towards that way.

12 Q. Isn't it true they all just kind of congregated right
13 here?

14 A. I do not recall because when I got in my vehicle, I
15 was coming straight down just to create a barrier. They
16 were over -- they were, yes.

17 Q. They created a barrier right here?

18 A. Yes.

19 Q. But nobody is at your door, right?

20 A. No.

21 Q. Nobody's at your passenger door, are they?

22 A. No.

23 Q. Isn't it true if they wanted to fight you they could
24 have been banging on your door, your window, right?

25 A. Correct.

1 Q. Nobody did, did they?

2 A. No.

3 Q. Nobody even got right up on your car, did they?

4 A. No.

5 Q. Nobody was walking down that hill. Your car wasn't
6 just blocking them, was it?

7 A. I felt like it was.

8 Q. But they could have walked right around it, right?

9 A. Correct.

10 Q. But they didn't, right?

11 A. Correct.

12 Q. They stayed right up here, right --

13 A. Correct.

14 Q. -- in the Cook-Out parking lot?

15 A. They were like in the road.

16 Q. Now when you talk about leaving, which way did you go?

17 A. Right.

18 Q. And you go down right here?

19 A. Correct.

20 Q. Who attacked your car as you drove down that road?

21 A. No one.

22 Q. And which way did you turn when you got here to the
23 exit?

24 A. Right.

25 Q. And you said something about I had to pull back

1 around because I realized I was going the wrong way to
2 Highway 1.

3 A. Correct. No, to --

4 Q. I mean, to I-20.

5 A. Yes, because I did not want to get on all the way by
6 Target at Exit 61.

7 Q. Well, you could have gone down by Highway 1, right?

8 A. I don't know. I don't know that way.

9 Q. You're from Lexington. You went to school here?

10 A. Yes.

11 Q. I want to show you Cook-Out.

12 A. Uh-huh.

13 Q. This is the road you got on right here?

14 A. Uh-huh.

15 Q. Does that look right?

16 A. Uh-huh.

17 Q. You have to say "yes" or "no".

18 A. Correct.

19 Q. Main Street, that's Highway 1, right?

20 A. Correct.

21 Q. It goes right to I-20.

22 A. I did not know that.

23 Q. You did not know that and you've gone to school at
24 Lexington?

25 A. Yes. I live forty-five seconds away from the high

1 school.

2 **MR. HUBBARD:** Your Honor, I'll offer this in
3 evidence as well.

4 **MR. RUTHERFORD:** Without objection.

5 **THE COURT:** All right. That's State's 2.

6 (State's Exhibit Number 2, a photo enlargement, was
7 marked and admitted into evidence.)

8 BY MR. HUBBARD:

9 Q. Looking at State's 2, Highway 1 comes right down by
10 the courthouse, right? Where we are right now.

11 A. Correct. I did not know.

12 Q. You don't know there's a Rush's on up here?

13 A. Yes, I know there's a Rush's right across from the
14 McDonald's.

15 Q. So you're very familiar with this part of the road,
16 378?

17 A. Yes.

18 Q. But you're not familiar with Highway 1, one of the
19 main roads in this town?

20 A. Correct, I don't go that way at all.

21 Q. So you turned back to go through the -- what did you
22 say? What parking lot, Walgreen's?

23 A. Correct.

24 Q. Had you been in that parking lot before?

25 A. No.

1 Q. But you'd been to Cook-Out many times?

2 A. Correct.

3 Q. And this whole little area you're just totally
4 unfamiliar with?

5 A. No. I know there's a Walgreen's there, but I don't go
6 to Walgreen's. I don't shop at Walgreen's.

7 Q. When you turned, isn't it true you rode around back
8 behind the Walgreen's?

9 A. No, I did not go behind the Walgreen's.

10 Q. Did you come up through the drive-thru?

11 A. No, I did not come up through the drive-thru.

12 Q. You don't remember telling that to Detective -- or
13 Officer Carter?

14 A. No, sir. I said I came up in front of the drive-thru
15 right there on that side road. There's a side road like as
16 soon as you make a right into the Walgreen's.

17 Q. Right over here?

18 A. No.

19 Q. Well, bottom line, let's get back to Exhibit 1.

20 A. That side road right there.

21 Q. Right here?

22 A. Correct.

23 Q. So you come around this way and then you're watching
24 what happens?

25 A. No, by the time I'm coming up, Kierin takes off.

1 Q. Okay. So you're not really seeing what happened here?

2 A. No, but I could see people around his vehicle.

3 Q. Where is he when you see him?

4 A. Where Number 1 is.

5 Q. Okay. So he's where Number 1, the cruiser is, on this

6 -- on this chart, State's Exhibit 1?

7 A. That's what it looked like from my angle.

8 Q. You would agree with me that's the oncoming lane?

9 A. Correct.

10 Q. So he's in the wrong lane?

11 A. Correct.

12 Q. You would agree with me he's close to this little area

13 where all the Dutch Fork kids were when y'all were getting

14 in your cars, correct?

15 A. I couldn't see that far, but --

16 Q. Listen to my question. You would agree he's close to

17 where all those Dutch Fork kids were when you originally

18 saw them?

19 A. Correct.

20 Q. He's not in the proper lane, which would be lane --

21 where the car Number 3 is, correct?

22 A. Correct.

23 Q. Now before y'all peeled out of here and took off,

24 before you left and came back around, did you ever see Will

25 get out of his car?

1 A. No, Your Honor, I do not remember him getting out of
2 his car.

3 Q. You don't have to call me "Your Honor".

4 A. I mean --

5 Q. I appreciate it. I think there's only one per
6 courtroom.

7 **THE COURT:** That's all right.

8 BY MR. HUBBARD:

9 Q. You don't recall telling this officer that Will got
10 out and opened the back hatch on his Infiniti?

11 A. When he was in front of me or behind me?

12 Q. When he was out here, before y'all decided to leave,
13 you saw him get out of his car and open the back hatch of
14 his Infiniti?

15 A. No, Your Honor, I did not see it, but you -- or the
16 detective said that he stopped in front of me and my lights
17 illuminated it.

18 Q. So you say you didn't see it?

19 A. Correct. I -- I was talking to Kierin at that point
20 in time.

21 Q. So now when Kierin is next to you right here, Will
22 leaves, doesn't he, and then comes back around?

23 A. Will came all the way up and got behind me.

24 Q. And looking at State's Exhibit 1, Will goes down this
25 same road that Kierin had trouble in, right?

1 A. Correct.

2 Q. He circles around this parking lot and comes in behind
3 you, right?

4 A. Correct.

5 Q. So he could have left?

6 A. Correct.

7 Q. He chose not to?

8 A. Correct.

9 Q. And after all this is going on you left and came back,
10 correct?

11 A. Correct, because I saw them stopped in the middle of
12 the road.

13 Q. When you see Will come behind you now, you -- who
14 leaves first, you -- when Will comes back around, you, Will
15 or Kierin?

16 A. I leave first.

17 Q. So you don't see them pull up on this road where we
18 see on State's Exhibit 1?

19 A. No, sir.

20 Q. Did you ever see any metal objects, pipes, bats or
21 anything in Will's possession?

22 A. Yes, sir. After that night when I was back at his
23 house, I saw it in his vehicle.

24 Q. So after all this you went to his house and saw that?

25 A. No, sir. After Detective Carter --

1 Q. Uh-huh.

2 A. -- Carter called me back down to the police station,
3 I went to the police station and once I left the police
4 station it was 4:30 maybe, or I don't really know the time,
5 but I went to go check on his mom and when I got there SLED
6 and everyone was there and I parked in Will's driveway and
7 Will was parked right beside me and I could see it through
8 his window.

9 Q. Okay. When you and Kierin were window to window,
10 which way was Kierin facing? Was he facing the pet store
11 or the Cook-Out?

12 A. The pet store.

13 Q. And y'all have your windows down and you're talking?

14 A. Correct.

15 Q. What are you talking about?

16 A. I asked him what he was about to do because he said he
17 was getting ready to go home because he had to be up at
18 5:00 in the morning to go to work and he asked me what I
19 was gonna do and I said I guess I'm just gonna go home.

20 Q. If I were to tell you you were there for two or
21 three minutes, would you deny that? Door to door.

22 A. No, Your Honor. I mean, no, sir. I don't know how
23 long we were there.

24 Q. You won't contest that?

25 A. I honestly don't know. We're --

1 Q. Do you recall telling Officer Carter that one of the
2 things y'all talked about was how to leave that parking
3 lot, which way to go?

4 A. Yes, sir. I said I heard him and Will talking about
5 it.

6 Q. So you weren't included in that, you just heard them?

7 A. Correct. I was on my phone.

8 Q. Well, where is Will? Is he behind y'all now?

9 A. Correct, and --

10 Q. Does he get out of his car?

11 A. Correct. Y'all said -- or --

12 Q. I want what your memory is.

13 A. My memory was that it was me and Kierin talking right
14 there and Will was just sitting in his car behind me.

15 Q. But you just said you heard Will and Kierin talking.

16 A. You -- or Detective Carter said he got out of his car
17 and came up and then after that I said I think I do recall
18 them saying which way they were going to leave.

19 Q. So you recall that conversation, hearing it, which way
20 to get out of here, correct?

21 A. Yes, because --

22 Q. And there are plenty of other ways to get out of that
23 parking lot, aren't there?

24 A. Correct. Those are the two main ways.

25 Q. There's what?

1 A. Those are the two main ways.

2 Q. Let's just look at some photos real quick.

3 **THE COURT:** Have you seen them?

4 **MR. RUTHERFORD:** I have not, Your Honor.

5 BY MR. HUBBARD:

6 Q. Do you recognize the Cook-Out?

7 A. Correct.

8 Q. Do you see the area where you parked?

9 A. Correct.

10 Q. Do you see this for each one?

11 A. (Nods head.)

12 Q. Car wash?

13 A. Uh-huh.

14 Q. Another aerial view?

15 A. Correct.

16 **MR. HUBBARD:** Your Honor, I have five photographs.

17 I'll offer all of these into evidence.

18 **MR. RUTHERFORD:** Without objection.

19 **THE COURT:** All right. Those will be --

20 **MR. HUBBARD:** 3 through 7, Your Honor.

21 **THE COURT:** 3 through 7.

22 (State's Exhibit Numbers 3, 4, 5, 6 and 7,
23 photographs, were marked and admitted into evidence.)

24 BY MR. HUBBARD:

25 Q. State's Exhibit 3. Is that the Walgreen's?

1 A. Yes.

2 Q. And so that's where you pulled around to go back into
3 that other parking lot?

4 A. No, sir, I did not pull around here. I turned into
5 Walgreen's right here and I turned right there.

6 Q. So just so His Honor knows, if you're over at the
7 Cook-Out you could get out by going out at that exit right
8 there through the parking lot; is that right?

9 A. Yes.

10 Q. In looking at the Cook-Out, y'all were talking about
11 a road right here with no lights, but right -- if you're
12 going right behind the Cook-Out, there's a light right
13 there, isn't there?

14 A. Correct, but that light takes forever, so I don't use
15 the light.

16 Q. But on this night you have students who are hostile
17 to you out in the parking lot, so you just -- it's just
18 inconvenient?

19 A. Correct.

20 Q. Again, another view. You're parked over in this
21 parking lot looking at State's 5. You could have driven
22 right behind Cook-Out, correct?

23 A. Correct.

24 Q. You could have gone to that light, correct?

25 A. Correct.

1 Q. Will and Kierin could have, too, right?

2 A. Correct.

3 Q. Because they're gonna turn which way, right or left?

4 A. Left.

5 Q. And is it easier to turn left on a light or with no
6 light?

7 A. At that point in time there's not a lot of traffic, so
8 without a light.

9 Q. There's just not much traffic, but you have -- it's
10 just after a game and you've got all those people there?

11 A. Correct, there was not a lot of traffic on the road.

12 Q. And if they want to get out, that parking lot actually
13 connects to yet another parking lot.

14 **MR. RUTHERFORD:** Your Honor, is he testifying or
15 asking a question?

16 **MR. HUBBARD:** I'm asking a question. It's "yes"
17 or "no".

18 A. I did not know that.

19 Q. Look at right here.

20 A. Yes.

21 Q. And you know where Will lives and where Kierin lives?

22 A. Yeah.

23 Q. Off of Barr Road?

24 A. Yeah, I think that's the name of it, but, yes.

25 Q. And you don't -- you wouldn't disagree with me that

1 any of these roads here will take you right back to one of
2 those roads taking you straight to Barr Road, right?

3 A. I do not know.

4 Q. Well, bottom line is, no one had to go down this
5 direction that we see on State's Exhibit Number 1. No one
6 had to actually leave that way, did they, that night? It
7 wasn't necessary.

8 A. No, I guess you could say it was not.

9 Q. It was a choice, correct?

10 A. Correct.

11 Q. And it just so happens that night you've got people
12 that y'all say are hostile out there, correct?

13 A. Correct.

14 Q. So y'all chose to drive by hostile people even though
15 there was another way out?

16 A. Correct.

17 Q. And you recall hearing discussion about how to get
18 out?

19 A. Correct, that was it.

20 Q. Now when you get out of there, you say you got this
21 phone call from a girl and then you ended up calling
22 Kierin?

23 A. I don't recall who called who first, but --

24 Q. But you had a conversation on the phone?

25 A. Correct.

1 Q. And when you asked him did he stab anybody, your
2 response -- his response was "I'm not saying I did, I'm not
3 saying I didn't"?

4 A. Correct, I think.

5 Q. You called him later or you talked to him later on the
6 phone and he did admit it, correct?

7 A. Correct.

8 Q. Now after he calls you and says "I'm not saying I did,
9 I'm not saying I didn't", some time after that you get
10 stopped, correct?

11 A. Correct.

12 Q. Now you say you're not familiar with this area of
13 Lexington, but you're making your way around some of these
14 back roads back behind 378 and Highway 1, aren't you?

15 A. I had my GPS.

16 Q. But you're back there?

17 A. Correct.

18 Q. You're not taking a direct route to I-20?

19 A. Correct.

20 Q. You get stopped by an officer with the Town police,
21 correct?

22 A. Correct.

23 Q. Do you remember when that officer asked you do you
24 know about anything that happened at the Cook-Out, do you
25 remember you saying you didn't?

1 A. Correct. He asked me if I knew about a stabbing and I
2 didn't know about one and I didn't want to lie and say I
3 did.

4 Q. Well, you had just gotten a phone call from someone
5 saying Kierin had done it.

6 A. Correct.

7 Q. You had just talked to Kierin and he had said "I'm not
8 saying I did, I'm not saying I didn't".

9 A. Correct.

10 Q. That's kind of an odd statement, isn't it?

11 A. Correct, but I didn't want to blame anyone.

12 Q. And isn't it true when he asked you if you knew
13 Kierin, initially you said no?

14 A. If I knew Kierin?

15 Q. You said -- he asked -- he mentioned the name and you
16 said no.

17 A. I do not recall.

18 Q. And when he stopped you, he asked you about the knives
19 you had in your car, correct?

20 A. Correct.

21 Q. Now you had one on you, correct?

22 A. Correct.

23 Q. You put that on the dash?

24 A. Correct.

25 Q. You had how many other knives?

1 A. Two.

2 Q. Do you recall the officer asking you about a knife in
3 your backseat?

4 A. No.

5 Q. A knife that was unsheathed in your backseat.

6 A. No, Your Honor -- no, sir.

7 Q. What type of knives did you have in your car?

8 A. A fillet knife and two pocketknives or folding knives.

9 Q. Do you recall having a knife in your backseat that
10 looked like a dagger?

11 A. No.

12 Q. Sharp on both sides of the blade --

13 A. No, sir.

14 Q. -- with a straight hilt, kind of formed like a cross?

15 A. No, sir.

16 Q. You deny you had that?

17 A. Yes, sir. I did not have any other knives.

18 Q. Now following up on the knives, that second
19 conversation you had with Kierin -- well, actually it
20 wasn't your second conversation, was it, because you had
21 two calls with him before you got stopped; isn't that
22 correct?

23 A. I do not remember, but, yes, it could be.

24 Q. And so the only thing he said about a stabbing at that
25 point was maybe I did, maybe I didn't?

1 A. Yes, that's all that I remember.

2 Q. Well, in one of the conversations when he finally
3 admits that he did the stabbing, he asked you what to do
4 with the knife?

5 A. Correct.

6 Q. He had more than one knife in his car, didn't he?

7 A. I did not know that.

8 Q. You were unaware that he had four knives in his
9 vehicle?

10 A. Correct.

11 Q. Now he asked you what to do and you said bury them?

12 A. He asked me and I said yes or I responded yes.

13 Q. Now you're aware that the knife he used was buried
14 with yet another knife?

15 A. No, I did not know that until a couple of weeks ago.

16 Q. It was a knife that's called -- what was it called,
17 an Eradicator?

18 A. I don't know the name of it, but --

19 Q. Who gave that knife to Kierin?

20 A. Me.

21 Q. Now Kierin's not a hunter, is he?

22 A. No, but he goes fishing with me some.

23 Q. But you saw the knife or -- or you saw photos of the
24 knife that he used in the stabbing, correct?

25 A. No.

1 Q. You saw a copy, a knife that's almost identical?

2 A. Yes, that's -- yes.

3 Q. That's a hunting knife, correct?

4 A. Correct.

5 Q. It's not a fishing knife?

6 A. Correct.

7 Q. You hunt and fish?

8 A. Correct.

9 Q. You deny giving that to him?

10 A. Correct.

11 Q. But you had claimed you saw it before?

12 A. Correct.

13 Q. When?

14 A. Over the summer in the Publix parking lot.

15 Q. Now let me ask you, too, about these knives. You're
16 going in the Army now?

17 A. Correct.

18 Q. Initially weren't you going in the Marine Corps?

19 A. Correct.

20 Q. Did you ever give him a knife with the Marines on it
21 -- that says "Marines"?

22 A. No. I don't -- I don't even own a knife that says
23 "Marines".

24 Q. But Kierin, to your knowledge, was never looking at
25 going into the Marines?

1 A. He was talking about going -- joining a force at one
2 point.

3 Q. But he never talked to you about the Marines?

4 A. No.

5 Q. After all this is over, you say at some point you see
6 Will and you look and you see something in his car?

7 A. Correct.

8 Q. What did you see in his car?

9 A. A long, round metal object.

10 **MR. HUBBARD:** I beg the Court's indulgence.

11 **THE COURT:** Yes.

12 BY MR. HUBBARD:

13 Q. During your time knowing Will, have you known him to
14 carry around a bat or a bar or a pipe in his car?

15 A. No, I don't -- me and Will aren't really close like
16 that. I've never -- he just started driving, so I honestly
17 don't know.

18 Q. During all your time knowing Kierin, had you ever
19 known him to have numerous knives in his car?

20 A. No. I mean, I knew he had a knife or -- yeah, I knew
21 he had a knife.

22 Q. Well, you gave him one.

23 A. I gave him one, yes, when I was moving out of my mom's
24 house.

25 Q. The knife you knew him to have, what did it look like?

1 A. It was a pocketknife that he bought from Wal-Mart and
2 then he lost it.

3 Q. But other than that, other than seeing him drive
4 around with a pocketknife --

5 A. Right.

6 Q. -- having a pocketknife, had you ever been with him
7 when he had other knives in his car just riding around with
8 knives?

9 A. No. I saw him at Publix with that knife that -- that
10 they called a fixed blade knife that you sheathe, a fixed
11 blade knife, at Publix that one day.

12 **MR. HUBBARD:** No more questions.

13 **MR. RUTHERFORD:** Thank you, Your Honor. May it
14 please the Court?

15 **THE COURT:** Yes.

16 REDIRECT EXAMINATION

17 BY MR. RUTHERFORD:

18 Q. Let me direct your attention back to State's Exhibit
19 Number 1. You said that when you came back around from
20 Walgreen's you could see Kierin's truck; is that correct?

21 A. Correct.

22 Q. Now did it look like this out there or was it dark?

23 A. It was dark.

24 Q. Okay. And you could see Kierin's truck. Where was
25 Will's car?

1 A. Like right up there.

2 Q. Can you mark it with an "X"?

3 A. Yeah. Somewhere up here or up here somewhere. It was
4 along this line.

5 Q. So you put Will's car on the wrong side of the road as
6 well; is that right?

7 A. Correct, or in the turning lane.

8 Q. But you're coming from Walgreen's and it's dark, so
9 when you put their cars there, like you put Kierin's car
10 there, you're looking across a parking lot; is that right?

11 A. Correct.

12 Q. You're not looking overhead like this angle; is that
13 correct?

14 A. Correct.

15 Q. So your judgment is --

16 **MR. HUBBARD:** Objection to leading, Judge.

17 **THE COURT:** Sustained.

18 BY MR. RUTHERFORD:

19 Q. You're -- you are looking at this now from an
20 overhead?

21 A. Correct.

22 Q. And that day when you were looking at the vehicles,
23 were you looking overhead?

24 A. No.

25 Q. Okay. So can you tell me about your vision to this

1 road from where you were coming and whether you could see
2 lanes from where you were coming?

3 A. No, I could not see lanes and this was like a gravel
4 parking lot. They hadn't paved it yet, so.

5 Q. So it didn't look like that?

6 A. No.

7 Q. So this is not an accurate reflection of how it looked
8 at the time?

9 A. No, because this was all gravel. They were like
10 re-doing that.

11 Q. Okay. So when you say all gravel, gravel was all
12 around here? Where did the gravel stop?

13 A. Like right here. Like I guess you could tell like
14 where they were redoing it looked like rocks, gravel rocks.

15 Q. Okay. And when you left Cook-Out, you said you-all
16 were outside; is that right?

17 A. Correct.

18 Q. Then the gentleman came out in the shirt and tie?

19 A. Correct.

20 Q. Why did you-all walk to your cars?

21 A. Because everyone from Cook-Out came outside.

22 Q. And did that make you feel some kind of way?

23 **MR. HUBBARD:** Leading, Your Honor.

24 A. Correct.

25 Q. How did it make you feel when everyone came outside?

1 A. Scared.

2 Q. And when you say scared, you were scared that you were
3 gonna -- that Will was gonna drop his milkshake? Define
4 how you felt. Define the fear that you felt.

5 A. Like they were trying to hurt me or something.

6 Q. Now the Solicitor asked you about why you didn't go
7 out behind Cook-Out. Is there a drive-thru back there?

8 A. Correct. And --

9 Q. And -- go ahead.

10 A. The drive-thru -- the parking lot's small and the
11 drive-thru's always backed up and you can hardly get
12 through there and my vehicle would not fit through there.

13 Q. So your vehicle would not even fit through where the
14 drive-thru was?

15 A. No, not with everybody -- because they put -- they put
16 a cone right here and make you turn off and people park
17 right here and everyone's like in the middle of the road
18 over here and I have a big vehicle kind of similar to that
19 one and it would not fit through there.

20 Q. And so when y'all made your decision to go this way
21 out, that would have been a way from the drive-thru; is
22 that right?

23 A. Yes.

24 Q. You told the Solicitor that someone told Kierin about
25 something that happened at the drive-thru; is that right?

1 A. Correct.

2 Q. What did he say?

3 A. That they were like shaking people's cars in the
4 drive-thru and like dumping milkshakes and stuff on it.

5 Q. So back here where the Solicitor asked you why you
6 didn't go this way was where someone had told you that they
7 were doing things to people's cars?

8 A. Correct.

9 Q. And there was a cone right here which --

10 A. Yes, correct.

11 Q. -- forced people to go this way?

12 A. Yeah, there was always a cone right here to make sure
13 like you can like stay -- move then through the drive-thru.

14 Q. Now when you drew the "X" on -- on the map, you placed
15 that "X" in front of where you said Mr. Dennis's car was;
16 is that right?

17 A. Correct.

18 Q. So you would put Will's car in front of Mr. Dennis's
19 car?

20 A. Correct.

21 Q. In front of meaning that Mr. Dennis, had he gone
22 straight, would have run into the back of Will's car?

23 A. Correct.

24 Q. And you said -- well, did you say that Will was out of
25 his car or in his car?

1 A. Will was like -- I saw Will like outside his car like
2 pretty much like right behind his trunk.

3 Q. So Will was out of his car at that point, so if Kierin
4 had gone straight ahead he would have hit --

5 **MR. HUBBARD:** Objection to leading.

6 **MR. RUTHERFORD:** I'm just trying to rush through
7 it, Your Honor.

8 **THE COURT:** Overruled. I'll let him go on.

9 BY MR. RUTHERFORD:

10 Q. If Kierin Dennis had gone straight ahead, what would
11 he have hit?

12 A. Will and Will's car.

13 Q. Okay. And the Solicitor said that all the kids came
14 out of Cook-Out and they ended up right here; is that
15 right? Or were they --

16 A. Well, they were like on the road right here or like
17 somewhere in this general area.

18 Q. When you said you pulled your truck around to block
19 them from coming -- from following Will, where was that?

20 A. Right here.

21 Q. So you would -- is it true that the kids were also
22 down this way if you blocked them or were they all --

23 A. Yeah, they were like making their way down this way.

24 Q. And, again, can you describe for the judge how they
25 were making their way down there? Were they making their

1 way down there trying to sit down and have a picnic? Is
2 that the impression you got?

3 A. No.

4 Q. Can you tell the judge the impression you got?

5 A. I got the impression of them coming down like wanting
6 to harm Kierin, Will, Lucky, Morgan and me -- or myself.

7 Q. Is that why you placed your truck there?

8 A. Correct.

9 Q. And in doing so, did they stop?

10 A. Correct.

11 Q. And you said that you gave Kierin a knife. Why did
12 you say you gave him a knife?

13 A. I was moving out of my mom's house. It was like -- I
14 moved out of my mom's house at 2:00 in the morning and I
15 was going through my closets and getting all my clothes and
16 my dressers and everything and putting them in my truck and
17 it was laying in my closet and I threw it on my bed and
18 Kierin was looking at it and he asked me what are you gonna
19 do with this and I said I don't know. I mean, you can have
20 it. I don't use it. It sat in my closet forever and I
21 just gave it to him.

22 Q. The Solicitor asked you about when you were in
23 Cook-Out why you went outside with Kierin. Can you tell
24 the judge what you were feeling that made you go outside?

25 A. Just like a -- like tension kind of. I just didn't

1 want anything happening to him, so I was just kind of there
2 beside him.

3 Q. The Solicitor asked you about the direction you went
4 in to get to your car and that the individual that asked
5 whether you-all were still salty was between you and the
6 parking lot; is that right?

7 A. Correct.

8 Q. So when you left, was there a way to avoid him to go
9 to your car?

10 A. No, sir, because he was like pretty much in the middle
11 of the parking lot and I parked straight back from him.

12 Q. The Solicitor said all five of you-all walked towards
13 him. Was he still standing there?

14 A. Yes, or making -- he was making his way back towards
15 us.

16 Q. So he was coming back towards you-all?

17 A. Correct.

18 Q. So he wasn't retreating?

19 A. No.

20 Q. Was he acting afraid?

21 A. No.

22 Q. How was he acting?

23 A. Trying to act tough.

24 Q. So he was trying to act tough?

25 A. (Nods head.)

1 Q. And what did y'all do?

2 A. I walked to my truck, got in my truck, and Kierin,
3 Will, Morgan and Lucky made their way to their vehicles
4 because I blocked them off, and they got in their vehicles.

5 Q. So despite the fact that he was acting tough you-all
6 walked right by?

7 A. (Nods head.)

8 Q. Okay. After you-all walked by, did he follow behind
9 you?

10 A. I don't know because like as soon as I passed him, I
11 was like at my truck like that.

12 **MR. RUTHERFORD:** No further questions, Your Honor.

13 **MR. HUBBARD:** Just a real quick followup.

14 **THE COURT:** Yes, sir.

15 **RE CROSS EXAMINATION**

16 **BY MR. HUBBARD:**

17 Q. The knife that you say that you gave him in your
18 bedroom, do you see it in this photograph?

19 A. Yes.

20 Q. And is that the box it came in?

21 A. Yes.

22 Q. And the knife you said you saw him with at Publix, is
23 that -- is that it? It looks like it?

24 A. It looks like it, yeah.

25 **MR. HUBBARD:** I offer these into evidence.

1 **MR. RUTHERFORD:** Let me see them.

2 **THE COURT:** Any objection?

3 **MR. RUTHERFORD:** Without objection, Your Honor.

4 **THE COURT:** All right.

5 **MR. HUBBARD:** State's 8, 9 and 10, Your Honor.

6 **THE COURT:** Without objection, State's 8, 9 and 10.

7 (State's Exhibit Numbers 8, 9 and 10, photographs,
8 were marked and admitted into evidence.)

9 **MR. HUBBARD:** That's all I've got, Your Honor.

10 **THE COURT:** Anything further of this witness?

11 **MR. RUTHERFORD:** Nothing, Your Honor.

12 **THE COURT:** Thank you very much, sir. You may
13 step down.

14 (Witness excused.)

15 **MR. RUTHERFORD:** And, Your Honor, no objection to
16 him being excused.

17 **THE COURT:** Any objection to this young man being
18 excused?

19 **MR. GRAHAM:** No, sir.

20 **THE COURT:** All right. Folks, I think we're gonna
21 take a break at this point so you folks can eat lunch.
22 It's about -- I'm using the clock back there. It's 1:24.
23 If we could start back at 2:15.

24 **MR. RUTHERFORD:** Yes, sir.

25 **THE COURT:** Thank you. Court will be in recess

1 until 2:15.

2 (Whereupon, a luncheon recess was taken at 1:24 PM.)

3 (Back on the record at 2:32 PM.)

4 **BAILIFF:** All rise. Court's now in session.

5 The Honorable Judge Tommy Russo presiding.

6 **THE COURT:** Thank you, ladies and gentlemen. Please
7 have a seat.

8 All right. If everybody's ready, we'll pick up,
9 Mr. Rutherford, with your next witness, sir.

10 **MR. RUTHERFORD:** Thank you, Your Honor. If it
11 please the Court, at this time we'd call William Zander.

12 **THE COURT:** All right. Mr. Zander. If someone will
13 go get Mr. Zander.

14 **MR. HUBBARD:** We'll get him.

15 **THE CLERK:** Come on up here and place your left hand
16 on the Bible and raise your right.

17 (Whereupon, William Zander was duly sworn by the
18 Clerk of Court.)

19 **THE CLERK:** Have a seat right up there, please, sir.
20 Once you're seated, state your full name and spell your
21 last on the record for us.

22 **THE WITNESS:** Okay. My name is William Zander,
23 Z-A-N-D-E-R.

24 WILLIAM ZANDER,

25 having been duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. RUTHERFORD:

3 Q. Thank you, Mr. Zander. Can you tell the judge how old
4 you are?

5 A. Eighteen.

6 Q. And where did you go to school?

7 A. Lexington High School.

8 Q. And what are you -- did you graduate from Lexington?

9 A. Yes, sir.

10 Q. And what are you doing now?

11 A. I work at K-Mart.

12 Q. How long have you been doing that?

13 A. About a month and a half, maybe two.

14 Q. And what do you do for them?

15 A. I'm a -- I work in the toy section.

16 Q. Okay. Now, Mr. Zander, I'm gonna take you back to the
17 night of February 17th. Can you tell us did you go to the
18 basketball game that night?

19 A. Yes, sir.

20 Q. Did anything stick out in your head that happened at
21 the basketball game?

22 A. After the game.

23 Q. Okay. What happened after the game?

24 A. After the game, we was walking and I remember that --

25 Q. Let me stop you real quick. I'm sorry. Who is "we"?

1 A. Me, my sister, Kierin and Keith.

2 Q. What's your sister's name?

3 A. Morgan.

4 Q. Okay.

5 A. And we was walking to our cars and I remember in the
6 parking lot a group of kids just surrounded us and were,
7 like, dancing and stuff and then I remember looking over my
8 shoulder and there was, like, one of the kids from Dutch
9 Fork was in my sister's face and I remember walking over
10 there and by that time I remember some of the cops that
11 were there had ran up and separated us and told us that we
12 needed to leave.

13 Q. All right. Now let me back you up a little bit. You
14 said you-all were walking, so it was five people?

15 A. No, at this -- at the time the group came up, it was
16 just me and Keith.

17 Q. Okay. So it was two of you-all standing there and
18 what happened?

19 A. They just, like, surrounded us.

20 Q. When you say "they", how many people?

21 A. Twenty-five people maybe.

22 Q. When you say they surrounded you, how did they
23 surround you?

24 A. In a circle.

25 Q. Now did you walk into the circle, is that how you got

1 in the circle, or did they surround you?

2 A. They surrounded us.

3 Q. Okay. So when they surrounded you, what were they
4 doing exactly?

5 A. Just dancing and screaming, making a lot of noise,
6 doing the Nae Nae.

7 Q. Doing the Nae Nae. So they were -- they were dancing
8 and doing the Nae Nae. And what were they screaming?

9 A. Just talking about how they beat us and stuff.

10 Q. Okay. And what were you and Keith doing?

11 A. Just standing there.

12 Q. Okay. And you said that Mor -- somebody got in
13 Morgan's face?

14 A. Yes, sir.

15 Q. What do you mean they got in her face?

16 A. They was just walking up on her a little too close.

17 Q. And what were they saying? Did you hear them?

18 A. No, I was on the other side of the car.

19 Q. And what did that cause you to do?

20 A. I walked around the car and stood between him and my
21 sister.

22 Q. What did he do?

23 A. He, like, took a step back and then by that time one
24 of the officers was there and pulled his Taser and pointed
25 it at him and then that's when he had stopped and he told

1 -- the cop had told him he needed to leave or he was gonna
2 go to jail.

3 Q. Did you know this person?

4 A. No, sir.

5 Q. And did this person go to Lexington or Dutch Fork or
6 do you know?

7 A. I don't really know.

8 Q. Okay. But you didn't know them from going to
9 Lexington?

10 A. No, sir.

11 Q. Did Morgan know them?

12 A. No, sir.

13 Q. Okay. And so what did you do then?

14 A. I remember -- after they told us to get in the car
15 and leave, I remember getting in my car and leaving out and
16 as we left the game I remember seeing Kierin at the gas
17 station and pulled him over.

18 Q. Who was in your car?

19 A. It was just me, my little sister and Lucky.

20 Q. And when you were at -- when you were still at the
21 school or getting in your car, did you ever invite somebody
22 to come fight you at some point?

23 A. Not that I know of.

24 Q. Okay. And you were engaged when you were at the
25 school -- and when I say engaged, I mean you were having

1 dialog with people that you did not know, how many
2 different people that you did not know did you have to talk
3 to at the game? I mean, after the game.

4 A. I didn't. Other than that one boy, I didn't really
5 talk to anybody else.

6 Q. Okay. Did you respond to these people that were
7 yelling stuff at you?

8 A. No, I could care less.

9 Q. Okay. And do you remember exactly what you said to
10 the gentleman that jumped in -- or got in Morgan's face?

11 A. Not really.

12 Q. Okay. But the officer is the one that made him leave?

13 A. Yes, sir.

14 Q. Prior to the officer coming, he was not backing away
15 from you or Morgan?

16 A. No, sir. It was him and it was, like, just more
17 people heading towards me and my sister.

18 Q. Okay. So when you got in your car, who got in the car
19 again?

20 A. Just me, my sister Morgan, and Lucky.

21 Q. And you-all went across the street to the gas station,
22 is that what you said?

23 A. Yes, sir.

24 Q. And then what did you do?

25 A. I remember I was telling him me and my sister was

1 hungry, so we was going to get food and I remember we went
2 to Sonic first. And I forgot why we didn't eat at Sonic,
3 and I remember I thought I was gonna eat at McDonald's and
4 we went to McDonald's, but riding through my little sister
5 was telling me she wanted a milkshake from Cook-Out, so I
6 told -- I stopped them and told them let's go to Cook-Out,
7 my sister wants a milkshake and I'm gonna get some food
8 there. And I remember us pulling up at the Cook-Out. We
9 -- I parked -- followed Kierin to the back and parked on
10 the very right side of the car wash and then I remember us
11 just going into Cook-Out.

12 Q. All right. Now when you get out of your car, it was
13 you and Morgan and Lucky; is that right?

14 A. Yes, sir.

15 Q. So at what point did you see Kierin?

16 A. At the parking.

17 Q. And who else did you see?

18 A. I remember Austin Sanders coming up to us and talking
19 to us and telling us that he was just in the drive-thru and
20 that somebody was messing with him so he ended up leaving
21 the drive-thru or something like that. I remember him
22 saying something along the lines -- them lines.

23 Q. All right. So you then go into Cook-Out?

24 A. Yes, sir.

25 Q. And did you order food?

1 A. Yes, sir.

2 Q. What did you order?

3 A. I know we got two milkshakes. I don't know. I think
4 I got a Cook-Out tray like I usually do, two hotdogs and
5 their fries and stuff.

6 Q. Okay. And did you notice anything when you walked
7 into Cook-Out?

8 A. It was a lot of people there.

9 Q. Did anyone say anything to you?

10 A. Yeah, they asked us if we were still salty about the
11 loss.

12 Q. You say "they". Who -- who's "they"?

13 A. I guess all the people from Dutch Fork at the
14 Cook-Out.

15 Q. But they didn't say it in one voice, did they?

16 A. No, it was one -- it was some dude that was wearing
17 like a white button-down. I don't -- I don't even --

18 Q. You say a white button-down. You mean a shirt like
19 the one that I have on and that you have on?

20 A. Yes, sir.

21 Q. Okay. And what else did he have on?

22 A. And just like a green tie.

23 Q. Okay. And he said, "Are you salty"?

24 A. Yes, sir.

25 Q. How did he say it? Was he sitting in his seat when he

1 said it?

2 A. No, he like -- he was standing up and was along one of
3 the benches and he had his hands out and was like "Y'all
4 still salty or what?" And I remember us just -- we walked
5 in and then I wasn't really worried about the game at that
6 point anymore.

7 Q. Okay. And so when you ordered your food, did you
8 notice anything else going on inside of Cook-Out?

9 A. Just a lot of noise.

10 Q. Did you -- could you tell that there were a lot of
11 Dutch Fork kids in there?

12 A. Yes, sir.

13 Q. Did it seem unusual to you that there were more Dutch
14 Fork kids than Lexington kids?

15 A. Yes, sir.

16 Q. And if you had to guess at the numbers, how many Dutch
17 Fork kids as compared to Lexington kids?

18 A. I would say probably anywhere from eight or ten of the
19 Lexington kids and about twenty-five maybe, thirty Dutch
20 Fork students.

21 Q. Okay. And you then got your food?

22 A. No.

23 Q. Okay.

24 A. I didn't get that far.

25 Q. All right. Tell me what happened next.

1 A. I remember they always bring the milkshot --
2 milkshakes out first. I got mine and I remember Kierin
3 telling us let's leave and then he had a phone call and I
4 remember him walking outside and we stood there for a
5 little bit and then my sister grabbed her drink and then we
6 walked out the doors to see what Kierin was doing. He's
7 still on the phone by this time, so by the time Kierin hung
8 up the phone I remember that same gentlemen that was
9 wearing the white button-down with the green tie that asked
10 us if we was salty walking out the door and he just walked
11 out casual and I thought oh, he was going to his car or
12 something, and then he, like, turned around and I don't
13 remember exactly what he said and he had said something to
14 us and then that's when Kierin was, like, yeah, let's go,
15 and we started walking towards our cars and --

16 Q. Let me stop you. That's the second time that Kierin
17 said let's go?

18 A. Yes, sir.

19 Q. Why did he say it when you were in the Cook-Out?

20 **MR. GRAHAM:** Objection, Your Honor. It's gonna be
21 speculation unless Kierin Dennis explained to him why he
22 said it.

23 BY MR. RUTHERFORD:

24 Q. Did Kierin explain to you why he said let's go?

25 A. He was like -- he felt as if -- he just said we

1 shouldn't be here basically, along them lines. Like you
2 could tell, you know, they wanted something to happen that
3 night.

4 Q. And did you argue with him?

5 A. No, sir.

6 Q. Why not?

7 A. No, because I remember he was, like, don't worry about
8 your food, leave it, and that we could go somewhere else
9 and get some food or we could just go to the house and that
10 he'll reimburse me for the food, so I was, like, all right
11 and then I remember just walking out the doors after him.

12 Q. So he told you to leave your food?

13 A. Yes, sir.

14 Q. And y'all were going to leave?

15 A. Yes, sir.

16 Q. And you didn't find that strange?

17 A. I didn't question him.

18 Q. Why did you not question him?

19 A. Because I could see what he meant. It was just too
20 much going down -- going on in that Cook-Out, so.

21 Q. But you did get your food, right?

22 A. No.

23 Q. You got a milkshake or something?

24 A. A milkshake.

25 Q. Okay. And you did get that?

1 A. Yes, that's the only thing I grabbed.

2 Q. Okay. And then you walked outside?

3 A. Yes, sir.

4 Q. Okay. Now when you get outside, you said the same
5 gentleman that had spoke to you-all on the way in was now
6 walking out, and what happened?

7 A. He -- he said something to us. I don't remember
8 exactly what he said and then Kierin said let's go and then
9 we start -- when we stepped off the curb to head towards
10 our cars, I remember the whole Cook-Out just pouring out.

11 Q. Now describe that. The whole Cook-Out was done eating
12 all at once and so they left?

13 A. No.

14 Q. So what do you mean they all poured out?

15 A. I remember a gentleman saying don't -- I can't even
16 remember, it's been a while, but I remember him saying
17 something along the lines that the boy that was out there
18 in the white button-down and the green tie was not alone
19 and he was not by himself and then I remember some --
20 somebody yelled that out the door and then the rest of the
21 Cook-Out poured out.

22 Q. Okay. And what did they do after they poured out?

23 A. They were just whooping and hollering and stuff. I
24 guess just trying to make us scared.

25 Q. Did they say anything to you?

1 A. No, sir.

2 Q. Did they say anything to any one of the five of
3 you-all?

4 Q. Who did they say something to?

5 A. My little sister.

6 Q. And what did they say?

7 A. They called her multiple names and I remember somebody
8 calling her the "B-word" and that he was gonna slap her or
9 something like that.

10 Q. Okay. Do you know who said that?

11 A. Yes, sir.

12 Q. Who?

13 A. The victim.

14 Q. And what's his -- do you know his name?

15 A. Da'Von Capers.

16 Q. And what did he say to Morgan?

17 A. He was like -- I remember he told -- he turned to one
18 of his friends and said "Hold my drink, I'm about to slap
19 this "B-word".

20 Q. And when you say this "B-word", you mean?

21 A. Bitch.

22 Q. Okay. So he told a friend of his to hold his drink
23 because he was going to slap your sister?

24 A. Yes, sir.

25 Q. What did he do then?

1 A. He just starts acting like he was gonna take off his
2 jacket.

3 Q. And then what did you do?

4 A. That's when I ran to my car, cranked my car up and
5 pulled up that hill from the car wash and told my sister to
6 get in the car.

7 Q. Why did you run down the hill or why did you --

8 A. So I could get my sister out of harm's way.

9 Q. You felt like she was in harm's way?

10 A. Yes, sir.

11 Q. Did you feel like you were in harm's way?

12 A. Yes, sir.

13 Q. Did you feel like Kierin was in harm's way?

14 A. Yes, sir.

15 Q. Did you feel like Lucky was in harm's way?

16 A. Yes, sir.

17 Q. Did you feel like Keith was in harm's way?

18 A. Yes, sir.

19 Q. So after you went and got your car and you pulled up,
20 then what happened next?

21 A. I remember Keith pulling up and Kierin came up the
22 hill and pulled towards Keith and they were talking, so I
23 -- I remember I just drove around that little -- what --
24 what is now that little pet place, their parking lot, and I
25 stopped and I got out of the car and I was talking to them

1 to see what we were gonna do, to see what they were -- to
2 see what we were about to do for the night. And I remember
3 Kierin telling us he had to be at work at 5:00 in the
4 morning the next day, so he was going home, so I remember
5 after he said that we -- I had -- I went back to my car,
6 got in my car and I remember I pulled out. Keith had
7 backed out to head towards Walgreen's, I think it was, or
8 something like that, and I just pulled out again and came
9 through the middle.

10 Q. Now when you say through the middle, why did you go
11 that way if that was where the people had been threatening
12 your sister?

13 A. Well, I could have kept straight and went through
14 the drive-thru way, but that was too packed, it was too
15 congested, and there was -- I never take that way by the
16 car wash, so I was like -- it was just something -- the way
17 I always take.

18 Q. Okay. And what happened?

19 A. And I remember just them yelling something and I
20 remember stopping and my window was already down and he had
21 said some -- they said something to me and I remember just
22 digging in my pocket and grabbed like \$4 out of my pocket
23 and threw it out my window.

24 Q. So when you say you were driving and you then came to
25 a stop, why did you stop?

1 A. I just heard them yelling stuff and they were kind of
2 in the road, so.

3 Q. Did he yell something that bothered you?

4 A. Yes, sir.

5 Q. Do you remember exactly what it was?

6 A. No, sir.

7 Q. And you said they were kind of in the road?

8 A. Yes, sir.

9 Q. Okay. And so when you stopped, what did do you next?

10 A. I reached in my pocket, grabbed the rest of the change
11 I had from paying for me and my sister's food, and I threw
12 it out my window.

13 Q. Now you said that when you pulled up somebody said
14 something to you?

15 A. (Nods head.)

16 Q. When you stopped, how close was the closest person to
17 you? Just tell me when to stop when I get --

18 A. About right there.

19 Q. Okay. So the closest person to your car was right
20 here?

21 A. Yes, sir.

22 Q. Okay. And so you stopped?

23 A. Yes, sir.

24 Q. And what -- was there any dialog between you and that
25 person?

1 A. I -- I remember when I was reaching in my pocket, he
2 had said "What you about to do? Are you about to pull
3 a gun?", and I just looked at him and then that's when I
4 grabbed that handful of money and threw it out the window.
5 And the dude, he, like, took a step back, and then he just
6 went for the money.

7 Q. Okay. And so you're sitting there, you throw this
8 money out of the car and then he comes at your car?

9 A. He took a step back first because I guess when I came
10 up so quick with the money in my hand he didn't know what I
11 had in my hand --

12 Q. Right.

13 A. -- so he took a step back and when the money came out,
14 it basically fell at his feet and then he saw what it was
15 and then I just remember him going for it.

16 Q. And you said "him" going for it. Was he the only one?

17 A. No, sir.

18 Q. Tell me what happened next.

19 A. I just remember a few people that was behind him, they
20 all just went forward when he screamed out "Oh, money".

21 Q. So you then had -- I'm standing this close to you.
22 The money, I assume, landed between where I am and where
23 you are?

24 A. Yes, sir.

25 Q. And then people came towards your car; is that right?

1 A. Yes, sir.

2 Q. Okay. And what did you do?

3 A. I tried to pull forward, but them picking up the money
4 kind of just slowed that down and then I got to the tip of
5 the hill and -- or almost up the hill to leave out and I
6 remember Lucky saying "I think Kierin called you" or
7 something like that, and I remember turning back and then
8 that's when I just saw the mob of people around his car.

9 Q. So looking at this map, would you say this accurately
10 reflects the parking lot?

11 A. Yes, sir.

12 Q. Now you were exactly where when you stopped to throw
13 the money out of the car?

14 A. About where them three cars are lined up.

15 Q. So about right here when you threw the money out?

16 A. Yes, sir.

17 Q. And then you said you pulled forward. Where would you
18 say you pulled forward to?

19 A. About to the end of where them bushes are right there.

20 Q. So about right here?

21 A. No, the other side.

22 Q. Over here?

23 A. Yes, sir.

24 Q. Okay. So where would you say you were exactly?

25 A. About where Number 2 -- the Number 2 car is.

1 Q. Why were you not over here against this curb?

2 A. I don't remember.

3 Q. Okay. And so you were about where the Number 2 car
4 is. When you pulled up, where would that have put you in?

5 A. Like in the middle of the entrance almost.

6 Q. Okay. So about here?

7 A. Yes, sir.

8 Q. Okay. So Kierin was behind you at that point,
9 correct?

10 A. Yes, sir.

11 Q. So -- and you said you stopped?

12 A. Yes, sir.

13 Q. Because Lucky said?

14 A. Kierin called my name or something like that, was
15 screaming my name.

16 Q. All right. So what happened?

17 A. I remember when I stopped I had a pole in my car. I
18 grabbed the pole, got out of the car, and I remember
19 getting stopped by Josh and he told me it was just too many
20 people and that I needed to get back in my car and get out
21 of there while you could. Like he wanted to make sure
22 Kierin got out safe and then I just remember walking back
23 towards my car and Kierin pulled out.

24 Q. So you got out of your car and you grabbed a pole?

25 A. Yes, sir.

1 Q. Why did you do that?

2 A. Because I was gonna be -- I was scared, you know.

3 There was a lot of people instead of just me.

4 Q. What do you mean you were scared? Tell me about that.

5 You were -- you were scared enough to grab a pole and get

6 out of your car?

7 A. Yes, sir.

8 Q. What did you think was gonna happen to you?

9 A. No telling. It was thirty people, I'm just one

10 person. And it's not like they were being nice. They were

11 already hostile, so.

12 Q. When you say "they", how many people were being

13 hostile?

14 A. The whole group. Almost twenty-five, thirty people.

15 Q. And so when you grabbed the pole and you got out of

16 your car, where did you go?

17 A. I stepped out of my car and I was kind of almost in

18 the front of Kierin's vehicle.

19 Q. And so you're in front of Kierin's vehicle and you

20 have a pole in your hand and what do you see and what are

21 you -- what are you doing at this point?

22 A. I just see a lot of people around the driver's side

23 window and then there was like five or six people standing

24 around me at the front of his car.

25 Q. Okay. And so what did he do next? "He" being Kierin.

1 A. I -- when I stepped back to head towards my car, I
2 just remember him pulling off.

3 Q. And which way did he pull?

4 A. He went around my -- my car.

5 Q. When you say around your car, he went to the left or
6 to the right?

7 A. The left.

8 Q. And so your -- was your door still open?

9 A. No, sir.

10 Q. Okay. So by this point you're back in your car or you
11 are --

12 A. I just got to my door.

13 Q. Okay. And how -- when he pulls off, how close to you
14 did he get?

15 A. Very close.

16 Q. And was he driving slowly? Did he stop and have
17 another -- what happened?

18 A. I just remember him pulling off real fast.

19 Q. Do you remember what happened next?

20 A. I just remember getting back in my car and leaving,
21 too.

22 Q. Now let's go back to inside of the Cook-Out. Did you
23 invite anyone to fight while you were in Cook-Out?

24 A. No, sir.

25 Q. Did you ask anyone to step outside so that you could

1 fight them?

2 A. No, sir.

3 Q. When you were at the game, after the game, did you ask
4 anyone to meet you at Cook-Out so you could fight them?

5 A. No, sir.

6 Q. Did -- while you were outside of Cook-Out after you
7 grabbed your milkshake, did you invite anyone to fight you
8 outside of the Cook-Out?

9 A. No, sir.

10 **MR. RUTHERFORD:** Begging the Court's indulgence.

11 BY MR. RUTHERFORD:

12 Q. How long have you known Kierin Dennis?

13 A. Seven or eight years almost.

14 Q. And from what you know about Kierin Dennis, when they
15 -- you said that there were a number of people at his
16 driver's side door?

17 A. Yes, sir.

18 Q. Why did you feel the need to go protect him?

19 A. It was just a lot of people and all I could see was --
20 it was just a lot of movement.

21 Q. And is Kierin the type of person that would stab
22 someone unprovoked?

23 A. No, sir.

24 Q. When Morgan was walking out of Cook-Out and people
25 were saying stuff to her, was she responding back to them?

1 A. Yes, sir.

2 Q. And did you feel the need to respond back on her
3 behalf as well?

4 A. Well, I -- I didn't respond. I would have, but my
5 mindset was to go get my car and try to get my sister as
6 far away from them people as possible.

7 Q. And so you didn't want to get your food anymore, you
8 just wanted to get out of there, right?

9 A. Yes, sir.

10 **MR. RUTHERFORD:** No further questions at this time,
11 Your Honor.

12 **THE COURT:** All right. Mr. Graham.

13 **MR. GRAHAM:** Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. GRAHAM:

16 Q. Mr. Zander, where do you live?

17 A. In Lexington.

18 Q. Your street address?

19 A. ■ 4 Dripping Leaf Drive.

20 Q. Dripping Leaf Drive. Who lives across the street from
21 you?

22 A. Kierin.

23 Q. Kierin Dennis lives across the street from you?

24 A. Yes, sir.

25 Q. Is he your best friend?

- 1 A. Yes, sir.
- 2 Q. He is?
- 3 A. (Nods head.)
- 4 Q. Would you lie for him?
- 5 A. No, sir.
- 6 Q. You wouldn't lie for him?
- 7 A. No, sir.
- 8 Q. So everything you just testified to was the truth?
- 9 A. Yes, sir.
- 10 Q. And when you talked to the police, that's what you
- 11 told them?
- 12 A. Told them what?
- 13 Q. What you just testified to. When you talked to the
- 14 police, that's what you told them?
- 15 A. Uh-huh. That's what happened. There was not much, so
- 16 I really don't remember.
- 17 Q. My question is: Is that what you told them or did you
- 18 tell them something different?
- 19 A. I'm pretty sure that's what I told them.
- 20 Q. Do you remember talking to Detective Carter? That's
- 21 the individual sitting at the table.
- 22 A. Yes, sir.
- 23 Q. You talked to him twice, didn't you?
- 24 A. Yes, sir.
- 25 Q. Now you wouldn't come in and talk to myself or

1 Mr. Hubbard, would you?

2 A. No, sir.

3 Q. That was your choice not to come speak with us?

4 A. It was my mother's choice.

5 Q. Your mother's choice?

6 A. Yes, sir.

7 Q. So your mother wouldn't let you speak to us?

8 A. Yes, sir. I told you that on the phone when you
9 called.

10 Q. I'm sorry?

11 A. I told one of y'all that on the phone when you called
12 me.

13 Q. When you -- nothing happens -- let's go back to the
14 game before this, the Lexington-Dutch Fork game. You
15 actually went over and travelled to Dutch Fork, didn't you?

16 A. Yes, sir.

17 Q. Who was with you then?

18 A. Me, my little sister Morgan, Kierin and Keith.

19 Q. You, your sister Morgan, Mr. Dennis and Keith Adams?

20 A. Yes, sir.

21 Q. And it got a little wild after that game, didn't it?

22 A. Yes, sir.

23 Q. And, in fact, your sister threw money on the court at
24 Dutch Fork students or players, didn't she?

25 A. I don't think so.

1 Q. You don't think so?

2 A. No, sir.

3 Q. Well, is that a "yes" or a "no"?

4 A. It's a "no", sir.

5 Q. She did not?

6 A. (Shakes head.)

7 Q. So nothing happened at the Lexington game until you
8 went out in the parking lot, correct?

9 A. Yes, sir.

10 Q. And you said that you and Keith were walking and a
11 group of twenty to twenty-five people surrounded you; is
12 that correct?

13 A. Yes, sir.

14 Q. They weren't threatening you though, were they?

15 A. No, sir.

16 Q. They were just dancing and having a good time. You
17 didn't exchange words with anybody?

18 A. No, sir.

19 Q. Okay. And while you were in there, did you continue
20 to walk out of the circle and keep going or did you stop
21 and just sit inside the circle while they were dancing?

22 A. We stopped.

23 Q. You stopped?

24 A. Yes, sir.

25 Q. Did Kierin walk into the circle and join you?

1 A. No, sir.

2 Q. He did not. You had said that you never invited
3 anybody to fight while you were at the parking lot of the
4 Lexington High School game; is that correct?

5 A. Yes, sir.

6 Q. Do you deny saying to Dutch Fork students "Let's
7 meet"? Do you deny saying that or do you admit saying
8 that?

9 A. I deny saying that.

10 Q. So you weren't trying to fight with Dutch Fork
11 students in the parking lot of Lexington saying to them
12 let's meet somewhere?

13 A. No, sir.

14 Q. Were you present when Mr. Dennis was in the parking
15 lot and was trading words with the Dutch Fork students at
16 the Lexington High School parking lot?

17 A. I don't recall him ever exchanging words with anyone.

18 Q. He didn't say anything?

19 A. I don't recall it.

20 Q. Well, what's that? I don't -- you're remembering what
21 you want to and you're forgetting other stuff? Did he say
22 something or not?

23 A. I don't know. It happened a long time ago.

24 Q. Well, do you remember him saying "Let's meet at the
25 Cook-Out"?

1 A. No, sir.

2 Q. You do not remember him saying that?

3 A. No, sir.

4 Q. How about your sister? Did your sister say anything
5 at the Lexington High School parking lot?

6 A. I don't know. She wasn't with me that whole time at
7 first.

8 **MR. GRAHAM:** Just one second. Hold on.

9 Q. I'm sorry, what was your answer?

10 A. I said "no, sir".

11 Q. One more time.

12 A. No, sir.

13 Q. Do you remember looking at videos on her cell phone
14 that she gave to the police?

15 A. I never saw them.

16 Q. She never showed them to you?

17 A. (Shakes head.)

18 **MR. GRAHAM:** Your Honor, I have two videos that I
19 would like to play and see whether he recognizes these
20 as being accurate. One was a video shot at the Lexington
21 High School parking lot and another one was at the
22 Cook-Out inside.

23 **MR. RUTHERFORD:** Your Honor, the problem is he
24 already said he didn't see them.

25 **MR. GRAHAM:** He said he hasn't seen these videos,

1 but he -- it's -- potentially he could authenticate it
2 or identify voices that are on here and that I can use
3 later.

4 **THE COURT:** All right. How do you want to play
5 those?

6 **MR. GRAHAM:** We should have -- I think we've got
7 a TV that's gonna be --

8 **MR. HUBBARD:** It's right out here.

9 BY MR. GRAHAM:

10 Q. Mr. Zander, you are aware that your sister did make
11 some videos on her cell phone and turn them over to the
12 police, correct?

13 A. Yes, sir.

14 **MR. GRAHAM:** You can go on and play it.

15 BY MR. GRAHAM:

16 Q. I want you to watch the first video and see if you
17 recognize what's going on and also listen to the voices.

18 (Whereupon, State's Exhibit Number 11 was played.)

19 BY MR. GRAHAM:

20 Q. Does that fairly -- do you recognize where that video
21 was taken?

22 A. Yes, sir.

23 Q. Was that at the Lexington parking lot?

24 A. Yes, sir.

25 Q. And when you were talking about a circle of Dutch Fork

1 people, is that what you're talking about?

2 A. Yes, sir.

3 Q. There was a voice on there, a female voice, that says
4 "When are we swinging, when are we swinging". Did you hear
5 that?

6 A. Yes, sir.

7 Q. Okay. And that's your sister's voice, isn't it?

8 A. Yes, sir.

9 Q. Do you remember her saying that in the parking lot?

10 A. No, sir.

11 Q. But you recognize that as being her voice?

12 A. Yes, sir.

13 Q. Okay. But you weren't present when that was said?

14 A. I just don't recall it.

15 Q. The next thing that you said is you're gonna go get
16 food; is that right?

17 A. (Nods head.)

18 Q. And first you were gonna go to Sonic. Whose idea was
19 it to go to Sonic?

20 A. I can't remember.

21 Q. Did you eat at Sonic?

22 A. No, sir.

23 Q. Whose idea was it to go to somewhere else?

24 A. Mine.

25 Q. And you said you wanted to go to McDonald's?

1 A. Yes, sir.

2 Q. Okay. And everybody else said okay?

3 A. Yes, sir.

4 Q. But you go to McDonald's and you don't eat or get
5 anything to drink there?

6 A. (Shakes head.)

7 Q. And is that because the Dutch Fork students weren't
8 there?

9 A. No, sir.

10 Q. And during the car ride to the Sonic and during the
11 car ride to the McDonald's and then on the car ride to the
12 Cook-Out, did your sister say anything about fighting with
13 the Dutch Fork students?

14 A. Not that I recall.

15 Q. If she would have said it, you would have remembered
16 it, right?

17 A. This happened over nine months ago, so I don't know.

18 Q. Well, when you went there were you going to fight?

19 A. No, sir.

20 Q. Was anybody in your group going to fight?

21 A. No, sir.

22 Q. So if she would have said something about fighting,
23 wouldn't you remember it?

24 A. (Shrugs shoulders.)

25 Q. So you go to two other places to eat and for reasons

1 you don't know you don't eat there?

2 A. No, sir.

3 Q. Whose decision it was to go to Cook-Out?

4 A. Mine.

5 Q. And why did you want to go to Cook-Out?

6 A. Because me and my sister wanted one of their
7 milkshakes.

8 Q. You wanted to get milkshakes?

9 A. Yes, sir.

10 Q. Why didn't you go through the drive-thru?

11 A. It was full.

12 Q. Well, when you got there into the parking lot, did you
13 know that there were a bunch of Dutch Fork students already
14 there?

15 A. No, sir.

16 Q. You didn't recognize any of the cars as not being --
17 parking stickers from Dutch Fork or anything like that?

18 A. Who looks at that when they're walking up to get food?

19 Q. When you get out of the car, did I hear you testify
20 that Austin Sanders came up and talked to you?

21 A. Yes.

22 Q. What did Austin tell you?

23 A. Somebody was messing with him in the drive-thru.

24 Q. Somebody was messing with his car in the drive-thru?

25 A. Yes, sir.

1 Q. Did he say who they were?

2 A. No, he just said a bunch of kids.

3 Q. All right. And did you know -- did you take that to
4 be Dutch Fork kids?

5 A. Not really.

6 Q. You walk in the door of the Cook-Out. You're not
7 afraid when you go in the door. Nothing's caused you to
8 be in fear of anything, right?

9 A. No, sir.

10 Q. And you said somebody said "Are you-all still salty"?

11 A. Yes, sir.

12 Q. And did you answer or did Mr. Dennis answer?

13 A. Nobody answered.

14 Q. Nobody answered?

15 A. (Shakes head.)

16 Q. But nobody threatened you either, right?

17 A. No, sir.

18 Q. So it's your testimony today that you did -- you and
19 your group did nothing to further the incident that
20 happened later; is that correct?

21 A. Yes, sir.

22 Q. You weren't looking for a fight?

23 A. (Shakes head.)

24 Q. Kierin wasn't looking for a fight?

25 A. No, sir.

1 Q. Keith Adams wasn't looking for a fight?

2 A. No, sir.

3 Q. Your sister was not looking for a fight?

4 A. No, sir.

5 Q. And you didn't hear any of -- any of those people say
6 anything about fighting?

7 A. (Shakes head.)

8 Q. But you do recognize your sister's voice saying "When
9 are we swinging"?

10 A. Yes, sir.

11 Q. You didn't get any food there, correct?

12 A. I ordered food. I didn't get it.

13 Q. You got your shake?

14 A. Yes, sir.

15 Q. You got one shake and your sister got one shake?

16 A. Yes, sir.

17 Q. Kierin didn't get anything?

18 A. No, sir.

19 Q. How about Lucky?

20 A. No, sir.

21 Q. And how about Keith Adams?

22 A. No, sir.

23 Q. So y'all went to Sonic, McDonald's and finally to
24 the Cook-Out to get something to eat and you didn't get
25 anything to eat?

1 A. Me and my sister did order food, but we weren't able
2 to actually physically get it, no, sir.

3 Q. But nothing -- nothing was going on inside the
4 Cook-Out other than the guy saying "Are y'all salty" when
5 you came in the door and nobody answered him, correct?

6 A. Yes, sir.

7 Q. So you weren't in fear inside the Cook-Out, were you?

8 A. Well, having a group of twenty-five or thirty people
9 staring at you with a lot of commotion going on, why not
10 remove yourself over it?

11 Q. Okay.

12 A. A few dollars for the food is not worth anything more
13 happening.

14 Q. But you weren't scared?

15 A. Yes, sir, I was.

16 Q. You were scared?

17 A. Yes, sir.

18 Q. Because somebody threatened you?

19 A. No, just because there was a large group of people.

20 Q. A large group of people?

21 A. Yes, sir.

22 Q. But you knew that when you walked in the door, didn't
23 you?

24 A. No, sir.

25 Q. Well, when you walked in the door and the Dutch Fork

1 student said "Are y'all salty" or "You're still salty", you
2 didn't look around the room and see Dutch Fork students
3 everywhere?

4 A. How are you -- how are you supposed to know who's
5 Dutch Fork students and who's not?

6 Q. Well, you go to Lexington and if you don't recognize
7 them and they're wearing green, don't you think they're
8 Dutch Fork students?

9 A. They weren't wearing green.

10 Q. They weren't? I thought you said that somebody came
11 up to you wearing a white shirt and a green tie.

12 A. Okay. The green tie? That's supposed automatically
13 make me think they're from Dutch Fork? That he had on --

14 Q. Well, if you didn't know -- if you didn't know they
15 were from Dutch Fork --

16 **MR. RUTHERFORD:** Your Honor, the witness was still
17 answering. I don't know what he was saying, but he was
18 still answering when Mr. Graham cut him off.

19 **THE COURT:** Let him finish his response.

20 BY MR. GRAHAM:

21 Q. Did you have anything else you wanted to say?

22 A. I forgot what I was saying.

23 Q. If you didn't know they were from Dutch Fork, then
24 why did you ever get nervous about there being twenty or
25 twenty-five students in there?

1 A. Because when you walk in and twenty-five or thirty
2 people just turn their attention to a group of five people,
3 no.

4 Q. And that happened when you came in the door, correct?

5 A. Yes, sir.

6 Q. So when you were in line waiting, how many minutes did
7 it take do you think to order?

8 A. To get my food?

9 Q. To order your food. Before you even placed your
10 order.

11 A. Maybe three, four minutes.

12 Q. During that three or four minutes after you walked in
13 the door and twenty or twenty-five people, young kids, are
14 looking at you, did you begin to feel nervous at that
15 point?

16 A. Yes, sir.

17 Q. Why didn't you leave then?

18 A. Because I was there to get food.

19 Q. So what happened after -- if nobody did anything
20 inside, what changed from the moment before you ordered the
21 food until the moment after you ordered the food and got
22 the shake that made you leave?

23 A. Kierin saying let's go.

24 Q. But you weren't any more scared?

25 A. No, sir.

1 Q. Did you tell the police officer in your interviews
2 with him on February 17th, that night, that you were scared
3 inside?

4 A. I don't recall.

5 Q. Did you tell him anything about leaving your food
6 behind?

7 A. Yes, sir.

8 Q. You did?

9 A. I'm pretty sure I did.

10 Q. And that was an interview with him at the police
11 station over here?

12 A. Yes, sir.

13 Q. Well, did you or did you not?

14 A. I really can't recall.

15 Q. Did you tell him that when you were inside the
16 Cook-Out -- did you make any statements to anybody inside
17 the Cook-Out?

18 A. I think when I first walked in, yes, sir.

19 Q. What did you say?

20 A. I said -- I think I was telling -- I was telling me
21 and my sister and Lucky don't be worried or we ain't got
22 nothing to worry about, something like that, while we were
23 waiting in line.

24 Q. And pardon my use of this word, but isn't it true that
25 while you were inside the Cook-Out that you turned to the

1 crowd in general in the Cook-Out and said that you weren't
2 afraid of anything because they were a bunch of pussies?
3 Didn't you say that?

4 A. No, sir.

5 Q. So if somebody testified that you said that, they
6 would be lying, true?

7 A. True.

8 Q. So when do you go outside?

9 A. Sir?

10 Q. When do you go outside?

11 A. When did I leave the Cook-Out?

12 Q. When did you leave the interior of the Cook-Out and go
13 outside?

14 A. After Kierin told us "Let's go", then he walked out
15 and on the phone, like, we followed right after him.

16 Q. So he tells you "Let's go", he goes outside. Are you
17 -- are you walking out the door with him or are you staying
18 inside for a while longer?

19 A. I was stand -- I just stood there for a little while.

20 Q. Why did you stay?

21 A. Trying to wait on my food. See if they could have got
22 it. See if I could get my food and then we could leave.

23 Q. Well, but he didn't leave. He just went outside and
24 -- he told you to use the phone. He was gonna use the
25 phone, right?

1 A. No, I just remember him telling us "Let's leave" and
2 him walking out, but then when I finally did walk out the
3 door I saw he was on the phone, yes, sir.

4 Q. Okay. So there wasn't really a reason for you to
5 leave yet because he was just outside the door?

6 A. Yes, sir.

7 Q. He told you he was leaving, but he didn't leave,
8 correct?

9 A. (Nods head.)

10 Q. He stayed?

11 A. Yes, sir.

12 Q. And you stayed inside?

13 A. Yeah, maybe for like thirty seconds, yes, sir.

14 Q. But when he said "Let's go" you didn't follow him
15 outside, you waited to get your food?

16 A. Yes, sir.

17 Q. So him telling you that it was time to go is not why
18 you left?

19 A. That is why I left.

20 Q. It is why you left?

21 A. Yes, sir.

22 Q. When you go outside, you don't have your food. When
23 you walk out, Kierin Dennis is standing outside talking on
24 the phone, isn't he?

25 A. Yes, sir.

1 Q. He's right up against the building by the door, isn't
2 he?

3 A. Yes, sir.

4 Q. He's not walking across the parking lot to his car?

5 A. No, sir.

6 Q. He's not going like he said "Let's go", is he?

7 A. No, sir, he was on the phone.

8 Q. Do you know -- well, he can talk and walk, can't he?

9 A. Yes, sir.

10 Q. And he chose not to. Do you know why?

11 A. No, sir.

12 Q. Why didn't you leave? Because you stayed there and
13 talked to him -- you stayed and hung around while he was on
14 the phone, didn't you?

15 A. Yes, sir.

16 Q. Why didn't you leave?

17 A. I was waiting to see what we were doing.

18 Q. Well, I thought you were leaving.

19 A. Well, we left out of the Cook-Out. We thought that
20 was good enough.

21 Q. So what's the next thing that happens? Y'all are
22 outside, he's talking on the telephone by the door. What
23 happens next?

24 A. Like I said, that boy -- the boy from -- with the
25 white button-down and the green tie walked out and stated

1 something to us.

2 Q. He said something to you?

3 A. Yes, sir.

4 Q. He walked past you?

5 A. Yes, sir.

6 Q. And said something to you?

7 A. Yes, sir.

8 Q. Do you remember what he said?

9 A. No, sir.

10 Q. And who out of your group responded to him?

11 A. I don't recall.

12 Q. Somebody said something, didn't they?

13 A. I think so.

14 Q. Was it you?

15 A. No, sir.

16 Q. Was it Kierin?

17 A. I don't remember.

18 Q. Was it Keith?

19 A. I don't remember.

20 Q. Was it Lucky?

21 A. I don't remember.

22 Q. Was it your sister?

23 A. I don't remember.

24 Q. You don't know who said it and you don't know what was
25 said, but the individual in the white shirt and green tie

1 walked out past y'all as if he was going to a car across
2 the parking lot, right?

3 A. Yes, sir.

4 Q. Somebody in your group said something to him and he
5 turned around?

6 A. No, sir.

7 Q. No. Somebody in your group said something to him
8 though?

9 A. No, sir.

10 Q. Oh. So what happened?

11 A. He walked out and at first didn't say nothing, then he
12 got to like in the parking lot and then he turned around
13 and then that's when he stated something to us.

14 Q. So nobody in your group said anything or somebody in
15 your group did and you just don't remember what?

16 A. I don't recall.

17 Q. You don't recall?

18 A. No, sir.

19 Q. You don't know what was said --

20 A. No, sir.

21 Q. -- or you don't know if anything was said?

22 A. Either or.

23 Q. But you-all didn't do anything to encourage an
24 altercation with Dutch Fork students or that boy that was
25 in the parking lot?

1 A. No, sir.

2 Q. What's the next thing that happens when he turns
3 around?

4 A. Kierin told us to "Come on, let's go".

5 Q. Okay. So there's no more words being exchanged right
6 there?

7 A. Unh-unh.

8 Q. And that's just that one Dutch Fork student's out
9 there, you don't remember exactly what he said --

10 A. (Shakes head.)

11 Q. -- Kierin Dennis says "Let's go" and you-all start
12 going to your cars?

13 A. Yes, sir.

14 Q. Does anybody stop you-all from going to your cars?

15 A. No, sir.

16 Q. Nobody's chasing you, nobody's putting hands on you?

17 A. No, sir.

18 Q. Nobody's threatening you?

19 A. No, sir, until the people poured out of Cook-Out.

20 Yes, sir, my sister was threatened multiple times and was
21 called multiple names, yes, sir.

22 Q. And who said that?

23 A. I just remember the one thing that Da'Von Capers said
24 and that's just because he said "Hold my drink -- or
25 somebody hold my drink, I'm about to slap this "B-word",

1 referring to my sister.

2 Q. Okay. And you told Officer Carter that in your
3 interview with him?

4 A. (Shakes head.)

5 Q. Well, it's important, isn't it?

6 A. I don't know.

7 Q. You don't know if you told him?

8 A. No, sir.

9 Q. You should have told him though if you didn't, right,
10 because that's something important?

11 A. Yes, sir.

12 Q. You just don't remember?

13 A. No, sir.

14 Q. And how do you know that it was Mr. Capers that said
15 it? Do you know Mr. Capers?

16 A. No, sir.

17 Q. How do you know it was him then?

18 A. Because of his picture.

19 Q. Because of the picture?

20 A. That was up, yes, sir.

21 Q. The picture in the newspaper?

22 A. Yes, sir.

23 Q. And you just don't remember whether you told the
24 police officer that?

25 A. Yes, sir.

1 Q. You're parked down by the car wash, right?

2 A. Yes, sir.

3 Q. Now he called your sister bad names, but nobody
4 threatened physical violence on anybody, did they?

5 A. No, he just said -- he threatened to slap my sister.
6 I'm pretty sure that's physical.

7 Q. And what did you say back?

8 A. Nothing.

9 Q. You didn't say anything?

10 A. No, sir.

11 Q. Why not?

12 A. I don't know. I would say it was more of them than
13 us, so I would say -- I would probably say I was scared,
14 yes, sir.

15 Q. Did anybody follow you across the parking lot to your
16 cars?

17 A. The group was walking up behind us for -- following us
18 step for step, but after my sister was threatened and
19 called them names, I just took off. I ran to my car and
20 got in my car.

21 Q. Looking at State's Exhibit Number 1, your car is gonna
22 be parked down here, correct?

23 A. Yes, sir.

24 Q. Kierin Dennis's car is parked down there?

25 A. Yes, sir.

- 1 Q. What kind of car did you drive?
- 2 A. A white Infiniti.
- 3 Q. Is that like a SUV --
- 4 A. SUV.
- 5 Q. -- crossover, an Armada maybe?
- 6 A. No, sir.
- 7 Q. No, that's what Keith drives, isn't it?
- 8 A. Yes, sir.
- 9 Q. Yours is a white Infiniti crossover and you're parked
- 10 down here by the car wash?
- 11 A. Yes, sir.
- 12 Q. Mr. Dennis is also parked down there by you, correct?
- 13 A. Yes, sir.
- 14 Q. And he's driving a Ford Explorer, 2001, gold?
- 15 A. Yes, sir.
- 16 Q. Keith Adams is parked over here in the Petsmart
- 17 parking lot?
- 18 A. I don't recall exactly.
- 19 Q. You don't know where Keith was at?
- 20 A. No, sir.
- 21 Q. Okay. When you're down here getting into your car,
- 22 everybody's with you, Lucky --
- 23 A. No, sir.
- 24 Q. Nobody's with you?
- 25 A. No, sir.

1 Q. Okay. Where is everybody else?

2 A. Well, by the -- by the time I took off to my car, they
3 were all standing in that area right there.

4 Q. Right here?

5 A. Yes, sir.

6 Q. That's where the Dutch Fork people are?

7 A. No, sir. That's where my sister was standing. My
8 sister, Kierin, Lucky.

9 Q. They're standing there?

10 A. Well, that's where they were when I left. By the time
11 I pulled back up, they done crossed the street on the other
12 side over by the tree.

13 Q. Over here?

14 A. Yes, sir.

15 Q. And who's over there?

16 A. Everybody.

17 Q. Everybody but you?

18 A. Yes, sir.

19 Q. None of the Dutch Fork people are over there though,
20 are they?

21 A. No, sir.

22 Q. None of the Dutch Fork people are here in the road,
23 are they?

24 A. There were a few in the road.

25 Q. But nobody was following anybody?

1 A. No, sir.

2 Q. But the main Dutch Fork people were back over in the
3 Cook-Out parking lot?

4 A. I would say they were more on the edge around that
5 grassy area.

6 Q. On the median between the road and the Cook-Out
7 parking spaces?

8 A. Yes, sir.

9 Q. They were right in here?

10 A. Yes, sir.

11 Q. Your group was over here and you're down there by your
12 car?

13 A. Yes, sir.

14 Q. When you got to your car, you went into your trunk,
15 didn't you?

16 A. Yes, sir.

17 Q. And that's when you got the pole out?

18 A. No, sir.

19 Q. You did not get a pole out then?

20 A. No, sir.

21 Q. What did you get out?

22 A. Nothing.

23 Q. What were you doing?

24 A. I was putting my drink up.

25 Q. Your drink?

1 A. Yes, sir. My milkshake.

2 Q. Well, why didn't you have your milkshake in your hand
3 when you were driving? Why not carry it in the front where
4 you can drink it?

5 A. Because that was the least of my worries at the
6 moment.

7 Q. What were your worries at the moment?

8 A. Getting my -- getting my sister.

9 Q. Okay. But yet you took time to take your drink --

10 A. And put it in the --

11 Q. -- and put it in the cup holder in the back?

12 A. Yes, sir.

13 Q. Because you're in such a hurry to get out of there?

14 A. Where else was I gonna put it? The cup holder in the
15 front was broke.

16 Q. But you said that wasn't your worries. Your worries
17 had to do with getting out of there, right?

18 A. Yes, sir.

19 Q. But you took the time to take your milkshake --

20 A. And put it up, yes, sir.

21 Q. -- and put it in the back?

22 A. Yes, sir.

23 Q. Eventually you're down in your car down here. Morgan
24 and Lucky come in --

25 A. No, sir.

1 Q. -- to join you in the car?

2 A. No, sir.

3 Q. Where do you pick them up?

4 A. Right beside the tree where they were standing like I
5 said.

6 Q. Here in the road?

7 A. No, sir.

8 Q. Over here?

9 A. Beside the tree -- like beside the tree on the grass
10 area. Yes, sir.

11 Q. Okay. So where did you go?

12 A. I just pulled up.

13 Q. You pulled up from down here up to this intersection
14 right here?

15 A. No, sir. I pulled up there right there beside the
16 tree. Physically beside the tree, yes, sir.

17 Q. And you stopped there?

18 A. Yes, sir.

19 Q. And they got in?

20 A. Yes, sir.

21 Q. And where's -- what's Keith Adams doing at that point?

22 A. By that time Keith had pulled up to right there behind
23 the tree.

24 Q. He's over here?

25 A. Yes, sir.

1 Q. Where's Mr. Dennis?

2 A. He was pulling his car up and then he turned in and
3 was parked with their driver's side windows talking.

4 Q. All right. So I'm down at the -- on State's Exhibit
5 Number 1, I'm at the entryway from the drive between the
6 Cook-Out and Petsmart. Mr. Dennis is pulling into the
7 Petsmart lot, right?

8 A. Yes, sir.

9 Q. Mr. Adams is facing out of the Petsmart lot?

10 A. Yes, sir.

11 Q. And you're here by this tree?

12 A. Yes, sir, and I pulled around.

13 Q. And why did you pull around?

14 A. To talk to them.

15 Q. Well, I thought y'all were in a hurry to leave; that
16 your main focus was getting out of there.

17 A. Well, my sister was in the car, so I felt that she was
18 safe enough at the time.

19 Q. So you could have just left and gone straight,
20 couldn't you?

21 A. Yes, sir.

22 Q. You could have left, taken a right and gone up there
23 by Walgreen's, couldn't you?

24 A. But you can't leave out that way.

25 Q. Sure. You can go all the way across behind

1 Walgreen's. Go by -- over by the drive-thru and turn out
2 all the way over on Highway 1 if you wanted to, couldn't
3 you?

4 A. But I don't live nowhere over there.

5 Q. All right. You couldn't come through the drive-thru
6 I think because you testified it was too crowded?

7 A. Yes, sir.

8 Q. Down below where the car was where you originally
9 were, you could have gone out down there, couldn't you?

10 A. Yes, sir.

11 Q. State's Number 6. So you could have come out here --
12 because you're parked there by the car wash right there?

13 A. I was parked all the way down here.

14 Q. Way down on the corner --

15 A. Yes, sir.

16 Q. -- in the back? So the easiest way for you to leave
17 would have been to come here and go out, right? Because
18 your main thought is to get out of there.

19 A. Yes, sir, but don't forget I had to pull up to get my
20 sister in the car.

21 Q. Right, but once you had her you could have come out to
22 the highway and taken a left, couldn't you?

23 A. Yes, sir.

24 Q. But you chose not to?

25 A. No, sir. I did -- when I finally did leave, yes, sir,

1 I took that way.

2 Q. Well, when you circled back around -- what happened
3 when you circled back around?

4 A. I got out of the car and talked to Kierin and Keith.

5 Q. Why did you get out of the car?

6 A. Because -- to go talk to them.

7 Q. So you're not scared anymore because your sister's in
8 the car; is that correct?

9 A. I wouldn't say I wasn't scared anymore.

10 Q. Well, were you scared of something happening or not?

11 A. What do you mean?

12 Q. Yes or no?

13 A. I asked you what do you mean.

14 Q. You're the one saying that you're scared. My question
15 to you is once you picked up your sister you said that she
16 was safe in the car, so I'm asking you when you turned back
17 around and you came behind Keith, because Keith was still
18 talking to Kierin at that entrance down there like we
19 discussed, you parked behind them -- behind Keith and got
20 out and went over to talk to them, correct?

21 A. I pulled alongside Keith almost.

22 Q. You pulled alongside of him?

23 A. Like if Keith was facing one way, Kierin was facing
24 the other and I came up into like -- around the back, but
25 I got out of my car then to go talk to them.

1 Q. You got out of the car and went between their windows
2 and talked to them?

3 A. Yes, sir.

4 Q. You weren't scared at that point, were you?

5 A. Well, I was between both of their cars. Wasn't
6 nothing gonna happen.

7 Q. During the time that you were sitting there talking
8 to them, isn't it true that you made a comment about --
9 at that point when you were down there between -- outside
10 your car talking with Keith and Kierin Dennis, you made a
11 comment about throwing money out?

12 A. No, sir.

13 Q. At that time you had already decided you were gonna
14 throw money out?

15 A. No, sir.

16 Q. You deny that?

17 A. Yes, sir.

18 Q. Isn't it true that while you're down there talking
19 there's a conversation with Mr. Dennis about what route
20 you were going to take out of that, from where you-all are
21 at, which way you're gonna go to leave? Isn't that true,
22 that you-all talked about which way you were gonna go and
23 leave?

24 A. No, sir.

25 Q. So if somebody else testified to that, then they're

1 not telling the truth, correct?

2 A. I don't remember.

3 Q. Well, no, you do know. Was there a conversation or
4 not about which way you-all would go out of the parking
5 lot?

6 A. We had a conversation. I don't remember exactly what
7 we were conversing about.

8 Q. You don't remember what it was about?

9 A. No, sir.

10 Q. We're sitting here talking about a very important
11 thing about which route you-all took. Did you have a
12 conversation about it or not?

13 A. No, sir.

14 Q. All right. So what's the next thing that happens?

15 A. I got back in my car and I pulled out and --

16 Q. Who pulled out?

17 A. I did.

18 Q. Who pulled out first? You or Keith or Kierin?

19 A. I did.

20 Q. You did?

21 A. Yes, sir.

22 Q. And where do you go? They're blocking this
23 intersection, right? Because Kierin is facing this way,
24 Keith is facing that way.

25 A. No, sir. That's where we were all -- Kierin was

1 facing out towards that entrance right there, up there, and
2 Keith was facing just like where that little grassy spot is
3 right there, so they were side by side.

4 Q. If I could get you to step down and show me where you
5 were parked and which way he's facing.

6 A. Keith?

7 (Whereupon, the witness steps down from the witness
8 stand.)

9 Q. Keith would be facing. Draw with an arrow showing
10 which way he's facing and then write the word Keith beside
11 it.

12 A. (Witness complies.)

13 Q. And where is Kierin?

14 A. Like here.

15 Q. And if you'd write Kierin by that.

16 A. (Witness complies.)

17 Q. And where are you?

18 A. Like along this side.

19 Q. And write Will right there for me.

20 A. (Witness complies.)

21 Q. So they're still parked there, you get back in your
22 car and it's your testimony that you drive around Kierin?

23 A. No, sir. Keith had backed out and I -- I just came
24 through.

25 Q. Oh, so you're the first one out?

1 A. Yes, sir.

2 Q. You can have your seat again.

3 (Whereupon, the witness returns to the witness stand.)

4 Q. When you get out into the roadway, is there anything
5 blocking you from leaving?

6 A. Can you repeat that?

7 Q. Is there anything blocking you from leaving once you
8 pull out into that area between the two that you chose to
9 go to?

10 A. No, sir.

11 Q. As you continue to drive through there, what stops you
12 from leaving? Anything?

13 A. Other than they just said something to me or they was
14 screaming something and I slowed down and came to a stop
15 and then they were still talking at my window and then
16 that's when I just reached in my pocket and threw out that
17 money.

18 Q. When you were down talking to Keith and Kierin and you
19 left, was Kierin's window up or down?

20 A. Down.

21 Q. All the way down?

22 A. No, sir, about halfway.

23 Q. About halfway down?

24 A. (Nods head.)

25 Q. Your window was up or down on your car?

- 1 A. I think mine was cracked.
- 2 Q. Yours was cracked?
- 3 A. (Nods head.)
- 4 Q. And, again, you don't remember what was said, but
- 5 somebody said something to you?
- 6 A. (Nods head.)
- 7 Q. And that's why you stopped?
- 8 A. Yes, sir.
- 9 Q. When you stopped, what happened?
- 10 A. They were just yelling, saying stuff to me.
- 11 Q. And I think you testified you were about where that
- 12 Number 2 is; is that correct?
- 13 A. Yes, sir.
- 14 Q. So you're in the middle of the road, some of the Dutch
- 15 Fork students standing over on this grassy area in the
- 16 Cook-Out parking lot are saying something to you and you
- 17 don't remember what was said?
- 18 A. Yes, sir.
- 19 Q. You rolled down your window and what do you say?
- 20 A. My window was already down. I just said it was
- 21 cracked.
- 22 Q. Okay. Well, I don't know -- how far is cracked?
- 23 A. Like halfway almost.
- 24 Q. Halfway down. What do you say back?
- 25 A. Nothing.

1 Q. So they say something to you, you don't say anything.

2 Do you stop?

3 A. Yes, sir.

4 Q. Why do you stop?

5 A. I don't -- I don't know. I just did.

6 Q. And that's when you threw money out?

7 A. Yes, sir.

8 Q. And what did you say when you threw the money out?

9 A. Nothing. I threw it out.

10 Q. And you threw it out -- if you're driving, and we're
11 looking again at State's Number 1, you're facing like the
12 car is in 2 driving out toward the highway, right?

13 A. Yes, sir.

14 Q. You stop right there which is at the top of the
15 parking area in the Cook-Out where the entrance is. You're
16 at the bottom parked toward the car wash. When you stop
17 there, you throw money out your window and you throw it
18 over toward where those people are on the grassy area,
19 right?

20 A. Yes, sir.

21 Q. So it's beside your car. And you say that's when
22 somebody comes in the road to get the money after you threw
23 it, right?

24 A. I saw -- the guy was standing off of the curb already,
25 the one that was mostly saying something to me that knocked

1 me, that made me stop.

2 Q. You throw money out your window while you're stopped
3 there?

4 A. Yes, sir.

5 Q. People go into the road to get the money?

6 A. Yes, sir.

7 Q. You continue to drive on?

8 A. Yes, sir. I pulled up.

9 Q. Okay. You pulled up. Why didn't you go on?

10 A. Because Lucky said that Kierin had called me or
11 something like that --

12 Q. Kierin had called you --

13 A. -- and then --

14 Q. So how far did you pull up? Is it fair to say about
15 to the other grassy area on the other side of the entrance?

16 A. About to where those bushes is.

17 Q. The top of the bushes on the right?

18 A. I don't know, just --

19 Q. Well, you're already at the bushes.

20 A. Like midway.

21 Q. Midway?

22 A. Not too much far.

23 Q. So you're basically blocking the intersection going
24 into the Cook-Out now?

25 A. If you want to say that, yes, sir.

1 Q. Well, you tell me. Is that true?

2 A. Yes, sir.

3 Q. Did you hear Kierin say anything to you?

4 A. No, sir.

5 Q. When you stopped, was there anybody stopping you from
6 leaving?

7 A. No, sir.

8 Q. Did you look back?

9 A. Yes, sir.

10 Q. And where's Keith Adams at this time?

11 A. I don't know.

12 Q. Where's Kierin Dennis at?

13 A. Behind me.

14 Q. Okay. You're up here in the middle of the
15 intersection in the middle of the bushes in Lane Number 2.
16 When you look back, Mr. Dennis I think you said is over in
17 Lane Number 1, right?

18 A. I never said where he was.

19 Q. You don't know where he was?

20 A. I said never said he was in Lane Number 1.

21 Q. I'm asking you was he in Lane Number 1?

22 A. Yes, about -- probably more in the middle of 1 and 2.

23 Q. The middle of 1 and 2?

24 A. Yes, sir.

25 Q. Was he travelling or was he stopped when you looked

1 back?

2 A. By the time I looked back and got out of the car, he
3 was stopped.

4 Q. Did you -- when you looked back, did you see him drive
5 up?

6 A. No, I did not see him drive up.

7 Q. So the first time you just say -- Lucky says Kierin
8 said something, you put it in park and you get out?

9 A. Yes, sir.

10 Q. You don't look back to see what's going on?

11 A. No, sir.

12 Q. When you get out, is that when you had the pole or the
13 bat in your hand?

14 A. Yes, sir.

15 Q. Was it a bat?

16 A. No, sir.

17 Q. What was it?

18 A. A pole.

19 Q. What kind of a pole?

20 A. Just a pole I found one day.

21 Q. Was it metal or wood?

22 A. Metal.

23 Q. Like a pipe?

24 A. Yes, sir.

25 Q. A metal pipe?

1 A. Yes, sir.

2 Q. How long was it?

3 A. About that long.

4 Q. Okay. So Lucky told you that Kierin called for you,
5 you put it in park, you don't look back and you get out
6 with a lead pipe in your hand, right?

7 A. Yes, sir.

8 Q. Because that -- that's what you're saying, correct?

9 A. I got out the car and when I get out of the car I
10 could see all the people out of the window so the pipe was
11 sitting in the -- probably where my gearshift is, maybe
12 against that and my seat, and I just pulled it out with me
13 right then.

14 Q. When you got out of the car, you took it with you,
15 right?

16 A. Yes.

17 Q. So Lucky says Kierin called for you, you put it in
18 park, you don't look to see what's going on, you open your
19 door and you get out with the pipe in your hand, correct?

20 A. Yes, sir.

21 Q. So when you look back you're just now seeing
22 Mr. Dennis's car stopped, correct, the first time?

23 A. I'm confused what you're trying to say.

24 Q. You put the car in park, you do not look back, you
25 don't know what's going on behind. All you know is that

1 Lucky said Kierin called you, right?

2 A. Yes, sir.

3 Q. You grab the pipe and you get out of the car, correct?

4 A. Yes, sir.

5 Q. When you look back is the first time that you see

6 Mr. Dennis's car stopped, correct?

7 A. Yes, sir.

8 Q. So you took a bat out of your hand {verbatim} before

9 you knew there was a problem. That's what you testified

10 to, correct? You took a lead pipe outside your car stopped

11 in a roadway before you knew there was a problem behind

12 you; isn't that true?

13 A. No, sir.

14 Q. Isn't that what you testified to?

15 A. I was con -- I'm confused on what you're trying to

16 say.

17 Q. What are you confused about?

18 A. I don't get what you're trying to say.

19 Q. I'm trying to say just what I said. Isn't it true

20 that you got out of the car with a lead pipe in your hand

21 before you even knew that his car was stopped? Because

22 that's what you testified to.

23 A. No, sir. Obviously -- he was behind me, so obviously

24 he wasn't moving still. I was blocking his way. So I know

25 already the car was stopped, yes, sir.

1 Q. So now you're changing your story and saying you did
2 know his car was stopped?

3 A. Yes, sir. He was behind me. What was he gonna do,
4 hit me when he passed me?

5 Q. Well, you don't know where he is. You were pulling
6 out, correct? You didn't know whether he was following you
7 or going another way; isn't that true? Because there was
8 no plan about throwing money out on the road and scaring
9 people by having him race up on them, wasn't there?

10 A. I don't know what you mean or trying to get at with
11 that.

12 Q. The time you get out of your car with the pole in your
13 hand, are you scared or not scared?

14 A. Scared.

15 Q. Why didn't you leave?

16 A. Because I wasn't gonna leave one of my best friends by
17 his self.

18 Q. But the only thing blocking him is your car is what
19 you said, correct?

20 A. Yes, sir.

21 Q. So if you move your car, he can leave, right?

22 A. No, not at that moment.

23 Q. Why didn't you call 9-1-1?

24 A. (Shrugs shoulders.)

25 Q. You had a cell phone, right?

1 A. Yes, sir.

2 Q. What's your cell phone number?

3 A. 803-22 --

4 **MR. RUTHERFORD:** Your Honor, is there a point to
5 this?

6 **MR. GRAHAM:** It goes to records later identifying
7 who it belongs to.

8 **THE COURT:** All right. Overruled. Go ahead, sir.

9 **THE WITNESS:** [REDACTED] 150.

10 BY MR. GRAHAM:

11 Q. [REDACTED] 150?

12 A. Yes, sir.

13 Q. Morgan's number was [REDACTED] 88?

14 A. Yes, sir.

15 Q. Keith Adams, [REDACTED] 52?

16 A. I don't know.

17 Q. You don't know?

18 A. No, sir.

19 Q. Do you know who the number is [REDACTED] 04?

20 A. No, sir.

21 Q. Do you know who Mr. Dennis was talking to when he came
22 out of the Cook-Out?

23 A. No, sir.

24 Q. No one was blocking your way from leaving when you
25 stopped and got out, correct?

1 A. Yes, sir.

2 Q. You got out with a bat in your hand or a lead pole or
3 pipe in your hand, correct?

4 A. Yes, sir.

5 Q. When you got out, how far away was your car from
6 Mr. Dennis's car?

7 A. Not far at all.

8 Q. How far? Ten feet?

9 A. I don't know how big ten feet is.

10 Q. Well, he eventually left. Did you say he passed you
11 on the left or the right?

12 A. The left.

13 Q. Why did he take -- why did he go down that way; do you
14 know?

15 A. Because I was blocking the rest.

16 Q. Well, you're in the middle of the road. I mean, you
17 agree looking at this that that road is wide enough for
18 three cars, right?

19 A. It could have been.

20 Q. You're in the middle. He passes you on the left up
21 here, correct?

22 A. (Nods head.)

23 Q. That would be the wrong side of the road, wouldn't it?

24 A. Yes, sir.

25 Q. Did he hit you?

1 A. Hit, like, my car?

2 Q. Hit you, your car or your person.

3 A. No, sir.

4 Q. So you weren't stopping him from leaving then, were
5 you?

6 A. I was in front of his car with a few other people,
7 yes, sir.

8 Q. But you didn't move your car again once you got out
9 until after he passed you, correct?

10 A. I said I was standing in front of his car. That's
11 what I mean.

12 Q. So you weren't by your door, you were back in between
13 the two cars?

14 A. Yes, sir.

15 Q. Now the -- nobody hit your car or did anything to your
16 car, did they? I didn't hear you testify to that. That
17 didn't happen, did it?

18 A. No, sir.

19 Q. Do you remember talking with Detective Carter? And
20 this would have been the night this happened on
21 November 17th. Do you remember going down to the police
22 and talking with him?

23 A. Yes, sir.

24 Q. Do you remember telling him that a large crowd from
25 the Cook-Out restaurant surrounded your car and began

1 striking car with their hands and shouting things at you?

2 Do you remember telling him that?

3 A. That's a long time ago, sir.

4 Q. Well, do you admit it or do you deny it?

5 A. I what?

6 Q. You either said it or you didn't.

7 A. I probably did, yes, sir.

8 Q. You probably did?

9 A. Yes, sir.

10 Q. But that didn't happen, did it? Because I just asked
11 you a second ago if it happened and you said no, that
12 nobody had done that to your car at the Cook-Out, right?

13 A. Are you asking did somebody hit my car while we was at
14 Cook-Out?

15 Q. I asked you a few minutes ago if anybody had been
16 hitting your car at the Cook-Out and you said "no".

17 A. Yes, sir.

18 Q. And that's true, nobody did, right?

19 A. Yes, sir. The most it was it was a few -- a few
20 people pulled on my driver's side door handle.

21 Q. But nobody was hitting your car?

22 A. No, sir.

23 Q. Okay. Now that we know that, why did you tell
24 Detective Carter that people were striking your car with
25 their hands?

1 A. They were just -- it's just grabbing on my door and
2 like I -- I didn't mean, like, literally striking my car.

3 Q. So if that's what you told him, that was lie, correct?
4 If you told him that people were striking your car, then
5 you lied to him, correct?

6 A. Was that -- was that my exact words I told him?

7 Q. I don't know. I'm asking you. Would you have told
8 him that people were striking your car or not?

9 A. I probably told him people surrounded my car and was
10 pulling on my door handles and stuff like that. Yes, sir,
11 I did tell him that.

12 Q. Okay. You told him that people surrounding your car
13 were pulling on door handles?

14 A. Yes, sir.

15 Q. Did you say anything to him about striking your car?

16 A. No, sir.

17 Q. So if you did tell him that, then you lied, correct?

18 A. Yes, sir.

19 Q. And also do you remember telling Detective Carter
20 during that interview on the 17th that it took you several
21 minutes to work your car through the crowd? Do you
22 remember telling him that?

23 A. Is he talking about at the school or at the Cook-Out?

24 Q. At the Cook-Out parking lot right when this happened,
25 when you're trying to leave, did you tell him that it took

1 you several minutes to work your car through there?

2 A. I don't recall.

3 Q. Isn't it true that you didn't tell him anything about
4 throwing money during that interview, did you?

5 A. He didn't ask, but I did tell him the second time,
6 yes, sir.

7 Q. Well, we'll get there. The first time you didn't tell
8 him that?

9 A. No, sir.

10 Q. But isn't it true that the reason the people are in
11 the road and, I guess, in the way around his vehicle is
12 because you stopped your car and threw money?

13 A. Well, people was already in the road, so that probably
14 contributed to more people coming in the road, but there
15 was already people in the road.

16 Q. There were people stopping you from leaving. You are
17 -- you agree to that, correct?

18 A. Yes, sir.

19 Q. So until you threw the money out, there weren't people
20 in the road to stop you from leaving or Mr. Dennis from
21 leaving, was there?

22 A. There were people in the road before I threw the
23 money.

24 Q. But not stopping you or Mr. Dennis from leaving,
25 correct?

1 A. No, sir.

2 Q. But you didn't bother to tell Detective Carter that
3 you threw money in the road that caused more people to get
4 in the road to get in the way, did you?

5 A. Not the first time or the second.

6 Q. You also didn't tell him that you got out of the car
7 with a pipe in your hand, did you?

8 A. No, sir.

9 Q. When is the first time that you learned that somebody
10 had been stabbed?

11 A. When the cops came to my door later on that night --
12 no, actually I learned about it on Twitter; that somebody
13 tweeted that somebody was stabbed at Cook-Out.

14 Q. So before you talked to the police, you knew that
15 somebody had been stabbed?

16 A. Yes, sir. Or it was like -- I don't recall. I just
17 remember seeing it on Twitter that somebody was stabbed at
18 Cook-Out, yes, sir.

19 Q. When you -- when you talked with Detective Carter, did
20 you know that somebody had been stabbed?

21 A. Yes, sir.

22 Q. So you knew it was serious?

23 A. Yes, sir.

24 Q. And you'd agree with me that you should have told the
25 officer everything that was important at that time?

1 A. Yes, sir.

2 Q. And that's what you did, wasn't it?

3 A. Yes, sir.

4 Q. Except what you didn't tell them, correct?

5 A. Yes, sir.

6 Q. Okay. Did you talk to Mr. Dennis before you spoke to
7 the police?

8 A. I don't remember.

9 Q. Did your sister talk to him?

10 A. I don't think so.

11 Q. The second time you talked to the police, they asked
12 you to come back in and that was on February 19th of this
13 year at about 5:00 in the afternoon back, again, with
14 Detective Carter at the Lexington Town Police Department,
15 correct?

16 A. Yes, sir.

17 Q. And you remember that?

18 A. (Nods head.)

19 Q. That time you were asked if you ever exited your
20 vehicle and went into the rear hatch, correct?

21 A. Yes, sir.

22 Q. And it was that time that you said yes, I did, but I
23 went to put a drink in a cup holder in the cargo area,
24 right?

25 A. Yes, sir.

1 Q. So you were asked if you ever got out of your car
2 during the incident. You told him about one time, didn't
3 you?

4 A. No, he asked me did -- he asked me did I go to the
5 rear hatch before getting into my car and pulling up the
6 hill and I told him yes, sir, I did.

7 Q. But you didn't tell him about stopping -- you didn't
8 tell him about throwing money, did you?

9 A. No, sir. Yes, sir, the second one.

10 Q. When he asked?

11 A. Yes, sir.

12 Q. You didn't tell him about stopping your car and
13 getting out with a bat though, did you, or a lead pipe?

14 A. I don't remember.

15 Q. You would agree with me that that was important
16 though, wouldn't you?

17 A. Uh-huh. I guess.

18 Q. Well, you getting out of your car and throwing the
19 money is what caused this, isn't it?

20 A. I didn't get out of the car and throw the money. I
21 was in my car when I threw the money.

22 Q. You told Detective Carter that you were never in
23 danger of striking anybody, isn't that correct, with your
24 vehicle?

25 A. No, I don't remember ever being asked that.

1 Q. Isn't it true that you were carrying that pipe because
2 you expected to have trouble with the Dutch Fork students
3 at the game or after?

4 A. No, sir.

5 Q. What kind of knives do you know Mr. Dennis to have?

6 A. I just recall one little knife he kept in the glove
7 compartment that I think his granddad gave to him.

8 Q. All right. That was like a little brown --

9 A. Yes, sir.

10 Q. -- folding pocketknife, right?

11 A. Yes, sir.

12 Q. Do you remember any other knives?

13 A. (Shakes head.)

14 Q. Did he normally care -- did he normally carry knives?

15 A. No, sir.

16 Q. You were his best friend and are his best friend,
17 correct?

18 A. Yes, sir.

19 Q. You rode in that Ford Explorer all the time, correct?

20 A. Yes, sir.

21 Q. He was not a hunter, was he?

22 A. No, sir.

23 Q. So do you know any reason why he would have a knife
24 like this in his car?

25 A. No, sir.

1 Q. You've never seen that knife before?

2 A. No, sir.

3 Q. He didn't normally carry that knife as far as you
4 know?

5 A. As far as I know, yes, sir.

6 Q. And you would know though, wouldn't you?

7 A. No.

8 Q. You're his best friend. So you don't know why that
9 knife was in the car?

10 A. (Shakes head.)

11 Q. How about this other knife? Have you ever seen this
12 knife? That was the one that Keith Adams gave him, the
13 Eradicator.

14 A. No, sir.

15 Q. You don't know anything about that knife?

16 A. (Shakes head.)

17 Q. You would agree with me that it is illegal to carry
18 weapons like this knife, which I'm talking about, State's
19 Exhibit Number 10, on the school grounds, correct?

20 A. Yes, sir.

21 Q. You know that from being a student there, right?

22 A. Is it illegal to carry a knife with you on school
23 grounds?

24 Q. Do you take knives to school?

25 A. But we're at a basketball game. There's men there all

1 the time with pocketknives. Are they breaking the law?

2 Q. Do you take knives to games?

3 A. Yeah, I do carry -- I did carry a pocketknife, yes,
4 sir.

5 Q. You have no reason -- you know of no reason why
6 Mr. Dennis would have this kind of a fixed blade
7 hunting-type knife in his car. Is that your testimony?

8 A. Yes, sir.

9 **MR. GRAHAM:** That's all. Thank you.

10 **THE COURT:** Any redirect?

11 **MR. RUTHERFORD:** I beg the Court's indulgence,
12 Your Honor.

13 **THE COURT:** Yes, sir.

14 REDIRECT EXAMINATION

15 BY MR. RUTHERFORD:

16 Q. The Solicitor asked you repeatedly about you getting
17 out of the car.

18 A. (Nods head.)

19 Q. Can you tell me again what made you get out of the car
20 with the pipe in your hand?

21 A. When Lucky told me that Kierin had called me or was
22 screaming my name, something along those lines.

23 Q. So when Lucky said that, what did he make you feel?

24 A. He said it like panicky, so I was thinking oh,
25 something's going on with Kierin at that point.

1 Q. The Solicitor said a hundred times that the pipe was
2 lead. Was your pipe lead?

3 A. No, sir.

4 Q. So when he said that, he's wrong. It's not a lead
5 pipe?

6 A. Yes, sir.

7 Q. It's just a metal pipe?

8 A. Yes, sir.

9 Q. You stated you had just found it somewhere; is that
10 right?

11 A. Yes, sir.

12 Q. Okay. And, again, so in your panicky state is that
13 how you were when you came out of the car?

14 A. Yes, sir.

15 Q. Were you also afraid?

16 A. Yes, sir.

17 Q. So in your fearful, panicky state you grabbed a pipe
18 and got out of the car; is that correct?

19 A. Yes, sir.

20 Q. And you did so in an attempt to go help Kierin?

21 A. Yes, sir.

22 Q. And when you turned around and you saw Kierin's car,
23 what did you notice?

24 A. A -- a mob of people around the driver's side of his
25 -- the driver's side window of his vehicle.

1 Q. And the Solicitor asked you -- you turned around and
2 you saw his car. When you saw his car, he asked whether it
3 was moving or not. Was it moving or not?

4 A. No, sir.

5 Q. It was standing still?

6 A. Yes, sir.

7 Q. And you say there was a mob of people outside of his
8 driver's side window?

9 A. Yes, sir.

10 Q. And if I use this railing right here as his driver
11 side window, knowing that it normally would be on the other
12 side, how close were they to his window? Just stop me when
13 I get to that point. Touching? So they were right here?

14 A. Yes, sir.

15 Q. At his window?

16 A. Yes, sir.

17 Q. Now the Solicitor asked you whether you were best
18 friends with Kierin; is that right?

19 A. Yes, sir.

20 Q. He asked you whether you lived across the street from
21 Kierin, correct?

22 A. Yes, sir.

23 Q. And you do, correct?

24 A. Yes, sir.

25 Q. Kierin's your best friend, correct?

1 A. Yes, sir.

2 Q. Did you know any of the people standing at Kierin's
3 window?

4 A. No, sir.

5 Q. Had you ever seen them before?

6 A. No, sir.

7 Q. Were they the same people that had followed you out of
8 Cook-Out?

9 A. Yes, sir.

10 Q. And so these same people that had followed you out of
11 Cook-Out and were now at Kierin's window, how did that make
12 you feel?

13 A. I was frightened, I would say. Just -- I didn't know
14 what was going on. All I could see was the people at his
15 window.

16 Q. And you're standing there and you've got a pipe in
17 your hand. Why did you not walk up to his car?

18 A. I was stopped by one of the kids that went to
19 Lexington with us, Josh.

20 Q. And what did he tell you?

21 A. He told me I had my sister with me and I should get
22 back in my car.

23 Q. Why did it make a difference that you had your sister
24 with you?

25 A. He said that it was too many people and that something

1 could happen and that I needed to get back in my car.

2 Q. And so at that point you went to get back in your car;
3 is that correct?

4 A. Yes, sir.

5 Q. And as you were getting back in your car, Kierin sped
6 past you; is that correct?

7 A. Yes, sir.

8 Q. And the Solicitor went into somebody striking your car
9 or hitting your car. You -- when you were about to leave,
10 did anyone with their car strike your car?

11 A. No, sir.

12 Q. When you were about to leave, were there people using
13 their hands against your car?

14 A. Yes, sir.

15 Q. In what way?

16 A. Just, you know, like touching basically.

17 Q. And so -- I'm sorry?

18 A. Slapping, you know. Like touching the glass, pulling
19 my handle, stuff like that.

20 Q. Did you authorize them to touch your car?

21 A. No, sir.

22 Q. Did you authorize them to pull on your door handle?

23 A. No, sir.

24 Q. Did you invite them to do so?

25 A. No, sir.

1 Q. Did you threaten them if they didn't do so?

2 A. No, sir.

3 Q. While you were with Kierin, did you know -- did you
4 hear of him invite anyone to come to his window?

5 A. No, sir.

6 Q. Did you ever hear Kierin say anything while you were
7 standing outside of your car?

8 A. No, sir.

9 Q. When you threw the money out of your window, you said
10 that you noticed people run up to your car?

11 A. Yes, sir.

12 Q. And you said several people?

13 A. (Nods head.)

14 Q. Was that -- could -- how far away would someone have
15 to be to notice them coming to your car? Meaning, were
16 they running straight up, did they crawl on the ground?
17 What kind of reaction did it get when you threw the money
18 out of the window?

19 A. They, like, ran up.

20 Q. Okay. And so you're sitting there as they run up your
21 to car, correct?

22 A. Yes, sir.

23 Q. Okay. And --

24 **MR. RUTHERFORD:** I'm sorry. Begging the Court's
25 indulgence.

1 **THE COURT:** Yes, sir.

2 BY MR. RUTHERFORD:

3 Q. As the Solicitor said again and you replied that
4 Kierin's car was stopped when you saw it, correct?

5 A. Yes, sir.

6 Q. And you said that there were several people standing
7 at his door. Could you tell what they were doing at his
8 door?

9 A. No, sir.

10 Q. Could you see where their hands were?

11 A. Yes, sir.

12 Q. All right. Well, describe that situation to me.

13 A. I just saw hands. I could see people reaching into
14 his window and I could see people touching all over -- over
15 the car. I could just see -- it was like a group going
16 crazy.

17 Q. And so as those people are standing at his car, did
18 you recognize them to be the same people that were standing
19 at your car or was -- was the group just too large?

20 A. It was just too large.

21 Q. And so this group of people you see standing there and
22 you can tell that their hands -- and I don't want to put
23 words in your mouth. Were they -- were they being
24 aggressive towards Kierin or did they just not like the
25 color of his car?

1 A. They were being aggressive, yes, sir.

2 Q. Could you see Kierin's face?

3 A. No, sir.

4 **MR. RUTHERFORD:** No further questions at this time,
5 Your Honor.

6 RECROSS EXAMINATION

7 BY MR. GRAHAM:

8 Q. When did you tell the police that you saw people
9 reaching into Mr. Dennis's car?

10 A. I guess when I met with them.

11 Q. Did you tell him? When you met with him on
12 February 17th, did you tell him that people were reaching
13 into Mr. Dennis's car?

14 A. I don't recall.

15 Q. Well, it would be important. Did you tell him or not?

16 A. I don't -- I don't recall.

17 Q. You would agree with me that's very important?

18 A. Yes, sir.

19 Q. Did you tell him on the second interview you had with
20 him? That would have been on February 19th at 5:00 at
21 Town Hall again. Did you tell him then that you saw people
22 reaching into Mr. Dennis's car?

23 A. I can't remember.

24 Q. People pulling on your door handles and touching your
25 car, not hitting, correct, just touching?

1 A. Yes, sir.

2 Q. That happened before you got out of the car or after?

3 A. Before.

4 Q. That happened before you got out of the car?

5 A. Yes, sir.

6 Q. So you got out of the car with a metal pipe after
7 Lucky told you that Mr. Dennis was in trouble after people
8 had been lifting up your door handles and touching your
9 car?

10 A. Yes, sir.

11 **MR. GRAHAM:** That's all.

12 **THE COURT:** Thank you very much, sir. You may
13 step down.

14 (Witness excused.)

15 **THE COURT:** All right. We'll just take about a
16 five, ten minute break, all right?

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

18 (Recess taken at 4:02 PM.)

19 (Back on the record at 4:16 PM.)

20 **BAILIFF:** All rise. Court's in session.

21 **THE COURT:** Thanks, folks. Please have a seat.

22 **MS. MARTIN:** At this time the defense calls Morgan
23 Zander to the stand.

24 **THE CLERK:** Place your left hand and raise your right.

25 (Whereupon, Morgan Zander was duly sworn by the

1 Clerk of Court.)

2 **THE CLERK:** Thank you. Go ahead. You can take
3 your purse with you. Once you have a seat, ma'am, I need
4 you to speak up loud and clear, state your full name,
5 spelling your last on the record.

6 **THE WITNESS:** My name is Morgan Zander. Zander is
7 spelled Z-A-N-D-E-R.

8 MORGAN ZANDER,
9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. MARTIN:

12 Q. Thank you, Morgan.

13 A. You're welcome.

14 Q. Is it cool for me to call you Morgan?

15 A. Yes, ma'am.

16 Q. Okay. Morgan, if you will, please tell me how old are
17 you.

18 A. I am fifteen years old.

19 Q. Are you in school?

20 A. Yes, ma'am.

21 Q. Where do you attend school?

22 A. Lexington High School.

23 Q. What grade are you in?

24 A. I am in tenth.

25 Q. Do you have any siblings?

1 A. Yes, ma'am. I have three siblings; two brothers and
2 another -- and a sister.

3 Q. Are you close with your siblings?

4 A. Yes, ma'am, I am.

5 Q. Do you hang out with your siblings?

6 A. A lot.

7 Q. Well, tell me your favorite sibling to hang out with.

8 A. My brother Will, William Zander.

9 Q. Were you with Will the night of February 17th?

10 A. Yes, ma'am, I was.

11 Q. And you -- you went to the game with him?

12 A. Yes, ma'am.

13 Q. Could you tell us a little bit about the game? I
14 guess your experience that evening.

15 A. At the -- at the gym it was the -- you know, just
16 the regular gang and then at -- since first when it was
17 -- the game was at Dutch Fork it was such a big almost
18 altercation, they escorted Lexington students through the
19 front door, the main door, and they escorted Dutch Fork
20 students to the back door.

21 Q. Do they -- why did they do that?

22 A. For they could not have any fights or anything because
23 last -- when we were at the Dutch Fork place for the game
24 they had to pull out Tasers and all that kind of stuff.

25 Q. So did you see any of that activity or that behavior

1 at the Lexington game?

2 A. Yes, ma'am.

3 Q. Tell me a little bit about what you observed.

4 A. While -- like while we were walking out, we split up
5 -- we split one way. Some of the Dutch Fork students did
6 come to where the Lexington students were coming out and
7 they were, you know, trying to start a fight, you know,
8 they wanted to see a fight, and they were following us out
9 to our car and some of our officers were like -- they
10 didn't let -- like shoot the Taser, but they pulled them
11 out showing that they had them and, like, y'all need to go
12 to your car and they were following us up to the car doing
13 like the Nae Nae little dance.

14 Q. Okay. Let's -- let's backtrack. Tell me who you're
15 referring to when you say "us".

16 A. Lexington -- just Lexington students. It wasn't just
17 me and my brother or my friends. It was a lot of Lex --
18 they were doing it to all of the Lexington students.

19 Q. So who exactly were you with on that night?

20 A. I was with my brother and Lucky.

21 Q. Okay. Anyone else?

22 A. Keith, Kierin.

23 Q. Okay. And all of you experienced the Dutch Fork
24 students dancing and -- and doing all the things that they
25 were doing?

1 A. Yes, ma'am.

2 Q. Okay. How did you feel when they were doing that?

3 A. Scared, you know. I don't know. Intimidated. I
4 don't -- like it was -- it was a scary thing having so many
5 people against, like, you know, a little -- a little group.
6 It's just like anybody would feel if it was even, like, two
7 people against one person. Think about having a swarm of
8 people on you. Well, you seem like you're by yourself even
9 though you're not by yourself.

10 Q. I understand. I understand. So did you happen to, I
11 guess, record or somehow commemorate this evening?

12 A. Some parts.

13 Q. Pardon?

14 A. Some parts.

15 Q. You did?

16 A. Yes, ma'am.

17 Q. So what -- what I'm getting at is I'm -- I'm wondering
18 if you have any documentation. Did you take pictures that
19 night, did you video anything?

20 A. Yes, ma'am.

21 Q. Okay.

22 **MS. MARTIN:** If I could play the video that you
23 played earlier. Thank you.

24 BY MS. MARTIN:

25 Q. So, again, what made you videotape the game?

1 A. It being so crazy, just -- I don't -- God, I guess.
2 I don't know. Maybe he knew like this was in -- like it
3 would have been in Kierin's favor. Who knows what like --
4 who knows what would have happened maybe? I don't know. I
5 don't know. I usually don't record a lot. It's just in
6 that moment --

7 Q. Okay. So we're gonna wait for him to play that, but
8 in the meantime I'm gonna ask you a few more questions
9 about your experience in the parking lot.

10 **MS. MARTIN:** Are you ready now? We're gonna play it
11 right now.

12 **THE COURT:** Would you take that down and move the
13 tripod so Ms. Zander can see.

14 (Whereupon, State's Exhibit Number 11 was played.)

15 BY MS. MARTIN:

16 Q. Okay. So -- so tell me about that video.

17 A. That was when we were trying to walk out to the car
18 and I don't know if you paid close attention. If you --
19 if the quality would have been better you could see the
20 cops and, you know, them trying to -- like, you know, y'all
21 need to go. They were following us to our car. The way
22 Lexington is set up there's two -- there's a visitor's
23 parking lot that most people -- that they try to tell you
24 to park at so they didn't have any, like, I don't know, any
25 excuse to being over near our car because there's Lexington

1 side and there's the visitor's side and then it has A, B
2 and C.

3 Q. Could you make out what you were saying on the video?

4 A. That was -- that wasn't -- that wasn't me. That was
5 my friend. It was some -- it wasn't -- it wasn't me. It
6 was my friend. It was somebody beside me.

7 Q. What does she mean? Just, if you know, if she
8 expressed to you, what does she mean by swinging?

9 A. Because he -- I guess he said they're gonna fight.
10 They were threatening. It was -- it was threatening and
11 they were following us.

12 Q. Did you have words with any of the people that you
13 encountered that night?

14 A. I don't really know people at Dutch Fork, so I don't
15 know them. Besides just acting crazy and, you know, doing
16 our chants, no, ma'am.

17 Q. So you didn't -- you didn't say anything back to them
18 if they said anything to you? Like you didn't have any of
19 those exchanges?

20 A. Defending? By defending yourself?

21 Q. If that's what you were doing.

22 A. By defending yourself, yeah, if you want to put it
23 that way. You -- I would say that I was defending myself,
24 so then, yeah, that was fine, you know. You want to, like,
25 not let people know that you're scared in that moment. If

1 they're, like, you know, twenty-five people following you
2 out to your car and you don't want to let people know that
3 you -- like, you know, okay, I'm scared, these people, you
4 know, they can beat me up, so.

5 Q. Yeah. So -- so what types of things were they saying
6 to you?

7 A. Saying since Lexington is, you know, known for being a
8 richer school or whatever, they wasn't just yelling. They
9 were, you know, saying get your rich -- I'm going to spell
10 out A-S-S -- out of here, you're all boss since you have
11 money, it doesn't mean anything, y'all are like preppy and
12 all of this other stuff, act your color or whatever, you
13 know what I'm saying?

14 Q. Okay. So when you finally got to the car --

15 A. Yes, ma'am.

16 Q. -- what did you do at that point?

17 A. Like as I was leaving?

18 Q. Uh-huh.

19 A. Leaving, we went -- I don't recall. I remember -- I
20 remember we -- we went to Sonic, but I don't -- we went
21 some other place, I don't remember the exact place, but I
22 know we went to Sonic though and we were gonna get food
23 there, but then nobody could -- like all of us couldn't
24 agree on, like, what we all wanted because we were gonna
25 all -- like after every basketball game and even football

1 games we all eat together and we couldn't decide, so we
2 decided on going to Cook-Out because Cook-Out's food is,
3 you know, cheap and you get a lot of food and they have the
4 best milkshakes and -- all kinds of milkshakes.

5 Q. Okay. So who were your riding with?

6 A. Lucky and my brother Will.

7 Q. Okay. So you guys went from Sonic or wherever to
8 Cook-Out. Tell me about that experience. Where did you
9 park?

10 A. That place that -- the car wash behind Cook-Out.

11 Q. Okay. Why didn't you park any closer?

12 A. It wasn't a lot of parking spots and we all parked
13 together. It was just -- I don't know. It was just -- I
14 don't know. I don't know. We just parked there and I'm
15 just like, okay, I'm just a tagalong, it's fine if we park
16 here.

17 Q. Okay. So tell me about when you got in Cook-Out.

18 A. Oh, it was crowded. It was a lot of -- it was a lot
19 of people in Cook-Out. It was very high in tension you
20 could say. As soon as we walk in, you can just see them
21 like turn and look at us and we were just like okay.

22 Q. Did you -- did you recognize any of the people in
23 Cook-Out that you may have seen at the game --

24 A. Yes, ma'am.

25 Q. -- dancing and --

1 A. Yes, ma'am, I did, but I didn't, you know, acknowledge
2 them. No, I was just trying to get my food. I don't
3 really care about that, so.

4 Q. So did anyone make any comments to you or remarks to
5 you when you were at Cook-Out?

6 A. Inside?

7 Q. Inside.

8 A. If they did, I wasn't really paying attention. I was
9 -- the first thing I did when I went in Cook-Out was go to
10 the -- there's a line. I was waiting in the line waiting
11 to order my food and when I ordered my food, I got my
12 drink, but I never actually got to get my food.

13 Q. Why not?

14 A. Somebody -- somebody from Dutch Fork's side, I don't
15 know -- I don't who he was with. He was a nice, you know,
16 friendly person. He was like y'all should probably go,
17 they're gonna start acting, you know, crazy and trying to
18 start a problem. I guess they were -- they were -- they
19 were saying stuff, but I wasn't really listening, but then
20 that guy came up to all of -- me, my brother and our little
21 -- our little group that we had and was, like, they're
22 gonna start acting crazy, you know, maybe you should go,
23 you know, sit outside and wait or something.

24 Q. So whose idea was it to actually leave?

25 A. Kierin's.

1 Q. Did he tell you why he wanted you-all to leave?

2 A. Wait, why Kierin wanted us to leave?

3 Q. Did he ever mention to you why you-all needed to
4 leave?

5 A. For we won't -- for it won't be a problem, an issue,
6 you know.

7 Q. What do you mean by an issue?

8 A. No fights. All we wanted to do when we went to
9 Cook-Out was, you know, get some food, probably go to --
10 our house is always the meeting housing, go to our house
11 and, you know, watch movies and eat. That's what we wanted
12 to do.

13 Q. So why did you feel like they wanted to fight or like
14 that was a possibility?

15 A. Because they're very aggressive.

16 Q. How so?

17 A. Even from -- remembering from the last game, the game
18 when it was at Dutch Fork and the game when it was at
19 Lexington, they were very aggressive people and, you know,
20 they'll -- I don't know. They're just very aggressive.
21 Like you can tell when somebody's -- like they'll give you
22 dirty looks and, like, you know -- and they'll -- you know,
23 they'll do stuff to make you seem, you know, low or
24 something like that.

25 Q. Okay. So you-all decided to leave?

1 A. (Nods head.)

2 Q. You didn't get your food?

3 A. No, ma'am.

4 Q. What did you walk out with?

5 A. I walked out with my drink half empty. My cup -- I
6 had a large -- no, bigger than the large. You know how
7 it's like a supersized cup? I walked out with a supersized
8 cup and my food was still being made and that's like no
9 fun.

10 Q. That's no fun. So tell me a little bit about the
11 outside. Describe to me what Cook-Out was like when you
12 left. Did anything interesting happen, anything
13 noteworthy?

14 A. Yeah. So Kierin -- we were gonna wait outside and
15 wait for my food and then we were gonna leave, but then
16 some guy came outside and, you know, once he came outside,
17 everybody -- everybody came outside. It was like he was
18 like the ringleader, you know, the leader of it and when
19 he came outside everybody decided to come outside.

20 Q. So what -- what did he do when he got outside?

21 A. He said something. I don't -- I don't recall what he
22 said. He said something and then -- he said something and
23 then I guess when he -- he turned around and he lifted up
24 his hands and he's like "Are y'all salty -- are y'all
25 still salty?" or something. It was something -- it was

1 something like that, on the guidelines, and when he turned
2 around I guess everybody was looking out the window, like,
3 oh, okay, let's see what's going on and then everybody --
4 it's like everybody came and that's when Kierin and my
5 brother and Keith was just like "Come on, y'all. Let's
6 just go".

7 Q. So to you what does that mean when someone lifts their
8 hands like that? Are they like dancing still? Like what
9 is that?

10 A. Like (demonstrating). Like what you gonna do? Like,
11 you know -- you know, like --

12 Q. Would you say it's threatening?

13 A. Yeah. Like it would be like -- all right, like, you
14 know, it's one of those -- I'm going to -- if you say
15 something wrong, just like if you say something wrong, I'm
16 going to hit you. One of those kind of things.

17 Q. Okay. At that point when you saw him do that, how did
18 you feel?

19 A. Scared. Like remembering at the time when this
20 happened I was only fourteen and was like I'm ready to go,
21 you know. I don't want to fight, let's just go.

22 Q. So when everyone came outside, what were you guys
23 doing? Were you standing around or --

24 A. We were standing by the trash can. We were over by
25 the trash can.

1 Q. Okay. And you just stayed there?

2 A. Yes. Yes, ma'am.

3 Q. For how long?

4 A. Until he came outside and everything started --
5 everybody else came outside.

6 Q. Okay. So when everyone else came outside, what did
7 you guys do?

8 A. Leave. We started walking to our car.

9 Q. How far was that?

10 A. It was -- it was by the -- it was --

11 Q. Show me in the courtroom. If you are the front of the
12 restaurant, how far away was your car? Was it to the bar
13 there, was it all the way to the back of the courtroom?

14 A. It was all the way to the back of the courtroom.

15 Q. Okay.

16 A. It was a -- it was a longer walk.

17 Q. Okay. How far out did the crowd follow you guys?

18 A. My brother went and got the car. He ran to the car
19 and so it wasn't -- it was -- they followed us to the most
20 possible, you know, length until we got to the car.

21 Q. Okay. During that time were they saying or doing
22 anything else that bothered you?

23 A. Yes, ma'am. I mean, I guess since I was the only girl
24 out of all of them, I guess -- you know, if you call a boy
25 any kind of name, like a -- like "ugly" or anything, it's

1 not gonna matter because they're -- they're a guy, but
2 since it was me and I'm like the girl, they're like "You're
3 ugly, a b-i-t-c-h, you know, I'll go beat your butt", and
4 some of the girls there was like "You don't want to come
5 to Dutch Fork side". And the victim, the one that got
6 stabbed, Mr. Capers, he -- he had like -- I don't know.
7 I don't know if he had a cup in his hand or if it was a
8 milkshake or a drink. He like -- he like stood in front of
9 everybody and put his hands like out, you know, trying to
10 stop -- like not stopping the crowd, like -- like hold up,
11 hold up, hold up, you know, like that, and he said "Hold my
12 drink, I'm about to slap you b-i-t-c-h", meaning me. And I
13 remember it clear as day because I looked behind me, like,
14 oh, my God.

15 Q. Did you think he was really going to do it?

16 A. Yeah. I mean, why say something if you're not gonna,
17 like, you know, do it and he -- and how he was acting. He
18 had the, you know, intentions of, you know, to slap me.

19 Q. How many students do you think there were following
20 you guys?

21 A. Twenty to, like, I don't know, thirty-five.

22 Q. There were only five of you?

23 A. Yeah, there was only five of us.

24 Q. Could you tell that the guys were afraid?

25 A. Can you repeat?

1 Q. Could You tell at all that the guys were afraid? Your
2 brother, Kierin, did any of them act in your opinion like
3 they were fearful that something would happen?

4 A. Yeah, because, if you remember, my brother does not
5 run. When he starts running and getting stuff, that's how
6 you know there's a problem that needs to be fixed. When he
7 starts running, there's a problem. And Kierin, Kierin
8 doesn't run. All of them was just like walking real fast,
9 like we need to go, and -- and my brother was trying to
10 defend me because after he said that he wanted to slap me,
11 my brother was just like -- and so he went -- like he
12 slowed down a little bit. He didn't stop. He slowed down
13 a little bit and put his hands, like, you know, away from
14 me pushing me forward with -- along with Lucky. Like they
15 were both pushing me. Like, okay, you're not gonna get hit
16 because, you know, you're a sister.

17 Q. Okay. So after that you-all made it to the car
18 safely, I presume?

19 A. Yes.

20 Q. What did you do at that point?

21 A. I was on my phone. I don't really know. I don't --

22 Q. Did you get in the car?

23 A. Yeah.

24 Q. Where did you guys drive? Where did you ride to?

25 A. Now there's a pet -- pet store. That parking lot

1 right there. We drove to the -- I don't know what you call
2 it.

3 Q. So you stayed in the same vicinity, the same parking
4 area or did you move somewhere totally different?

5 A. Oh, we -- we didn't -- we moved somewhere totally
6 different.

7 Q. Okay. And what were you guys doing there?

8 A. I don't -- I don't know. I don't -- I don't recall.
9 I don't remember.

10 Q. Were you guys, you know, talking, listening to music,
11 was everyone in their own car, were you guys outside the
12 car?

13 A. Oh, we were in the car and I guess we were trying --
14 oh, trying to find a way to get out of there safe without
15 there being a problem because with -- because it was all
16 packed and, you know, everybody was going through the
17 drive-thru and all that other stuff, you couldn't get out
18 that way.

19 Q. Okay. Why couldn't you go out the main entrance?

20 A. Main entrance?

21 Q. Like the --

22 **MS. MARTIN:** If I may use your demonstrative? Could
23 I borrow --

24 **THE COURT:** Sure.

25 **MS. MARTIN:** Thank you.

1 BY MS. MARTIN:

2 Q. So where were you guys standing -- or parked, excuse
3 me, whenever you-all were trying to figure out how to get
4 out there?

5 A. Where that -- say like behind that big tree.

6 Q. Right here?

7 A. Yeah.

8 Q. Okay. And then what did you do after that?

9 A. Figured out we couldn't go out that way.

10 Q. What way?

11 A. That way.

12 Q. This way?

13 A. Yeah.

14 Q. Why couldn't you go out that way?

15 A. Because either a girl parked --

16 **THE COURT:** Let -- let Ms. Zander just step down
17 next to the thing and she can point.

18 **MS. MARTIN:** Thank you, Your Honor.

19 **THE COURT:** If you would do that, that would be
20 easier.

21 (Whereupon, the witness steps down from the witness
22 stand.)

23 A. We couldn't -- we couldn't get out of -- we were
24 sitting here -- from what I remember, we were sitting here,
25 like how are we gonna get out of here without hitting this

1 car. You couldn't go out this way because, I don't know,
2 some girl I guess it was -- she was -- she parked her car
3 -- I don't know if she was waiting for her food or
4 something, but she had -- was outside her vehicle and her
5 car was parked right there. I don't know -- I don't know
6 what she was doing. And that's like -- we were just like
7 okay, well, how are we gonna get out, I don't know, and
8 they were talking about how they were going to get out at
9 the same time were trying to get out.

10 (Whereupon, the witness returns to the witness stand.)

11 BY MS. MARTIN:

12 Q. Okay. And why did you feel unsafe at that point since
13 you-all were no longer with the crowd, right?

14 A. Oh, the crowd was following us.

15 Q. Where was the crowd at this point when you were --
16 when you were in the car?

17 A. Trying to get close to our car. You could say that.
18 They were in the road -- in the road and trying like -- you
19 know, trying to get near there, but don't want to get too
20 like -- I don't know. I don't know how to explain it.
21 They were like -- you could say they were -- like if we
22 would have waited any longer they would have been at our
23 car.

24 Q. Okay.

25 **MS. MARTIN:** Okay. No further questions, Your Honor.

1 Thank you.

2 **THE COURT:** Cross.

3 CROSS-EXAMINATION

4 BY MR. GRAHAM:

5 Q. Ms. Zander, how would you describe yourself?

6 A. Huh?

7 Q. Are you shy?

8 A. Yeah. Yeah.

9 Q. You're shy?

10 A. Yeah.

11 Q. Are you quiet?

12 A. It depends on the day.

13 Q. Are you mouthy?

14 A. Not really.

15 Q. Do you run your mouth at people?

16 A. Like saying -- like just being rude or mean or just
17 talking a lot?

18 Q. At a -- at the basketball game when you ran into the
19 Lexington crowd, did you trade words with anybody?

20 A. No, sir.

21 Q. You did not?

22 A. No, sir.

23 Q. You saw the video, and that's a video that you took,
24 right?

25 A. Yes, sir.

1 **MR. GRAHAM:** Your Honor, the State would move
2 that video into evidence at this time.

3 **THE COURT:** Any objection?

4 **MR. RUTHERFORD:** No objection.

5 **THE COURT:** Without objection, State's Exhibit
6 Number 11.

7 (State's Exhibit Number 11, a video recording, was
8 marked and admitted into evidence.)

9 BY MR. GRAHAM:

10 Q. What is that video supposed to show? Why did you
11 record it?

12 A. To show how crazy it was.

13 Q. What was going on during you recording that?

14 A. They were following us to our car. They were doing a
15 dance.

16 Q. So the Nae Nae, I think, is the dance?

17 A. Yeah, and arguing.

18 Q. Were they threatening you at the time?

19 A. Some was and some wasn't. Some were and some were
20 just dancing and --

21 Q. What was being said to you in the Lexington High
22 School parking lot?

23 A. I don't recall. I don't remember exactly, but I know
24 it was -- it was not nice things. There were -- it was --
25 I don't want to say anything wrong, I don't want to say --

1 I don't want to lie or make something up right now, but it
2 was not nice things.

3 Q. Was it directed at you or somebody else?

4 A. It was directed at all of us.

5 Q. And when you say all of us, who was present? When we
6 looked at --

7 A. All the Lexington students.

8 Q. When we looked at State's Number 11, which is the
9 video you shot from you phone, that's -- you're testifying
10 that's you walking to your car; is that correct?

11 A. We were walking to our cars.

12 Q. Who was with you when that video was shot?

13 A. My brother -- my brother, Lucky. All the people that
14 I rode with, I think, were with me.

15 Q. So your brother and Lucky were with you?

16 A. And Keith and all the like --

17 Q. Keith Adams and also the Defendant, Kierin Dennis, was
18 with you when that video was shot?

19 A. I don't think Kierin -- I don't think Kierin was like
20 -- I don't know. I don't remember. I don't recall.

21 Q. The voice on there that says "When are we swinging,
22 when are we swinging", who said that?

23 A. It was my friend and she was -- well, it wasn't --
24 she's not my friend, she's my associate. We talk in
25 school, but we don't really -- she was walking with me

1 because she was waiting for her mom.

2 Q. That wasn't your voice?

3 A. No, sir. As you can tell, my voice is way deeper than
4 that.

5 Q. And if somebody said that was your voice, that would
6 be incorrect?

7 A. That would be incorrect.

8 Q. Why was she saying that?

9 A. Because they were -- I guess because they were
10 threatening on hitting, I guess.

11 Q. But you don't remember what they were saying?

12 A. Like I'm just saying from that point of view. Like
13 if you're scared -- if you're scared and somebody's saying
14 they're gonna swing on you, then you just ask when.

15 Q. Did you see any police officers when you were walking
16 to your car?

17 A. Oh, yes, sir.

18 Q. Did you stop and tell them that you had been
19 threatened by the Dutch Fork students?

20 A. Oh, yeah, I did. I told actually my resource officer,
21 Officer Mack, at Lexington High School. I remember him
22 specifically and he was just like y'all should just go, you
23 know, like we always do; go get food and don't worry about
24 it.

25 Q. And what's his name?

1 A. Officer Mack.

2 Q. Mack?

3 A. Mack. Officer Mack.

4 Q. And what did you tell him?

5 A. I told him that they were being crazy and he's, like,
6 yeah, I can see they're being crazy, just, like, go get
7 your food.

8 Q. Did you tell him that you had been threatened though?

9 A. I didn't tell him directly that they threatened --
10 they threatened to hit me, no, sir.

11 Q. You-all decided to go -- you were in the car with your
12 brother and Lucky, correct?

13 A. Correct.

14 Q. Kierin was in his car by himself?

15 A. Yes, sir.

16 Q. Keith was in his SUV by himself?

17 A. Yes, sir.

18 Q. What's your relationship with Mr. Dennis? Are y'all
19 boyfriend and girlfriend?

20 A. No, sir.

21 Q. You're not?

22 A. That's my -- he's -- we've -- I've known him ever
23 since he -- I moved into my neighborhood and ever since
24 then we've been very close. He's like my brother.

25 Q. He's a good friend of yours?

1 A. He's a really good friend of mine.

2 Q. Why did y'all decide to go to Sonic?

3 A. We were deciding on, you know -- like, you know, how
4 when you have too many friends and we were deciding where
5 to eat and, you know, like, everybody said they wanted
6 Sonic and so we were, like, oh, no, no Sonic, we don't like
7 Sonic food.

8 Q. Y'all normally go to the Cook-Out though, right, after
9 a basketball game?

10 A. It -- it depends. I don't know. Like, yeah, we do go
11 to Cook-Out after basketball games, yeah.

12 Q. Why didn't y'all go there first this time?

13 A. Deciding like -- you know, after eating Cook-Out every
14 -- every Friday, you never know. Like we wanted a change.

15 Q. You were kind of sick of the Cook-Out?

16 A. Repeat.

17 Q. You were just kind of sick of the Cook-Out and wanted
18 to go to someplace different?

19 A. Yes.

20 Q. So you go to Sonic. Do y'all eat there?

21 A. No, sir.

22 Q. Y'all go to McDonald's, I think, after that, right?
23 Did you get anything to drink or eat at Sonic?

24 A. No, sir.

25 Q. Why not?

1 A. Because nobody wanted to eat there and I didn't
2 like -- I didn't want to be the only person holding up
3 everybody, and it closes, you know, it closes and not get
4 anything.

5 Q. Were y'all looking for the Dutch Fork students when
6 you went there and they weren't there?

7 A. No, sir. There was nobody at Sonic.

8 Q. But it was your group's decision to go to Sonic,
9 correct?

10 A. It wasn't -- not -- no, we just -- well, you could
11 say it wasn't a decision, but nobody wanted to eat -- I
12 was -- I was the only one that wanted to eat there out of
13 everybody.

14 Q. You did or did not?

15 A. I wanted to eat there.

16 Q. You wanted to eat at Sonic?

17 A. Yes, sir.

18 Q. Well, why didn't you get something to eat at Sonic
19 then?

20 A. Because I didn't want to be the only one to eat there
21 and hold everybody up and waste time when we can go to a
22 place where everybody -- where we can agree on.

23 Q. But you actually did go to the Sonic and you pulled up
24 to one of the drive-thru places. Did you go through the
25 drive-thru or would you be in line for the drive-thru or

1 did you actually pull up and park?

2 A. Pull up and park?

3 Q. You know, when you push the button and order and they
4 bring the food out to you?

5 A. Yeah, pulled up and parked.

6 Q. Y'all pulled up and parked?

7 A. Yes.

8 Q. All three -- all three of your cars?

9 A. No, we didn't pull -- it was -- it was a pull up and
10 park, but it was like -- it wasn't to like the menu part,
11 it was like in the parking lot. It was like --

12 Q. Did y'all get out of your cars and go sit down at the
13 tables then in front?

14 A. No, sir.

15 **MR. RUTHERFORD:** Your Honor, I'm sorry. I don't
16 see the relevance in them getting out of the car at
17 Sonic.

18 **MR. GRAHAM:** I'm just trying to find out what
19 happened.

20 **THE COURT:** Okay. Go ahead.

21 BY MR. GRAHAM:

22 Q. How long were you-all at the Sonic?

23 A. I don't know. Not long.

24 Q. You went to McDonald's. Whose decision was it to go
25 to McDonald's?

1 A. I don't -- I don't recall. That was months ago. I
2 don't recall.

3 Q. Did anybody eat at McDonald's?

4 A. No, sir.

5 Q. Do you know why?

6 A. I don't remember.

7 Q. Whose decision was it to go to the Cook-Out?

8 A. All of ours because all of us was like okay, we can't
9 figure out what we want to eat, let's just go back to where
10 we usually go.

11 Q. When you get to the Cook-Out, where does your brother
12 park?

13 A. My brother parks to the right-hand side of -- I don't
14 know what the car wash is called, but it's a car wash.

15 Q. Looking at State's Exhibit 1, do you recognize that as
16 the layout of the Cook-Out and the Petsmart, the highway,
17 and then back here would be where the car wash would be?

18 A. Uh-huh.

19 Q. Where did you and your brother and Lucky park?

20 A. On the right side.

21 Q. On the right side. Are you down by the car wash
22 there?

23 A. Yes.

24 Q. Okay. Where did Keith park?

25 A. I don't know. I don't remember, I mean.

1 Q. You don't remember?

2 A. No.

3 Q. Where did Mr. Dennis park?

4 A. I remember he parked beside us. We all parked --
5 yeah, he parked beside me.

6 Q. Down by the car wash, too?

7 A. Yeah.

8 Q. You went to the Lexington game that was at Dutch Fork,
9 too, didn't you?

10 A. Yes, sir.

11 Q. And there was a problem after the game there on the
12 court, wasn't there? The Dutch Fork students kind of
13 rushed the floor and came over to the Lexington side; isn't
14 that true?

15 **MS. MARTIN:** Your Honor, I object. Relevance, way
16 beyond the scope.

17 **THE COURT:** All right. You're on -- or at the game
18 now or the Cook-Out now?

19 **MR. GRAHAM:** I'm at the previous game.

20 **THE COURT:** The game between Dutch Fork and
21 Lexington?

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

23 **MS. MARTIN:** Your Honor, he's addressing a game
24 from a year ago, not --

25 **THE COURT:** What's the relevance of that?

1 **MR. GRAHAM:** I'm gonna ask her a question and it
2 will either be relevant or it won't.

3 **THE COURT:** All right. I'm gonna give him some --
4 a little leeway. Go ahead, sir.

5 **MS. MARTIN:** Thank you, Judge.

6 BY MR. GRAHAM:

7 Q. You were at that game, weren't you?

8 A. Yes, sir.

9 Q. And there was a problem on the court after the game
10 where the Dutch Fork students came onto the court, correct?

11 A. I don't remember the court, but I just remember a lot
12 -- that they all rushed and tried to fight the Lexington
13 students.

14 Q. Isn't it true that you threw money and change at the
15 Dutch Fork students or players?

16 A. That is not true. Wait, wait, wait, wait. Money --
17 money or change? I don't --

18 Q. At the Dutch Fork game at Dutch Fork.

19 A. No. No, I did not throw change. I'm sorry. I did
20 not throw change.

21 Q. Did you throw anything?

22 A. No, sir. I remember some people throwing stuff, yes,
23 but it was not me throwing change.

24 Q. Back at the Cook-Out, when you pull up to the
25 Cook-Out, do you remember getting out of your car and

1 meeting up with Mr. Dennis and Mr. Adams in the parking
2 lot before you-all went into the Cook-Out?

3 A. No, sir.

4 Q. Do you remember meeting up with Austin Sanders?

5 A. Do I remember meeting up with Austin Sanders?

6 Q. Uh-huh.

7 A. I don't remember every detail from that night. No,
8 sir, I don't.

9 Q. Did you walk with your brother into the Cook-Out?

10 A. Yeah, we all walked in.

11 Q. Okay. That would be you, your brother, Lucky,
12 Mr. Dennis and Keith Adams all walked in together, correct?

13 A. Yeah.

14 Q. You don't remember talking with Mr. Sanders?

15 A. I remember him being there, yeah.

16 Q. Do you remember him telling you before you-all went
17 into the Cook-Out that people had attacked his car or cars
18 in the drive-thru?

19 **MS. MARTIN:** Your Honor, I object.

20 A. No, I don't -- well, no, I don't remember.

21 **MS. MARTIN:** Your Honor, I object to this line of
22 questioning. She obviously doesn't remember any of these
23 things and he's going down a bunny trail and she's already
24 responded three times that she has no recollection.

25 **THE COURT:** Well, I'm gonna let him -- I'm gonna let

1 him ask the questions. If he doesn't remember, she can
2 just testify she doesn't remember.

3 **MS. MARTIN:** Yes, Your Honor. Thank you.

4 BY MR. GRAHAM:

5 Q. Ms. Zander, you don't remember him saying to you-all
6 before you went in that people had been rocking cars in
7 the drive-thru line? You either remember or you don't
8 remember.

9 A. This is before we went in?

10 Q. Correct, ma'am.

11 A. Yeah. Yeah, I remember him talking to my brother. I
12 was in the -- in the group, but like I wasn't really paying
13 attention to him. I was more on my phone.

14 Q. And that was as you guys were outside going into the
15 Cook-Out, right? When you were going from your cars to
16 inside the Cook-Out is when he came and told you that,
17 correct?

18 A. Yeah.

19 Q. Did he tell you that they were Dutch Fork students who
20 were doing it?

21 A. I don't -- I don't remember. I don't remember.

22 Q. Did you know that there were Dutch Fork students there
23 before y'all went inside?

24 A. No, every -- usually after every game that we go to --
25 after every game we go to the Cook-Out. It just looked

1 like a regular Friday night, it's packed, and I don't know
2 -- as I said before, I do not know Dutch Fork people, so
3 like I didn't realize it was Dutch Fork people in there
4 until I went in there and I was, like, okay, I remember
5 some of these faces.

6 Q. Okay. When you go inside, does anybody say anything
7 to you or your group?

8 A. Under their breaths, yes, sir.

9 Q. What did they say?

10 A. I don't -- I don't remember. I just remember them
11 saying stuff and, like, we just ignored it.

12 Q. Did it make you feel scared and uncomfortable?

13 A. Yes, it did.

14 Q. Why didn't you leave?

15 A. Because I wanted my food.

16 Q. So you didn't leave because you wanted your food?

17 A. Yeah. I mean, I wanted to eat. We made three trips
18 and I wanted to get food.

19 Q. Okay. So the fact that the same people that you had
20 saw that threatened you in the parking lot were there and
21 they were muttering things under their breath, although you
22 were scared, you weren't gonna leave? You weren't gonna be
23 run off; is that correct?

24 A. Well, you can -- I feel like even if I wanted to go
25 sit down in the middle of a crowd I should be able to do

1 that because it's a -- it's a public place and I wanted to
2 eat my food and I should not be scared for my life ordering
3 food period.

4 Q. I agree. So you go up and you order your food?

5 A. Yeah.

6 Q. And you said you got a supersized drink. Do you
7 remember what you were drinking?

8 A. A mixed -- it was a -- I forget what you call it.
9 It's like you mix all the drinks together.

10 Q. Is that over out of the drink machine? You went over
11 there and filled the cup out of the drink machine?

12 A. Uh-huh. Yes, sir.

13 Q. Yes? You didn't get a shake?

14 A. I did get a shake, too, but they make those in the
15 back, but I never got to get it because I never got my food
16 because we left.

17 Q. So you didn't get your food or your shake, but you got
18 a big drink?

19 A. Yes, because they give you a drink right after you pay
20 for your food.

21 Q. Well, why did -- if you weren't gonna be run off and
22 it was a public place and you had a right to get your food,
23 why did you leave?

24 A. Because after a while of it happening I didn't want it
25 -- I didn't want it to escalate. If I can remove myself

1 from a problem instead of it escalating or step outside,
2 even though I feel like I shouldn't have to step outside to
3 wait for my food, if I can do that, then that's the most
4 that -- the least I could do.

5 Q. But after you came in and the people muttered under
6 their breath, nothing else happened, did it?

7 A. Well, until that boy came and said that somebody --
8 until the -- I don't know his name, but some boy came and
9 said that they were gonna start acting crazy and they are
10 going -- or doing crazy things.

11 Q. Somebody inside the Cook-Out came and told you that?

12 A. Yeah, a Dutch Fork student actually.

13 Q. Do you know who it was?

14 A. No, I did not know who it is.

15 Q. Did you go tell the manager that something was getting
16 ready to happen?

17 A. No, sir.

18 Q. Whose decision was it for you-all to leave?

19 A. To like leave the place or to go outside?

20 Q. To go -- well, why did you go outside?

21 A. To -- just to wait for our food outside because --
22 since they were gonna start being crazy with us being in
23 there, we stepped outside and, you know, usually if they
24 call your food and if they don't see you or they remember
25 your face, they'll come outside and see if you stepped

1 outside.

2 Q. So when you were inside, you went outside to wait for
3 your food, correct?

4 A. Correct.

5 Q. When you were inside before you went out, did
6 Mr. Dennis ever say to you or your group "We need to get
7 out of here"?

8 A. It wasn't until the guy came outside.

9 Q. It wasn't until you-all were outside?

10 A. Yeah. No, it wasn't until the guy that started, the
11 ringleader of it all, bringing everybody outside was when
12 he, like, said we should leave.

13 Q. Okay. Mr. Dennis inside the building never said
14 "Let's go, let's get out of here"; isn't that true?

15 A. I don't -- I don't remember, no. I don't remember.

16 Q. Okay. What you do remember is the reason you went
17 outside was to wait for your food?

18 A. Yeah.

19 Q. When you go outside to wait for your food, Mr. Dennis
20 is already out there on the phone, correct?

21 A. Yes.

22 Q. He hadn't left yet?

23 A. No.

24 Q. You go out, you brother goes out, Lucky goes out,
25 Keith Adams goes out and Mr. Dennis is on his phone,

1 correct?

2 A. Uh-huh.

3 Q. You-all are just standing there because you're waiting
4 for your food?

5 A. (Nods head.)

6 Q. At what point is it that you decide to leave?

7 A. To leave that -- to leave like go home?

8 Q. To leave and not wait for your food and go home.

9 You're outside by the door, Mr. Dennis is on the phone.

10 What makes you --

11 A. Actually Kierin hung up -- Kierin hung up his phone
12 as soon as we came outside because we were talking -- we
13 wanted to talk. He was like "All right, I'll just call you
14 later when I get home", and so he hung up his phone and he
15 paid his attention to us and when that guy came outside and
16 started stuff, that's when Kierin said "All right, let's
17 just -- well, not just Kierin, all of us agreed on just
18 let's go, and Kierin was the ringleader and he said "I'm
19 ready, let's just go home". He even said I'll pay you back
20 your money for your food.

21 Q. Okay. So inside the only thing that happened is when
22 you-all came in and people were muttering under their
23 breath, correct?

24 A. Yeah.

25 Q. And you go outside to wait for your food and the next

1 thing that happens is the guy with the white shirt and
2 green tie doing this (demonstrating) comes out, correct?

3 A. Yeah.

4 Q. And that's when -- is that correct?

5 A. Yeah.

6 Q. Okay. And that's when Mr. Dennis says "Let's get out
7 of here", correct?

8 A. Yeah.

9 Q. Okay. When -- when did the Dutch Fork person come and
10 see you and tell you that the Dutch Fork people were gonna
11 be crazy? Was that before or after that?

12 A. That was -- that was when we were inside.

13 Q. When you were what?

14 A. We were inside. That's, like, before. We were inside
15 and he came and he said it and then that's when we started
16 waiting outside. It was right before. He's the reason we
17 started waiting outside. Well, like -- like he was one of
18 the -- like, okay, we need to try to remove ourselves.

19 That's when we started adjusting to the situation because
20 we were scared and I already ordered my food and I'm -- and
21 I'm thinking that I wasn't gonna be -- they'll be civil
22 enough for me to wait -- actually wait outside and get my
23 food and then go home, but that wasn't the case.

24 Q. When the Dutch Fork student said things were getting
25 ready to be crazy, did he say that to you or who did he say

1 it to?

2 A. He said it to our whole group.

3 Q. Okay. So everybody would have heard it?

4 A. Like --

5 Q. Everybody that was with you would have heard it,
6 right?

7 **MR. RUTHERFORD:** Your Honor, she can't testify as
8 to what other people heard.

9 **THE COURT:** Sustained. She can't.

10 BY MR. GRAHAM:

11 Q. Were they -- were you-all standing together when
12 somebody said that?

13 A. We weren't standing like -- like elbow to elbow, chest
14 to chest, so I don't know if everybody heard it or not.
15 I just know --

16 Q. You heard it?

17 A. I know I heard it. Yes, I did.

18 Q. You don't know if anybody else heard it?

19 A. No, sir.

20 Q. Did you talk about it with anybody else in your group?

21 A. No, sir. We -- because everybody just walked out. I
22 don't know. We just walked out. It just happened. Like I
23 guess because -- I don't know. I know I -- I know -- like
24 I know like -- you know, I know that everybody in the group
25 was scared because when you have so many people being so

1 rude and this has, like, never happened to us before and
2 you are scared that people are going to just come and who
3 knows, so we just -- I guess it was an instinct of one
4 followed another. Probably I just heard it because all of
5 us followed one and the other. Does that make sense?

6 Q. But you didn't tell anybody else? You didn't talk
7 about it with anybody else, correct?

8 A. No, sir.

9 Q. So you go outside, and you don't really know why,
10 you're waiting for your food, you went outside because the
11 Dutch Fork person told you things were getting ready to get
12 crazy?

13 A. Like that's -- it's one of the reasons why we walked
14 outside. Was that adding to one of the reasons that we
15 went outside, yes.

16 Q. When you go outside, you're waiting for your food.
17 Nobody's -- you-all aren't leaving yet, you're waiting for
18 your food, correct?

19 A. Uh-huh.

20 Q. And that's when the Dutch Fork guy comes out?

21 A. Uh-huh.

22 Q. And what does he say to you?

23 A. I don't remember exactly in a total. He held up his
24 hands and said "Are y'all salty" or something along the
25 guidelines of something like that.

1 Q. And what was the response from your group?

2 A. Kierin was just like "All right, y'all, let's go, just
3 go", and then that's when I guess -- I don't know. I mean,
4 I don't know if it was a code or a sign for all of the
5 other Dutch Fork students to come out, but that's when they
6 started -- everything happened like slow -- they came,
7 like, rushing out like.

8 Q. Did you trade any words with the guy -- the first
9 Dutch Fork student that walked out with the white shirt and
10 green tie out in the parking lot?

11 A. Defending myself?

12 Q. Did you yourself trade words with him?

13 A. Defending myself, yeah. Defending myself as them
14 saying when -- after that, like, it happened, like, this.
15 Right when he said that, everybody came running outside and
16 then that's when the name calling started defending myself.
17 For being scared, yes, I did. I swapped words, yes.

18 Q. Was that before the Dutch people came out or after the
19 rest of the Dutch people came out?

20 A. That I defend myself by --

21 Q. Yes. When you -- when you traded words with that guy,
22 were there other people out there or was it just --

23 A. There was other people out there.

24 Q. So you didn't say anything prior to the whole Dutch
25 Fork group coming out of the Cook-Out?

1 A. Wait. Repeat.

2 Q. Did you trade any words with the individual from Dutch
3 Fork who said "Are you-all salty"? Did you trade words
4 with him prior to the people from Dutch Fork coming
5 outside?

6 A. Oh, no, not that I recall. I don't remember, no.

7 Q. It was all after the Dutch Fork people came outside?

8 A. Yeah, because as soon as he walked outside, all of the
9 Dutch Fork people came outside basically.

10 Q. And then you-all go to your cars, right?

11 A. Uh-huh.

12 Q. Your brother you said jogs down to his car, right?

13 A. Uh-huh. Yes, sir.

14 Q. And that's down by the car wash?

15 A. (Nods head.)

16 Q. Do you remember what he had? Did he have a drink or
17 did he get any food either?

18 A. I ordered his food with mine. I was being a nice
19 sister that day and I paid for his food and mine. I think
20 -- I think I ordered him a milkshake. I ordered him a
21 milkshake and fries because he likes dipping his fries into
22 the milkshake.

23 Q. Do you remember whether he got a shake?

24 A. No, because none of us got our food because the
25 milkshakes are made in the back.

1 Q. The what?

2 A. Milkshakes are made -- they don't make those, like, in
3 front. It's like they make them in the back and they bring
4 it all out at once.

5 Q. The metal pipe that your brother had in the car, do
6 you remember that?

7 A. No, I don't recall that.

8 **MS. MARTIN:** Your Honor, this is beyond the scope
9 of direct examination.

10 **THE COURT:** Okay. I'll overrule it. I'm gonna
11 allow it.

12 **MS. MARTIN:** Thank you, Your Honor.

13 **MR. GRAHAM:** Thank you, Your Honor.

14 BY MR. GRAHAM:

15 Q. Do you remember your brother having a metal pipe in
16 the car?

17 A. No, sir.

18 Q. Do you know any reason why your brother would go -- if
19 he was in a hurry and jogging down to his car, any reason
20 why he would open the hatch and do something in the back of
21 his car versus coming and getting you?

22 A. No, sir, because actually I was with -- I was not in
23 the car, so I don't -- I don't know. I don't know what he
24 did. He could have took his shoes off, he could have
25 changed his outfit. I don't know what he was -- I don't

1 know what he was doing.

2 Q. But he was running as you said because he's scared and
3 you-all needed to get out of there, right?

4 A. (Nods head.)

5 Q. So he gets in his car and I think you're up by this
6 tree, looking at State's Exhibit Number 1; is that right?

7 Are you over here? Where are you at?

8 A. No, I wasn't by the tree. I was down there. I was --
9 I was close to the hill. Yeah, there's a hill. I just was
10 like --

11 Q. Down -- going down to the car wash?

12 A. Yeah.

13 Q. Okay. Who were you with?

14 A. I don't -- Lucky. Yeah, Lucky. He was stand -- he
15 was standing there with me.

16 Q. And Mr. Dennis, where's he at?

17 A. I don't know. At that time when I was waiting for --
18 I was waiting for my brother. I wasn't really -- I was
19 focussed on me and Lucky.

20 Q. Why didn't -- I'm sorry.

21 A. I'm pretty sure he could handle himself.

22 Q. Why didn't you and Lucky just go ahead and walk down
23 to the car?

24 A. Because my brother was already at the car and it
25 was --

1 Q. Okay. So you weren't scared anymore?

2 A. I was scared, but it -- like it happened -- it
3 happened so fast and all. Like it happened so fast it
4 would have been more time for me to actually walk down
5 because he was running and it would have been more time for
6 me to, like, run down with him. Like he jumped into the
7 car and he came.

8 Q. You would agree with me that the farther you are away
9 from the Dutch Fork people who are threatening you, the
10 safer you'd be, right?

11 A. Not exactly. Not when they're following you, no.

12 Q. So they were -- they were following you?

13 A. Yeah.

14 Q. Where were they at?

15 A. You could say they stopped to where -- well, I
16 remember them being -- when I actually paid attention and
17 looked, it was by that red car.

18 Q. So they're up here on the Cook-Out property where --

19 A. They weren't on the property, no, sir.

20 Q. -- where that red Jeep is at the corner?

21 A. They were more out in the street.

22 Q. They were out in the street, but down by the lamppost
23 and the red car?

24 A. Yeah.

25 Q. Did they follow you?

1 A. Some. It wasn't the big group, but it was some people
2 that were going farther than others.

3 Q. Were they still threatening you?

4 A. Yeah.

5 Q. So your brother comes and picks you up. Where's your
6 brother when he picks you up? Where does he pick you up
7 at?

8 A. Where I was standing with Lucky.

9 Q. Is that down here?

10 A. I wasn't that far down. I was more like down here.
11 (Whereupon, the witness steps down from the witness
12 stand.)

13 A. I was more around -- say, like, around here.

14 Q. I want to give you a marker and ask you to mark that
15 for me. If you can just put an "X" and put your name there
16 where you and Lucky were standing.

17 A. Put both of our names?

18 Q. That would be fine.

19 A. (Witness complies.)

20 Q. Okay. And that's in -- let's see. That's in green
21 down at the bottom of State's Exhibit Number 1, and that's
22 where you and Lucky were standing?

23 A. Yeah.

24 Q. And your brother came and picked you up and you-all
25 got in the car, right? Correct?

1 A. What you say?

2 Q. That's -- your brother came and picked you and Lucky
3 up and you-all got in the car?

4 A. Oh, yeah. Yeah.

5 Q. You're down here and then you left?

6 A. Left the Cook-Out?

7 Q. Yes.

8 A. No.

9 Q. Why not?

10 A. I don't know. Because trying to figure out -- we were
11 trying to figure out how everybody can get out safely with
12 that part being blocked off. The Cook-Out's a little in
13 anyway.

14 Q. You're saying like behind the Cook-Out farthest from
15 the highway it was blocked off back here?

16 A. Yeah.

17 Q. And who was having the conversation about getting out?
18 Was that you and Keith and Kierin and your brother?

19 A. I wasn't in the conversation because I wasn't --
20 because I wasn't driving, but it was the drivers, they were
21 all talking about it.

22 Q. Okay. And that was down here?

23 A. No, that was in the -- that little -- where you have
24 marked in red.

25 Q. Okay. Where did you go from -- back where you put the

1 "X", once you got in the car down at the bottom of State's
2 Exhibit Number 1, where did your brother drive?

3 A. He drove to where you have them over there in the red.

4 Q. Why didn't he go out this way behind the car wash that
5 would take you out by the light?

6 A. I don't know. I don't know. At the time there were
7 only two exits, that one and that one.

8 Q. So your brother drove up toward the highway, correct,
9 from where you are down there where you and Lucky get in,
10 he drives straight up and out?

11 A. No, I didn't tell you that. I told you that he drove
12 there where you have it marked in red.

13 Q. So your brother took a right over here?

14 A. Yeah, because Keith -- Keith was over there and Kierin
15 followed with him.

16 Q. All right. So you did not -- your brother did not go
17 straight out, but around through the top of the Petsmart
18 and he turned immediately into the Petsmart parking lot?

19 A. Yes, because if he would have went straight out, he
20 would have hit some Dutch Fork students.

21 Q. There were some Dutch Fork students in the road then?

22 A. There was many Dutch Fork students in the road.

23 Q. Okay. So when your brother takes the immediate right
24 over into the back of the Petsmart lot, that's where you
25 said there was a conversation between the drivers?

1 A. Yes, sir.

2 Q. And they're talking about which way they should go?

3 A. Yes, sir.

4 Q. What do you remember people saying?

5 A. At that time I wasn't really paying attention. I was
6 like, okay, we're good, they're gonna -- I was, like,
7 they're gonna figure it out, so I was just, like, looking
8 at my phone. I really wasn't paying attention to it.

9 Q. But everybody's still scared, right?

10 A. Yeah, scared, but I -- they were talking, so I wasn't
11 -- it wasn't in my place to interrupt.

12 Q. Okay. But they could have gone out -- to avoid the
13 Dutch Fork people in the road, because you're saying there
14 were Dutch Fork people in the road, they could have got out
15 by the car wash through the light, correct?

16 A. I guess. Yeah, I guess.

17 Q. You're over here. Isn't it true that you could have
18 gone up through the Petsmart -- gone through the Petsmart
19 parking lot and you could have come back up at the top of
20 the road and gone out?

21 A. That -- it was dark outside and it was -- the way
22 people were parked since there were so many people at
23 Cook-Out, that was blocked off, too.

24 Q. This was blocked off?

25 A. Because at the time -- this is an updated picture.

1 This -- this wasn't really anything, it was -- it was a
2 mess, and you could say -- you could park straight in front
3 of all those. Those are all parking spots.

4 Q. So this road wasn't here at the time?

5 A. That -- this --

6 **THE COURT:** You can. Go ahead, ma'am.

7 (Whereupon, the witness steps down from the witness
8 stand.)

9 A. This part was not existing. You can park -- this is
10 now -- since they have re-did it, this was not like what
11 it was. This was all, I guess, blocked off, I guess, but
12 there was parking spots here. You could park there.

13 That's what Cook-Out used for extra parking spots.

14 Q. Just real quick, make a mark where you say it's
15 blocked off. We're gonna use green again.

16 A. So what you want me to do? Like draw --

17 Q. Just mark -- mark where -- right now it looks like
18 there's a road. You're telling me it's blocked off. I
19 want you to mark where it's blocked off.

20 A. Like it was -- it was like parking spots like this and
21 you could -- you could park up here.

22 (Whereupon, the witness returns to the witness stand.)

23 Q. All right. So where you put the green, you have two
24 lines, those were parking spots. So is it true then that
25 it's impossible to have come from up here, turned around

1 and driven through there because it was blocked off in the
2 Petsmart lot?

3 A. Like pulling -- pulling in? Like --

4 Q. It is not -- from what I understand, and you correct
5 me if I'm wrong, it's not possible to turn in from the top
6 of the Petsmart lot through where you drew the two lines
7 because those were parking spaces and it was blocked off?

8 **MR. RUTHERFORD:** Your Honor, I'm sorry. She -- she
9 wasn't driving that night. She's testified about what
10 somebody else was doing and --

11 **THE COURT:** Well, no, he's asking her what was the
12 scene like that night and she can testify as to what she
13 remembers.

14 **MR. RUTHERFORD:** Right, she can. I just -- I'm
15 worried about we keep going down this path of just
16 talking about things that are not related, but that's
17 fine.

18 **THE COURT:** Okay. Go ahead.

19 BY MR. GRAHAM:

20 Q. Was that -- is that correct, ma'am? That this --
21 where you drew the two lines, it was blocked off and you
22 could not drive through there?

23 A. Like it wasn't -- like you could -- there was cars
24 parked right there. Do you understand what I'm saying?

25 Q. There were cars parked in the way and you couldn't

1 drive through there?

2 A. Yeah, you cannot.

3 Q. Okay. When the drivers of the car, which would have
4 been your brother and Mr. Dennis and Keith Adams, were over
5 in the back of the Petsmart lot and they were talking about
6 which way to go, you weren't paying attention, you were on
7 your phone, but you know that that's what they were talking
8 about, right?

9 A. Yeah, like you -- I remember hearing some things, but
10 I was just going -- like I'm done.

11 Q. Do you remember hearing your brother say that he's
12 gonna throw money out in the road?

13 A. No, I don't remember that.

14 Q. You don't remember your brother saying that down
15 there?

16 A. No.

17 Q. What's the order of -- how long do you-all sit there
18 talking? How long were you playing on your phone?

19 A. I don't remember.

20 Q. I'm sorry?

21 A. I don't remember. It wasn't long. It wasn't like we
22 sat there for a good hour talking, no. It was two, three
23 minutes.

24 Q. Do you know why people -- why they were sitting there?
25 Why you-all sat there for two or three minutes?

1 A. I just answered that question. I told you that they
2 were talking about how to get out of there in a safer way.

3 Q. So they were worried about driving out the main part
4 where the Dutch Fork students were?

5 A. Yeah.

6 Q. And they were talking about trying to get a safer way
7 out of there?

8 A. Yes.

9 Q. And Mr. Dennis was part of that conversation?

10 A. Yes, sir.

11 Q. What happened next?

12 A. My -- my brother -- oh, who pulled out first? I don't
13 remember, but we got into the road.

14 Q. The road where the cars are that say 1, 2, 3 in
15 between the Petsmart and the Cook-Out?

16 A. Yeah.

17 Q. Who was -- whose car was first?

18 A. I don't -- I don't remember which one pulled out
19 first. I just remember we were in front of Kierin.

20 Q. You were in front of Keith?

21 A. Kierin.

22 Q. In front of Kierin. Which lane was your brother
23 driving in as he went through here, 1, 2 or 3?

24 A. 3.

25 Q. He was over in 3, which would be closest to the

- 1 Petsmart side?
- 2 A. (Nods head.)
- 3 Q. How fast was your brother going?
- 4 A. I don't drive. I don't know. I wasn't driving the
- 5 car. What anybody would go on that road.
- 6 Q. Was your brother's window up or down?
- 7 A. I don't remember.
- 8 Q. Why did -- your brother stopped the car, right?
- 9 A. Yes.
- 10 Q. Why did he stop the car?
- 11 A. Because Kierin was basically you could say trapped.
- 12 Q. How do you know that Kierin was trapped?
- 13 A. Because I was trying to look at -- the way the -- the
- 14 way that our car, the Infiniti, was shaped has a circle
- 15 back, so it's kind of hard to see out the back window if
- 16 you're, like, not really looking. The car was at an angle.
- 17 It was -- we were trying -- we were trying to, like, see.
- 18 Like you can see that there were a lot of students around
- 19 his car and if he would have, like, pulled -- tried --
- 20 tried to go, he would have hit some students.
- 21 Q. Which lane was Kierin in? 1, 2 or 3?
- 22 A. 2.
- 23 Q. He was in the middle, in 2?
- 24 A. (Nods head.)
- 25 Q. Did you see him actually driving or you just saw him

1 stopped?

2 A. He was -- I saw him stopped.

3 Q. So you didn't see him driving?

4 A. Like I saw him pull up like. Is that what you're
5 trying to ask?

6 Q. Did you see him accelerate from down here from the
7 Petsmart lot up through the road between?

8 A. No, I wasn't paying attention that long. I just
9 remember coming -- coming to a stop.

10 Q. And he was in Lane 2?

11 A. Yeah, because --

12 Q. Is that about where the car was? Is that about where
13 you saw him stop?

14 A. Yeah.

15 Q. And he stopped before your brother stopped?

16 A. Wait. Say that again.

17 Q. He stopped before your brother stopped. That's what
18 you testified to, isn't it?

19 A. He stopped before my brother stopped? I don't
20 remember.

21 Q. Your brother stopped, according to your testimony,
22 because you saw that Kierin's car was surrounded, right?

23 A. Yeah.

24 Q. And you told him that?

25 A. Like I told Will that?

1 Q. Yes.

2 A. We both saw it.

3 Q. Will saw it, too?

4 A. Yeah.

5 Q. So as you and -- as Will's driving the car and you're
6 in the passenger seat with him, y'all are driving out and
7 you see people surrounding Mr. Dennis's car, that's why
8 your brother stopped?

9 A. Yeah, he was scared. We were all -- all three of us
10 in the car were scared for Kierin. I mean, there's only
11 one of him. Can you imagine how the one -- even two people
12 that know that you're gonna -- that's gonna do you harm,
13 one against two, that can be scary. Think about one
14 against like thirty or forty --

15 Q. Did you --

16 A. -- students.

17 Q. I'm sorry. Go ahead.

18 A. Keep going.

19 Q. Did you hear your brother -- before he stopped the
20 car, did you hear him exchange words with any of the Dutch
21 Fork students outside?

22 A. No, sir.

23 Q. His window was up?

24 A. I don't remember. You asked me that. I said I don't
25 remember.

1 Q. Did you see him throw anything out of the window, your
2 brother?

3 A. I -- at the time I was looking out the back. Somebody
4 asked me the same question and I don't -- I -- I did not
5 remember seeing him do it, no, sir.

6 Q. All right. So y'all are driving, you don't know that
7 anything's said, you don't see your brother throw anything
8 out, then both of you look back and see Mr. Dennis's car
9 stopped and surrounded and that's when your brother stops.
10 Your brother gets out of the car with a metal pipe, right?

11 A. I don't remember seeing him out of the -- well, I can
12 say I remember seeing him out of the car. I don't remember
13 him getting out of the car because I was looking -- asking
14 Lucky, like trying to figure out how Kierin's doing because
15 I'm in the passenger seat and, like I said, it's hard --
16 hard to see and I'm scared for Kierin and I'm scared for
17 myself because there were so many students against us.

18 Q. So did your brother get out of the car or not?

19 A. I -- yeah, I guess. I remember -- yeah. Yeah, he
20 did.

21 Q. Do you remember him getting out with a pipe in his
22 hand?

23 A. No. I don't -- I didn't -- I didn't stop and ask him
24 hey, what do you have in your hand. I don't remember.

25 Like I said, I'm -- I don't remember seeing him get out the

1 car. I remember seeing him out of the car, yes, sir, I do
2 remember that.

3 Q. And he stayed beside the car or he went behind his
4 car?

5 A. I don't remember.

6 Q. Well, you were watching Mr. Dennis, right?

7 A. Yeah.

8 Q. Did your brother ever get in the way of you seeing
9 Mr. Dennis?

10 A. No. No, I don't --

11 Q. And you were looking out the back of the car, right?

12 A. I was looking out the -- I was looking out the back
13 of the car at an -- like at an angle. Like I said, I was
14 looking out of the back of the car at an angle and it's
15 like a little window beside the back window.

16 Q. But you never saw your brother between his car and
17 Mr. Dennis's car?

18 A. No, I don't remember that, no, sir.

19 Q. And you would have seen him if he was there, correct?

20 A. I'm not saying that I -- I'm not saying that I --
21 that, like, he wasn't there, but I'm saying I don't -- I
22 don't remember.

23 Q. Mr. Dennis is in Lane 2, so there's people -- is there
24 anybody stopping you-all from going or are you stopped to
25 help Mr. Dennis?

1 A. We stopped to help Kierin.

2 Q. Okay. Is there anybody between your brother's car and
3 Mr. Dennis's car?

4 A. Like people?

5 Q. Yes.

6 A. Yes.

7 Q. How many?

8 A. There -- it wasn't that many. It was like two.

9 Q. Two people?

10 A. (Nods head.)

11 Q. How long was Mr. Dennis's car stopped?

12 A. I -- I don't know. I don't know. I don't know.

13 Q. You have no idea?

14 A. Like I don't -- I don't -- I don't remember.

15 Q. While that -- while his car was stopped, what was
16 stopping Mr. Dennis from leaving? There were people beside
17 his car?

18 A. There were people on his car.

19 Q. On his car?

20 A. There was people everywhere around his car. There was
21 no possible way of him getting out of the car. When you
22 have so many people, trying not to injure so many people at
23 once, there's no possible way of him trying to go and him
24 not hitting a couple of people.

25 Q. So there were people in front of him?

1 A. There was people like -- yeah. People all around.
2 Like when I tell you all around, where his driver's side
3 is, that's where people were.

4 Q. Okay. So people were over on the driver's side, which
5 is the Cook-Out side, right?

6 A. Yeah.

7 Q. How many people?

8 A. I don't know. Estimating, it was like twenty, thirty
9 people. It was a lot of people.

10 Q. You're over in Lane 3 looking out the back side window
11 over to where he's at in Lane 2, right?

12 A. Yeah.

13 Q. How are you seeing what's going on on his driver's
14 side window?

15 A. I don't see, like, how many people it is. Like how
16 many people -- like I see -- like how many people? Like
17 you can -- you can tell by just looking how many people.

18 Q. How many people did you see over there?

19 A. I didn't stop and count like how many people were
20 sitting there.

21 Q. You don't have an idea?

22 A. Like I can't give you an exact number, but I told you,
23 like, it was at least, like, thirty, twenty people.

24 Q. Okay. And then there were two people in front of his
25 car?

1 A. Wait. No. When I told you two people, those two
2 people -- like that wasn't even focussed on us. When I
3 told you two people, I meant two people, like, in the back
4 of our car. As you see in Lane 3 and Lane 2, the back of
5 our car is way different than in front of Kierin's car
6 because Kierin's car is further to the left than our car
7 is.

8 Q. Right. His car is -- and you correct me. His car is
9 about where the car with the 2 is on it, right?

10 A. Yeah.

11 Q. You and your brother are up farther more toward the
12 top of the bushes over here in Lane 3; is that right?

13 A. Yes, sir.

14 Q. How far is the back of your car from the front of
15 Kierin's car?

16 A. I don't know. It was -- it was -- it was a big
17 distance. It wasn't like two -- it was a good distance to
18 our car.

19 Q. It was a good or not a good distance?

20 A. Like it wasn't -- it was -- it was like -- it wasn't
21 -- it wasn't too much. Like it was -- it was -- okay. It
22 was a good -- it wasn't a good -- yeah, it was a good bit.

23 Q. It was a good bit?

24 A. Yeah.

25 Q. Was it two-car lengths?

1 A. No.

2 Q. Was it a car length?

3 A. Three-fourth's of a car length.

4 Q. Three-fourth's of a car length. So your brother
5 stops, he gets out, you don't see him between you and
6 Kierin, there's thirty people on the driver's side. What
7 happens next?

8 A. I don't -- I don't know. I don't know what happened.
9 We -- we -- we leave after all of -- like after people are
10 on his -- like I don't get what you're asking. I'm sorry.
11 I don't get what you're asking.

12 Q. Do you leave first or Kierin leaves first?

13 A. Kierin leaves first.

14 Q. How fast is he driving when he leaves?

15 A. I wasn't in the car with him --

16 Q. Were you --

17 A. -- so I don't know.

18 Q. Were you watching him the whole time that you-all were
19 stopped?

20 A. Most of the time, yes. Besides doing that or talking
21 to Lucky. He was in the back. He was trying -- he was
22 trying to help me get a visual of like -- and he was
23 helping me, yeah.

24 Q. How long after you started watching -- originally you
25 had people at the back -- there were two people at the back

1 of your brother's car, right?

2 A. It wasn't -- it was like -- I'm just telling you two
3 people to show you it wasn't that many.

4 Q. Okay. A couple of people?

5 A. Yeah.

6 Q. All right. Those people were at the back of your
7 brother's car, not over by Mr. Dennis's car, correct?

8 A. They were like -- they weren't doing anything. Like
9 they were just sitting there watching. They weren't --
10 they weren't trying to do any harm. They were just sitting
11 there watching.

12 Q. Your brother would have hit them if he would have
13 backed up, correct?

14 A. Yeah, but I think they would be aware that the car was
15 backing up because they weren't doing anything.

16 Q. Okay. They weren't in Mr. Dennis's way though, were
17 they? Because they're over here in Lane 3, three-quarters
18 of a car length up in back of your brother's car. They're
19 not in front of him, are they?

20 A. No.

21 Q. No. So he could have left if he wanted to?

22 A. No, he couldn't have. No. If he would have left,
23 even with people being on his car, if you're holding onto
24 a car and he would have drove off, they would have been --
25 he would have been dragging them.

1 Q. Okay. But there wasn't anybody in front of him. At
2 that point the only people that were in front were at the
3 back of your brother's car over in Lane 3, correct?

4 A. Hold on. I'm trying to remember.

5 **THE COURT:** Mr. Graham, I think I've got the gist
6 of what you're getting to, so.

7 BY MR. GRAHAM:

8 Q. Did you talk to Mr. Dennis prior to you going to speak
9 with the police?

10 A. No, sir.

11 Q. You did not call him and he did not call you that
12 night?

13 A. Like after this?

14 Q. Yes.

15 A. No. No.

16 Q. Okay.

17 **MR. GRAHAM:** That's all. Thank you, Your Honor.

18 **THE COURT:** Any redirect?

19 **MS. MARTIN:** Nothing further.

20 **THE COURT:** Thank you very much, Ms. Zander. You
21 may step down, ma'am.

22 (Witness excused.)

23 **MR. RUTHERFORD:** Your Honor, at this time we call
24 Josh Brooks.

25 **THE CLERK:** Come forward.

1 (Whereupon, Joshua Brooks was duly sworn by the
2 Clerk of Court.)

3 **THE CLERK:** Once you're seated, speak up loud and
4 clear. State your full name, spelling your last on the
5 record.

6 **THE WITNESS:** Joshua Brooks, B-R-O-O-K-S.

7 JOSHUA BROOKS,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. RUTHERFORD:

11 Q. Mr. Brooks, do you -- did you go to Lexington High
12 School?

13 A. Yes, sir, I did.

14 Q. Do you still go to Lexington?

15 A. No, sir. I graduated last year.

16 Q. Okay. What are you doing now?

17 A. I go to Midlands Tech.

18 Q. How old are you?

19 A. Nineteen.

20 Q. And on February 17th, did you have an occasion to be
21 at Cook-Out?

22 A. Yes, sir.

23 Q. Can you tell the judge what happened?

24 A. I went to Cook-Out as I do after every other
25 basketball game or really sporting event. I went with

1 friends. Just met there and enjoyed a meal.

2 Q. What friends? I'm sorry. Who did you go with?

3 A. David Cloutier, Maverick Bishop, and we ended up
4 sitting with others.

5 Q. So you did not go to Cook-Out with Kierin Dennis; is
6 that right?

7 A. No, sir.

8 Q. Okay. Did you have occasion to see him at Cook-Out?

9 A. I saw him.

10 Q. All right. Can you tell us what happened?

11 A. I saw them waiting for their food and I didn't speak
12 to them. I just saw them waiting.

13 Q. Okay. And then what happened?

14 A. And then as they left, I watched them leave and as
15 they left every -- well, the Dutch Fork kids there went and
16 followed them out.

17 Q. How many Dutch Fork kids would you say followed them
18 out?

19 A. Twenty to thirty of them.

20 Q. Did you then go outside?

21 A. Yes, sir.

22 Q. And what did you see?

23 A. Just a whole bunch of like verbal arguments back and
24 forth.

25 Q. Okay. Like what?

1 A. I couldn't tell you what was being said.

2 Q. Okay. So then what did you see?

3 A. I saw Kierin, Will Zander, Keith all go to their
4 vehicles.

5 Q. And then what happened?

6 A. And for a couple -- a good couple of minutes, maybe
7 two or three, they just -- I didn't see them drive by any,
8 but I saw Will like pull around after that.

9 Q. And then what?

10 A. Then a couple of minutes passed, then I saw Keith
11 leave the Cook-Out parking lot and Will followed him and
12 then Kierin followed Will.

13 Q. And then what happened?

14 A. I saw kids crowd around Kierin's car and Will stopped
15 in front of Kierin and Will got out of his vehicle and I
16 was telling him to leave, get out of here, you don't want
17 any problems, and then he ended up getting in his car and
18 he drove off and then -- well, he -- Kierin drove off
19 before Will drove off.

20 Q. What did you notice about Kierin's car at this point
21 when it was stopped?

22 A. There was a whole bunch of kids around his car and his
23 window was halfway down, but other than that it was just a
24 whole bunch of -- like I couldn't see much more than just
25 the back of kids' heads.

1 Q. And what were they doing in his window?

2 A. Some of them were reaching in it looked like. Just
3 banging on it trying to scare him.

4 Q. And at this point, is that when Will got out of his
5 car?

6 A. It was about the same time.

7 Q. And so did you say anything to Will?

8 A. I told Will to get out of here, let's not have
9 anything happen, and it's best if you leave.

10 Q. What made you say that?

11 A. Just the fact that there was a whole bunch of Dutch
12 Fork kids and only -- well, Keith left, so there were only
13 four of them there and they just was out numbered.

14 Q. Did you feel as if they were being threatened?

15 A. I felt as if they were being threatened, yes, sir.

16 Q. Did you feel threatened?

17 A. Not -- I felt a sense of threat, but I wasn't
18 threatened myself.

19 Q. When you say that, was it directed at them and not
20 you?

21 A. Yes, sir.

22 Q. And did you know any of the kids that were at Kierin's
23 window?

24 A. No, sir.

25 Q. Did you know any of the kids that were around Will's

1 car?

2 A. No, sir.

3 Q. Okay. And you don't know whether they knew any of
4 them, do you?

5 A. I do not.

6 **MR. RUTHERFORD:** I beg the Court's indulgence.

7 **THE COURT:** Yes, sir.

8 BY MR. RUTHERFORD:

9 Q. And -- and when you walked out of Cook-Out, could you
10 hear anybody saying anything to Morgan?

11 A. It was just a whole bunch of things being said. I
12 didn't -- I couldn't make out if it was directed towards
13 one person or not.

14 Q. And when you were looking at Kierin's car, if Kierin
15 had -- was Kierin blocked in at any point?

16 A. Yes, sir.

17 Q. How was he blocked in?

18 A. Will's car was, I would say, three, four feet away.
19 It was fairly close.

20 Q. So that if he had tried to move he would have hit it?

21 A. Yes, sir.

22 **MR. RUTHERFORD:** No further questions at this time.

23 **MR. HUBBARD:** I've got a few questions.

24 CROSS-EXAMINATION

25 BY MR. HUBBARD:

1 Q. At the basketball game, after the game, everybody's
2 out in the parking lot, all the noise that's going on out
3 in the parking lot, did you feel afraid for your life?

4 A. At that time, no, sir.

5 Q. Did you hear some name-calling between -- or -- or
6 from the Dutch Fork kids?

7 A. I was -- I was no where near them at that time. I was
8 inside the building still.

9 Q. I'm asking you. When you were out in the parking lot,
10 did you hear --

11 A. I wasn't anywhere near them, no, sir.

12 Q. You weren't near the Dutch Fork kids?

13 A. No, sir.

14 Q. Now when you walked out in the parking lot, did
15 anybody make threats to you?

16 A. No, sir.

17 Q. Did anybody follow you?

18 A. No, sir.

19 Q. Did anybody form a circle around you?

20 A. No, sir.

21 Q. Did you notice anybody from Lexington High School
22 exchanging words with people in that parking lot?

23 A. Yes, sir.

24 Q. Who?

25 A. I saw -- well, I saw Keith Adams and Will Zander

1 going -- getting -- just going back and forth with Dutch
2 Fork kids.

3 Q. And who was with them?

4 A. I could only see them two.

5 Q. You didn't see Kierin?

6 A. I did not.

7 Q. But you knew they were together?

8 A. I assumed because I've seen them at games together.

9 Q. Any other Lexington kids joining in this fray and
10 calling names and shouting back?

11 A. No, sir.

12 Q. When you leave, are they still out there shouting and
13 exchanging words with Dutch Fork in that parking lot?

14 A. I could not tell you.

15 Q. Do you remember telling us when you came in and talked
16 when we had an officer present, do you remember saying that
17 you left first and when you left they were still there
18 going at it?

19 A. I -- if I said it, I said it. It was a while ago and
20 I can't remember.

21 Q. Well, we just talked to you last month.

22 A. I don't -- I don't remember talking about that, but
23 I'm sure it was said.

24 Q. When you got to Cook-Out, did you get there before
25 Kierin and his friends or after?

1 A. I -- I don't remember. I remember sitting down and
2 seeing them at my seat.

3 Q. Okay. Fair enough. When you're in there, there's a
4 lot of Dutch Fork kids?

5 A. Yes, sir.

6 Q. Do you feel threatened by the Dutch Fork kids while
7 you're getting a meal?

8 A. No, sir.

9 Q. Was the atmosphere fairly calm for you?

10 A. Inside, yes, sir.

11 Q. Did you see any tension with Kierin's group and Dutch
12 Fork inside the Cook-Out?

13 A. Inside the Cook-Out, no, sir.

14 Q. Now you don't know why everybody went outside, do you?

15 A. I assumed they were following Kierin and his group of
16 friends. They left first and everyone else followed.

17 Q. But you didn't know why that was going on?

18 A. I had no idea. No, sir.

19 Q. When you got out there, a lot of stuff going on, a lot
20 of words being exchanged in that parking lot?

21 A. Yes, sir.

22 Q. No fighting?

23 A. No, sir.

24 Q. No weapons?

25 A. No weapons.

1 Q. Kierin and his group make it to their cars?

2 A. Yes, sir.

3 Q. No one's attacked?

4 A. No one.

5 Q. You see them all huddle their cars up?

6 A. I do not.

7 Q. You don't?

8 A. It's -- where I'm standing at that time, there's cars
9 -- like as you can see, I'm probably -- there's a row of
10 cars there, the tree, and then there's cars there and --

11 **THE COURT:** Mr. Brooks, I'm gonna get you, if you
12 would, just step down and you can point and show the
13 Solicitor where you're talking about.

14 **THE WITNESS:** Yes, sir.

15 (Whereupon, the witness steps down from the witness
16 stand.)

17 A. I'm standing around here.

18 Q. Okay. In the middle of the Cook-Out parking lot?

19 A. Yeah. There's cars here --

20 Q. Right.

21 A. -- and then there's three cars here and, as you can
22 tell, they're parked here and so I cannot see.

23 Q. Okay. Fair enough.

24 (Whereupon, the witness returns to the witness stand.)

25 Q. Now you mentioned you saw Keith leave first?

1 A. Yes, sir.

2 Q. And you saw Will leave and then Kierin's behind him?

3 A. Yes, sir.

4 Q. Before Keith left, did you see Will circle back

5 around?

6 A. Yes, sir.

7 Q. Okay. So you saw that part?

8 A. I saw that part, yes, sir.

9 Q. Did you ever see him go into his hatch?

10 A. No, sir.

11 Q. Did you ever see him at any time that night with any

12 kind of weapon, pipe or bat?

13 A. No, sir.

14 Q. Keith leaves, then Will leaves, correct? Or he's

15 going?

16 A. Will's attempting to leave, yes, sir.

17 Q. What do you notice Will do?

18 A. He stops and that's --

19 Q. What does he do when he stops?

20 A. He puts his car in park and he gets out.

21 Q. At any time do you see him throw money?

22 A. I do not see him throw money.

23 Q. Do you not recall giving a statement to law

24 enforcement February 18th, the day after this happened?

25 A. Yes, sir.

1 Q. And I'm gonna let you look at it. Will Zander was the
2 first to leave. He stopped by the Dutch Fork people and
3 stopped to say words back. He then proceeded to throw
4 money out his window. Is that your words?

5 A. That's my words, yes, sir.

6 Q. Your handwriting?

7 A. Yes, sir.

8 Q. And that's what you wrote the day after this happened
9 or really late that night?

10 A. Yes, sir.

11 Q. So is that the truth?

12 A. It is the truth, but I don't remember seeing him throw
13 money out. I saw money on the ground.

14 Q. Is it safe to say you saw the money come from him?

15 A. It came from his direction and he was the only car to
16 pass by, so if it was -- if money came out it was from him.

17 Q. When everybody crowds around Kierin's car, you say
18 you're fairly close to that crowd, correct?

19 A. Yes, sir.

20 Q. But you're also watching Will?

21 A. Yes, sir.

22 Q. Will's standing in front Kierin's car?

23 A. Yes, sir.

24 Q. You said you're trying to get Will out of the way?

25 A. Yes, sir.

1 Q. Do you mean him standing, to get him back into his
2 car?

3 A. Like out of the Cook-Out parking lot.

4 Q. Is it safe to say your attention was split between
5 Will, who's out of his car, and Kierin and all the people
6 at that window?

7 A. Yes, sir.

8 Q. So it's safe to say you don't know everything that
9 happened at that window?

10 A. No, sir, but --

11 Q. Well, let's talk about what you do know. At some
12 point did you see that man, Kierin, Kierin Dennis, reach
13 his hand out and punch or strike a Dutch Fork student?

14 A. I saw his hand come out of the vehicle.

15 Q. And did you see him hit anybody when it came out?

16 A. I did not see it. It was in a group of twenty to
17 thirty. I don't know exactly how many, but it was in a
18 group of them and so it could have easily hit somebody.

19 Q. Right after that happened, right after you see his
20 hand come out of the window and punch, what does Kierin do?

21 A. Speeds off.

22 Q. So at that point he can go?

23 A. Well -- well, he ends -- ends up going left. Like he
24 swerved left to get out around Will.

25 Q. So he could get out after all?

1 A. He had to really do a power move.

2 Q. But he could get out?

3 A. He got out, yes, sir.

4 Q. The punch that came out the window, was it --

5 A. It was --

6 Q. -- downward? Kind of like a --

7 A. It was --

8 Q. -- swing up?

9 A. It was like -- his window was halved and his car's not
10 -- it's not a "car" car, it's an SUV, so it's a little
11 higher off the ground, so it kind of went -- it was sort of
12 downward.

13 Q. Sort of downward. Okay.

14 **MR. HUBBARD:** Thank you. No more.

15 **THE COURT:** Anything further, Mr. Rutherford?

16 **MR. RUTHERFORD:** Nothing further.

17 **THE COURT:** All right, Mr. Brooks. You may step
18 down.

19 (Witness excused.)

20 **THE COURT:** Is this a good stopping point,
21 Mr. Rutherford?

22 **MR. RUTHERFORD:** Yes, sir. I was just looking at
23 the time. I don't know that we could get done with
24 anybody else before.

25 **THE COURT:** Okay. All right.

1 All right, folks. We're gonna adjourn for the
2 evening. I need to ask y'all's cooperation in that
3 we start court tomorrow morning at 10:30. I have a
4 doctor's appointment in Florence that -- that I have
5 to make and I think, Mr. Rutherford, you've got a
6 matter that you need to be at?

7 **MR. RUTHERFORD:** That's correct, Your Honor.

8 **THE COURT:** So we'll -- we'll reconvene tomorrow
9 at 10:30. Court will be in recess until that time.

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

11 (Whereupon, the proceedings were concluded for
12 November 17, 2014, at 5:46 PM.)

13 (The following proceedings were held November 18,
14 2014, beginning at 11:04 AM.)

15 **BAILIFF:** All rise. Court's now in session. The
16 Honorable Judge Tommy Russo presiding.

17 **THE COURT:** Thank you, folks. Please have a seat.
18 All right, Mr. Hubbard. Is the State ready to
19 proceed?

20 **MR. HUBBARD:** Yes, sir, Your Honor.

21 **THE COURT:** Mr. Rutherford, is the defense ready
22 to proceed?

23 **MR. RUTHERFORD:** Yes, sir, Your Honor.

24 **THE COURT:** All right. I'll be happy to hear
25 from your next witness then.

1 **MR. RUTHERFORD:** Thank you, Your Honor. At this
2 time the defense calls Bill Howard.

3 | **THE COURT:** All right. Can we get Mr. Howard up?

4 (Whereupon, Bill Howard was duly sworn by the Clerk
5 of Court.)

6 **THE CLERK:** Once you're seated, speak up loud and
7 clear. State your full name, spelling your last on the
8 record, please.

9 **THE WITNESS:** My name is Bill Howard, H-O-W-A-R-D.

10 BILL HOWARD,

11 having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. RUTHERFORD:

14 Q. Mr. Howard, how are you this morning?

15 | A. I'm doing well. Thank you.

16 Q. Good. Can you tell me what it is -- what is your
17 proper title? I'm sorry.

18 | A. Well, I'm a pastor.

19 Q. People call you "pastor"?

20 | A. Yes.

21 Q. Pastor Howard, how long have you known Kierin Dennis?

22 | A. Roughly ten years.

23 Q. And in that ten years have you had a chance to
24 interact with him?

25 | A. Yes, very often.

1 Q. Can you tell the Court about you interactions with him
2 and about your assessment of his personality?

3 A. Well, I've pastored Willow Ridge Church on Highway
4 Number 1 in the Oak Grove area for twenty-one years. So
5 then the last five years I've been a missionary in Haiti.
6 We started an orphanage there. Kierin came in and his
7 mother approximately -- well, ten or twelve years ago into
8 our church, so Kierin was just a young man then. The
9 mother was hardworking, very disciplined, supporting her
10 church, supporting her family, and Kierin pretty much
11 followed along those footsteps. Every church -- every
12 Sunday in church, through the youth group, youth camps, our
13 mission trips to Haiti, I've had a lot of interaction with
14 him.

15 Q. Can you tell us about those mission trips to Haiti?

16 A. Well, I serve as director there. We started an
17 orphanage for homeless children, so we have about seventy
18 kids in our care, thirty-five at our facility and then
19 about thirty-five others that we minister to. So when
20 church groups come down or other mission teams come down,
21 we go out into the community, into our orphanages, other
22 local churches' ministry areas of Haiti. Haiti is a
23 very, very broken -- the poorest country in the western
24 hemisphere, and we just do whatever we can to minister and
25 -- and help out the situation there.

1 Q. And have you had a chance to observe Kierin in this
2 situation?

3 A. Yes.

4 Q. Can you tell us a little bit about that?

5 A. Kierin was -- if there's one thing about Kierin,
6 he's been consistent. In the ten years that I've known
7 him, from a little boy all the way up to now, Kierin is
8 consistently humble. He's a very mild person. I've never
9 seen him aggressive in the slightest way. Now I've seen
10 him playing around with our kids at church, you know, being
11 boys, but always very consistently humble, a bit shy, and
12 he was the same way in Haiti. He would minister the kids,
13 he would play with the kids, he would get down and, you
14 know, play games with them, but always in the back, never
15 up front, sometimes maybe even too to the -- you know,
16 you'd want to push him on up a little bit more in those
17 situations, but that's just his -- that's just his
18 temperament.

19 Q. So you've seen him in church on Sundays and you've
20 seen him on missionary trips to Haiti. Do you remember how
21 many trips he's been on?

22 A. One or two. I'm not sure if he's been there more than
23 twice.

24 Q. Were there any other chances that you got to observe
25 him outside of, say, Sunday service or outside of his

1 missionary trips?

2 A. Yes, on youth activities. You know, our boys -- I've
3 -- I've raised three boys, my wife and I, a couple of years
4 older, so he was, you know, coming up as they were going
5 out of the youth group, but having that involvement on --
6 on youth trips and all.

7 Q. So a number of people, I guess, would attend church
8 on Sundays, a number of people you interact -- interacted
9 with. Would you say that you know Kierin Dennis?

10 A. Yes.

11 Q. And is there anything in your knowledge of Kierin
12 Dennis in your ten years of knowing Kierin Dennis that
13 would suggest that he would act out in anger or do anything
14 unprovoked?

15 A. That is the absolute opposite of what I know about
16 Kierin and -- and interaction with -- with his -- his mom,
17 him growing up. He's never been in trouble, never been in
18 trouble with the law. I did know from talking with his
19 mother he's had one speeding ticket. Never been in a
20 fight. That's just not -- that's just not his personality.

21 Q. Okay. Is there anything else you'd like to add?

22 A. I did want to say -- I don't know how appropriate
23 anything is. My wife and I raised three boys. There's no
24 winner here. Our heart is broken. We've prayed for the
25 Capers family many times.

1 Q. All right, sir. Thank you.

2 **MR. RUTHERFORD:** No further questions, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. HUBBARD:

5 Q. I'm sorry, I missed your name.

6 A. Bill Howard.

7 Q. Bill Howard. And you're a pastor where?

8 A. I pastored Willow Ridge Church in Lexington for
9 twenty-one years. For the last five years, I've gone to
10 Haiti as a missionary.

11 Q. Yes, sir. Very good. Let me ask you, during all
12 those years that you were a pastor, and pastoring can be a
13 tough job, would you agree there's some people that portray
14 themselves to you, but then later you hear of things that
15 disturb you because you never saw that?

16 A. Uh-huh.

17 Q. It happens?

18 A. It happens.

19 Q. Human beings are complex; do you agree?

20 A. I do.

21 Q. We have the ability to do good and very great things?

22 A. (Nods head.)

23 Q. We have the ability to do some very depraved things?

24 A. (Nods head.)

25 Q. It's all about choice?

1 A. That's correct.

2 Q. The man you've described may very well be the man you
3 know, but I wanted to ask you if you had any knowledge of
4 some other things about Mr. Dennis. Were you aware that
5 the phone he carried around included sex tapes where he
6 videotaped people having sex?

7 **MR. RUTHERFORD:** Your Honor, relevance.

8 **MR. HUBBARD:** Character.

9 **THE COURT:** It goes to the character, which is
10 what you put him up for.

11 **MR. RUTHERFORD:** Sex tapes on phones don't have
12 anything to do with character --

13 **MR. HUBBARD:** Nor does this.

14 **MR. RUTHERFORD:** -- unless he can show that
15 someone having a sex tape on phones shows a depravity
16 of character. So I would agree if you can show that it
17 relates to violence or it shows anything else, you have
18 a site that shows that, but I have seen no proof anywhere
19 that an individual having a sex tape on their cell phone
20 goes to character.

21 **THE COURT:** What it does go to is Pastor Howard has
22 given testimony about how he knows the Defendant and --
23 and speaks to his familiarity with the Defendant and this
24 goes to show toward that it may not be -- you may not be
25 as familiar with him as you think you are. It's -- it's

1 got relevance. I'm not saying -- and, again, more than
2 likely completely irrelevant before a jury, but for
3 purposes of this hearing I'm gonna allow it.

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

5 **THE COURT:** Overruled.

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

7 BY MR. HUBBARD:

8 Q. Did you have any knowledge of that --

9 A. No.

10 Q. -- of videos he made on his phone?

11 A. No.

12 Q. Any knowledge of videos he made, sex videos, with
13 a known gang member having sex with a woman who's
14 blindfolded? Any knowledge of that?

15 A. No.

16 Q. Did you have any knowledge of the Defendant having sex
17 with an underaged girl, a fourteen-year-old?

18 A. No.

19 Q. None. No knowledge of him in that same phone with
20 multiple -- multiple photos of nude women and even some
21 men?

22 A. I have no knowledge of his phone whatsoever.

23 Q. Okay. You would admit with all your years, young
24 people often keep stuff on their phones; would you not?

25 A. I'm not aware of that. I don't know what they would

1 or wouldn't do.

2 Q. You deal with a lot of young people?

3 A. Well, I'm not a youth pastor, but I -- you know, in
4 interaction with pastoring a lot of young people, yes.

5 Q. You would admit though that young people tend to live
6 on their phones?

7 A. A lot of activity on their phones, yes.

8 Q. A lot of their world is on their phones, right?

9 A. I don't know that.

10 Q. Okay.

11 A. Yeah.

12 Q. Were you aware of any text messages from this man,
13 the Defendant, talking about using and getting drugs?

14 A. No knowledge of his phone whatsoever.

15 Q. The night of the incident, the night of this killing,
16 has anyone made you aware of the fact that he texted a
17 female before -- right before this happened?

18 **MR. RUTHERFORD:** Your Honor, he already said he has
19 no knowledge of his phone whatsoever. Why does he keep
20 on asking different questions?

21 **MR. HUBBARD:** Night of. Night of.

22 **THE COURT:** All right. He knows of no text
23 messages.

24 **MR. HUBBARD:** If I can ask one specific one just
25 to see if it's anything he's heard about, Judge.

1 **MR. RUTHERFORD:** He's already said he has no
2 knowledge of his phone, Judge. There's no question
3 he's gonna ask him --

4 **THE COURT:** You can ask him if he's heard about
5 it from other sources.

6 **MR. HUBBARD:** Okay. I've got it. Yes, sir.

7 BY MR. HUBBARD:

8 Q. Have you heard from any other sources about the night
9 of the incident the Defendant, Mr. Dennis, texting a female
10 for nudie pix, "Send me a photo of yourself"?

11 A. No.

12 Q. You would agree with me that sometimes when we think
13 we know someone we don't know them completely; isn't that
14 true?

15 A. I think that is true. I think, however, what you're
16 describing there of sexual orientation or sexual desires in
17 a young man Kierin's age and a violent -- what I testify
18 I've never seen anything within Kierin's character to be
19 aggressive and violent are two different things.

20 Q. But you would agree it's also two very different
21 things for a man who goes and serves on a mission trip and
22 then has this other life it's very contrary to the gospel?

23 A. Yes.

24 **MR. HUBBARD:** Thank you.

25 **MR. RUTHERFORD:** No further questions, Your Honor.

1 **THE COURT:** Thank you, Pastor. You may step down,
2 sir.

3 (Witness excused.)

4 **THE COURT:** Yes, sir.

5 **MR. RUTHERFORD:** Your Honor, at this time we call
6 Kierin Dennis.

7 **THE COURT:** Mr. Dennis, if you'd please come around
8 and be sworn, sir.

9 (Whereupon, Kierin Dennis was duly sworn by the
10 Clerk of Court.)

11 **THE CLERK:** Once you're seated, state your full
12 name, spelling your last on the record.

13 **THE WITNESS:** Kierin Dennis, D-E-N-N-I-S.

14 KIERIN DENNIS,

15 having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. RUTHERFORD:

18 Q. Mr. Dennis, how old are you?

19 A. Nineteen.

20 Q. How far did you go in school?

21 A. Excuse me?

22 Q. How far did you go in school?

23 A. Until I graduated.

24 Q. Okay. And where did you graduate?

25 A. Lexington High School.

1 Q. What year was that?

2 A. 2013.

3 Q. Okay. Who do you live with?

4 A. My mother.

5 Q. Can you take us back to the night of February 17th
6 and, I guess, start at the basketball game. What happened
7 at the basketball game leading into the parking lot?

8 A. Okay. The basketball game was fine. After that, they
9 led Dutch Fork kids through the back. Lexington always
10 exits through the lobby area and down the stairs. In the
11 lobby area, Dutch Fork kids made their way back around
12 meeting with the Lexington kids somehow and then through
13 the lobby and walking down the stairs to the parking lot.
14 That's where the commotion, all of that started from the
15 Dutch Fork kids, all the way to the parking lot, following
16 us to our cars, dancing. There was a whole bunch of chaos.
17 And through all that I just got, like, lost with the -- the
18 group of friends I was with that we talked about yesterday,
19 I got lost from them, so I just made my way to my car, they
20 made their way to theirs, and then we just tried to get
21 there as quick as possible.

22 Q. So when you were walking to your car, did anything
23 happen?

24 A. Just besides a lot of chaos and noise from Dutch Fork
25 students, them trying to either just taunt us or, you know,

1 get us riled up with them because they were riled up. Of
2 course, they won, but they tried to get us mad about that,
3 which it's just a basketball game. No need to be mad about
4 that. I didn't see why they were trying to do that.

5 Q. When you say trying to get you riled up, what were
6 they saying?

7 A. They was taunting us, trying -- trying to pick a fight
8 and nitpick about little things and just trying to get us
9 worked up, trying to get them to -- get us to fight them
10 and, I don't know, I can't tell you what was said. It was
11 just a whole group of people and you hear a whole bunch
12 of yelling because you don't know what's said. It's just a
13 lot of stuff was said. Nothing -- nothing like -- nothing
14 friendly or nice, I know that, but it's just the opposite
15 of that all that.

16 Q. At some point did you have to be separated by a police
17 officer from other people?

18 A. Yes, sir, at one point I was separated. While walking
19 to my car, a kid, a Dutch Fork kid, was just coming my way
20 and, you know, just towards me doing this, doing this, like
21 what's up or something like that, an officer just -- he
22 was, like, just go to your vehicle, go to your vehicle, so
23 that's what I did. I went to my vehicle.

24 Q. Did you invite that person to come fight you at
25 Cook-Out or --

1 A. No.

2 Q. -- tell him you had something in your car with you?

3 A. No, I didn't say a word.

4 Q. So you went to your car and then what happened?

5 A. I went in my car and just left. Got in line behind
6 other vehicles and left and went to a gas station.

7 Q. And when you went -- when you got to the gas station,
8 what happened next?

9 A. That's when Keith -- Keith Adams and Will Zander,
10 Morgan Zander and Lucky Cook met up with me at the gas
11 station.

12 Q. Okay. What did y'all do?

13 A. We all just discussed about where we're about to go to
14 eat.

15 Q. Did you-all discuss at that point going to fight
16 somebody?

17 A. No, no, no. We didn't talk about none of that. That
18 was -- we weren't about that. We were hungry, so we wanted
19 to go eat.

20 Q. When you say you weren't worried about it, you mean
21 that's what was on your mind, but you weren't thinking
22 about that at the time?

23 A. Unh-unh. It was just that -- that seems like that's
24 what they were worried about. I was worried about eating.
25 I was hungry.

1 Q. When you say "they" were worried about it, you mean
2 the Dutch Fork students?

3 A. The Dutch Fork kids, yes, sir.

4 Q. So when you went to -- where was the next place you
5 went?

6 A. We all went to Sonic.

7 Q. And when you got to Sonic, why didn't you eat at
8 Sonic?

9 A. Because they all decided they didn't want Sonic after
10 that. I mean, it was packed and full, I guess, so we just
11 -- we didn't want Sonic, so then we went to McDonald's and
12 then Cook-Out.

13 Q. All right. And after Sonic you said you went to
14 McDonald's?

15 A. Yes, sir, rode through.

16 Q. And then y'all went to Cook-Out?

17 A. Yes, sir.

18 Q. Did you leave McDonald's and Sonic because there were
19 no Dutch Fork kids there?

20 A. No.

21 Q. Why did you leave?

22 A. Because that's not what we wanted. I guess we made --
23 we might have thought that was an idea of that we wanted,
24 but when we got there that's not what we wanted, you know,
25 we didn't want McDonald's. And then Cook-Out's cheap, so

1 we were like let's just go there.

2 Q. I think I asked the question and -- and probably said
3 it too fast. When you said that's not what you wanted, you
4 simply didn't want McDonald's, not that you didn't want
5 Dutch Fork kids, you just didn't want McDonald's?

6 A. We didn't want McDonald's, yeah.

7 Q. All right. And so when you got to Cook-Out, from the
8 time you pulled in, can you tell us about that?

9 A. Yeah, from the time I pulled in, I pulled in by the --
10 all the way toward the car wash, along with Will. We got
11 out of our vehicles. As I was talking towards the Cook-Out
12 doors, a friend of mine, Austin Sanders, he was leaving
13 and so it was, like, hi, a friendly conversation. He was
14 like "Yeah, I was in the drive-thru and a whole bunch of
15 Dutch Fork kids were just -- started getting rowdy in the
16 drive-thru, shaking people's cars and stuff like that",
17 and I was like okay and so then he just left and then we
18 continued to keep walking to go inside Cook-Out to eat.

19 Q. So when he told you that something had happened to
20 him, where was it that he described it happened?

21 A. The drive-thru line.

22 Q. And using State's 1, where would that drive-thru line
23 be?

24 (Whereupon, the witness steps down from the witness
25 stand.)

1 A. The drive-thru line would be from here and going all
2 the way around to over here where you can't see because the
3 picture -- it's not -- it's not pictured.

4 Q. All right. So he stated that there was -- he had a
5 problem over here with people in the drive-thru line?

6 A. Somewhere in the drive-thru line.

7 Q. And that they were doing what?

8 A. They were just being loud, approaching him and shaking
9 his car and harassing other people and stuff like that.

10 Q. Okay. So did you immediately go to the drive-thru
11 line and see what was going on?

12 A. No, unh-unh. We -- we parked somewhere down here.
13 We seen him right here and we kept walking to the door.

14 Q. Okay.

15 A. That's where we went.

16 Q. Okay. Thank you.

17 (Whereupon, the witness returns to the stand.)

18 Q. So when you walk in the door of the Cook-Out, what
19 happens?

20 A. When I first step in, a -- a guy approached me.
21 He's like, "That's all y'all brought?" And I was like,
22 "We just came here to eat". So then he went about his
23 business, I went about mine, and then waited in line and
24 then --

25 Q. I'm sorry. So he said "That's all y'all brought"?

1 A. Uh-huh.

2 Q. So he put his hands in the air and he said, "That's
3 all y'all brought"?

4 A. Uh-huh.

5 Q. What did you take that to mean?

6 A. I thought it means like if we had more people coming.
7 Like maybe he thought we came there to start something and
8 then that's when I simply said -- broke it down to him, "We
9 just came to eat".

10 Q. Okay. And then what did you do?

11 A. Got -- got in line. It was a long line, so we were in
12 line for a minute.

13 Q. All right. And then what happened next?

14 A. We were in line. You know, they started getting loud
15 a little, taunting us, doing the dance and stuff like that,
16 just waiting, and then two females from Dutch Fork just.
17 Had a conversation with Keith. Not anything like that.
18 I guess he might have knew them prior to anything, but he
19 talked to them. I waited in line calmly, just leaning
20 against a little -- a little wall they had, so I was just
21 leaning against that. I'm just looking and observing. It
22 was -- it was pretty loud in there. I've been to Cook-Out
23 before. It's never that loud in there until then. I'd say
24 that was the loudest night in there from the Dutch Fork
25 kids and stuff like that. So I'm looking around, you know,

1 and I see -- I hear them like picking on Lucky about his
2 sweater and he's ugly and things like that. His back's
3 turned, he's not saying nothing, and so I'm looking around
4 and I see a guy in a white button-down with a green tie
5 stand in his chair and --

6 Q. Now is this the same guy that had said something to
7 you earlier?

8 A. Yes, sir.

9 Q. Okay. And he's standing in his chair?

10 A. Yeah, he stands up and below him is my friend Keith
11 and he has his back turned, so he can't see him. He stands
12 in his chair with his fist over his head as if he was gonna
13 punch him, but just does it into his hand, and that -- and
14 that's it. I didn't point that out to anything -- or
15 anybody to make it look like -- I just didn't want to start
16 nothing, so I just -- he wasn't gonna do nothing. I kept
17 minding my business, he got down, so I just waited in line
18 while Will and Morgan and them got their food.

19 Q. Okay. And then what happened?

20 A. We were still in line. Maybe Will and them ordered by
21 this time and just maybe haven't gotten their food. I get
22 a phone call, go outside, and I lean on the trash can to
23 start talking like -- start talking to whoever was on the
24 phone.

25 Q. Did you say anything to them before you walked

1 outside?

2 A. Yeah. I mean, I did say -- I was like, "Let's leave",
3 because at that time it was just chaotic. They -- they was
4 rowdy, acted like they had no home training in a public
5 restaurant. Like why are y'all acting like this? So, I
6 mean, I was just like let's all leave, we need -- we just
7 need to go. That's exactly what I said. And so they was
8 like okay. They tried to get their food, but I was like
9 I'll pay y'all for y'all's food, this is not a big deal,
10 I'm gonna pay y'all for -- I'll pay y'all for y'all's food,
11 we just need to leave. So after I said that, they started
12 following me out the door.

13 Q. All right. So you -- you go outside and you're on the
14 phone and what happens next?

15 A. That's when one or two Dutch Fork guys, they come
16 out. I just -- I didn't even have time to talk on the
17 phone. I just hung up. And then he walked past us to the
18 open -- to the middle of the open parking lot and he's
19 like, "Are you still salty?" I go, "What do you mean?"
20 He's like, "Why y'all so salty?" I was like "The game was
21 thirty -- thirty, thirty-five minutes ago, y'all won,
22 congratulations". That's the only conversation I had with
23 him. Then I was like, "Guys come on, let's go", so I tried
24 to lead them to -- let's go, let's go so we could get to
25 our vehicles and leave.

1 Q. Now when you left to go to your vehicles, where was
2 this gentleman standing?

3 (Whereupon, the witness steps down from the stand.)

4 A. We were right here. There's a trash can right here.
5 He comes out right here and -- with his hands raised
6 talking about are we still salty, so to avoid that I start
7 walking. Because I'm right here anyway, so I wasn't even
8 walking in his direction, I started walking this way. By
9 the time I got here, I hear a whole bunch of noise behind
10 me, so I look around and look back, then I see a whole
11 pile of just Dutch Fork kids just coming out, coming out,
12 rushing and kind of like pulling their pants up, you know,
13 like they was getting ready to fight me like or jump me or
14 something like that. So now I'm walking backwards like
15 this to my car, just walking backwards to see -- make sure
16 like nobody's gonna do anything and then I hear -- I hear
17 them like "Don't do it, brother, let me do it", pulling up
18 his pants and getting all, you know, tough and talking
19 about fighting me, come fight me, and this and that while
20 I'm walking towards my car. That's all I hear.

21 Q. Okay. So then what did you do?

22 A. So I continue to walk. That's when I heard them
23 yelling stuff about Morgan, you know, calling her a
24 "B-word", a "thot", a ho.

25 Q. A "thot"?

1 A. It stands for "that ho over there". It's an acronym.

2 Q. Okay.

3 A. So I heard, you know, those -- those names that they
4 were calling her, so I was like come on guys, we just
5 need to keep going. So we just continued to walk to our
6 vehicles and so by the time we got there they were about
7 in this area right here.

8 Q. Okay. So they were on the curb and kind of in the
9 street a little bit --

10 A. Yes, sir.

11 Q. -- is that what you're pointing at?

12 A. Yes.

13 Q. So then what did you do?

14 A. I got in my vehicle and --

15 Q. And where you're pointing, is that where your vehicle
16 was parked at the bottom of the --

17 A. Yeah, you can't see it on this map, but where I'm
18 pointing at is where I parked at and then I see Keith like
19 right here. So I just come to right here. So I'm facing
20 Petsmart and he's facing Cook-Out. We're just discussing
21 about where we'd like to go, if he was going home, if he
22 was going to his mom's house or his dad's. They just
23 recently, you know, separated and he had to go all the way
24 to Clemson Road. So I was like you -- are you going to
25 your dad's house and he was like yeah, and I'm like well,

1 I'm going home anyway because --

2 Q. Okay. Slow down a little it. I'm sorry. She's got
3 to keep up with it.

4 A. Okay.

5 Q. You-all were talking about what exactly?

6 A. Going home and where he was going, if he was going
7 to his mom's house or his dad's house because they had
8 recently separated and he said "I'm going back to Clemson
9 Road". I was like okay. What are you gonna do, referring
10 to me, well, I'm going home, I've got to be at work at five
11 in the morning because I was welding at the time and we had
12 to go like to Columbia and, you know, weld some stuff.

13 Q. So you were a welder at the time?

14 A. Yes, sir.

15 Q. And you had to be at work at 5:00 in the morning?

16 A. I had to be up at five. I was supposed to be there at
17 5:30.

18 Q. Okay. So y'all discussed that. Did Will come back
19 around at that point?

20 A. At this point he might have. I wasn't paying
21 attention to Will. I was looking at Keith. I mean, our
22 windows were down and I was talking to Keith, so I was
23 focussed on Keith. That's what I -- I mean, he came later
24 on. By the time he got there, our conver -- me and Keith's
25 conversation was over. By the time he got there he just

1 wanted to know what we were talking about and I was about
2 to leave.

3 Q. Okay. And where were the kids at this point?

4 A. I don't know. I'm facing this way.

5 Q. Okay.

6 A. By this time I was --

7 Q. All right. So then what happened?

8 A. So then I'm backing up, so I'm looking backwards, I
9 don't know what they're doing. I'm backing up so I can go
10 this way. So I'm backing this way and then I notice Will
11 goes and so I'm putting my car in drive because I was --

12 Q. So before you backed up, did y'all discuss a plan?

13 A. Planned on leaving to go home. That's the only thing
14 we planned on.

15 Q. Okay. So there was no plan on him to throw money out
16 the window or --

17 A. No, sir. I didn't even -- I didn't even know he threw
18 money out the window until my first bond hearing.

19 Q. Okay. But there is no plan at that point discussed.
20 Just you-all going home; is that it?

21 A. That was the only plan.

22 Q. Okay. So you back up?

23 A. Yes, sir.

24 Q. And then what?

25 A. Then I see Will going and by the time I look up and

1 about to, you know, go into drive I see a whole bunch of
2 kids surrounding Will's car and I'm thinking oh, they're
3 about to attack Will. They're just all around his car, you
4 know, pushing against his car, so I speed up in a -- you
5 know, a speedy manner just to make sure he's alright. So I
6 come up here behind Will and then in a second they're at my
7 car, so they're all at my window in front of me, and so I
8 stop --

9 Q. Let me -- let me stop you real quick. So where is
10 Will? When you say he's there and you all of a sudden
11 notice people around his car, where is he?

12 A. He's about -- yeah, he's about right here, somewhere
13 around here. Somewhere in this area if I remember.

14 Q. And describe exactly what it is that you see.

15 A. By the time I was putting my car in drive and ready
16 to leave, I look up, a whole bunch of kids just all around
17 his car. Now I didn't know -- I didn't know why until I
18 found out it was because he threw money, but I see kids
19 around his car. I thought they were trying to attack him
20 or get him out of the car forcefully or anything like that
21 and so that's when I came up to make sure he was all right
22 and then by the time I did that, to make sure he was all
23 right, I was gonna make sure he was okay, they were already
24 at my window.

25 Q. All right. So you pull up to see if he was okay?

1 A. Yes, sir.

2 Q. What happens?

3 A. That's when they come to my vehicle and surround my
4 vehicle.

5 Q. When you say "they" --

6 A. Dutch Fork people.

7 Q. -- two people?

8 A. No, no, no, no, no. About twenty to thirty Dutch Fork
9 kids come around my vehicle and start yelling at me and
10 start cussing at me, telling me to get out the car, calling
11 me -- calling me you P-U-S-S-Y, you little B-I-T-C-H, you
12 know, just saying all that to me just trying to get me out
13 of the car. Then hands start reaching in, you know, the
14 car. I'm thinking they're trying to attack me and
15 forcefully pull me out of the car. That's when -- I'm
16 still in my car, my right foot's still on the brake and I
17 slide as far as I can into my seat. I don't have an
18 armrest, so I tried to get as far as I could while I still
19 had my foot on the brake. At that point I was scared in
20 fear for my life. I didn't know what they were trying to
21 do and I didn't know why they were at my window. I didn't
22 invite them to my window. They came on their own -- on
23 their own will to my window.

24 Q. So you didn't know any of these kids?

25 A. No, sir, none at all.

1 Q. They weren't coming to bring you any hamburger or any
2 food that was left inside?

3 A. Not at all, no, sir. These were the same kids that
4 kept saying fight me, fight me the whole time I was walking
5 to my car and the same kids -- they were the same ones at
6 my window.

7 Q. And at that point tell the judge exactly what you did
8 again.

9 A. At that point when they all came to my window and my
10 door, about a group of twenty or thirty of them, that's
11 when I slid as far as I could in my car because they were
12 reaching in my car, pulling me out. I felt like I was
13 under attack, fearing for my life. There was just hands
14 reaching in my car through my window at me, so I'm thinking
15 they're trying to pull me out of my car trying to get to
16 me, so that's when I slid as far as I can.

17 Q. Why didn't you just roll the window up?

18 A. Because if I'm all the way over here, I feel like if I
19 had to roll my window up, that's me reaching to my window
20 and if their hands are already here, they gonna easily grab
21 my hand or from there they can pull me out the car or they
22 might think I'm trying to, you know --

23 Q. If you would sit back in the witness stand.

24 A. All right.

25 (Whereupon, the witness returns to the witness stand.)

1 Q. So if this is your car window, and I realize I'm on
2 the opposite side, tell me how close they were to you?

3 A. About there.

4 Q. Okay.

5 A. Yes, sir.

6 Q. So they're this -- this -- this close to you?

7 A. Yes, sir.

8 Q. You're sitting down in your seat?

9 A. Yes, sir.

10 Q. And what are they saying?

11 A. They're saying, you know, fight me, you P-U --
12 P-U-S-S-Y, you little B-I-T-C-H, you won't do S-H-I-T,
13 stuff like that, just repeating that, repeating that, and
14 so they're reaching in my car, you know, saying that at
15 the same time.

16 Q. And so what did you do?

17 A. That's when I was still in my car and as far as over
18 as I could I slid in my seat. Like this.

19 Q. Okay. And then what happened?

20 A. And then at the time they weren't --

21 Q. Did that make them leave?

22 A. No, at the time they still weren't leaving. I'm
23 scared and in fear for my life, so I'm as far over as I
24 can get. I can't leave anywhere, so, I mean, at that time
25 that's when I did have a knife in my center console, so I

1 just grabbed it and reached across my body like that and
2 struck and then drove off.

3 Q. So that would put you closer to me if obviously --
4 the gentleman that you struck, do you remember where he was
5 standing?

6 A. It was -- it was too many of them.

7 Q. All right.

8 A. I don't know where they were standing.

9 Q. But he was at your door?

10 A. Yes, sir.

11 Q. You never exited your car?

12 A. Never. Never leaned, never did that. If I'm all the
13 way over here, obviously he's close enough if with my right
14 arm --

15 Q. Because you can't reach me.

16 A. Yeah.

17 Q. I'm standing this close and you can't reach me; is
18 that right?

19 A. Yes, sir.

20 Q. Okay. So move your chair over so that you can reach
21 me. Go ahead and try.

22 A. (Witness complies.)

23 Q. Okay. So he was that close to you while you were in
24 your car?

25 A. Yes, sir.

1 Q. Okay. And you simply reached up with your knife --

2 A. Yes, sir, went across my body. Just this, you know,
3 like --

4 Q. And you're still not touching me?

5 A. No.

6 Q. Now?

7 A. Yes, sir.

8 Q. Okay. And so that's what you did --

9 A. Yes, sir.

10 Q. -- sitting down in your car?

11 A. Yes, sir.

12 Q. Okay. And then what did you do?

13 A. That's when I left.

14 Q. Okay. So you reached over like that?

15 A. Yes, sir.

16 Q. And then you drove off?

17 A. Yes, sir.

18 Q. Okay. Why didn't you stay around?

19 A. What for? So they -- so they can still keep attacking
20 me maybe and get me out of my car? I was scared for my
21 life. Why would I stay around a group of people, ten,
22 twenty or thirty? I'm out numbered in my car by myself.
23 There's no point in standing -- there's no point staying on
24 the scene.

25 Q. Well, Will was out in front of his car, right? He was

1 outside, right?

2 A. Uh-huh. I told him to get back in his car, but he
3 couldn't hear me around all them kids. I'm yelling "Will,
4 get in your car, Will, get in your car". He cannot hear
5 me, so I don't know why he didn't get in his car except for
6 he couldn't hear me.

7 Q. So while they're at your window, you see Will get out
8 of his car and you do what?

9 A. I didn't see him get out, but I do see him out of the
10 car. By that time he's out of the car.

11 Q. And what do you say?

12 A. "Will, get in your car. Will, get in your car".

13 Q. Okay. But you don't think he heard you?

14 A. He didn't hear me because if he did he would have and
15 I think he got out to protect me because he seen all them
16 at my -- at my driver's side window.

17 Q. So when you initially pulled up, you thought Will was
18 in trouble?

19 A. Yes, sir.

20 Q. And that's why you sped up?

21 A. (Nods head.)

22 Q. When you stopped at that point, why didn't you leave?

23 A. I couldn't.

24 Q. Why not?

25 A. Kids were at my window, in front of me. If I leave,

1 I'm gonna hit them, take somebody with me dragging them
2 with my vehicle, you know. My intention wasn't on hurting
3 anybody. Like I don't want to run over somebody just to
4 leave.

5 Q. So, again, if you look at this road, it's three lanes
6 wide. You said that Will was here. Why did you pull up on
7 this side where the kids were?

8 A. Because I was either going around Will or just -- I
9 just pulled there because he seemed like he was in trouble,
10 so I just pulled up anywhere. It wasn't like I -- I
11 planned on oh, I'm pulling up on this side.

12 Q. So that put you on this side of the road; is that
13 correct?

14 A. Yes, sir. Yes, sir.

15 Q. And at this point there were kids still all out in the
16 street and around your car; is that right?

17 A. Yes, sir.

18 Q. Okay. And so then once you reached over with your
19 knife, did you realize that you had stabbed someone?

20 A. No, sir, I didn't realize it then.

21 Q. Why not?

22 A. Because I didn't -- I didn't think I did, but -- and
23 plus, after that, a second after that I drove off, so I --
24 I didn't know I did.

25 Q. Okay. And so then once you drove off, what happened

1 next?

2 A. I made my way to my house.

3 Q. All right. Did anyone call you?

4 A. Yes, sir. Keith Adams.

5 Q. And what did y'all say?

6 A. He called me, you know, saying that he just got pulled
7 over or something like that, asked if I did anything, and I
8 avoided the question.

9 Q. Why?

10 A. Because I -- I felt like Keith, why -- why are you
11 asking me this or why did he need to know? I mean, I was
12 ashamed and embarrassed like if anything had happened, so I
13 just avoided the question. He was asking me the question
14 and I'm like why are you asking me this question? I mean,
15 you weren't there the whole time that -- during this time
16 I didn't see Keith, so I'm wondering where he's getting his
17 information from.

18 Q. Were you a little upset with him because you didn't
19 see him? I mean, he's your friend. You didn't see him.
20 Is that --

21 A. Yeah, I mean, I -- I wasn't -- I wasn't more -- I was
22 concerned about Keith, I was concerned about all of us, but
23 with a group of twenty or thirty kids at your window your
24 least concern is gonna be where your friend might be at
25 when you've got kids reaching in -- young adults reaching

1 through your window. I didn't want to take my eyes off of
2 them because if I did that, they could easily, boom, punch
3 me, grab me, anything, so my eyes were, you know, focussed
4 in that area.

5 Q. Okay.

6 A. As far as I know, Keith went.

7 Q. So did Keith call you again?

8 A. Yes, he called me again and I was home at this time.

9 Q. Okay. And what was the conversation, do you remember?

10 A. Yeah, he asked me again. I said I did and, you know,
11 what -- what should I do with the knife and stuff like
12 that, asking him if I should bury it or whatnot, and then
13 why -- I don't know why I asked him that question, but
14 that's what we talked about and then I hung up after that.

15 Q. And then what did you do?

16 A. That's when -- by that time I looked -- after I had
17 time to look at it, I seen just a stream of blood on it.
18 Nothing too -- nothing too severe, like a whole bunch of
19 it, just a stream of it, so I got a paper towel and just
20 wiped it off and went and put it in my backyard.

21 Q. Why?

22 A. Because at the time I was -- I was like, oh, man, like
23 it actually happened. I was -- that's not -- that's --
24 that's out of my character, that's out of me, and I was
25 ashamed and embarrassed about doing that. I didn't have --

1 I didn't want -- after that I didn't want nothing to do
2 with that knife, you know, anymore.

3 Q. So did you talk to your mom about it?

4 A. No, sir.

5 Q. Why not?

6 A. Because I just -- I wasn't -- I didn't talk to anybody
7 about it. I wasn't prepared -- I'm still -- I'm still
8 taking in that what happened happened, so I know if I tell
9 her she's gonna get all, you know, worried and worked up.
10 I'm not trying to work her nerves and stress her and have
11 her stressed. I'm still taking a lot in at this time, too,
12 wondering what's gonna happen and stuff like that, so I
13 just didn't tell her. So I just wanted to -- I wanted her
14 to be as calm as possible and me -- her being the mom and
15 me being her son and I just wanted her to be calm, you
16 know.

17 Q. So what happened next?

18 A. After that, I come back inside, go upstairs. I
19 already have clothes in my wash. Mom was getting on to me
20 about washing, you know, I need to wash my clothes, I need
21 to wash my clothes, so I'm like, okay, I'm gonna wash my
22 clothes and then -- I already had clothes in the washer
23 that were dirty, so I took the clothes that I had on that
24 night, put them in the washer and started washing them and
25 then --

1 Q. Did you wash the blood off of them?

2 A. To my knowledge, I didn't see any blood.

3 Q. So you didn't see any blond on your clothes?

4 A. Unh-unh. No, sir.

5 Q. So did you wash your clothes to try to hide evidence?

6 A. No, no, not at all. There was no evidence. To my
7 knowledge, there was no blood on there. I just washed it
8 because I'd just got done wearing it, so while I'm washing
9 clothes why don't I just wash the clothes I just had on.

10 Q. And then what did you do?

11 A. Talked to my mom for a little bit and then got ready
12 for bed.

13 Q. What happened next?

14 A. Then before, you know, I got in the bed or anything,
15 that's when I get a ring from my doorbell and the police
16 officers came to my door.

17 Q. Okay. Did you talk to them?

18 A. Yes.

19 Q. What did you tell them?

20 A. They were asking me where was I about fifteen,
21 twenty minutes ago. I said home. He was, okay, well, we
22 have an -- an incident at the Cook-Out and, you know,
23 you're matching the description and I was like -- he's like
24 were you ever there? I said yeah, about thirty minutes ago
25 I said I was there. Do you know anything that happened?

1 I told him no, I didn't know anything that happened. I
2 denied what -- you know, what he was telling me. He was
3 like we found out there was a stabbing and stuff like that
4 and so just questions and answers.

5 Q. Why didn't you tell him what had happened?

6 A. Because I -- I was scared. I didn't -- I mean, I was
7 eighteen at the time. What eighteen-year-old, you know,
8 has went through that? And I was ashamed and embarrassed
9 about doing that, although it was for -- in my defense, in
10 defending myself, but I still -- I was still ashamed and
11 embarrassed at the same time, so I just wasn't -- I didn't
12 know what would happen if I told, you know, the police.

13 Q. So then what happened?

14 A. So then they were just -- they asked me where my
15 vehicle was, in the garage, and then, well, they told my
16 mom. They're like ma'am, we'll have to take him to -- down
17 to the department for questioning and then that's when they
18 -- that's when they took me in.

19 Q. Okay.

20 **MR. RUTHERFORD:** Your Honor, can we approach real
21 quick?

22 **THE COURT:** Yes, sir.

23 (Proceedings held at the bench; not reported.)

24 **MR. RUTHERFORD:** Go ahead and get the iPad video
25 ready.

1 BY MR. RUTHERFORD:

2 Q. Can you describe what this is that you see in that
3 picture?

4 A. Yes, sir, that's a few students that were from Dutch
5 Fork at my window at that time.

6 Q. So this is your car?

7 A. Yes, sir, that's my vehicle.

8 Q. Can you point out to me which one of these individuals
9 you know?

10 A. No, sir. I don't know any of them.

11 Q. So this is your car?

12 A. Yes, sir.

13 Q. This is your window; is that right?

14 A. Yes, sir.

15 Q. Do you know her?

16 A. No, sir.

17 Q. Do you know him?

18 A. No, sir.

19 Q. Do you know him?

20 A. No, sir.

21 Q. Him?

22 A. No, sir.

23 Q. Him?

24 A. No, sir.

25 Q. Okay. So you don't know any of these people that are

1 around your car?

2 A. No, sir. They had no business being around my car.

3 Q. Okay. So at this point would this -- what would you
4 be doing in your car?

5 A. At this point, that's when, like I said, I was all the
6 way leaned over to about the middle or the real edge of my
7 driver's seat still with my foot on the brake.

8 **MR. RUTHERFORD:** Okay. Go ahead and play it.

9 (Whereupon, State's Exhibit Number 12 was played.)

10 A. You can hear them say they ran over there on purpose
11 talking about to me.

12 Q. I'm not sure that's what they --

13 **MR. RUTHERFORD:** If you can back it up.

14 (Whereupon, the video was replayed.)

15 BY MR. RUTHERFORD:

16 Q. Do you know this gentleman right here with his hands
17 in the air like this?

18 A. No, sir.

19 Q. Okay. Did he say ran -- you almost ran over your own
20 person?

21 A. Well, it sounded like he said that --

22 Q. I'm asking you to interpret what he said, if you
23 could.

24 A. I thought he said they ran over there on purpose. I
25 don't know what he said.

1 (Whereupon, the video was replayed.)

2 **THE COURT:** Okay.

3 BY MR. RUTHERFORD:

4 Q. Is that because when you left you would have almost
5 hit Will?

6 A. Yes, sir. When -- when I left, it was still a tight
7 -- a tight space from, you know, the edge and then where
8 Will was, so I didn't want to get nowhere near any other
9 students that you can't see on the screen and hit any of
10 them, so I got as close as I could to Will without hitting
11 his vehicle or him, but I guess I got real close to him. I
12 don't know if he got clipped or anything, but I guess he's
13 fine. He got back in -- he got in his car, so.

14 Q. So why did you drive off so fast?

15 A. Because I needed to get out of there.

16 **MR. RUTHERFORD:** Let it play.

17 (Whereupon, the video was replayed.)

18 **MR. RUTHERFORD:** Pause it.

19 BY MR. RUTHERFORD:

20 Q. So the scene that you'd described earlier outside of
21 Cook-Out with all the people outside, is that what it
22 looked like?

23 A. What are you asking?

24 Q. The scene that you described earlier when you walked
25 out of Cook-Out and the entire Cook-Out got out and

1 followed you, is that how it looked?

2 A. Yeah, they were all just scattered around following us
3 to our vehicles, yeah.

4 Q. Okay. And so at this point you've left. You're
5 headed home?

6 A. Yes, sir.

7 Q. Okay.

8 **MR. RUTHERFORD:** Begging the Court's indulgence.

9 BY MR. RUTHERFORD:

10 Q. So when the police came to your house, why didn't you
11 just tell them about all of this?

12 A. Because, like I said, I was -- I was ashamed and
13 embarrassed about it. I mean, I figured that if the police
14 were there, they would -- they would know what happened, I
15 guess. I guess that's why I didn't tell them.

16 Q. All right. And looking back at the road out of
17 Cook-Out, you see here 1, 2 and 3 on State's Exhibit
18 Number 1, and I guess this is dirt over here because
19 nobody ever drives over here, I guess?

20 A. Yes, sir.

21 Q. And so you said Will was over here in the middle?

22 A. Between 1 and 2. It was -- it's hard to explain
23 with no lines and all that, but like you said right there
24 between 1 and 2.

25 Q. And, again, why didn't you go this way?

1 A. Well, one, it was congested over there from customers
2 going through the drive-thru and so I would have then, you
3 know, collided with them. And then prior to that my friend
4 said that they were, you know, around his car and doing
5 stuff to his car, bothering him, harassing him, and then
6 also if I would have went out that way and went to that
7 light, that light takes along time, so I just went the --
8 the regular way out.

9 Q. And looking at State's Exhibit Number 2, can you
10 identify where Cook-Out is on here? Is that it?

11 A. Yes, that's it.

12 Q. So it looks like there are multiple ways, I guess, to
13 get out of Cook-Out. Why didn't you take another way out?

14 A. Well, because when I go out here and come this way,
15 that's my way home. Why go out another way and take longer
16 to get home? I'm gonna go home the quickest way possible.

17 Q. Well, but there are kids over there that had followed
18 you out, so why not just find another way out?

19 A. Because, I mean, at the time that's the main -- that's
20 -- who's to tell me which way I can and cannot leave a
21 public place? So I just figured out I'd just go out the
22 regular way and not be bothered, you know. You know,
23 you've got to think at the time I was leaving I didn't know
24 they were already at Will's car and Will was stopped by
25 the time I got there, so I guess -- and, like I said, this

1 way, going through the drive-thru, that's for drive-thru
2 customers and it was -- it was blocked off and all that, so
3 just going up this way and that way to me would have been
4 the way to go out.

5 **MR. RUTHERFORD:** All right. No further questions
6 at this time, Judge.

7 **THE COURT:** Cross.

8 **MR. HUBBARD:** Yes, Your Honor.

9 Your Honor, I move that CD into evidence. Has it
10 been moved in?

11 **MR. RUTHERFORD:** Without objection. I didn't move
12 it in.

13 **THE COURT:** State's 12?

14 **MR. HUBBARD:** Yes, sir. Thank you.

15 (State's Exhibit Number 12, an iPad recording, was
16 marked and admitted into evidence.)

17 CROSS-EXAMINATION

18 BY MR. HUBBARD:

19 Q. Is it your testimony here today that on that evening,
20 February 17th, you didn't do anything to bring about the
21 trouble that happened that night?

22 A. You're saying did I do anything for anything to
23 happen?

24 Q. I'll ask the question again. Is your testimony that
25 that night you didn't do anything to bring about the

1 trouble that occurred that night?

2 A. Yes, sir.

3 Q. That's your testimony?

4 A. (Nods head.)

5 Q. You did nothing, nothing, to brought about this
6 trouble?

7 **MR. RUTHERFORD:** Your Honor, he already asked one
8 question. He's asked the same question twice and now
9 three times.

10 **MR. HUBBARD:** I'm just getting started and I --
11 I understand, Judge, but I gave him a lot of leeway.

12 **THE COURT:** All right. Overruled. Go ahead.

13 BY MR. HUBBARD:

14 Q. And it's your testimony you did what was necessary
15 that night to survive?

16 A. Defending myself is what I did that night.

17 Q. It was necessary to survive?

18 A. If it was defending myself, that's what I did. Just
19 to do what I had to do to defend myself.

20 Q. And, of course, you're saying your testimony today is
21 the truth?

22 A. (Nods head.) Yes, sir.

23 Q. You're not lying to protect yourself or your friends?

24 A. No, sir.

25 Q. Or your family?

1 A. (Shakes head.) No, sir.

2 Q. Then why is it at least five times you've said you
3 were ashamed and embarrassed about what you did?

4 A. Because that's -- that's nothing that I would come out
5 and do for no reason. If it comes down to it and I need to
6 defend myself, then I will have to, but that's just not me.
7 I'm not gonna come out and just start go harming people.

8 Q. That embarrasses you to protect yourself?

9 A. No, sir, it doesn't embarrass me to protect myself at
10 all.

11 Q. It ashamed you to protect yourself?

12 A. No, sir, I'm not ashamed to protect myself.

13 Q. They're your words.

14 A. Yes, that's my words. You're trying to switch my
15 words.

16 Q. No, sir.

17 A. Yes, you are.

18 Q. I'm asking you a question. Today you used those words
19 at least five times. I'm asking why?

20 A. Why I used them?

21 Q. Why when you described that you protected yourself are
22 you saying you were embarrassed? That's why.

23 A. Because --

24 Q. I'm asking you.

25 A. Because that -- I mean, I was -- that's the only thing

1 that I could have done at that time. Now that's not what I
2 do. I'm not -- I'm not a violent person at all. So, I
3 mean, what are you getting at?

4 Q. That's the question I had for you, but I'm gonna move
5 on. I'm gonna take that as an answer.

6 A. Thank you.

7 Q. Now in that aerial that shows the three cars, State's
8 Number 1, do you see in the little drive between the old
9 Blockbuster or the pet store and the restaurant? Where --
10 what lane was your car in when you were driving through
11 there?

12 A. Leaving?

13 Q. Yes. Would it be closer to 1, 2 or 3?

14 A. It would be right here.

15 Q. In Lane 1?

16 A. Yes, sir.

17 Q. Okay. So you admit today that the way you -- you can
18 have a seat -- you chose to leave in the oncoming lane, the
19 wrong lane, when you left that establishment?

20 A. No, sir. When I left, I seen them at my friend's
21 vehicle, so I was wondering why they were at his vehicle or
22 trying to attack him, so I just -- not knowing what lane,
23 there are no lines on this road, so there's no right or
24 wrong lane, but no knowing -- paying attention to that, I
25 just got there as quick as I could because I didn't know

1 what they were going to do to my friend; harm him, attack
2 him or try to get him out of the car.

3 Q. Was your window up or down?

4 A. My window was already down prior to that when I was
5 talking to Keith right here.

6 Q. How far down?

7 A. Halfway. About right here.

8 Q. Was your door locked or unlocked?

9 A. My door was locked.

10 Q. And when you rolled up on that crowd to protect your
11 friend, you didn't roll your window up?

12 A. No, sir.

13 Q. And you didn't get out of the car to protect your
14 friend?

15 A. I couldn't get out of my car. They were already --
16 right when I got there they were already at my window. I
17 could not get out of my car at all. I couldn't leave at
18 all.

19 Q. Your friend Will got out of the car?

20 A. Yeah, by that -- by the time I came up, their
21 attention must have came to me, so they --

22 Q. Well, let's talk about that.

23 A. All right.

24 Q. Did you do anything to shift the focus of that crowd
25 from Will to you?

1 A. If pulling up behind my friend's vehicle is doing
2 anything to shift their attention, then that's what I did.
3 I didn't -- like I didn't cause any attention to me. I
4 didn't throw anything out of my window like my friend did.
5 I didn't do anything, yell anything at all, so no attention
6 should have been in my -- towards me and my vehicle.

7 Q. Okay. So your testimony is you didn't do anything
8 wrong, you just pulled up?

9 A. Besides coming up to Will's vehicle, yes, sir. I
10 didn't know that was -- I didn't know that's something
11 wrong. I can't do that?

12 Q. When you pulled up, were people touching your window,
13 your door or your car?

14 A. I just know that hands were coming through my car.
15 Now I can't see the people that are on the back side of
16 my -- the side of me, I can't see them, I don't know if
17 they're trying to push my car or anything, but when I got
18 there they came to my window and that's when they started
19 reaching through.

20 Q. I'll make it clear then. Was anybody at your door,
21 your window, touching your door, like holding it to reach
22 in after you?

23 A. I mean, if they can't hold it, my window's cracked,
24 they'll try to pull my window, but I'm not looking down at
25 their hands to see where their hands are at the same time.

1 That's not my focus. My main focus is on twenty or thirty
2 students trying to reach me and grab me out of my car. I
3 was under attack. That's what my focus was on. I'm not
4 trying to look where their hands were at, if they're on my
5 car or on my vehicle. I could care less if they're gonna
6 be on my vehicle. What I was concerned about was them
7 reaching through trying to get me out of my car or harm me,
8 punch me, anything.

9 Q. So just to be clear, you don't know if anybody touched
10 because your focus wasn't there?

11 A. To my knowledge, I don't know if anybody touched my
12 vehicle.

13 Q. Well, you would admit in your first video right after
14 this happened, on -- on video with law enforcement, you
15 made a point of saying "They didn't touch my car, not at
16 all". Those were your words, weren't they?

17 A. Didn't I just say that? Just now I said I wasn't
18 paying attention. I don't know if they touched my vehicle.

19 Q. You don't see the difference between "I don't know"
20 and "They didn't touch my car, not at all"? You don't see
21 a difference between "I don't know" and that?

22 A. Okay. I see what you're saying.

23 Q. Yeah, your words. I'm asking you. Did you say that
24 and why if you didn't know?

25 A. I don't know.

1 Q. You don't know. But you understood you were being
2 interviewed by law enforcement right after this happened?

3 A. (Nods head.)

4 Q. Right?

5 A. (Nods head.) Correct.

6 Q. You would agree both your first and second
7 interview --

8 A. What second interview?

9 Q. You went back in and got interviewed again when
10 Mr. Rutherford was with you?

11 A. Yes, sir.

12 Q. That interview.

13 A. Okay.

14 Q. You would admit that in both of those interviews you
15 told law enforcement no one ever touched you; is that
16 correct?

17 A. Yes.

18 Q. And was that the truth?

19 A. Yeah, they didn't touch me. Like I described, I was
20 all the way over here. They couldn't touch me.

21 Q. So you -- you were out of their reach, that's what
22 you're saying?

23 A. I don't know what their reach is. If they wanted to
24 come through my window, yes, they could have, but, I mean,
25 I was not -- I don't know what their reach is.

1 Q. I'm not playing a game with you. I'm asking you did
2 anybody -- were you within reach? Did somebody touch you?
3 If they touched you, you were within reach, so did anybody
4 touch you?

5 A. Sir, from my memory I don't remember anybody touching
6 me.

7 Q. Now I want you to, if you would, describe as you're
8 sitting there -- and let's use your right hand this time.
9 Describe where about you were in your car when you stabbed
10 this individual coming into your car.

11 A. Okay.

12 Q. Show me as you sit there what you were doing.

13 A. Well, there's no -- my car doesn't have an armrest,
14 but with my right foot being on the brake, that's when I
15 leaned all the way over as I could. So now I'm sitting
16 like this while there in and out of my vehicle, they're at
17 my door, so that's when -- like I was right here and my
18 knife was in my center console and I went like that.

19 Q. You went like that?

20 A. Yes, sir.

21 Q. Do you remember describing that in your second
22 interview with your attorney?

23 A. I don't remember that far.

24 Q. Well, I'm gonna show you a couple of photos and see
25 if you recognize if this comes from that second interview.

1 Do you remember that room you sat in with your attorney and
2 the officer --

3 A. Uh-huh.

4 Q. -- and how you were showing the motion? Does that
5 accurately depict what happened in your car?

6 A. That's what -- that's what I just did just now, yes,
7 sir.

8 Q. That's what I'm asking you. I've got a photo. I want
9 the judge to be able to see it. So does this accurately
10 show that? I've got to get a "yes" or a "no" so I can see
11 if the judge can see it, all right?

12 A. Okay.

13 Q. Is this accurate?

14 A. Maybe not to the full -- like how I did it that night,
15 but he just wanted to see what motion did I take, that I
16 did, so I just did like that, but he's getting -- he's
17 getting an idea of what I did that night.

18 Q. Let me ask you this. In this photograph, particularly
19 the second one, is that how close this individual was to
20 you when you stabbed him?

21 A. No, sir.

22 Q. Was he closer or further away?

23 A. He wasn't leaning over me like my lawyer is right now.
24 He wasn't actually leaning over me, but he was at my door
25 so he was close enough. That's what I -- that's what I'm

1 saying.

2 Q. But you admit this is what you showed your attorney
3 and law enforcement on your second interview?

4 A. Yes, sir.

5 **MR. HUBBARD:** I'm gonna offer these into evidence.

6 **MR. RUTHERFORD:** Without objection.

7 **THE COURT:** State's 13 and 14.

8 (State's Exhibit Numbers 13 and 14, photographs,
9 were marked and admitted into evidence.)

10 BY MR. HUBBARD:

11 Q. In this interview you've got your attorney right here
12 with you and that's your hand motion like this; is that
13 correct?

14 A. Yes, sir.

15 Q. All right.

16 (Whereupon, State's Exhibit Number 12 was played.)

17 BY MR. HUBBARD:

18 Q. So let me ask you this. You can focus on me. You had
19 something in your hand, obviously a knife, right?

20 A. (Nods head.)

21 Q. Someone comes in and you stab them --

22 A. No.

23 Q. -- is that right?

24 A. I never said anybody came in my window. They were
25 outside reaching --

1 Q. Somebody's at your window --

2 A. -- reaching -- yes, sir, reaching for me trying to get
3 me out of my window, yes, sir.

4 Q. And you're leaning back and you're stabbing?

5 A. Yes, sir. No, not stabbing. One time. You're trying
6 to --

7 Q. One stab. No, I'm just trying to get through. Come
8 on.

9 A. I'm just paying attention. I think you're trying to
10 trick me.

11 Q. No, we agree there's one stab.

12 A. Okay.

13 Q. So that one time --

14 A. Yes, sir.

15 Q. -- someone comes in and you go up --

16 A. Huh? I go up?

17 Q. -- and you hit the person coming at your window?

18 A. He's already at my window.

19 Q. So we agree?

20 A. Yes, sir.

21 Q. The person's at your window and you stab them, but you
22 have to reach because you're leaning back?

23 A. Yes, sir, to the side. I did like that.

24 **MR. HUBBARD:** With the Court's permission, I'd
25 like to bring in a demonstrative exhibit through that

1 door. It's a car door, Judge, if I can.

2 **MR. RUTHERFORD:** Your Honor, if I can see it? I
3 don't --

4 **THE COURT:** Have you been -- have you seen it?

5 **MR. RUTHERFORD:** No.

6 **MR. HUBBARD:** No, sir, he has not.

7 **THE COURT:** Go ahead and -- and check it out,
8 Mr. Rutherford.

9 **MR. HUBBARD:** With the Court's permission, I'd
10 like Mr. Dennis to come down.

11 **THE COURT:** All right, sir. Come around.

12 (Whereupon, the witness steps down from the witness
13 stand.)

14 BY MR. HUBBARD:

15 Q. Do you recognize a door that's a Ford Explorer door,
16 right?

17 A. Yes, sir.

18 Q. Now yours was a gold or a tan, correct?

19 A. Yes, sir.

20 Q. But other than that, it looks like your door except
21 for maybe this little lock?

22 A. Except for the keypad, but besides that, yes, sir.

23 Q. I'd like you to do something for the judge. Come on
24 around on this side and roll the window down to where it
25 was that night for you.

1 A. (Witness complies.) Like I said, about halfway.

2 Q. All right. Come on over here, if you don't mind. Now
3 standing over here, where were people standing?

4 A. (Indicating.)

5 Q. Right up at the door?

6 A. (Nods head.)

7 Q. Any hands on this window or on this door frame that
8 you saw?

9 A. I don't remember. That I seen, I don't know.

10 Q. Now how tall are you?

11 A. Last time I checked, 5'9".

12 Q. 5'9"?

13 A. Maybe 5'10".

14 Q. Would it surprise you that the victim was a little bit
15 shorter than you?

16 A. No, sir. I don't -- I don't know how tall he was.

17 Q. Now where was Mr. Capers standing in your door frame?

18 A. I have no idea. I don't -- didn't recognize or I
19 don't know any of them. I didn't know where exactly they
20 were at. You could see in the vid -- the video, but I
21 don't know exactly where that young man was at.

22 Q. Well, the question is: Why him?

23 A. The question is: Why were they at my window? They
24 had no right of being at my window.

25 Q. No, sir. I -- I get to ask the questions.

1 A. Yeah, you can, but that's what I don't get.

2 Q. All right. My question is: As you stand in front of
3 the judge in front of this door, why Mr. Capers? What was
4 it about him when you're on this side of the car that said
5 that guy is the threat --

6 A. Nothing.

7 Q. -- more than anybody else?

8 A. They were a threat. I didn't pin -- pinpoint anybody.
9 They were.

10 Q. You just swung a knife --

11 A. (Nods head.)

12 Q. -- at whoever just happened to be there?

13 A. Whoever was there, yes, sir. No, I didn't pinpoint,
14 pick out in a row what's gonna happen. It wasn't planned.
15 Nothing --

16 Q. Well, let me ask you this. While you're standing
17 there, did your hand come out this window?

18 A. With my --

19 Q. With your knife?

20 A. I guess, yeah.

21 Q. Do you remember in your interview saying --
22 particularly that second one, "My hand never went out, I
23 was inside my car and he was leaning in the plane of my
24 car, in my bubble"?

25 A. In my bubble. I consider this my bubble. If a

1 stranger comes up to you, you don't know what they're gonna
2 do. This is my bubble.

3 Q. I'm asking in your interview -- in your interview --
4 come on back around.

5 A. Right here?

6 Q. Just go on back up to your seat.

7 (Whereupon, the witness returns to the witness stand.)

8 Q. In your second interview when you had an attorney
9 and you went in and you were gonna tell the truth, do you
10 remember saying "My hand never left the car"?

11 A. No, sir. If I said that, it would have been my other
12 hand. From when they were coming into me, I never reached
13 the other hand out because they could easily grab that
14 hand, so the only hand that would have went out was the one
15 that I had the knife in when I went like this.

16 Q. So today your testimony is your hand did go out?

17 A. It could have. I mean, I also had a knife at the
18 other end of it.

19 Q. Let me ask you --

20 A. My hand could have been in and then I -- maybe the end
21 of that could have -- that's what could have went out.

22 Q. Are you aware of where Mr. Capers was stabbed, what
23 part of his body?

24 A. Then or now?

25 Q. Now.

1 A. After looking over pictures.

2 Q. Do you know where?

3 A. I don't know where. I am not a doctor. I don't know
4 where exactly it was at. I just seen a picture of it.

5 Q. You can't say if it's in the neck, center chest?
6 Where?

7 A. If I had to say, somewhere around here.

8 Q. Right below the left nipple?

9 A. Yes.

10 Q. A man that's your height or shorter maybe?

11 A. I don't know. I don't know. I don't know how tall he
12 was. I don't know -- I don't know this man.

13 Q. When you got home, you didn't wash or wipe down this
14 car?

15 A. No, sir.

16 Q. Y'all had been at a greasy fast food place with
17 hamburgers and fries and onion rings. If there were
18 handprints on here, they would have been found. Is that
19 agreeable?

20 A. I guess so. They should have been found.

21 Q. Would it surprise you that the only fingerprints found
22 on your car door were yours?

23 A. No, that wouldn't surprise me. Didn't I say they
24 weren't touching my car? They were reaching through my
25 window, so that's not surprising at all. I said that from

1 the beginning. I said that. It's on the video me saying
2 that.

3 Q. Even though initially it was "I don't know"?

4 A. Okay.

5 Q. Remember we had that distinction between "It didn't
6 happen" versus "I can't remember"?

7 A. Okay.

8 Q. You understand there's a distinction?

9 A. Okay.

10 Q. Would it surprise you that no discernable DNA from
11 anybody else was found on this door or in your car?

12 A. As in?

13 Q. DNA.

14 A. Any kind? Hair, blood, anything, saliva?

15 Q. DNA is DNA.

16 A. Okay.

17 Q. I'm asking you would it surprise you?

18 A. That it wasn't found?

19 Q. I'm just asking would it surprise you. It's a simple
20 question.

21 A. Yeah. Am I surprised that there was none found in my
22 vehicle, that's what you're asking -- or on my vehicle?

23 Q. You said earlier today that you weren't going to hurt
24 someone just to leave. That was your testimony just
25 minutes ago. You weren't gonna run somebody over just to

1 leave, right?

2 A. I didn't want to hurt anybody to leave at all. I
3 didn't want anything bad to happen to anyone.

4 Q. But you did hurt someone --

5 A. To defend myself --

6 Q. Let me ask the question.

7 A. -- when I'm in fear for my life.

8 Q. Let me ask the question. But you did hurt someone to
9 leave, correct?

10 A. No. Well, yeah. Yes, sir. But what happened was
11 because I was defending myself. If nobody was at my
12 window, I would have been easily able to leave is what I'm
13 saying. I could have been able to leave, so.

14 Q. And your testimony today is you did not realize at the
15 time that you had stabbed someone; is that correct?

16 A. Yes, sir, I didn't realize it.

17 Q. But you also testified that you had a knife?

18 A. (Nods head.)

19 Q. At what point did you put a knife in your hand?

20 A. When did I put my knife in my hand that night?

21 Q. Let's make it easy. Let's walk through. Because
22 I'm not trying to trick you. I'm just trying to get
23 information.

24 A. I understand. I understand.

25 Q. State's 1, the Cook-Out area. Did you arm yourself

1 when you first got in your car down at the car wash?

2 A. No, sir.

3 Q. Did you arm yourself when you stopped here to talk to
4 Keith and Will?

5 A. Why would I need to arm myself if they're not
6 bothering me right then and there?

7 Q. I'm not asking for an explanation. I'm asking when
8 did you arm yourself?

9 A. I armed myself when they were at my window.

10 Q. So when you got up somewhere in this area --

11 A. Yes, sir.

12 Q. -- where the Number 1 vehicle is --

13 A. Yes, sir.

14 Q. -- that's when you got a knife; is that correct?

15 A. When they started approaching me, yes, sir. When
16 they reached in through my window, that's when I did that,
17 yes, sir.

18 Q. Where did you keep this knife?

19 A. My center console.

20 Q. Did you keep that knife in your car on a regular
21 basis?

22 A. Yes, sir, because I used it for fishing and I fish a
23 lot. So it's not -- if it's for fishing, when I'm not --
24 it's on my person while I'm fishing, then it goes back in
25 my vehicle.

1 Q. So what we're gonna see in a minute is a fishing
2 knife?

3 A. Okay.

4 Q. I'm asking you.

5 A. Is it the knife that was used?

6 Q. This knife, this Camillus knife, is a fishing knife.
7 Is that your testimony?

8 A. (Nods head.)

9 Q. And it's got markings on it, that's from SLED, but
10 that's a fishing knife?

11 A. That's just a -- I don't know. I'm not an expert
12 fisher, but any knife that can be used to fish with or
13 cut a fish if it needs to be, then that would have been
14 appropriate -- that would have been the one I used.

15 Q. This is the knife you carried around in your car all
16 the time?

17 A. Yes, sir.

18 Q. So all your friends should know about what you carry?

19 A. No, sir.

20 Q. It's a secret?

21 A. No, sir, it's not a secret, but I rarely have people
22 in my vehicle. Just hear me out. Most of my friends have
23 their own vehicles, so rarely are my own friends in my
24 vehicle.

25 Q. Where did you get this knife?

1 A. Wal-Mart.

2 Q. When did you get this knife?

3 A. Probably -- a long time ago. 2013 before -- probably
4 that summer because I had it before I went to welding
5 school.

6 Q. So you had it when you were still in high school?

7 A. I said that summer. I'm out of high school.

8 Q. All right. And you had it at the basketball game?

9 A. Yes, sir.

10 Q. On the campus?

11 A. Yes, sir.

12 Q. And you know that's not right, that's illegal?

13 A. I -- I didn't know that until you brought that up
14 yesterday. I did not know that.

15 **MR. HUBBARD:** I'm gonna offer this into evidence,
16 Your Honor.

17 **MR. RUTHERFORD:** Without objection.

18 **THE COURT:** State's 16?

19 **THE COURT REPORTER:** 15.

20 (State's Exhibit Number 15, a knife, was marked and
21 admitted into evidence.)

22 BY MR. HUBBARD:

23 Q. Now let's talk about the high school games. You went
24 to the Lexington High School game when they played Dutch
25 Fork?

1 A. Yes, sir.

2 Q. Did you go several weeks earlier to the Dutch Fork
3 game where Lexington travelled to Dutch Fork?

4 A. Yes, sir.

5 Q. Was there any trouble at that game?

6 A. Yes, sir.

7 Q. What kind of trouble occurred at that game?

8 A. I don't know. It wasn't -- I wasn't in any trouble,
9 but when that game was over a good bit of police went onto
10 the courts and made sure team -- supporting students didn't
11 clash in the middle, so everybody went out to the lobby,
12 and then by the time I get out there I hear zzzzz. I hear
13 police, you know, just shooting Tasers. I don't know if
14 anybody actually got hit with a Taser, but it was -- it was
15 real hectic and real tense after that game outside and in
16 the lobby area of that game.

17 Q. And you were one of the ones out on the court?

18 A. I don't know. I wasn't on that court. If I had to
19 leave and step down the bleachers to get out, then that's
20 what I did.

21 Q. Let me ask you. So your testimony today is you deny
22 walking out on the court where the trouble was?

23 A. I can't remember, Your Honor. I can't remember, sir.

24 Q. Who was with you?

25 A. Morgan, Keith and Will.

1 Q. So if there's video showing you out on that court --

2 A. Then --

3 Q. -- is that just something you don't remember?

4 A. Then I guess -- it would refresh my memory if I see a
5 video, then I guess I was on that court, but I'm not -- I
6 didn't go home that night and was like oh, yeah, I was on
7 the court, I was out there on the court that night.

8 Q. At the Lexington game over here on this side of the
9 river, were you with the same group of people that we've
10 been hearing about all day yesterday?

11 A. Yes, sir.

12 Q. Will, Keith, Morgan and Lucky?

13 A. Yes, sir. I wasn't with them at the game, but we were
14 all there as a -- as a group, yes, sir.

15 Q. Any trouble during the game?

16 A. No, sir.

17 Q. As you're leaving out in the parking lot, did you have
18 any kind of trouble?

19 A. As I was leaving going towards the parking lot, that's
20 when Dutch Fork kids just came in and now Lexington and
21 Dutch Fork just all were one group, so I hear a lot of
22 shouting, so. I mean, nothing towards me, so I'm thinking
23 okay, I'm fine, so I'm gonna go to my vehicle, but nothing
24 towards me was trouble, but there was lot of trouble going
25 on. Because obviously police had to come and separate

1 people and shoot Tasers, you know, to make -- to make
2 people -- Dutch Fork kids go back to their vehicles and
3 obviously they sensed trouble, so there was trouble there.

4 Q. Did you have any problems leaving that night from the
5 parking lot?

6 A. Not that I remember besides that guy approaching me,
7 but right then officers were telling me get back in your
8 vehicle, so I listened to them and got back in my vehicle.
9 Besides kids still being in parking lot, you know, waiting
10 get out in traffic and all that, that was the only thing
11 holding me from leaving.

12 Q. Did you or any of your friends, Will, Morgan, Lucky or
13 Keith, to your knowledge exchange any words, harsh words,
14 with Dutch Fork students?

15 A. To my knowledge, no, because I was not with them. As
16 they said yesterday, I was not in the group. As they said,
17 I was not in that group. We got mixed up. Together we got
18 mixed up there. By the time I was going to my car, they
19 were going to their car. Me and my friends were separated,
20 so I didn't know that -- I didn't know what they were going
21 through with that little circle thing with them. I didn't
22 know they were going through all that because I was not
23 with them at that time.

24 Q. Do you admit or deny that at that game in the parking
25 lot immediately after the game you told Dutch Fork

1 students, certain students, "Come to Cook-Out, I have
2 something for you"?

3 A. No, sir.

4 Q. That didn't happen?

5 A. No, sir. I -- I wouldn't say nothing like that. And
6 after that we didn't even go straight to Cook-Out. Like we
7 discussed, gas station, Sonic, McDonald's. It's not like
8 we planned to have a big old brawl or something in the
9 parking lot at the Cook-Out, so I didn't say anything like
10 that. I don't say anything like that.

11 Q. But you were at the game with your friends, Keith and
12 Will and Morgan?

13 A. Yes, sir.

14 Q. And is that y'all? It's kind of a crunched photo from
15 the video.

16 **MR. RUTHERFORD:** Can I see before he shows it to
17 the witness?

18 **THE COURT:** Show it to Mr. Rutherford.

19 **MR. HUBBARD:** Yes, sir. It's in your discovery,
20 but it's --

21 **MR. RUTHERFORD:** Yeah, but I don't know which one
22 you're talking about.

23 BY MR. HUBBARD:

24 Q. Is that y'all at the game?

25 A. Yes, sir. I'm right there.

1 Q. Okay. No problem at the game when the game's going
2 on?

3 A. I said that. No problem.

4 **MR. HUBBARD:** Your Honor, I offer this into
5 evidence.

6 **MR. RUTHERFORD:** Without objection.

7 **THE COURT:** Without objection. Number 16.

8 (State's Exhibit Number 16, a photograph, was marked
9 and admitted into evidence.)

10 BY MR. HUBBARD:

11 Q. I want to show you a hat. Were you wearing this hat
12 that night?

13 A. That's mine.

14 Q. Were you wearing it that night?

15 A. Yes, sir. It's on my head right there.

16 **MR. HUBBARD:** All right. I offer it into
17 evidence.

18 **MR. RUTHERFORD:** Without objection.

19 **THE COURT:** State's 17.

20 (State's Exhibit Number 17, a hat, was marked and
21 admitted into evidence.)

22 BY MR. HUBBARD:

23 Q. So this Chicago beanie hat is your hat?

24 A. Yes, sir.

25 Q. That's what you were wearing that night?

1 A. Yes, sir.

2 Q. And I just want to be clear, I know you've said it,
3 but I want to make sure you didn't have any cross words
4 personally with anybody in that parking lot?

5 A. No, sir, not to me remembering anything. No, sir.
6 I'm not the type to get riled up like that. I didn't say
7 anything.

8 Q. After the game, after you left the parking lot, you
9 went to a gas station?

10 A. Uh-huh.

11 Q. Is that the one right across the street from the high
12 school?

13 A. Correct.

14 Q. And then Will showed up?

15 A. I don't know what order they came in, but Will showed
16 up.

17 Q. So basically your whole group was there?

18 A. Yes, sir.

19 Q. Did y'all -- or do you deny discussing anything that
20 had just happened in the parking lot?

21 A. We were talking about where we were gonna go to eat.

22 Q. My question is did y'all discuss anything that
23 happened in the parking lot just seconds before you crossed
24 the road?

25 A. No, sir. To my knowledge, no. At that time we were

1 wondering where we were gonna go eat at.

2 Q. So you would agree with me then whatever might have
3 happened in the parking lot with your friends was not so
4 significant that it was a point of conversation?

5 A. Towards me it wasn't. Are you saying did I hear them
6 saying anything like that? Because I don't.

7 Q. And you say y'all decide to go because you're hungry
8 and you're all hungry; is that correct?

9 A. Morgan and Will were mostly hungry. I was just going
10 to eat wherever we all agreed on to eat at.

11 Q. And y'all went to Sonic first?

12 A. Correct. Yes, sir.

13 Q. When you went to Sonic, y'all decided not to stay,
14 correct?

15 A. Yes, sir.

16 Q. How many Dutch Fork kids were at Sonic?

17 A. I don't know, Your Honor -- I don't know, sir. I
18 don't know any Dutch Fork students.

19 Q. Was there a crowd of young people at Sonic?

20 A. I don't know.

21 Q. You drove through the parking lot. Was there -- did
22 it look like business as normal or this was a really busy
23 night?

24 A. Between, I guess. A little bit of cars and maybe some
25 people on the table part and then cars where you park and

1 push the red button at.

2 Q. Kind of a normal night?

3 A. Yeah. I don't know.

4 Q. The people you saw there, the customers, were they
5 people your age or were there just a variety of people?

6 A. I didn't see any particular customers there, so I
7 could not tell you.

8 Q. When you got to McDonald's, you're riding through, did
9 y'all actually go through or stop or did you just ride
10 through the parking lot?

11 A. No, sir. I just -- we just rode through.

12 Q. Was McDonald's jammed with cars all around it?

13 A. I don't know.

14 Q. You drove through it. I'm asking --

15 A. Yeah, we rode through it. Cars were parked, of
16 course. Cars were parked. I'm pretty sure people were in
17 there. We just rode through a brief second and then by
18 that time we were already out. We didn't come in the main
19 way, we went through the back, so I don't know what the
20 front parking lot looked like.

21 Q. Did you see any students or kids your age out there in
22 the parking lot at McDonald's?

23 A. No, not that I remember. No, sir.

24 Q. Y'all go to Cook-Out and when you get to Cook-Out, is
25 it crowded in the parking lot?

1 A. Cars were there, but people, there were no people in
2 the parking lot that I seen.

3 Q. Were there a lot of cars in the parking area?

4 A. It looked normal. To me it just looked like normal
5 cars parked in there, so it just looked normal.

6 Q. Well, let me ask you a very simple question. Why did
7 you park where the car wash was?

8 A. Because it's real easy to get out. Because I parked
9 plenty of times in Cook-Out and maybe aerially -- aerially
10 you can't tell, but it's hard getting in those spots and
11 hard getting out. It might look like it had a lot of
12 space, but it really doesn't and so no matter how busy or
13 not it is, it's hard getting in and out of those spots, so
14 that's why I parked by the car wash.

15 Q. So where you parked was easy to get out of?

16 A. Well, before anything happened I thought it would have
17 been easy to get out of.

18 Q. And you said something about when you're going in you
19 meet this fellow named Austin Sanders?

20 A. Yes, sir.

21 Q. And he tells you some incident that occurred while he
22 was in the drive-thru?

23 A. Yes, sir.

24 Q. Does he go in the establishment or not?

25 A. Why would he go in if he just went through the

1 drive-thru?

2 Q. I'm asking you a question. Does he go in or not?

3 A. He did not go in, not with me. Maybe he did before I
4 got there, but he told me he was in the drive-thru.

5 Q. All right. So you get to this restaurant, Cook-Out,
6 you hear before you even walk in the door there's been
7 trouble with Dutch Fork students, right?

8 A. I hear that, but I hear he was in the drive-thru, not
9 inside, so I thought I would be fine us walking inside
10 peacefully, calmly and going to sit down and eat like we
11 planned and then leaving and going home. That's what I
12 planned out. I didn't see any commotion or anything
13 outside. He seen it, he was in the drive-thru line, so I
14 thought nothing was going on inside.

15 Q. So as you walked inside right off the bat you're
16 confronted by the guy in the white shirt, green tie. He
17 says "Is that all you brought"?

18 A. Yes, sir.

19 Q. And the only people with you are Will, Morgan, Keith
20 and Lucky?

21 A. The same people from the game.

22 Q. And I need to be clear on this. You, and to your
23 knowledge, no one of your friends had any bad problems at
24 the parking lot, but some Dutch Fork student says "Is that
25 all you brought"?

1 A. That's what he said when we walked in.

2 Q. And that didn't dawn on you hey, maybe there was some
3 trouble with one of my crew at the game?

4 A. (Shakes head.)

5 Q. Maybe there was some trouble at the parking lot?

6 A. Not to me. Maybe there was, but to me there was no
7 problem to me, not at all.

8 Q. And you, again, said nothing and to this point you
9 have done nothing to register a comment like that, is that
10 all you brought?

11 A. No, I didn't say anything. I didn't say a word. I
12 said, "We came here to eat", responding to what he said to
13 us.

14 Q. And after you said "We're just here to eat", isn't it
15 true he left you alone?

16 A. Uh-huh.

17 Q. Do what?

18 A. Yeah. He went and we went about our -- about our
19 business.

20 Q. And no one bothered you inside that establishment, did
21 they?

22 A. Me, no, but they were bothering my friends. Like I
23 said previously, they were picking on Lucky and -- and --
24 well, they didn't say anything to Keith, but what I
25 mentioned, that guy standing in his chair with his hand in

1 a fist above his face like he was gonna hit him, maybe
2 that, but besides that nothing was ever towards me. I was
3 at the front the whole time and I was not paying attention
4 to none of them.

5 Q. So somewhere on that video we should see the guy in
6 the white shirt shaking his fist at Lucky; is that correct?

7 A. No, sir, that's not what I said at all. I said --

8 Q. Well, please ex -- I'm not putting words in your
9 mouth. Just describe it again.

10 A. I said he stood in his chair, raised his fist above
11 his head and Keith was under him, my friend Keith, and he
12 went down like this as if he was gonna hit him without
13 Keith knowing, but then he just must have sat down or
14 something like that. They were picking on Lucky. They
15 didn't do anything to Lucky, just picking on him.

16 Q. All right.

17 A. Now you should see video or pictures of that.

18 Q. I want to show you pictures from the video of you
19 walking into the establishment, into the Cook-Out, with
20 your friends.

21 A. Uh-huh.

22 Q. Do you see yourself and your friends in these two
23 photos?

24 A. I see me right there.

25 Q. Yeah. Do you see Will?

1 A. He's right there.

2 Q. Keith, Morgan, Lucky?

3 A. Uh-huh.

4 **MR. HUBBARD:** All right. I offer these two into
5 evidence.

6 **MR. RUTHERFORD:** Without objection.

7 **THE COURT:** Without objection. 17 and 18?

8 **MR. HUBBARD:** Yes, sir.

9 **THE COURT REPORTER:** No.

10 **MR. HUBBARD:** No, 18 and 19.

11 **THE COURT:** 18 and 19. I'm sorry.

12 (State's Exhibit Numbers 18 and 19, photographs, were
13 marked and admitted into evidence.)

14 BY MR. HUBBARD:

15 Q. When y'all are in this establishment, you're standing
16 near the counter with your back to the little wall waiting
17 for your food?

18 A. Yes, sir.

19 Q. I'll show you these two photos. Is that your group
20 here?

21 A. That's me leaning on the little back thing.

22 Q. Is that y'all over there?

23 A. I can't see.

24 Q. Do you see Morgan?

25 A. I see me because I had that beanie on still. That's

1 me leaning on the little wall like this.

2 **MR. HUBBARD:** I offer these into evidence.

3 **MR. RUTHERFORD:** Without objection.

4 **THE COURT:** All right. 20 and 21.

5 (State's Exhibit Numbers 20 and 21, photographs, were
6 marked and admitted into evidence.)

7 BY MR. HUBBARD:

8 Q. Now looking at this picture here --

9 A. Uh-huh.

10 Q. Let me stand over here. Who is this we see right
11 here?

12 A. Will.

13 Q. Who is that?

14 A. Keith.

15 Q. Who's this?

16 A. Myself.

17 Q. And you see some stripes right here. Who would that
18 be? Who was wearing the stripped sweater, the black and
19 white sweater?

20 A. I couldn't tell you.

21 Q. Okay. Do you see Lucky over here?

22 A. Yes, sir.

23 Q. Do you notice this gentleman with a drink right here?

24 A. No, sir.

25 Q. Anything come to your mind during the establishment

1 while you're there at Cook-Out that occurred with y'all and
2 that guy right there, Da'Von Capers?

3 A. I didn't know -- I don't know anybody from there, so I
4 didn't -- nothing happened inside.

5 Q. That's my point. Nothing happened.

6 A. Towards me.

7 Q. He walks right by Will and your group. There's no
8 exchange of words, is there?

9 A. You can see I'm not looking that way. I'm looking at
10 the door, he's looking at Keith. I'm not paying attention
11 to them. I told you I was trying to ignore them and get
12 them out of my head. I'm not even looking in that
13 direction.

14 Q. Right. And if he had said something, maybe you would
15 have?

16 A. If he said something to me?

17 Q. Yeah, or any of your group. If he said something like
18 "Do y'all want to fight?", you might have just stopped and
19 looked up?

20 A. It would have caught my attention.

21 Q. Right. And it didn't happen.

22 **MR. HUBBARD:** Go ahead and queue the next one up.

23 Q. But regardless, you're in there, this man walks by
24 you. Whoever he is, there's no exchange?

25 A. No exchange. I didn't see him walk by me, but there's

1 no exchange. You're making it seem like I seen him walk by
2 me. I didn't see -- you can look on there and see I'm
3 looking at the door. I didn't see him walk by.

4 Q. Don't worry about that. I'm not asking you -- I'm not
5 trying to trick you. I'm just saying there's one guy you
6 really focussed on, is the white shirt and green tie,
7 right?

8 A. Yeah.

9 Q. He's the one that asked you "Is this all you brought",
10 right?

11 A. I remember him because I was wondering why he kind of
12 looked dressed up for a game like a white button-down and a
13 green tie.

14 Q. Right.

15 A. That's not really what people wear to a game, but
16 that's what stood out to me.

17 Q. My point is the guy that just walked by you in that
18 photo, he never came to your attention. He never did
19 anything to be brought to your attention, right?

20 A. Right.

21 Q. Now when you got inside and even despite being asked
22 "Is that all you brought" and hearing about the trouble,
23 you know, one of your friends had in the parking lot, y'all
24 decided in that crowded area to go ahead and stay and to
25 eat, correct?

1 A. I thought we wouldn't be bothered. I thought we
2 wouldn't have a problem eating in a public restaurant.

3 Q. And you didn't have any problem there, did you? Not
4 inside.

5 A. Not -- not to me, but towards Lucky. I mean, they --
6 they were picking on him, but that -- that triggers a
7 problem, but I just didn't feel comfortable eating in there
8 with all that commotion and noise going on. That's why a
9 few minutes after I was like "We just need to leave".
10 That's what I said. I was like "We need to leave". I
11 didn't feel comfortable sitting down and eating there with
12 all those Dutch Fork students.

13 Q. Do you remember Morgan with her cell phone holding it
14 up and taking photos or video?

15 A. Yes.

16 Q. What did you tell her to do?

17 A. I told her to put -- me and her brother told her to
18 put her phone away.

19 Q. Why?

20 A. Because anybody could take it, steal it. I mean, it
21 was the brand new iPhone 5 at the time I want to say. It
22 was a nice iPhone, it was the new one, so it was very
23 valuable, so I wanted her to put that phone up if anybody
24 tried to snatch it or do any harm to her to take her phone.

25 Q. It wasn't because if these Dutch Fork kids see that

1 somebody is videotaping them they might get a little
2 agitated with you?

3 A. I told her to put her phone up. They were already
4 agitated before. That's why I said put your phone up.
5 They were agitated when we first walked in, so I told her
6 to put her phone up before someone tries to take it from
7 you or hit you.

8 Q. How long were you in there?

9 A. I -- I don't know. Obviously maybe try to figure out
10 the time of how long it takes for food to be cooked and all
11 that and be served because they didn't even get their food,
12 so I can't tell you the time.

13 Q. If I -- if I were to tell you in one of your
14 interviews, maybe both of them, you said twenty to
15 twenty-five minutes, would you find that about right?

16 A. I'm not sure.

17 Q. You were in there a little while?

18 A. (Nods head.) It wasn't a quick in, order food and,
19 bam, we're out, so.

20 Q. And during the whole time no problem?

21 A. Not with me.

22 Q. Not with you. You've mentioned Lucky --

23 A. Okay.

24 Q. -- but nobody else in your group?

25 A. There was a whole bunch of noise and stuff, but I'm

1 ignoring it.

2 Q. Okay. At some point you get a phone call?

3 A. Uh-huh. Yes, sir.

4 Q. And you walk outside?

5 A. I tell them -- before that I think that's when I said
6 "Let's all go, let's leave", I get a phone call and go
7 outside.

8 Q. Okay. And that phone number, [REDACTED] 04, who is that?

9 A. I don't recognize the number, but it could be saved in
10 my phone, but that -- at the time that's when my cousin was
11 calling me, but I didn't have time to talk to him because
12 at that time that's when they all came out, so I didn't
13 have time to talk.

14 Q. I got kind of lost there. Do you not know whose
15 number it is or was it your cousin?

16 A. It's my cousin's or somebody -- it was my cousin.

17 Q. Your cousin is who? What's your cousin's name? I
18 want to look up and see if that's -- if we're on the same
19 page.

20 A. I'm not lying to you.

21 Q. I want to look up the name. Answer my question,
22 please, sir.

23 A. Okay.

24 Q. What's your cousin's name?

25 A. Tobias.

1 Q. Tobias what?

2 A. He don't have the same last name as me, so.

3 Q. He's your cousin, so what's his last name?

4 A. Davis.

5 Q. Tobias Davis. Tobias Davis is on your phone, isn't
6 he?

7 A. It could be.

8 Q. He's in the video with that girl who's blindfolded,
9 isn't he?

10 A. Yes.

11 Q. He's the one having sex?

12 A. He is.

13 Q. And you're the one videotaping it?

14 A. (Nods head.)

15 Q. Correct?

16 A. Yeah.

17 **MR. RUTHERFORD:** Your Honor, again, I know the
18 Solicitor keeps wanting to get into the sex, but this
19 is --

20 **THE COURT:** What's the relevance?

21 **MR. HUBBARD:** I'm getting ready --

22 **THE COURT:** All right.

23 **MR. HUBBARD:** -- I'm getting ready to go with it.

24 BY MR. HUBBARD:

25 Q. He calls you because you texted him from within that

1 establishment, didn't you?

2 A. I don't know. Maybe I did. I don't remember having
3 my phone out or texting.

4 Q. You don't remember texting him the words "They was
5 trying to fight us at Cook-Out" and then you get a phone
6 call from him?

7 A. Okay.

8 Q. So you're not denying you made that text and then that
9 individual, Tobias, calls you in response to "They was
10 trying to fight us at Cook-Out"?

11 A. Yeah.

12 Q. Okay.

13 A. They were trying to fight us at Cook-Out. He called
14 me. By the time all that happened, that's when they came
15 out and I didn't have time to talk, so I hung up.

16 Q. All right. So a while ago you said other than your
17 friend Lucky you weren't having any problems inside the
18 Cook-Out.

19 A. And Keith. And Keith.

20 Q. And Keith.

21 A. When I said they were trying to fight "us", I didn't
22 say "me", I said "us", meaning my friends, just letting him
23 know.

24 Q. Okay. And it was Tobias you were letting know that?

25 A. Yes, sir.

1 Q. And then he calls you back and that was the call that
2 makes you go outside?

3 A. Yes, sir.

4 Q. Okay. I wanted to clear that up. And this is before
5 there's been a stabbing or anything else out in the parking
6 lot, right?

7 A. (Nods head.) Yes, sir.

8 Q. Yes, sir. Now outside the Cook-Out, when you walk
9 outside, your friends follow you?

10 A. Yes, sir.

11 Q. Did you -- we heard that -- that y'all were leaving
12 food in there. Y'all never got your food. Will never got
13 his food, Morgan never got --

14 A. I didn't even get to order. I was at that time --

15 Q. I'm talking about Will and Morgan.

16 A. They didn't.

17 Q. And you said you would pay for it?

18 A. Whatever they didn't order or get, I would pay for
19 that --

20 Q. Okay.

21 A. -- because I'm their friend and I'm -- I'm nice enough
22 to do that for them.

23 Q. Do you remember telling the police that in your first
24 interview?

25 A. He didn't ask, but I don't remember telling him that.

1 Q. Since he didn't ask, you didn't tell?

2 A. Why would he ask oh, did -- did they not get their
3 food and did you say you was gonna pay for it? I don't
4 remember.

5 Q. Second interview did you bring that up with law
6 enforcement?

7 A. I don't know. I don't -- I don't remember it, sir.

8 Q. Y'all walk outside and we've been talking about a guy
9 in a white shirt, green tie. He walks out after y'all,
10 right?

11 A. Yes, sir.

12 Q. As he walks by, is there an exchange of words or is he
13 the only one saying something to y'all?

14 A. He walked by and nothing was said, but when he got
15 into the open part of the parking lot, that's when he
16 started saying stuff to entice us or to just get a feedback
17 from us, to stir up feedback from us.

18 Q. And I did not hear this on your direct, so I want you
19 to clarify my memory. Did you or your group respond to him
20 in any way when he was doing the trash talk?

21 A. I don't know if they did, but I know exactly what I
22 said.

23 Q. What did you say?

24 A. I said -- I said "Y'all won. The game was thirty to
25 thirty-five minutes ago. Congratulations". Then I said to

1 my friends, "Let's go". That's what I said. Now I don't
2 find anything insulting or mean about that. I even
3 congratulated the young man that they beat us, so then
4 that's when I said "Let's go".

5 Q. So your testimony is you said nothing, nothing, to
6 contribute to that crowd of people coming out?

7 A. If that stirs him up, I don't know why. I was being
8 nice to him and I said that from my first interview, I'm
9 saying that now, so I always said that. I congratulated
10 them for winning and then we left.

11 Q. Morgan, Will, Keith or Lucky, did they say anything
12 that was confrontational in exchange with that guy?

13 A. That I don't know because I started walking away. I
14 said that in my first interview. After that I started
15 walking away.

16 Q. Did they walk with you or not?

17 A. I'm not sure. I'm the first one to walk.

18 Q. So you took the lead, so we should be able to see you
19 taking the lead when you walk and they fall in behind you
20 at some point?

21 A. I guess, yeah. I remember -- I remember -- I
22 remember what I did this night, not them. I'm not their
23 minds. I remember what I did and I started walking away.
24 I started to walking away from trouble because I seen
25 something happening, so I was walking away, going to my

1 vehicle, trying to get home.

2 Q. The guy that came out and made this comment to you,
3 you would admit you don't know if he was walking out to
4 leave, do you?

5 A. Obviously he didn't. He turned around, "Y'all still
6 salty?", talking to us. He wasn't leaving. He stopped, he
7 didn't continue. If he would have continued to walk,
8 that's understandable, he was walking to his vehicle, or
9 he would have came with friends. He turned around
10 deliberately and stopped and asked us are we still salty,
11 threw his hands up like we were gonna do something or like
12 he was gonna do something.

13 Q. You have no idea where he parked or what he was
14 driving?

15 A. No, sir.

16 Q. You don't know if he was heading in that direction
17 before he turned around?

18 A. No. I just know he stopped me in the parking lot.

19 Q. And it's your testimony that when he turned around, it
20 wasn't in response to anything from your group or from you?

21 A. Unh-unh.

22 Q. Okay. And that's when the crowd came out, when y'all
23 start walking away?

24 A. Yes, sir.

25 Q. Now when they poured out into that parking lot, there

1 was a lot of kids?

2 A. There was a lot of them.

3 Q. And some from Lexington High School?

4 A. I didn't recognize anyone from Lexington High School.

5 Q. Did you recognize anybody from Lexington High School
6 inside Cook-Out?

7 A. No, sir, besides the people I was with. If you look
8 at the video, you just see me talking to Keith, nobody
9 else, and I didn't recognize anyone.

10 Q. That's fine. That's fine.

11 A. Usually me, being who I am, if I see some of my other
12 friends, I acknowledge, but as you can see in the video and
13 pictures, I was talking to Keith and my back was turned
14 towards the customers the whole time, so that's why I
15 didn't see anybody from Lexington there.

16 Q. As you're walking to your car, are you exchanging any
17 words with this crew out there, this Dutch Fork crew?

18 A. No, sir.

19 Q. So you're not doing anything wrong?

20 A. I'm not saying anything. I'm walking to my vehicle.

21 Q. What about Will, Morgan, Keith or Lucky?

22 A. I don't know, I'm walking to my vehicle, and as I'm
23 walking to my vehicle, that's when they started yelling
24 names to Morgan and just saying -- calling her
25 disrespectful names like I --

1 Q. Right.

2 A. -- like we established and then saying fight me, fight
3 me, stuff like that.

4 Q. And you agree based on your testimony earlier, when
5 you got down to the car wash where you always parked no one
6 was down there, no one walked down there to confront you
7 down there?

8 A. They don't -- they don't go all the way to my vehicle.

9 Q. That's -- I'm just saying -- confirming that.

10 A. All right.

11 Q. This isn't confrontational between you and me either.
12 These kids are hanging out around this area here on
13 Exhibit 1, right?

14 A. Yes, sir.

15 Q. Around -- you said some might be in the road, but it's
16 mostly on that median and a lot of them in the parking lot,
17 right?

18 A. I don't know that. I wasn't paying attention that
19 far.

20 Q. Okay.

21 A. So if I'm walking to my vehicle down, I see the group
22 of kids up by that red vehicle, which is the area with the
23 circle around it.

24 Q. Okay. So we can agree they didn't follow you and when
25 you got to your vehicle you didn't have anybody right

1 behind your back?

2 A. (Nods head.)

3 Q. You got in your car?

4 A. Yeah, I got in my car.

5 Q. Will got in his car?

6 A. (Nods head.)

7 Q. And then y'all just stayed there a while. Did y'all
8 talk, you or Will?

9 A. We didn't stay there. What do you mean stay there a
10 while? Once I got in --

11 Q. Would it surprise you, sir, that when you went down
12 and got in your car y'all stayed down there for almost
13 three minutes?

14 A. I'm not counting time, sir. I don't count the -- the
15 minutes of my life, I don't count the minutes of anything,
16 but if you said three minutes, then by all means it can be
17 three minutes.

18 Q. That's a while to sit in a car when you need to get
19 out of there, isn't it?

20 A. If we're talking.

21 Q. That's what I asked you, if you were talking.

22 A. No, you're telling me I was talking.

23 Q. Were y'all talking when you and Will went down to get
24 in your car and took almost three minutes?

25 A. I don't remember us talking because then my window was

1 up. My window didn't come down until I talked to Keith at
2 the Petsmart.

3 Q. All right. Well, let's move on up to Petsmart because
4 you have no memory of talking to Will prior to that about
5 anything that was going on in the parking lot right then
6 and there?

7 A. The last thing I remember is Will pulled up here and
8 got his sister, so that leaves me by myself walking to my
9 vehicle. Y'all said that yesterday.

10 Q. And did you see Will actually leave down this road and
11 then circle back around?

12 A. No, sir.

13 Q. Did you see that?

14 A. No, sir, I didn't see that at all.

15 Q. And you pulled up, looking at State's Exhibit 1, right
16 into this little entranceway into the pet store; is that
17 correct?

18 A. Yes, sir.

19 Q. And you're facing the pet store the way you pull up;
20 is that right?

21 A. Correct.

22 Q. And Keith is facing coming out of the pet store; is
23 that correct?

24 A. Yes, sir.

25 Q. Towards that middle road that separates Cook-Out from

1 the pet store, right?

2 A. Yes, sir. At that time I'm still thinking Will's here
3 behind me because when Will picked his sister up, he must
4 have been in the area right here and so we're right here,
5 he's right here, and I'm thinking Will's still behind me.
6 So that's why I didn't see Will go all the way around to
7 the other side behind Keith. I didn't see that.

8 Q. And y'all pulled up door to door, kind of window to
9 window, you and Keith?

10 A. Yes, sir.

11 Q. And then Will comes in behind Keith, correct?

12 A. I don't -- I don't know that.

13 Q. Well, I'll show you some photos and just see if this
14 looks familiar. These are from the video from outside. Do
15 you see the car wash?

16 A. Uh-huh.

17 Q. See the students? See them?

18 A. Yes, sir.

19 Q. Do you see your vehicle?

20 A. Yes, sir.

21 Q. Will's -- I mean, Keith's and Will's?

22 A. Oh, see, I didn't know Will was already there at that
23 time.

24 Q. That's pretty much the same photo?

25 A. Yes, sir.

1 Q. They're a little bit enlarged. Kind of grainy.

2 A. Yes, sir.

3 Q. But that's you guys, right?

4 A. Yes, sir.

5 **MR. HUBBARD:** I offer these into evidence.

6 **MR. RUTHERFORD:** Without objection.

7 (State's Exhibit Numbers 22, 23 and 24, photographs,
8 were marked and admitted into evidence.)

9 BY MR. HUBBARD:

10 Q. Now this is looking at that photo, basically from 22,
11 State's Exhibit 22. This is your car, correct?

12 A. Yes, sir.

13 Q. Whose car is that?

14 A. Keith's.

15 Q. And then this car that pulls up behind Keith, who
16 pulls up behind Keith?

17 A. I told you I didn't know who pulled behind Keith.
18 You're saying it's Will. The last time I remember, I
19 thought Will was still behind me, but I wasn't paying
20 attention at that time because at this time me and Keith
21 are conversating.

22 Q. All right. Well, let's talk about that conversation.
23 What's that conversation about?

24 A. About -- we talked about this. About going home.

25 Q. You and I haven't talked about it, so we're gonna talk

1 about it right now.

2 A. Okay. About going home and if he was going to -- to
3 his mom's house or his dad's house because they had
4 recently separated. He said he was going back to his dad's
5 on Clemson Road. Well, I'm leaving. He said -- that's
6 what he asked me in the road, I mean. I said I'm going
7 home. I've got to be at work early at 5:00 in the morning.

8 Q. Do you admit or deny y'all also talked about how to
9 get out of there? Do you admit or deny that that was one
10 of the conversations?

11 A. I don't remember that being a point of conversation
12 while we were there.

13 Q. Do you admit or deny you had a conversation about
14 somebody throwing money out?

15 A. No, sir.

16 Q. So you deny that?

17 A. We didn't talk about anybody throwing money out
18 because when -- when was the money thrown?

19 Q. Did you talk about anything that was happening in the
20 parking lot --

21 A. No, sir. We talked --

22 Q. Let me ask the question.

23 A. Okay. Go ahead.

24 Q. Did you talk about anything as you sat there, about
25 anything that had just occurred and all those kids in the

1 parking lot?

2 A. No, sir, we were talking about leaving.

3 Q. And how long did you stay there?

4 A. Y'all have the video. We can play it. I don't know
5 how long I stayed there. I told you I don't count the
6 minutes.

7 Q. If I said about two minutes y'all sat there talking,
8 would you admit or deny that?

9 A. I would -- I'd say I would not know because I do not
10 how long we sat there. We can sit and watch this video and
11 that will tell how long we sat there, but going back that
12 far I don't remember how long we sat there. I'm sorry.

13 Q. Would you admit that this is -- this place, Cook-Out,
14 was a place that Lexington -- Lexington people hung out
15 after the games generally?

16 A. Lexington and whoever, yeah.

17 Q. Lexington High School students.

18 A. There's no sign saying only Lexington students, but
19 mainly Lexington -- Lexington will come there after the
20 games.

21 Q. That was one of the hangouts for Lexington students
22 after a game?

23 A. Yes, sir.

24 Q. That night it was a Dutch Fork hangout, correct?

25 A. I guess they felt free to come to Cook-Out.

1 Q. And that wasn't a part of your conversation at all as
2 y'all were sitting door to door?

3 A. No, sir.

4 Q. Nobody felt like they had just been chased out of
5 their own restaurant?

6 A. What are you -- you're saying that that's what's been
7 said or are you just saying do I feel like that?

8 Q. I'm asking did you feel that way.

9 A. Obviously if I said let's leave, I felt like I wasn't
10 comfortable there. I was not comfortable with all that
11 going on, so I said let's leave, so I was uncomfortable.

12 Q. Okay. So you felt like you --

13 A. I felt like I needed to leave just to prevent anything
14 from happening. Just to be safe, on the safe side, I felt
15 like we should leave.

16 Q. Keith leaves first?

17 A. I don't know.

18 Q. Will leaves before you?

19 A. I just know Will was in front of me. That's all I
20 know.

21 Q. And you were the last one?

22 A. Yes, sir.

23 Q. Now you told us you backed up. You're over here.
24 Again, look at State's 1. You're in this entranceway and
25 you say you back up to go down this little road area; is

1 that correct?

2 A. I have to, yes, sir.

3 Q. Are you sure you didn't turn around right here in this
4 parking lot to leave down that road?

5 A. I don't remember that. I thought I backed up and just
6 stayed straight and left.

7 Q. And it's your testimony, if I heard you right, that
8 the reason why you went down this road is because Will was
9 in trouble?

10 A. Well, and because I couldn't go out the -- the
11 carryout, the drive-thru way, and so when I backed out and
12 seen Will in the road, I seen a whole bunch of kids at his
13 -- at his vehicle, so that's when I came behind him.

14 Q. But if it's just you wanting to get out, you're
15 already facing towards the pet store, correct?

16 A. Yes, sir.

17 Q. You could easily have gone right around and come out
18 this --

19 A. No.

20 Q. Let me ask the question.

21 A. Okay.

22 Q. And you could have gone out the very same exit and
23 entrance that you had just come through?

24 A. (Nods head.)

25 Q. Don't nod your head. Answer the question. You could

1 have.

2 A. I can't either with Keith right there blocking me.
3 He's blocking me. Like I can't go that way, so I backed
4 out.

5 Q. All right, sir. Let's back up a minute. So Keith
6 didn't leave first?

7 A. I don't know. I told you I don't know where Keith
8 was. I don't know where Keith was at. I just know I was
9 behind Will Zander. I was behind Will.

10 Q. Will's stuck out here somewhere --

11 A. Uh-huh.

12 Q. -- and you're gonna go help him and you say the reason
13 why you can't go this way is because Keith's blocking you?

14 A. At that time because he was --

15 Q. All right.

16 A. It just looked like I couldn't go that way.

17 Q. And the video will show that then, right?

18 A. I don't know. Like I said, I don't -- I don't know.
19 We have the video. Refresh my memory of what happened.

20 I'm not really -- I wasn't really worried about which way I
21 was backing up or if I did a U-turn. That didn't really
22 stand out to me or be a problem.

23 Q. For you to go that way, that wasn't something you
24 necessarily had to do. It wasn't necessary to head that
25 way, was it?

1 A. The way where 1, 2 and 3 is at?

2 Q. Yes. You didn't have to go that route, did you?

3 A. Well, my other option was the lot and congested.

4 That's where -- I don't plan on -- that's just -- that's

5 just the way -- that's just the way we always -- that's

6 the way I always leave, the main way. Why -- why go

7 through a pet store or whatever kind of store when I'm not

8 a customer? I mean, I wasn't -- I had no reason for being

9 over at that pet store when I was leaving.

10 Q. So you're right here. You've got all these other

11 avenues to leave. You could have turned around and gone

12 down through the exit down at the car wash where you always

13 park, right?

14 A. But at that time I didn't think about that and at that

15 time I'm not looking at an aerial view of which way I can

16 leave. That didn't come across my mind. I was just like

17 let's just leave and I thought the main way -- like going

18 out the road the main way would have been perfectly fine.

19 Q. Let me ask you this. You know where Lizard's Thicket

20 is right up here?

21 A. Uh-huh.

22 Q. You're a Lexington kid?

23 A. Yes, sir.

24 Q. You live off of Barr Road?

25 A. Yes, sir.

1 Q. You could work your way, if you want, through all
2 these parking lots to get to this little road right behind
3 Lizard's Thicket, right?

4 A. I'm gonna tell you that I tried that one time and when
5 this Cook-Out -- when this Cook-Out was, you know, built
6 already and they still had gravel in this part and they
7 were still building this, yes, this used to be a little
8 opening that went into this parking lot and then this
9 parking lot and then leave, but now --

10 Q. Look right here. Look right here.

11 A. I never noticed -- I never noticed this. Why go way
12 down there by -- to be honest, I never noticed that, but
13 this used to be an entrance right here, but now it's curbed
14 off with a curb and one time I came this way and I didn't
15 notice it and I -- I went down. There was a curb and I
16 didn't know there was a curb right there, so I've been down
17 that way.

18 Q. You usually park right here at the car wash, but
19 you've never noticed this little drive-thru right here
20 right next to that?

21 A. I never said I usually park there.

22 Q. That's my point.

23 **MR. RUTHERFORD:** Your Honor, what difference does
24 it make?

25 **MR. HUBBARD:** It makes a lot of difference. I'm

1 sorry, Your Honor. I apologize.

2 **MR. RUTHERFORD:** He's gone to his car, it didn't
3 stop anything, and we've -- we've addressed this twenty
4 million ways.

5 **THE COURT:** Here's the thing. Again, you're not
6 in front of a jury. I get it.

7 **MR. HUBBARD:** I understand, Judge. I do.

8 **THE COURT:** Then -- then let's move on. I know
9 what you're trying to do and I know where you're going.

10 **MR. HUBBARD:** I apologize, Judge.

11 **THE COURT:** It is relevant.

12 **MR. HUBBARD:** I apologize.

13 **THE COURT:** So -- so overruled on the relevancy
14 issue, but --

15 **MR. HUBBARD:** I will say this, Judge, just so
16 Your Honor knows, and I'm not -- and I'll move on. Part
17 of what I'm doing is building a record for another day
18 when there is a jury and just -- and that's what I'm
19 doing. And I apologize for taking so much time.

20 **THE COURT:** I understand, but we're -- we're asking
21 questions fifteen times and getting the same answer.
22 That's just what I talked about yesterday.

23 **MR. HUBBARD:** Yes, sir. I haven't gotten a lot of
24 yes or no's and that's --

25 **THE COURT:** I know you haven't. You can have a

1 seat.

2 BY MR. HUBBARD:

3 Q. Looking at State's 2, Barr Road is way out here on the
4 left side of that chart, isn't?

5 A. Uh-huh. Yes, sir.

6 Q. So there are many ways to get out that way, right?

7 A. Is Barr Road the one with the light by the Sunoco gas
8 station or is that further down or which one? I don't --
9 I know Lexington, but I don't pay attention to roads.

10 Q. It's the road you live off of.

11 A. Okay.

12 Q. Now did you say you never saw Will throw money?

13 A. Yes, sir, I did not see that.

14 Q. Did you ever see him get out?

15 A. Yes, sir. I didn't see him getting -- in the process
16 of getting out, I seen him out of the vehicle. At that one
17 -- at that time when they were all at my door and my window
18 reaching their hands in and out of my window, I looked up
19 and for a brief moment I seen him out of his vehicle then.
20 That's the only time I seen Will out. I figured he got out
21 to make sure I was all right, to protect me, because they
22 were all at my window.

23 Q. When you drove into that crowd, you mentioned today --
24 I think you used the word "speedy" going into the crowd?

25 A. Uh-huh.

1 Q. Is that a "yes" or a "no"?

2 A. Yes, sir.

3 Q. She's typing, so she's not gonna get a "yes" other
4 than a "yes" or "no". Did you honk your horn?

5 A. Not that I remember.

6 Q. And did you say how many kids came to your door? I
7 didn't hear that?

8 A. Twenty or thirty.

9 Q. Do you know about how long you were stopped there?

10 A. Unh-unh. No, sir. I don't know how long I stopped
11 there that night, but from what Keith and all them were
12 saying by the time he came back around Petsmart or whatever
13 that's when he seen me leaving.

14 Q. And when you left, it was right immediately after you
15 stabbed a guy, correct?

16 A. Yes, sir.

17 Q. So at that point, after all your time not being able
18 to get out, at that point you could get out?

19 A. At that point I felt like in some way that -- it -- it
20 was no way I could really get no clear way for me to get
21 out. I was so close to Will's car it was either hit his
22 vehicle -- I was so close to him where I thought I hit him,
23 so that's still not -- to me that's not clear because I
24 have a vehicle in front of me, kids to the left of me, my
25 friend going towards the vehicle made me think I hit him.

1 I really thought I hit him, but I don't know if I did or
2 not, I mean, so that's not really a clear exit way. So
3 it's like I had to -- like Josh said, I had to make a power
4 move to get out. I had to work something to get out.

5 Q. All right. So you could get out?

6 A. I managed somehow or another.

7 Q. When you got out, you turned left to go down to your
8 house, right?

9 A. Yes, sir.

10 Q. Do you recall passing by a Lexington Town police
11 officer?

12 A. I do.

13 Q. You do?

14 A. Yes, sir.

15 Q. You saw him?

16 A. I seen him.

17 Q. Right after you saw him, is that about the time you
18 took a left, that you got off the main road? He was coming
19 the opposite direction, correct?

20 A. I seen two.

21 Q. Okay. Tell them me about them.

22 A. When I first left -- you don't have the other picture
23 up there, but when I first left there was one -- I don't
24 know if he was just standing there or maybe the light was
25 red, he was approaching. I seen him. No lights on or

1 anything, but I don't even know if that was the first one
2 to the scene, but -- and also like -- obviously if it's a
3 citizen that calls a police officer to the Cook-Out,
4 obviously they felt there was something -- somebody was
5 harmed or something like that, but I seen him and then as
6 I passed Taco Bell, if you're familiar with this road, in
7 the median before I come to Sunoco I see an all black maybe
8 Charger. It was dark that night and the police car was
9 black, I thought it was a Charger, and I seen that and then
10 at that light -- he was kind of near that light, so I got
11 that light and then took a left.

12 Q. Did he pass by you and then you took a left?

13 A. Unh-unh, he was in the median. He was -- he was just
14 stopped in the median. To -- to me going by looking like
15 where he was at, it looked like he was just sitting in the
16 median. That's what it looked like.

17 Q. Okay.

18 A. No, nothing like -- just as I passed by he was
19 standing still in the median.

20 Q. Okay. But you passed by him and then you took a left?

21 A. Yes, sir, at the light. Yes, sir.

22 Q. Did you ever see him move or his lights light up?

23 A. Not to my knowledge, no. At that time I took a left
24 and he was out of my sight.

25 Q. Now let me ask you this. You said you saw two police

1 cars right after this incident where your life's been
2 threatened.

3 A. (Nods head.)

4 Q. Did you stop and think I need to turn around and tell
5 one of those people because I almost got killed tonight?

6 A. That didn't come across my mind.

7 Q. You never called the police either, did you?

8 A. No, sir.

9 Q. Not while you're in the car, not when you got home.
10 You didn't call the police at all, right?

11 A. No, sir.

12 Q. You did talk to Keith, right?

13 A. (Nods head.) Yes, sir.

14 Q. In fact, you had a couple of conversations before he
15 ever got pulled over?

16 A. I thought it was either before or after because one of
17 the conversation he said "I got pulled", so I think that's
18 the first one.

19 Q. I know what he said. I'm asking you. You had a
20 couple of pretty quick conversations back to back with him?

21 A. Yeah, one or two. Yeah, two.

22 Q. So if we look at your phone records, one at 9:50 and
23 one at 9:52, a two-minute interval. That would be about
24 how quick it occurred, right?

25 A. I guess so.

1 Q. Okay. And in those conversations, you told him --
2 initially you weren't saying much?

3 A. Yeah, I wasn't trying to say much.

4 Q. But that second call is when you finally said here's
5 what I did and I need some help?

6 A. No, I didn't say I need help.

7 Q. What to do with the knife?

8 A. I was just asking him -- I don't know why -- like I
9 said, I don't know why or what made me ask him that, but I
10 just asked him.

11 Q. So you admit that in your second interview when you
12 were asked did you tell anybody what happened, you said
13 "No, I didn't tell anybody. They were calling me. I
14 didn't know why they were calling me."?

15 A. Who was calling me? Oh, the people on my phone?

16 Q. Yes.

17 A. I didn't tell anybody what happened. Me, talking to
18 Keith, I didn't really tell him what happened like I'm
19 telling you. That never happened in that conversation. I
20 didn't tell him -- for the most part I tried to avoid the
21 question he was trying to ask me, so I didn't come out and
22 just tell him or tell anybody.

23 Q. But you agree you said "I stabbed somebody, I need to
24 get rid of this knife" and y'all talked about burying it?

25 A. Something around that -- something around that, yeah.

1 Q. And Keith gave you one of the knives you buried,
2 right?

3 A. Uh-huh. As a gift, yes.

4 Q. Is this the knife he gave you?

5 A. Yes, sir.

6 Q. And is this the box it came in this, Eradicator II?

7 A. Yes, sir.

8 Q. So when you get home and bury the knife, you bury this
9 knife and the knife you used when you stabbed Mr. Capers?

10 A. I did.

11 Q. You buried them together?

12 A. I just put them in -- I just put that one in a box and
13 just buried it. Now if you want to ask me why? I don't
14 know. What came across my mind was like let me bury both
15 of them, but after it was going on I was like maybe it
16 would be best that I don't need anything, any kind
17 of weapon.

18 **MR. HUBBARD:** I offer this into evidence at this
19 time, Your Honor.

20 **MR. RUTHERFORD:** Without objection.

21 **THE COURT:** Without objection, State's 25.

22 (State's Exhibit Number 25, a knife, was marked and
23 admitted into evidence.)

24 BY MR. HUBBARD:

25 Q. You buried those two knives, but you admit you had two

1 other knives in your car, correct?

2 A. No, sir. That one was from my great-grandfather.
3 That stays in my car. It just -- it was just there.

4 Q. And this one that says "Marines"?

5 A. That's not mine.

6 Q. It's not yours?

7 A. No, sir.

8 Q. So -- so it should not have been found in your car
9 then?

10 A. I didn't know it was in my car and I know whose it is,
11 but it's irrelevant, but he lost it and so we didn't know
12 it was lost in my car. We thought he lost it in woods or
13 something a long, long, long time ago, but --

14 Q. Whose is it?

15 A. It's a -- it's somebody that lives in my neighborhood.

16 Q. Yeah, and I need a name.

17 A. No.

18 Q. I need a name. You're under oath.

19 **THE COURT:** Answer the question, sir. He needs --
20 just answer the question.

21 A. Shawn.

22 Q. Shawn who?

23 A. Fullwood.

24 Q. Fullwood?

25 A. (Nods head.)

1 Q. Okay. So when we ask Shawn, he'll recognize his
2 long-lost knife?

3 A. Yes, sir.

4 Q. But you don't deny this knife was found in your car,
5 too?

6 A. I didn't know that. I really didn't. I didn't know
7 it was in there.

8 Q. All right. I'll tell you what.

9 A. Where was it at? If you know, where was it at?

10 Q. If this one was.

11 **MR. HUBBARD:** I offer this into evidence.

12 **THE COURT:** Any objection to the pocketknife from
13 his grandfather?

14 **MR. RUTHERFORD:** None, Your Honor.

15 **THE COURT:** Okay. That's 26.

16 (State's Exhibit Number 26, a knife, was marked and
17 admitted into evidence.)

18 BY MR. HUBBARD:

19 Q. Now earlier today -- well, let's do this. Let me ask
20 you this. That Eradicator, who gave you that?

21 A. Keith.

22 Q. Keith?

23 A. Yeah. He said he gave it to me, yes, sir.

24 Q. I have to have you say it, okay?

25 A. Okay.

1 Q. When you got home, you mentioned washing clothes,
2 burying the knives. Which did you do first?

3 A. Buried it, I think. I don't remember.

4 **THE COURT:** You need to speak up, sir.

5 A. Buried it, I think.

6 Q. So you came home, buried this knife --

7 A. Put it in the box then, yes, sir, in its own box.

8 Q. Okay. And then you washed your clothes?

9 A. Yes, sir.

10 Q. Now what was the purpose for washing clothes?

11 A. I already had dirty clothes in my washer previous days
12 before this, I needed to wash clothes, and so the clothes
13 I had on, they were -- I just put them in the washer along
14 with the dirty clothes. Just -- just starting to wash
15 clothes.

16 Q. Do you admit in your second interview with law
17 enforcement that when you were asked why you buried -- you
18 washed your clothes, you said "I watch TV". You were
19 talking about CSI programs?

20 A. Uh-huh. Yeah. Is that why I buried it?

21 Q. No, no. I'm talking about your clothes.

22 A. Oh, no, that's not why I washed the clothes.

23 Q. You just washed them because you needed to wash them?

24 A. The reason why I did is because I had dirty clothes
25 already, so I was adding that to the laundry pile.

1 Q. Do you deny that you told law enforcement when you
2 were asked about that that you said "It's your job to find
3 evidence"?

4 A. I didn't say it like that, but that's what I said.

5 Q. So you said that in the interview?

6 A. That's what I said.

7 Q. Who was home when you got home?

8 A. My mother.

9 Q. There was another man at the scene out there. Who
10 might that be? Somebody else that lives in the house?

11 A. Unh-unh. It's just me and my mom live in the house.

12 Q. She didn't have a boyfriend?

13 A. No, she's never had a boyfriend.

14 Q. Never had a boyfriend?

15 A. Not that I know of, no.

16 Q. Are any other guys staying there?

17 A. None. Who -- who said that somebody was in my house
18 or around my house that night? Because there wasn't.

19 **THE COURT:** No, sir, you don't ask questions.

20 A. I think it's just kind of stupid.

21 Q. Let me ask you this. Why when you buried the knife
22 did you also bury the one Keith gave you?

23 A. Because I just wanted to get rid of all of them, just
24 any type of knife. I just -- like I said, it was -- it was
25 a bad moment of my life and, of course, the Capers family.

1 I didn't -- I was ashamed and embarrassed about it and if I
2 could go all the way back, I'd take that all the way back
3 and wish I never went to the game to prevent anything from
4 happening.

5 Q. All right.

6 A. So I just wanted to get rid of it all.

7 Q. Looking at State's 16, when you're at the game, what
8 kind of boots are you wearing there? Would they happen to
9 be Timberland's?

10 A. Yes, sir.

11 Q. Okay. Those are them?

12 A. Yes, sir.

13 Q. So you come home, you change clothes -- no, you -- you
14 go bury the knives and then you wash your clothes?

15 A. Uh-huh.

16 **MR. HUBBARD:** I offer this into evidence.

17 **THE COURT:** A photograph of the boots, any
18 objection?

19 **MR. RUTHERFORD:** Without objection.

20 **THE COURT:** All right. Without objection, 27.

21 (State's Exhibit Number 27, a photograph, was marked
22 for identification.)

23 BY MR. HUBBARD:

24 Q. Now it's your testimony no one helped you bury these
25 knives, no one knew about these knives, correct?

1 A. (Nods head.) Yes, sir.

2 Q. This is what the soles of your boots look like, right?

3 A. Yes, sir.

4 **MR. HUBBARD:** I offer this into evidence, too.

5 **THE COURT:** Without objection?

6 **MR. RUTHERFORD:** No objection, Your Honor.

7 **THE COURT:** 28's in.

8 (State's Exhibit Number 28, a photograph, was marked
9 and admitted into evidence.)

10 **THE COURT:** Do you have any more?

11 **MR. HUBBARD:** He's got them all, Judge. He does.

12 **MR. RUTHERFORD:** The only way to use -- the only
13 way to verify that is if he shows us them beforehand
14 and he hasn't done it yet.

15 **THE COURT:** Right. Well, he doesn't know what
16 you're showing is my point. I'm just trying to speed
17 things along, if he can stipulate and not object to
18 them and move them in and just get going.

19 **MR. RUTHERFORD:** Without objection, Your Honor.

20 **THE COURT:** Any objection to those?

21 **MR. RUTHERFORD:** No, sir.

22 **THE COURT:** Go ahead and mark those. How many of
23 them are them?

24 **MR. HUBBARD:** There's six of them.

25 **THE COURT:** Okay. So that's 29 through 34.

1 (State's Exhibit Numbers 29, 30, 31, 32, 33 and 34,
2 photographs, were marked for identification.)

3 BY MR. HUBBARD:

4 Q. Looking at 29 through 34 --

5 A. Yes, sir.

6 Q. -- that box right there in that photo represents the
7 knives as you buried it?

8 A. Yes, sir.

9 Q. And this is the ground as it looked when you buried
10 it, correct, on 30?

11 A. It was dark out. I didn't pay attention to the
12 ground. It was real dark that night. I wasn't looking at
13 it.

14 Q. Okay. Let's look at 32, and just using your eyes -- I
15 know you're not an expert, I'm not gonna ask you to be one.
16 Look at State's 28, the boot prints, versus 32. Do those
17 look the same to you?

18 A. They're not.

19 Q. They're not. Okay. But no one helped you?

20 A. No one helped me.

21 Q. And no one else did anything to assist you in getting
22 rid of and hiding evidence?

23 A. No, sir.

24 Q. Now you had some texts while you were at home, text
25 messaging, right?

1 A. I didn't open any of them.

2 Q. What's W-T-D? That's what you sent your girlfriend,
3 right?

4 A. I don't -- I don't even know what W-T-Z is.

5 Q. W-T-D.

6 A. I really don't know what W-T-D is. It says W-T-D? It
7 must be a mis -- misspelling at the time, but --

8 Q. Okay. And then W-Y-D, what does that mean?

9 **MR. RUTHERFORD:** Your Honor, again, I'm --

10 **MR. HUBBARD:** I'm almost done, Judge.

11 **THE COURT:** What's the relevance?

12 **MR. RUTHERFORD:** 16-11-440, and his perception
13 at the time that it happened. I know he's trying to
14 create a record for something later in the past -- I
15 mean, the future, but 16-11-440 is about what happened
16 at the Cook-Out, not text messages he sent to a
17 girlfriend an hour later and what W-Y-D and W-T-D mean.

18 **MR. HUBBARD:** I want to know is there any
19 communication about this event. I think I have a right
20 to know. I don't know what those letters mean and I
21 just want to know is there anything --

22 **THE COURT:** Ask him.

23 **MR. HUBBARD:** That's -- I just did, Judge.

24 A. W-T-D to me means nothing. I know W-Y-D means "What
25 you doing".

1 Q. Okay.

2 A. That's it, but --

3 Q. See, younger people speak differently than me. I'm
4 just asking. I see a text. I'm asking.

5 A. Okay. That's fine.

6 Q. Now when you got interviewed by law enforcement that
7 night after, you know, you get picked up, you admit you
8 told him you had no weapons in the car, didn't you?

9 A. No weapons in the car when they picked me up?

10 Q. When you -- yeah, when they -- when they bring you
11 downtown, you said there was no weapons in your car.

12 A. Yeah, I didn't know there -- besides I forgot about
13 that small one my great-grandfather gave me and now just
14 finding out they found that Marine one in my car, I did not
15 know that was in my car to be honest, so that's -- that is
16 why I told them there were no weapons in my vehicle.

17 Q. All right. Well, listen, I'm almost done here --

18 A. That's fine. Take your time.

19 Q. -- but I just want to go over this. When you're
20 leaving that establishment, the Cook-Out, you chose which
21 way to go?

22 A. (Nods head.)

23 Q. Nobody told you how to go?

24 A. Yeah, no.

25 Q. When you drove into the crowd, you would admit that's

1 dangerous?

2 A. I didn't drive into no crowd. I drove up behind Will
3 because the crowd was at his vehicle, the crowd was at his
4 door. And so I'm thinking they're trying to attack Will
5 and his passengers that are with him. That's why I came
6 and drove up behind Will. That's why.

7 Q. So you never almost hit anybody in that crowd?

8 A. Not that I know of and I wasn't trying to hit anybody.
9 I was trying to get to Will's car as close -- I mean, as
10 fast as I could before anything -- before they could get to
11 Will. That's my best friend and his sister and my other
12 friend was in there. I didn't want -- I didn't want
13 anything happening.

14 Q. And at no time did you roll your window up?

15 A. (Shakes head.)

16 Q. You never called the cops?

17 A. No, sir.

18 Q. You did hide evidence?

19 A. I hid my knives.

20 Q. And you lied to the police?

21 A. Yeah, but not because -- deliberately. I was scared
22 and embarrassed and ashamed. I didn't know what could
23 happen and that's why I did that. I just -- this never --
24 this was the worst night of my life, so I didn't know what
25 was gonna happen. I was just scared. That's all.

1 Q. So one thing we can agree on, when you're scared,
2 scared for yourself, you are willing to lie to protect
3 yourself?

4 A. I didn't deliberately lie, but I was embarrassed and
5 ashamed of what had happened. I was embarrassed to confess
6 -- you know, to say with my mom there and with other
7 officers there what happened that night. I mean, that's
8 why I told them around the fact that I didn't know what
9 happened and stuff like that and then they took me down to
10 the police department and questioned me there. But you're
11 right, I lied. I know I did, but -- yeah.

12 Q. Because you're scared?

13 A. Yeah, I didn't -- I've never been put in that
14 situation before, so.

15 **MR. HUBBARD:** I don't have anything else.

16 **THE COURT:** Mr. Rutherford.

17 **MR. RUTHERFORD:** Your Honor, if it please the
18 Court? Begging the Court's indulgence.

19 **THE COURT:** Yes, sir.

20 **REDIRECT EXAMINATION**

21 **BY MR. RUTHERFORD:**

22 Q. Mr. Dennis, do you recognize where this is again?

23 A. Yes, sir.

24 Q. Do you see what's going on over here?

25 A. Yes, sir, that's us coming in at the door.

1 Q. And what is this?

2 A. That young man?

3 Q. Uh-huh.

4 A. What do you mean?

5 Q. I mean, what's he doing?

6 A. Asking is that all we brought with his hand raised and
7 stuff like that.

8 Q. So that's when he's asking you is that all you-all
9 brought? He's standing in front of you asking is that all
10 you-all brought?

11 A. With all his friends and all them --

12 Q. With everybody behind him?

13 A. Yes, sir.

14 Q. Okay. And that's when you say what?

15 A. We're just here to eat.

16 Q. Okay. You mentioned -- you mentioned a young man --
17 the same young man standing up on his chair.

18 A. Yeah, right there.

19 Q. Is that what you're talking about and is that Keith
20 right there?

21 A. That's Keith right there.

22 Q. Okay. And that's when he -- when he did what you're
23 talking about behind Keith's head?

24 A. Yeah, he went like that.

25 Q. Right. And you just noticed that, but you didn't --

1 A. Yeah, I noticed that, but it was directed towards
2 Keith, but, you know, I didn't know if he was really gonna
3 do it, but he's just -- like he's gonna slide back down,
4 but that's what he was doing.

5 Q. Okay.

6 **MR. RUTHERFORD:** I'm sorry, Your Honor. Begging
7 the Court's indulgence.

8 **THE COURT:** That's all right. No problem.

9 **MR. RUTHERFORD:** No further questions at this time,
10 Your Honor.

11 **MR. HUBBARD:** Nothing, Your Honor.

12 **THE COURT:** All right. Thank you very much, sir.
13 You may step down.

14 (Witness excused.)

15 **THE COURT:** All right. Folks, we're gonna break
16 for lunch at this time. We'll start back at 2:00, okay?
17 That gives us about -- a little shy of forty minutes.

18 **MR. RUTHERFORD:** Your Honor, can we do 2:15?

19 **THE COURT:** We can do 2:15. That will be good.

20 (Whereupon, a luncheon recess taken at 1:21 PM.)

21 (Back on the record at 2:48 PM.)

22 **BAILIFF:** All rise. The Honorable Judge Tommy Russo
23 presiding.

24 **THE COURT:** Thank you, ladies and gentlemen. Please
25 have a seat. I apologize for being late getting back,

1 folks.

2 Mr. Rutherford, does the defense have any of
3 additional witnesses, sir?

4 **MR. RUTHERFORD:** Not at this time, Your Honor.

5 **THE COURT:** All right. Mr. Hubbard.

6 **MR. HUBBARD:** Yes, sir. The State calls Deshon
7 Chatman.

8 **THE COURT:** All right. Please have Mr. Chatman
9 come forward, please.

10 (Whereupon, Deshon Chatman was duly sworn by the
11 Clerk of Court.)

12 **THE CLERK:** Once you're seated, speak up loud and
13 clear. State your full name, spelling your last on the
14 record, please.

15 **THE WITNESS:** Deshon Chatman. Chatman,
16 C-H-A-T-M-A-N.

17 **MR. HUBBARD:** You're close enough.

18 **THE WITNESS:** All right.

19 **MR. HUBBARD:** If you talk too loud, it will squeak.

20 DESHON CHATMAN,

21 having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. HUBBARD:

24 Q. Deshon, where did you go to high school?

25 A. Dutch Fork High School.

1 Q. And have you graduated?

2 A. Yes, sir.

3 Q. When did you graduate?

4 A. This past June.

5 Q. Back February 17th of this year, did you go to the
6 basketball game where Dutch Fork played Lexington High
7 School over here?

8 A. Yes, sir.

9 Q. After the game, what, if anything, do you recall
10 happening in the parking lot?

11 A. Well, when we first left, the police officers let --
12 let us out the back, but while we were leaving out the back
13 we celebrated the whole way. They told us to wait for like
14 ten minutes so all the Lexington kids can go out the front,
15 so as we left out the back the officer lead us through the
16 front, so we ended up meeting back at the front.

17 Q. Okay.

18 A. So as we walked through the parking lot, it was me,
19 Walden, Walter.

20 Q. What were their last names?

21 A. Roberson.

22 Q. Okay. They're brothers?

23 A. Yes, sir.

24 Q. All right.

25 A. And as we walked through the parking lot, we meet up

1 -- well, every -- everyone was dancing and whatever, you
2 know, just celebrating the win, so we get halfway through
3 the parking lot -- I parked all the way in the back where
4 like the -- there's like a breezeway. They have like a --
5 like a rain thing over it.

6 Q. Yes.

7 A. So we walked through the parking lot. I drove my
8 mom's truck that night because I had to go pick her up
9 later on, so after the game -- I wasn't really supposed
10 to go to the game because I had to go pick her up, so
11 basically I was trying to hurry to go pick her up.
12 Basically when we get halfway through the parking lot, I
13 hear like cussing and everything and I look back and Walter
14 Roberson, he was confronted by a girl. She looked kind of
15 older than me, probably eighteen years old, I think, but
16 she was like going off cussing and whatever.

17 Q. Let me ask you about that girl. Since you've been in
18 the courtroom, have you seen that girl?

19 A. Yes, sir.

20 Q. Was she the one that testified yesterday?

21 A. Yes, sir.

22 Q. All right.

23 A. And we walked halfway through the parking lot, almost
24 got to my car. They was -- basically they were sitting at
25 their car or standing by a car.

1 Q. Who's "they"?

2 A. It was -- I think it was like four of them. It was
3 a girl, it was a guy with dreads, a big guy, and a
4 light-skinned dude.

5 Q. Okay.

6 A. We get halfway through the car -- to the car, I look
7 back and I see Walter talking to this girl. I'm like
8 what's going on? So then Walden walks up and is like don't
9 talk to my sister like that -- I mean, don't talk to my
10 brother like that and so I'm, like, what's going on, what's
11 going on. And so we get halfway to the car and the cop
12 comes with a Taser and breaks both of us up and I'm like --
13 I'm still wondering what's going on, and then the dude with
14 the dreads, he's like "Meet us at Cook-Out, we've got
15 something for you, we've got something for you", and I'm,
16 like, what's going on, and so we hop in the car. And I had
17 to go pick my mom up, so I had to go straight home. Well,
18 I took Walden and Walter home. So, I mean --

19 Q. Let me ask you -- let me back you up a little bit, and
20 I don't mean to cut you off. This guy with the dreads, do
21 you recall him wearing anything?

22 A. He had a black hat on and it said -- I thought it was
23 a Chicago Bulls hat, but I know it had a ball on top. And
24 I think he had a black jacket or something like that, but
25 I remember the hat, and he had dreads.

1 Q. Did you see anybody else with dreads that night?

2 A. No, sir.

3 Q. Let me show you what's been marked as State's
4 Exhibit 17. Does that look familiar to you?

5 A. Yes, sir.

6 Q. Where did you see this hat?

7 A. It was on a guy with dreads. He was sitting -- well,
8 he was standing by his car with four people and he had that
9 hat on.

10 Q. Do you see that guy in the courtroom today?

11 A. Yes, sir.

12 Q. Can you point him out for the Court?

13 A. (Witness complies.)

14 **MR. HUBBARD:** Your Honor, let the record reflect
15 he's pointed out the Defendant.

16 **THE COURT:** All right.

17 BY MR. HUBBARD:

18 Q. And, again, when you heard a statement about the
19 Cook-Out, who was making that statement?

20 A. Dennis, the Defendant.

21 Q. And what was that statement?

22 A. Meet us at Cook-Out. We got something for y'all.

23 Q. Did you go to Cook-Out?

24 A. No, sir.

25 Q. Now I know you said you had an errand to run with your

1 mom, but did you talk to other kids that were talking about
2 going to the Cook-Out?

3 A. Yes, sir. Alexis Bronson, she called me and asked --

4 Q. I tell you what. Let's not say what she asked you,
5 but what advice did you give her?

6 A. I told her to go to Friarsgate. That's her
7 neighborhood that she lives in.

8 Q. Why?

9 A. I had a bad felling that night.

10 Q. Based on what you heard from this Defendant and his
11 friends?

12 A. Yes, sir.

13 **MR. HUBBARD:** Thank you. No further questions.

14 **MR. RUTHERFORD:** Nothing, Your Honor.

15 **THE COURT:** Thank you very much, sir. You may
16 step down.

17 (Witness excused.)

18 **MR. HUBBARD:** The State calls Walden Robertson --
19 Roberson.

20 (Whereupon, Walden Roberson was duly sworn by the
21 Clerk of Court.)

22 **THE CLERK:** Once you're seated, please state your
23 full name, spelling your last on the record, please.

24 **THE WITNESS:** My name is Walden Roberson,
25 R-O-B-E-R-S-O-N.

1 WALDEN ROBERSON,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. HUBBARD:

5 Q. Walden, where do you go to school?

6 A. Dutch Fork High.

7 Q. What year are you?

8 A. I'm a junior.

9 Q. Do you have a brother?

10 A. Yes, sir.

11 Q. What's his name?

12 A. Walter Roberson.

13 Q. Where did he go to school?

14 A. Dutch Fork High.

15 Q. Where's he now?

16 A. California.

17 Q. What's he doing in California?

18 A. Playing football.

19 Q. For who?

20 A. For Fullerton College.

21 Q. Did you go to the Dutch Fork-Lexington High School
22 game over here -- basketball game over here in February of
23 this year?

24 A. Yes, sir.

25 Q. When you were in the parking lot, what, if anything,

1 happened in that parking lot?

2 A. Can you repeat your current question?

3 Q. After the game when y'all were leaving and you're in
4 the parking lot, what, if anything, happened?

5 A. If anything happened?

6 Q. Well, I'll rephrase it. Do you remember kids talking
7 to one another or anything like that going on in the
8 parking lot?

9 A. Yes.

10 Q. Okay. Who were you with when you were in the parking
11 lot?

12 A. I was with my brother Walter Roberson and with Deshon
13 Chatman.

14 Q. Deshon who just testified?

15 A. Yes.

16 Q. As you were leaving, did anybody say anything to you,
17 your brother or Deshon?

18 A. Yes.

19 Q. What was said?

20 A. A girl said something to my brother to start it off
21 and then at the end Kierin had said "Come to Cook-Out. We
22 have something for you".

23 Q. Let me ask you this. Had you ever met the Defendant
24 before?

25 A. No. I never seen him a day in my life.

1 Q. Now the guy who says this, what did he look like?

2 A. Him (indicating).

3 Q. Okay. He had the dreads?

4 A. Uh-huh. Yes.

5 Q. Did you see anybody else with dreads?

6 A. No, sir.

7 Q. Who was he with?

8 A. He was with a big guy, a girl, and two other guys.

9 Q. Did you see them testifying yesterday?

10 A. I seen three of them testify yesterday.

11 Q. Okay. Did you go to Cook-Out?

12 A. No, sir.

13 Q. Why didn't you go to Cook-Out?

14 A. I didn't go because the people who I rode with didn't
15 go.

16 Q. Okay. But were you concerned about going?

17 A. I -- I wanted to go, but I didn't go.

18 Q. Okay. That's good decision.

19 **MR. HUBBARD:** Thank you. No further questions.

20 **MR. RUTHERFORD:** Nothing, Your Honor.

21 **THE COURT:** Thank you, sir. You may step down.

22 (Witness excused.)

23 **MR. GRAHAM:** The State calls Investigator Brent
24 Carter.

25 (Whereupon, Brent Carter was duly sworn by the

1 Clerk of Court.)

2 **THE CLERK:** Once you're seated, state your full
3 name, spelling your last.

4 **THE WITNESS:** Detective Brent Carter, C-A-R-T-E-R.

5 BRENT CARTER,

6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. GRAHAM:

9 Q. Detective Carter, where are you employed, sir?

10 A. I'm employed with the Town of Lexington Police
11 Department.

12 Q. And what do you do there?

13 A. I am a detective assigned to the Criminal
14 Investigations Division.

15 Q. And how long have you been a police officer?

16 A. Fifteen years.

17 Q. And how long have you been in investigations?

18 A. Six.

19 Q. Back in February of this year, were you in
20 investigations?

21 A. Yes, sir.

22 Q. Were you the lead investigator on this case?

23 A. Yes, sir.

24 Q. Can you tell the Court very briefly what you did as
25 the lead investigator on this case?

1 A. I received a call that I needed to respond to that
2 location in reference to a stabbing, which was -- could
3 possibly be a homicide. We weren't sure at that point. I
4 responded to the location. Officers already had it marked
5 off. I spoke with officers who responded. They stated
6 that the suspect and the victim were not on-scene. I made
7 sure with them that the scene had been secured. They
8 pointed out several individuals who stated they had seen
9 several things that had occurred and could possibly be
10 witnesses to the event. Those officers then had them jot
11 down their contact information and brief statements as to
12 what they had seen so that I could contact them later for
13 further investigation. Once that was done, I went back to
14 my office because we had information about a possible
15 suspect who had been located, then went and got him. I
16 was there to prepare for interviews because there was gonna
17 be a lot of witnesses apparently.

18 Q. And in the early morning hours of February 18, 2014,
19 at 2:39 AM, did you have the opportunity to interview Keith
20 Adams?

21 A. I did, sir.

22 Q. And you were present in the courtroom when Mr. Adams
23 testified yesterday?

24 A. Yes, sir.

25 Q. During that time, what, if anything, did Mr. Adams

1 tell you about telling a complete story?

2 A. He told me that he was gonna give me the complete
3 story, everything that happened.

4 Q. And what, if anything, did he tell you about having
5 any phone conversations with the Defendant, Mr. Dennis?

6 A. Nothing.

7 Q. What, if anything, did he say to you about saying that
8 Mr. Dennis said "I'm not saying I did and I'm not saying I
9 didn't"?

10 A. Nothing.

11 Q. What, if anything, did Mr. Adams say to you about
12 talking with Mr. Dennis about burying the knife?

13 A. Nothing.

14 Q. In addition to speaking with him, did you also
15 interview Mr. Will Sanders -- Zander?

16 A. Yes, sir.

17 Q. In fact, you interviewed him two times; is that
18 correct?

19 A. Yes, sir.

20 Q. The first time was on the early morning hours of the
21 18th at headquarters and the second time was the following
22 day on the 19th at 5:00; is that correct?

23 A. Yes, sir.

24 Q. What, if anything, in the first interview did
25 Mr. Will Zander mention to you about himself getting out

1 of his vehicle?

2 A. Nothing.

3 Q. Did he mention anything about getting, in the first
4 interview, out of his car at all?

5 A. Nothing, sir.

6 Q. What, if anything, in the first interview did he
7 mention to you about throwing money?

8 A. Nothing.

9 Q. In either the first or the second interview, what,
10 if anything, did he say to you about having a pipe in his
11 hand?

12 A. Nothing, sir.

13 Q. In either interview did he ever tell you that people
14 were reaching into Mr. Dennis's car?

15 A. I don't believe so.

16 Q. In addition, did you also have an opportunity to
17 interview Morgan Zander?

18 A. I did, sir.

19 Q. And were you present for her testimony as well?

20 A. I was, sir.

21 Q. And did you interview her also on the early morning
22 hours of February 18th?

23 A. Yes, sir.

24 Q. And who was present with her at that interview?

25 A. Her mother was there.

1 Q. During that interview, did she ever mention anything
2 about an unknown Dutch Fork student coming up to her and
3 telling her that things were about to get crazy?

4 A. Not at all.

5 Q. In addition, did you also interview the Defendant,
6 Mr. Dennis, two times?

7 A. I did, sir.

8 Q. The first time was February 17, 2014, at 11:24 PM, and
9 that was at the Town Police Department, correct?

10 A. It was at 11:44, but, yes, sir, at the Town Police
11 Department.

12 Q. During that time, did you read Miranda to him?

13 A. I did, sir.

14 Q. Was he in custody at that time?

15 A. We had detained him for the purposes of this
16 investigation.

17 Q. Did he appear to be under the influence of alcohol or
18 drugs?

19 A. He did not. He was very calm.

20 Q. How did you actually read the rights to him?

21 A. We actually have a Miranda waiver form and my standard
22 procedure is I'll let them know because we're gonna speak
23 about some things, about something they've possibly been
24 suspected of or implicated in, that I need to advise him
25 of the rights. I'll read them the rights or have them

1 read them themselves on the form. They're all listed out
2 plainly in print. I'll have them read them and explain to
3 them as you read each one, if you understand it, initial
4 next to it. And then once they've initialled next to all
5 of those and have no questions, I ask do you have any
6 questions, did you understand them, and if they reply in
7 the affirmative there's a section below that advises them
8 that by waiving these they're agreeing to speak without an
9 attorney, and I explain that to them and say read that and
10 if you agree to that, sign it, which he did.

11 Q. So Mr. Dennis understood his Miranda rights?

12 A. Yes, sir, it appeared so.

13 Q. And after you explained his rights to him, what did
14 you ask him?

15 A. I asked him about his -- if anything had happened at
16 the Cook-Out, if he had gone to the Cook-Out, if he'd been
17 to the game, those standard questions. What had happened
18 when he was at the Cook-Out, anything of note happen, was
19 he involved in any altercations, anything like that.

20 Q. And what, if anything, when you asked him about his
21 knowledge of or involvement in the Cook-Out did he say to
22 you?

23 A. He essentially explained to me that he went to the
24 Cook-Out and that there were some kids from the opposing
25 school there, there was some shouting and some taunting,

1 and that when they walked out that some kids from the other
2 school also walked out and followed them across the parking
3 lot shouting and taunting, that they got in their cars and
4 that there were crowds out there, but he managed to get out
5 as well as the rest of his friends.

6 Q. Did he tell you that he had any knowledge of a
7 stabbing happening?

8 A. No, sir.

9 Q. Did he complain of anybody attacking him?

10 A. No, sir.

11 Q. Did he admit to you at that time that he had stabbed
12 somebody?

13 A. No, sir.

14 Q. And what happened after that interview?

15 A. After that interview, he stated he wished to have an
16 attorney and he didn't want to go any farther until he
17 could see everything that I had, he didn't want to admit
18 to anything, so we halted the interview there. He was
19 detained, we received a warrant and he was placed in
20 custody.

21 Q. The following day -- or let me see. Did you have a
22 chance to interview him again?

23 A. I did, sir.

24 Q. And that was three days later on the 20th?

25 A. Yes, sir.

1 Q. At 3:00 PM, correct?

2 A. Yes, sir.

3 Q. Why did that interview happen?

4 A. We were contacted by his representative,
5 Mr. Rutherford, who stated that Mr. Dennis wished to come
6 in and speak to us about the incident and give us further
7 information.

8 Q. And did Mr. Dennis and Mr. Rutherford come speak with
9 you?

10 A. Yes, sir.

11 Q. Have both -- let me show you an exhibit and ask if you
12 recognize it?

13 A. I recognize it.

14 Q. And is that a disc that contains -- you-all videotaped
15 your interviews with Mr. Dennis?

16 A. Yes, sir, we did.

17 Q. And does that disc contain the videotaped interviews,
18 both the first and the second?

19 A. Yes, sir.

20 Q. And your initials are on there; is that correct?

21 A. Yes, sir.

22 **MR. GRAHAM:** Your Honor, the State would offer
23 these into evidence.

24 **MR. RUTHERFORD:** Without objection.

25 **THE COURT:** All right. Without objection. That

1 will be State's 35.

2 (State's Exhibit Number 35, a video interview, was
3 marked and admitted into evidence.)

4 BY MR. GRAHAM:

5 Q. What, if anything -- you were present for his
6 testimony, were you not, earlier today?

7 A. Yes, sir.

8 Q. And you heard him testify that the knife that he
9 carried or the knife that he had during this incident was
10 in the center console; is that correct?

11 A. Yes, sir.

12 Q. Is that the same -- is that the same or different from
13 what he told you in your interview with Mr. Rutherford on
14 the 20th?

15 A. No, sir, when we spoke about it before he was talking
16 about the incident and said that he grabbed a knife that is
17 usually in the back. He said he grabbed the knife that's
18 usually in the back, put it in his lap to hold it there
19 just for protection.

20 Q. He said what about the knife?

21 A. He said that he grabbed the knife that's usually in
22 the back and put it in his lap.

23 Q. Let me show you two photographs and I ask if you
24 recognize these as being taken during the search warrant
25 and these are the inside of Mr. Dennis's Ford Explorer. Do

1 you recognize those as being accurate depictions of the
2 inside of his Explorer?

3 A. Yes, sir.

4 **MR. GRAHAM:** Your Honor, the State would offer
5 these two photos into evidence.

6 **MR. RUTHERFORD:** No objection.

7 **THE COURT:** Without objection, 36 and 37.

8 (State's Exhibit Numbers 36 and 37, photographs, were
9 marked and admitted into evidence.)

10 BY MR. GRAHAM:

11 Q. Now, Investigator Carter, you were present and you
12 heard Mr. Dennis say that there was no armrest in his car;
13 is that correct?

14 A. Yes, sir.

15 Q. And you heard him say that the knife was held -- he
16 testified today different than what he told you in the
17 interview that's on the disc that's now in evidence, but
18 he said that the knife that he used to stab Cape was in the
19 center console, correct?

20 A. Yes, sir.

21 Q. What do you notice about the center console in
22 State's 36 and 37?

23 A. There basically is no center console. There's just a
24 large open space that looks like a console lid or walls
25 were at one point.

1 Q. Is it fair to say that if you were looking into the
2 car from outside that as there's no armrest covering the
3 center console that anything in the center console would be
4 visible?

5 A. Oh, yeah.

6 Q. Mr. Dennis was also asked about a Marine folding
7 knife. Do you recognize this as being the knife that was
8 taken from his vehicle during the search warrant?

9 A. Yes, sir.

10 **MR. GRAHAM:** Your Honor, the State would offer
11 this knife into evidence as well.

12 **MR. RUTHERFORD:** Without objection.

13 **THE COURT:** All right. That's 38 without
14 objection.

15 (State's Exhibit Number 38, a knife, was marked and
16 admitted into evidence.)

17 BY MR. GRAHAM:

18 Q. And are you aware of where this knife was found?

19 A. From the report that was completed by the crime scene
20 techs, it was found in the seat cover. Passenger side seat
21 cover.

22 Q. In the interview that you had with Mr. Dennis on the
23 20th with his attorney present, how did Mr. Dennis describe
24 how far the window was down on his vehicle?

25 A. He said it was partially down, about midway.

1 Q. When he testified today, did you hear him say that
2 there were numerous people who were reaching in the
3 vehicle?

4 A. Yes, sir.

5 Q. How many people did he tell you reached into the
6 window during your interview?

7 A. One.

8 Q. When you were present in the courtroom today when he
9 testified that as to how the actual assault on Cape
10 occurred --

11 A. Yes, sir.

12 Q. -- how that stabbing was --

13 A. Yes, sir.

14 Q. -- was that the same or different than what he told
15 you during the interview on the 20th?

16 A. It was different.

17 Q. Looking at State's Exhibit 35, Your Honor -- this is
18 the video that had the first and second interview of the
19 Defendant on it, correct?

20 A. Yes, sir.

21 **MR. GRAHAM:** Your Honor, we're gonna publish that
22 part of the interview where Mr. Dennis describes the
23 stabbing.

24 **THE COURT:** All right.

25 **MR. GRAHAM:** Your Honor, if the Court has no

1 objection, Investigator Sully with our office has these
2 materials on a hard drive and it's actually easier to
3 play without glitches, so if it's all right with the
4 Court it is the same video that's on there.

5 **THE COURT:** As long as -- yeah, that's fine.

6 BY MR. GRAHAM:

7 Q. Let me go ahead and ask you a few questions while he's
8 getting that ready, Investigator. What, if anything --
9 you were present when, I believe, Mr. Dennis testified that
10 people were shaking his car; is that correct?

11 A. Yes, sir.

12 Q. Did he say anything to you about that during either of
13 your interviews?

14 A. No, sir. He actually said -- I believe in both
15 interviews he said nobody touched his car. I asked him
16 specifically.

17 Q. What, if anything, did he say to you in your
18 interviews here -- I guess it would be the second one when
19 he talked about what happened, what did he say about
20 reaching -- himself reaching out of the car?

21 A. He said he never reached out of the car.

22 Q. You heard Mr. Dennis testify that he washed his
23 clothes because there were other dirty clothes in court
24 today, correct?

25 A. Yes, sir.

1 Q. What, if anything, did he say to you during the
2 interview about why he washed his clothes?

3 A. I asked him why he washed his clothes. He said "I'm
4 just a kid who watches TV" and he said he washed them in
5 case there was blood on them.

6 Q. Eventually Mr. Dennis and his attorney took you to
7 recover the knives that we put into evidence, correct?

8 A. Yes, sir.

9 Q. And you were present for that?

10 A. I was.

11 Q. Let me show you exhibits that are already in evidence.
12 Looking at State's 37, 31, 32, 33, and 34, what do those
13 photographs show?

14 A. This is actually the area where the knife was buried.
15 This is the -- several of the pictures are close-up shots
16 of the dirt, the ground, prior to digging it up, to finding
17 the knife, and that's what that looks like. Let me make
18 sure I didn't miss any.

19 Q. So those photographs -- is that the footprints that
20 was used to stamp down the dirt?

21 A. Yes, sir. They're foot marks, you know, what it looks
22 like because the way the ground has risen up around, where
23 somebody stomped and tried to mash that dirt down.

24 Q. The knives that were found were directly below that,
25 correct?

1 A. Yes, sir.

2 Q. Those show a footwear pattern, don't they?

3 A. They do.

4 Q. When I show you State's Number 28, what is that?

5 A. That's a different footwear pattern.

6 Q. And State's 28, those are the shoes the Defendant
7 admitted that he was wearing at the time, correct?

8 A. Yes.

9 Q. The Timberland boots. When Mr. Dennis testified, he
10 talked about as he was coming through the parking lot being
11 approached by Austin Sanders and being told that Dutch Fork
12 students were attacking vehicles in the drive-thru line.
13 You heard him testify to that?

14 A. I did.

15 Q. What, if anything, did he say to you in either his
16 first or second interview about that?

17 A. Nothing.

18 Q. He also testified -- Mr. Dennis also testified from
19 the inside Cook-Out video that his attorney showed an
20 individual in a white shirt and a green tie standing up
21 and making threatening motions towards Keith Adams. Did
22 you hear him say that?

23 A. I did.

24 Q. What, if anything, did he say to you about that during
25 either interview?

1 A. Nothing.

2 Q. You heard Mr. Dennis say that he told everybody in his
3 group that they should leave the Cook-Out?

4 A. Yes, sir.

5 Q. What, if anything, did he say to you during either
6 interview about telling the members of his group that they
7 should leave the Cook-Out?

8 A. Nothing.

9 Q. He testified today about people reaching in to pull
10 him out. Did you hear him say that?

11 A. Yes, sir.

12 Q. What, if anything, did he say to you about people
13 reaching in to pull him out?

14 A. He mentioned in the second interview Mr. Capers
15 reached in, but that -- that was it.

16 Q. What, if anything, did he say to you in the interview
17 -- you heard him -- you heard Mr. Dennis today talk about
18 phone calls with Keith Adams.

19 A. Yes, sir.

20 Q. What, if anything, did he say to you during either
21 interview about speaking with Mr. Adams?

22 A. Nothing.

23 Q. Looking at the video monitor now, I want to direct you
24 toward the second interview when Mr. Dennis is describing
25 the stabbing.

1 **MR. GRAHAM:** If you could go ahead and play it,
2 please.

3 (Whereupon, State's Exhibit 35 was played.)

4 **MR. GRAHAM:** Thank you.

5 BY MR. GRAHAM:

6 Q. Investigator Carter, when he described the stabbing to
7 you, how close did he put Mr. Capers to him?

8 A. In the car partially. Kind of -- kind of over --
9 hovering over top of him somewhat.

10 Q. So he had him inside the window?

11 A. Yes, sir. I think I specifically asked, you know, how
12 much of the arm, which arm, and I believe he said it was
13 the left arm. I said was his whole head in, what part of
14 his body. I even believe I stood up and leaned over and he
15 was saying, yeah, most of his head and his whole left arm.

16 Q. And that was different than what he testified today,
17 wasn't it?

18 A. Yes, sir.

19 Q. Let me show you another exhibit and ask if you
20 recognize this?

21 A. Yes, sir, I do.

22 Q. And during the course of your investigation, you
23 collected this evidence, correct?

24 A. Yes, sir.

25 **MR. GRAHAM:** Your Honor, the State would offer

1 this into evidence at this time.

2 **MR. RUTHERFORD:** Without objection.

3 **THE COURT:** Without objection, that's 39.

4 (State's Exhibit Number 39, a video recording, was
5 marked and admitted into evidence.)

6 BY MR. GRAHAM:

7 Q. Investigator Carter, you were present in the courtroom
8 when the Defendant described himself as a nonaggressive
9 person?

10 A. Yes.

11 Q. That he didn't like confrontation?

12 A. Yes, sir.

13 Q. Looking at State's Number 39, what is that? That's a
14 videotape of what?

15 A. That's the basketball game at Dutch Fork High School
16 between Dutch Fork and Lexington. It happened, I believe,
17 a month maybe prior to the incident.

18 Q. So about a month prior to this Lexington High School
19 was playing at Dutch Fork and this was video from that?

20 A. Yes, sir.

21 Q. Reviewing that video, were you able to observe
22 Mr. Dennis and identify him on that video?

23 A. Yes, sir.

24 Q. And what is it that you saw?

25 A. I saw him down on the floor of the court looking over

1 to what we can assume is the opposing side because there's
2 a crew over there and then -- then Mr. Dennis and -- and
3 lots of individuals on this side. I believe Mr. Adams was
4 there as well. It looks as if -- they're looking that way,
5 but I can't particularly see their -- like everything that
6 was going on in the gym, just their side and what they were
7 looking at. Well, they were just looking over there, just
8 kind of scoping it out, checking out what's up. The
9 administration had to come in and disburse everybody. It
10 looks like all the groups had to be disbursed. Then
11 there's video inside of the lobby as well.

12 Q. And what's -- what do you see when he's out in the
13 lobby?

14 A. Inside the lobby it appears --

15 **MR. RUTHERFORD:** Your Honor -- Your Honor, I'm
16 sorry, but, again, and we just keep going -- now this a
17 month prior to inside a basketball game not related to a
18 car, not related to Mr. Capers. This is just going into
19 stuff ad nauseam that is not relevant. It is -- this is
20 a Stand Your Ground hearing.

21 **THE COURT:** I'll tell you what.

22 **MR. RUTHERFORD:** I'm sorry, Your Honor.

23 **THE COURT:** No, I appreciate it. What I'm gonna
24 do is we're gonna take a short recess and let's step
25 back here so I can talk to the attorneys.

1 (Recess taken at 3:24 PM.)

2 (Back on the record at 3:40 PM.)

3 **BAILIFF:** Please keep your seats. Court's now in
4 session.

5 **THE COURT:** Thank you, folks.

6 All right, Mr. Graham. You may proceed, sir.

7 **MR. GRAHAM:** Thank you, Your Honor.

8 Your Honor, that video of the Dutch Fork game is
9 in evidence for Your Honor to review.

10 **THE COURT:** All right, sir.

11 BY MR. GRAHAM:

12 Q. Moving on, Investigator Carter, as part of your job
13 did you collect what's called a CAD report?

14 A. Yes, sir.

15 Q. What is a CAD report?

16 A. A CAD report is essentially a printout from our
17 dispatch services that has documentation of all the
18 communication and things like that entered in reference
19 to that incident.

20 Q. In addition to that, you also seized Mr. Dennis's
21 phone; is that correct?

22 A. Yes, sir.

23 Q. And at some point Mr. Dennis provided you the password
24 to that phone?

25 A. Yes.

1 Q. What is an extraction, a cell phone extraction? Did
2 you send that off to have his phone analyzed?

3 A. We did.

4 Q. And did you receive the results of those?

5 A. Yes, sir.

6 Q. And have you assisted in preparing a summary that
7 outlines from his phone records from AT&T along with the
8 extraction from the sheriff's department here in Lexington,
9 as well as the CAD report? Did you combine that to show
10 what was going on as far as Mr. Dennis and his phone in
11 conjunction with the CAD reports that night?

12 A. Yes, sir.

13 **MR. RUTHERFORD:** Your Honor, without objection he
14 can enter that. He showed it to us beforehand.

15 **THE COURT:** All right. That's Number 40.

16 (State's Exhibit Number 40, a call summary, was
17 marked and admitted into evidence.)

18 BY MR. GRAHAM:

19 Q. Investigator Carter, looking at State's Exhibit
20 Number 40, what time was the 9-1-1- call made from the
21 Cook-Out restaurant?

22 A. At approximately 21:47 or 9:47 PM.

23 Q. And that was PM?

24 A. Yes, sir.

25 Q. Prior to that, can you tell whether Mr. Dennis had any

1 communication with anyone regarding there being trouble at
2 the Cook-Out?

3 A. There was a text several minutes before that, almost
4 five minutes before, where he had stated they're trying to
5 fight us at Cook-Out.

6 Q. And then at 9:42, which is still about five minutes
7 before, did he get a phone call on his phone?

8 A. That's correct, yes, sir.

9 Q. And was that number the same number that he sent the
10 text to?

11 A. Yes, sir.

12 Q. Looking at the video and looking at his other calls
13 and the timing of the 9-1-1 call and when Mr. Dennis left,
14 are you able to tell that that phone call at 9:42:15 is
15 the call that would correlate to the time when he said he
16 stepped outside to have that conversation?

17 A. Yes, sir, that's what it appears to be.

18 Q. After the 9-1-1 call, can you read through the
19 sequence of events on the summary?

20 A. After the 9-1-1 call, there was an incoming call at
21 9:50, which would be three minutes after the 9-1-1 call
22 from Keith Adams, and that call lasted just under a minute.
23 There was also another incoming call two minutes later from
24 Keith Adams that lasted about thirteen seconds. A minute
25 after that, at 9:53, there was an incoming call from Morgan

1 Zander, which lasted around forty seconds roughly. 9:54
2 there was a license plate check run on a 2004 Nissan
3 Armada. At three minutes after that, there's a driver's
4 license check for a Keith Dominic Adams, which relates to a
5 traffic stop with Mr. Adams about that time. Around 9:58,
6 so roughly ten minutes after the 9-1-1 call, there's an
7 incoming call that lasts about thirteen seconds and then at
8 10:07, about twenty minutes after, another incoming call,
9 and that call lasted one minute and fourteen seconds. Very
10 shortly after that, ten after ten, is an outgoing text from
11 Mr. Dennis's phone that just says W-T-D. He sends the same
12 text to the same number less than a minute later, W-T-D
13 once again, and then within that same minute, W-Y-D.
14 Within that same minute as well, about twenty seconds
15 later, there's an incoming call from Keith Adams and this
16 call lasts three minutes and twenty-two seconds, the
17 longest of the calls to Mr. Adams. At 10:26, there's an
18 outgoing to call to Mr. Zander for nine seconds and also
19 right after that one to Ms. Zander that lasts a minute and
20 forty-seven seconds.

21 Q. In addition to looking at the phone records and CAD
22 reports, did you also collect video from the Cook-Out
23 itself?

24 A. Yes, sir.

25 Q. Let me show you this CD and ask if you recognize that?

1 A. I do.

2 Q. Is that you initials on there?

3 A. Yes, sir.

4 **MR. GRAHAM:** Your Honor, the State would offer
5 this into evidence at this time. It's a video from
6 the Cook-Out.

7 **MR. RUTHERFORD:** Inside or outside?

8 **MR. GRAHAM:** Both.

9 **MR. RUTHERFORD:** Okay. Without objection.

10 **THE COURT:** All right. Without objection,
11 State's 41.

12 (State's Exhibit Number 41, a Cook-Out video, was
13 marked and admitted into evidence.)

14 BY MR. GRAHAM:

15 Q. You've had an opportunity to study the video in
16 State's 41?

17 A. Oh, yes, sir.

18 Q. And that shows different camera angles from both
19 inside and outside of the Cook-Out; is that correct?

20 A. It does.

21 (Whereupon, State's Exhibit Number 41 was played.)

22 Q. What, if anything, did you notice happening inside the
23 Cook-Out when you looked at the video?

24 A. When you first watch the video on the interior, you
25 see kids coming in. They trickle in and they keep

1 trickling in until the place is pretty well packed. It
2 looks like a ton of high school kids packed in a small fast
3 food restaurant on a Friday night.

4 Q. And at some point do you observe the Defendant,
5 Mr. Dennis, along with Morgan Zander, Will Zander, Keith
6 Adams and Lucky Cloutier come into the building?

7 A. Yes, sir, I do.

8 Q. Now there's not video -- I mean, there's not audio on
9 the videos, correct?

10 A. There's not.

11 Q. What, if anything, do you observe by watching when
12 Mr. Dennis and his friends come in?

13 A. When they're coming in, they -- they come in -- just
14 because of the nature of the crowd and the doors, they come
15 in sort of single file and as they walk by there's an
16 individual sitting in the very first booth next to the door
17 who sees them coming in and he stands up. He sees them
18 coming in, puts his food down, stands up outside the booth
19 and as they walk in he raises his hands up. I don't know
20 what he says, but he raises his hands up and it appears
21 there's a response from Mr. Dennis and his group and at
22 the time of that response then they pass by and the other
23 individual goes back to the booth after that.

24 Q. Do you notice watching the video any other
25 interactions between the groups that look like they're

1 hostile-type interactions?

2 A. Nothing.

3 Q. Do you see any interaction between the victim and the
4 Defendant inside?

5 A. No actual interaction. I see them pass each other --
6 or I see the victim pass the Defendant once, maybe twice.
7 That's about it.

8 Q. Do you notice -- can you tell whether there's any
9 hostility between the two from the video?

10 A. There's no words exchanged. The victim actually never
11 looks at Mr. Dennis.

12 Q. Let's look at the outside video.

13 (Whereupon, the video was played.)

14 Q. Starting with the outside video when Mr. Dennis and
15 his group leave, can you describe what we're watching?

16 A. Well, this is the exterior of the Cook-Out and
17 you're actually -- the car wash is back in the back where
18 Mr. Dennis and Mr. Zander parked and what you're looking at
19 is along the side of the Cook-Out video -- or, excuse me,
20 alongside of the Cook-Out building, and that angle is
21 coming -- shooting from the front of Cook-Out down the
22 back.

23 Q. Looking at State's Number 1, is it looking in this
24 direction?

25 A. It's looking in that direction, yes, sir.

1 Q. Okay.

2 MR. GRAHAM: If you could go ahead and play it,
3 please.

4 (Whereupon, the video was played.)

5 A. That's Mr. Dennis exiting there and Mr. Adams exiting
6 together.

7 Q. And he appears to be on the phone?

8 A. Yes, sir, he appears to be talking on the phone and
9 leaning on the trash can. And right -- immediately after
10 is Ms. Zander and there's Mr. Zander and there's Mr. Cook.
11 They just appear to be just casually standing there.

12 Q. Now did Mr. James, I believe that was the individual
13 that was identified to be in the white shirt and the tie --

14 A. Yes, sir, that's him coming out there and it looks --
15 right there you see Ms. Zander is looking at him. They're
16 all looking at him.

17 Q. All are looking at him?

18 A. Yeah, it's -- it's moving really fast.

19 Q. Did he immediately follow them out the door?

20 A. He did not. They were out of the door for several
21 seconds before he came out.

22 Q. And I believe that Mr. Dennis testified that as soon
23 as they got outside they began walking toward their
24 vehicles. Is that what the video reflects?

25 A. It does not reflect that.

1 Q. What did you see in the part that we saw right there?

2 A. What I see in the video over the numerous times
3 watching it, they come out, they're just kind of hanging
4 out there. The individual identified as Mr. James comes
5 out and as he passes right there through him, I don't know
6 if immediately that ends in any words or exchange, you
7 can't really tell. As he starts to go past, you can see
8 Ms. Zander actually kind of point her face out that way and
9 stick her face out and she's saying something to him and at
10 that point Mr. James is past the group and turns over his
11 shoulder to look back as if responding, and he continues to
12 walk.

13 **MR. GRAHAM:** Let's play to that point.

14 (Whereupon, the video was played.)

15 A. And then there's continual -- you can see there
16 Ms. Zander sticks her face out, leans out forward, shouting
17 something at him and he turns around and actually walks
18 backwards with his hands out. It's going real fast. He
19 actually turns around as she said that, but yet continues
20 to still walk away. He throws his hands up responding and
21 they begin to go back and forth. Mr. Dennis even with the
22 phone still at his head then begins to say something to
23 Mr. James and Mr. James then starts to walk back and so
24 then this group here starts to walk that way towards where
25 Mr. James is.

1 The crowd from inside Cook-Out comes out. They
2 continue then to start walking over that way as they see
3 the crowd there. Mr. James just stands there and they
4 continue to walk away. The crowd comes out here. You're
5 gonna see -- Mr. Adams crosses right in the middle of the
6 group to go across to where his car is. Ms. Zander stands
7 there for a minute there. They continue to pull on,
8 continue to move on. This group is still outside. You see
9 a lot of people just stop right there that are spectators
10 and you have another group that is continuing ten feet or
11 so. We can see Mr. James tucking his shirt in. He's on
12 the other side of the car from where Mr. Dennis and that
13 group is. There's another group to the left that's
14 spectating, standing there, and this whole cattle here
15 outside the door. And you can see the striped sweater up
16 there. They're continuing to move out into the street and
17 then move away as if they kind of -- everybody's kind of
18 lingering somewhat together in a group and then they
19 finally disburse that way.

20 They maintain a fairly large group back here at the
21 Cook-Out and then there's a partial group up there that
22 appears to just be, I'm sure, gabbing and joking or
23 taunting or shouting hey, you guys lost or whatever. I'm
24 just purely guessing there at that moment, but you're gonna
25 see headlights and Mr. Adams's car right there, the Nissan

1 Armada, pulls up right there at the bottom exit and then
2 there's another car coming up right here and stops -- it's
3 gonna stop right there, and that's Mr. Zander's Infiniti,
4 and he's gonna go back to the hatch, and the hatch is open
5 as you can see in the back on the video. You can kind of
6 see it really lit up because Mr. Adams is actually pointing
7 directly at that car with his headlights right on the car.
8 And this group in the parking lot, who knows, just talking,
9 joking around, and there is a group at the top of the
10 screen there. And the hatch goes back down, Mr. Zander's
11 back in, he moves around, and if you watch the back of
12 Mr. Adams's vehicle, you'll see headlights show up again
13 and that's Mr. Zander's vehicle once again.

14 Q. And Mr. Adams is still sitting down there?

15 A. Yes, sir. He has not moved yet. Most of the crowd
16 actually dispersed at this point, went back in the
17 Cook-Out. There's a few lingering out there.

18 Q. There's another vehicle coming out from the car wash
19 now.

20 A. That's Mr. Dennis when they parked side by side. The
21 kids call it police style. But that's what they did.
22 They're parking side by side. You can see the lights
23 coming back. That's Mr. Zander's vehicle.

24 Q. Okay. This second car that came up over here, who is
25 that?

1 A. That's Mr. Zander's vehicle, which is Mr. Zander
2 getting out of the car there and walking up there to the
3 other vehicles there to join in that conversation. They
4 haven't left, so obviously these teenagers are gonna come
5 out and gawk, so you've got more coming back out. Kids
6 lingering. Some get in cars and leaving. And they sit
7 there for a bit. Everybody is just staying in this parking
8 lot. As you can see there, they're behind that car, to the
9 left and to the right of it. Mr. Adams pulls up just a bit
10 and he's gonna leave here shortly, but everybody's standing
11 there. I mean, I would imagine to, you know, continue
12 their taunting or teasing or whatever they're doing as they
13 ride by.

14 That picks up right where it left off. It's a
15 continuation because the file was too large when the
16 Cook-Out sent us the original. You can see some kids on
17 the bottom while they're leaving, other kids going across
18 the street to leave. This guy forgot his fries or
19 something there and goes back in. And there's the Nae Nae.

20 Q. Does anyone appear to be around their cars?

21 A. No, everybody really starts to disperse. I think
22 you've probably got a handful up there at the top that
23 looks like they're still watching. You've got a couple up
24 there trying to get their car started. I remember when we
25 got there they couldn't get their car started and they're

1 hanging around there, but most people dispersed, driven
2 off. You've just got a handful at the top.

3 Q. What do we see happening now?

4 A. Mr. Adams is now beginning to leave, moving towards
5 the main road there.

6 **MR. GRAHAM:** Let's stop just for a second.

7 (Whereupon, the video was paused.)

8 Q. As Mr. Adams is leaving, what's Mr. Dennis doing?

9 A. Mr. Dennis actually pulls in deeper toward the old
10 Blockbuster.

11 Q. So if I'm looking at State's Exhibit Number 1,
12 Mr. Adams was here facing out, Mr. Dennis was here facing
13 in?

14 A. Facing inward, yes, sir.

15 Q. Mr. Adams is turning out into the road between the
16 Cook-Out and the old Blockbuster or the Petsmart?

17 A. Yes, sir.

18 Q. And your testimony is that Mr. Dennis does what?

19 A. Mr. Dennis actually pulls mostly straight in towards
20 the side of Blockbuster to do a U-turn and come back out.

21 Q. Comes out the same --

22 A. Comes down towards the bottom. He didn't go up.

23 Q. Comes out the same way that he did?

24 A. Yes, he comes straight in and whips around.

25 Q. All right.

1 **MR. GRAHAM:** If you'll go ahead and play it
2 some more.

3 (Whereupon, the video was played.)

4 A. It should -- it should be able to show that in there.

5 Q. After Mr. Adams, what's the next vehicle?

6 A. That's Mr. Zander following. You can see Mr. Dennis
7 in the background completing his turn. Mr. Zander comes up
8 and he comes right off-screen there, but just briefly he
9 goes off-screen.

10 Q. All right. Mr. Zander's car just disappeared
11 off-screen?

12 A. Uh-huh.

13 Q. What are we looking at over here?

14 A. That's just a completely separate vehicle driving
15 through.

16 **MR. GRAHAM:** Go ahead and go.

17 (Whereupon, the video was played.)

18 A. Then something happens over by Mr. Zander's car and
19 people start moving, so the other car actually freely
20 travels through.

21 Q. And the headlights that we're seeing now?

22 A. That's Mr. Dennis's car. He comes up pretty quick
23 right after they get into the roadway. And he shoots
24 angled in there towards the -- the curb.

25 Q. And you see him disappear off the screen. What do we

1 see happening now?

2 A. There's a truck that actually comes up behind
3 whatever's going there, kids rushing to it. That truck
4 actually gets through and this other car that was in
5 oncoming traffic is -- is apparently behind Mr. Dennis
6 because he stops.

7 Q. The other car, are you able to see its entire wheels?

8 A. You can't see the bottom portion because it's -- it's
9 too close to that curb. And you can still see there's
10 onlookers, people just kind of standing there watching.

11 Q. Okay. The rest of this video it just shows after the
12 stabbing and the reaction, the confusion of the crowd?

13 A. Right. Correct.

14 Q. You also had an opportunity to look at the iPad video,
15 which is State's Number 12, correct?

16 A. Yes, sir.

17 Q. That's a very short video and that was taken by a
18 Dutch Fork student out of his car in the parking lot?

19 A. Yes, sir.

20 Q. Do they show the same camera angles or different
21 camera angles?

22 A. It's a different angle. It's more of the roadway
23 itself up close to where they were parked or stopped.

24 Q. Okay.

25 (Whereupon, State's Exhibit Number 12 was played.)

1 **MR. GRAHAM:** Okay. Just stop it right there.

2 (Whereupon, the video was paused.)

3 Q. This video shows a brief moment at Mr. Dennis's car,
4 correct?

5 A. It does. That's Mr. Dennis's car right there and
6 that's about -- you can see the backs of probably about
7 four or five individuals at the car, but there's probably a
8 couple between them and the car.

9 Q. During the course of your investigation, did you
10 attempt to identify and interview all of those people?

11 A. We did.

12 Q. And then --

13 **MR. GRAHAM:** If you'll go ahead and play it.

14 (Whereupon, the video was played.)

15 Q. You cannot actually see into the vehicle because of
16 the number of people, correct?

17 A. At this point you can't, but you can a few seconds
18 further.

19 **MR. GRAHAM:** That's fine.

20 (Whereupon, the video was paused.)

21 Q. In comparing the iPad video and the video from the
22 outside of the Cook-Out, you heard Mr. Dennis testify
23 that he was there approximately five seconds at a stop,
24 correct?

25 A. Yes, sir.

1 Q. Were you able to come up with an approximation
2 comparing those two videos and events that are occurring in
3 between them as to what your opinion is as to how long that
4 car was stopped there?

5 A. Yes, sir. Right as the iPad video stops, there's an
6 individual, Mr. Chatman, who actually comes -- runs
7 off-screen. He runs off-screen in front of the car and
8 that's what you see in the iPad video. In the Cook-Out
9 video, you actually see a different angle of this same
10 event where he runs into camera angle of the Cook-Out. The
11 separation between him running off-screen here and where he
12 shows up on the other, give or take plus or minus a second,
13 so we know that Mr. Dennis is there at that point and we
14 can actually time it. We can actually see when he comes on
15 the screen in the Cook-Out video and stops and then timing
16 the timeframe until we see Mr. Chatman come into the
17 Cook-Out screen and then we know at that point in the iPad
18 and you pick up timing to see when he leaves on the iPad,
19 and it comes to approximately forty seconds.

20 Q. Approximately forty seconds?

21 A. Yes, sir.

22 Q. Now SLED was called in to do the search warrant at
23 Mr. Dennis's residence and his vehicle, correct?

24 A. Yes, sir.

25 Q. Are you aware that there were latent lifts or

1 fingerprints taken from the vehicle?

2 A. Yes, sir.

3 Q. What's your understanding of what was collected?

4 A. The report provided to me from SLED, their results
5 showed that prints -- the print results, the latent print
6 results, belonged to Mr. Dennis.

7 Q. Were there anybody's fingerprints other than
8 Mr. Dennis that were found on the inside or outside of the
9 vehicle?

10 A. No, sir.

11 Q. Do you know if SLED attempted to collect touch DNA
12 from the outside of the vehicle and the steering wheel?

13 A. They did, sir.

14 Q. Do you know what those results were?

15 A. The results of the DNA, I believe, were -- excuse.
16 Me, they're paper-clipped together. The results were
17 insufficient enough to give -- their terminology is for
18 reliable interpretation, I believe, is the technical term.

19 Q. As then as far as the knife, are you aware that there
20 were swabs taken from the knife, which is State's Number
21 15, as well?

22 A. There were swabs taken from the knife.

23 Q. And what were the results of the swabs from the blade
24 of the knife?

25 A. They matched the DNA profile for Mr. Capers.

1 Q. Are how long have you worked with the Town of
2 Lexington?

3 A. I've been with the Town nine years now.

4 Q. Looking at State's Number 2, do you recognize that as
5 an aerial map of downtown Lexington?

6 A. Yes, sir.

7 Q. The Cook-Out is denoted on here with a red bubble with
8 a black spot; is that correct?

9 A. Yes, sir.

10 Q. If you are aware, Mr. Dennis's car was parked down at
11 the car wash down here, which --

12 A. Yes, sir.

13 Q. Let's talk about the different ways that you can exit.
14 If you're at the back down here by the car wash, is there
15 an exit that actually takes you out to the Park Road
16 Extension?

17 A. Well, there's one -- there's one that exits from the
18 car wash that takes you right there and one that exits from
19 the Cook-Out, too.

20 Q. Either of those, if you took a right onto Park Road,
21 you would come to a light, correct?

22 A. Correct, you'd come to a light at Park Road -- or
23 sorry, West Main.

24 Q. In addition, if you would have come through and out on
25 Park Road, you actually could go through the parking lot of

1 a county administration building, correct?

2 A. Yes, sir. You could come out there or go down that
3 back road behind the Walgreen's.

4 Q. And you come by -- you could come by at Lizard's
5 Thicket, right?

6 A. You could come out Lizard's Thicket at George Street
7 or West Main.

8 Q. This is George Street here and then if you wanted to
9 go to where the Defendant lived, that is --

10 A. Hendrix Street.

11 Q. -- down past the country club down past Barr Road,
12 right?

13 A. Hendrix goes right into Barr.

14 Q. So the very shortest route from the Cook-Out would be
15 which way?

16 A. If I were going the shortest back down to Barr Road,
17 would be to make my way to George to Hendrix to go to Barr
18 Road. That's actually the way I -- I go to Cook-Out if
19 I'm coming from Hendrix is exactly that way. It's a lot
20 faster.

21 Q. All right. You could go up to Columbia Avenue on Park
22 Road and there'd be a light there?

23 **MR. RUTHERFORD:** Your Honor, I'm sorry. I will
24 agree that there are multiple ways you can go and there
25 are multiple way you can go in Lexington and there are

1 different ways this investigator would have gone.

2 I'll agree. I -- I just don't see the point in just
3 continuing to do this.

4 **THE COURT:** Go ahead and move on, Mr. Graham.

5 BY MR. GRAHAM:

6 Q. One other point then briefly on that. This -- where
7 Mr. Dennis's car was in watching the video, you say he
8 turned around. If he would have continued straight that
9 way, what would he have done?

10 A. Well, he could have went up to West Main right there
11 or gone right into Walgreen's.

12 Q. Or he could go right to Walgreen's and go out that
13 way?

14 A. (Nods head.)

15 **MR. GRAHAM:** Your Honor, I think that's all the
16 questions I have for Investigator Carter.

17 **THE COURT:** Mr. Rutherford.

18 **MR. RUTHERFORD:** Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. RUTHERFORD:

21 Q. Investigator Carter, what time was the last call on
22 Kierin Dennis's phone?

23 A. Let me go into my phone records here.

24 Q. So you don't know?

25 A. I know by the phone records, yes, sir.

1 Q. So you just don't know off the top of your head?

2 A. No, sir, I don't.

3 Q. How long did the interview last when Kierin Dennis
4 came in to see you with myself?

5 A. Yourself?

6 Q. Uh-huh.

7 A. That interview probably lasted around half an hour,
8 maybe a little over, but it was greater than a few minutes.

9 Q. It's not in your notes?

10 A. No, sir. I don't have the exact time it ended in my
11 notes, sir.

12 Q. So you're kind of guessing?

13 A. Somewhat, but an educated guess.

14 Q. Okay. And what time was the -- or who did -- who was
15 the third person that Mr. Dennis called after the incident
16 occurred?

17 **MR. GRAHAM:** Your Honor, I would ask that
18 Mr. Rutherford show the witness what he's referring
19 to. Mr. Rutherford has a summary chart.

20 **MR. RUTHERFORD:** I'm glad he brought that up,
21 Your Honor. That's exactly my point.

22 BY MR. RUTHERFORD:

23 Q. Did you see -- when Kierin Dennis testified, did you
24 see his notes?

25 A. Mr. -- Mr. Dennis's notes?

1 Q. Yes, sir.

2 A. No, sir, I didn't.

3 Q. When you interviewed Mr. Dennis, did he have any
4 notes?

5 A. No, sir, he didn't.

6 Q. Did you show him a video --

7 A. I did not.

8 Q. -- before you asked him any questions?

9 A. No, sir.

10 Q. So he was answering off the top of his head with no
11 notes and no video; is that right?

12 A. Yes, sir, but he was there when it happened, so.

13 Q. Right. So you looked at those phone records,
14 correct --

15 A. Yes, sir.

16 Q. -- and you were there. You were there --

17 A. I wasn't there at the incident of the stabbing, so.

18 Q. But you were there when you interviewed Mr. Dennis. I
19 asked you how long it took and you gave an educated guess;
20 is that right?

21 A. Sure.

22 Q. And if I showed you the video and I timed it, would
23 your educated guess be right? Could be, could not be;
24 isn't that right?

25 A. Sure.

1 Q. And that's the -- that's the case because even though
2 -- this is an important case; is it not?

3 A. Sure, it is.

4 Q. You didn't write down every single thing and every
5 single time because you didn't know what I was going to ask
6 you today; isn't that right?

7 A. Sure. Correct.

8 Q. You didn't know and you still don't know what's
9 important to me; isn't that right?

10 A. Correct.

11 Q. And so you're answering questions as I ask them.
12 You're not trying to guess what's important to me and give
13 that to me before I ask it; isn't that right?

14 A. Correct, sir.

15 Q. So when you asked Will Zander did he get out of the
16 car and he's not looking at a video and he's not writing
17 any notes, he's giving you a best impression of what he
18 remembers; isn't that right?

19 A. I'm -- I'm sure he is.

20 Q. And if you showed him a video of him getting out of
21 the car, he may say I did get out of the car; isn't that
22 right?

23 A. Well, he has to admit it at that point.

24 Q. Right. And so at that point you've shown him
25 something and then you've asked him to respond, but without

1 showing it to him he -- and has no notes, he's giving you
2 what he remembers; isn't that right?

3 A. Typically from like an hour before it happened or --

4 Q. As you're doing now; isn't that right?

5 A. Sure.

6 Q. Okay. So did you view the iPad video?

7 A. I did.

8 Q. All right.

9 **MR. RUTHERFORD:** Can you play it?

10 (Whereupon, State's Exhibit Number 12 was played.)

11 **MR. RUTHERFORD:** You can stop it right there.

12 (Whereupon, the video was paused.)

13 Q. That is Mr. Dennis's car; is it not?

14 A. Yes, sir.

15 Q. Can you tell me from looking at that iPad video how
16 close those individuals appear to be to his car? You can
17 stop me when I get to the door.

18 A. They appear to be roughly about that close.

19 Q. So about this close --

20 A. Maybe a little further back than that.

21 Q. Okay. Now let's start from the left. Who is that on
22 the left?

23 A. Well, Joshua Brooks is on the left, immediately on the
24 left. That's that orange hoody right there or pullover.

25 Q. Where? Right here in -- in between the flags?

- 1 A. Yes, sir. One of the witnesses.
- 2 Q. So that's Joshua Brooks?
- 3 A. Yes, sir.
- 4 Q. Who is this?
- 5 A. That's Alexis Brunson right there.
- 6 Q. So Alexis Brunson is standing right here. You can see
- 7 the mirror, so she's about right here; isn't that right?
- 8 A. Yes, sir.
- 9 Q. Okay. Does she know Kierin Dennis?
- 10 A. She doesn't.
- 11 Q. So what was she doing at his car?
- 12 A. She was probably talking to him after he just almost
- 13 ran into several people there.
- 14 Q. So she's at his car window, correct?
- 15 A. Yes, sir.
- 16 Q. Okay. Who's next?
- 17 A. I believe that's gonna be Mr. Farrow.
- 18 Q. Mr. Farrow is the one in the red jacket?
- 19 A. Yes. Well, there's two red jackets out there.
- 20 Q. Okay. But coming from the left?
- 21 A. Yes, sir.
- 22 Q. Mr. Farrow is right here, correct?
- 23 A. Yes, sir.
- 24 Q. Does he know Mr. Dennis?
- 25 A. I'm sure he doesn't, no, sir.

1 Q. Okay. And you're gonna say, I guess, that he was
2 talking to him about the people that he almost ran over as
3 well, correct?

4 A. Well, I'm sure. It's a heated event, so everybody is
5 gonna draw back and forth. That's undisputed.

6 Q. Okay. And the one in the yellow, did he know
7 Mr. Dennis?

8 A. That's Mr. Holiday. No, sir, he didn't.

9 Q. Okay. And the one in the red, did he know Mr. Dennis?

10 A. Mr. Butler, I don't believe he did, sir.

11 Q. Okay. Did any of them tell you why they were in the
12 road?

13 A. Sure.

14 Q. And what did they say?

15 A. Several actually said that -- well, they were in the
16 road earlier. They told me they were in the road earlier
17 to pick up money that had been thrown out of the car by
18 Mr. Zander.

19 Q. And how long earlier was that before Mr. Dennis pulled
20 up?

21 A. Oh, I would say about five seconds roughly, less than
22 ten seconds.

23 Q. So five seconds before that they were in the road
24 around Will Zander's car; is that correct?

25 A. They were in the road picking up money, wherever that

1 money had been thrown.

2 Q. And was that around -- Mr. Zander threw it out,
3 correct?

4 A. It was less than ten -- ten yards or so, I believe.

5 Q. Okay. So they're in the road --

6 A. Sure.

7 Q. -- picking up money? Did they tell you how much money
8 it was?

9 A. No, I didn't know exactly. I'm sure they all picked
10 up different amounts. They didn't come together and count
11 it like after Halloween candy or anything.

12 Q. So there were a number of people in the road?

13 A. Yes, sir.

14 Q. Could it have appeared from Mr. Dennis that those
15 number of people were around Mr. Zander's car?

16 A. Bent over to the road? I mean, I don't -- sure.

17 Q. Are you sure all of them were bent over?

18 A. I'm sure some of them were. Some of them maybe
19 weren't.

20 Q. But you say bent over to the road. Are you sure all
21 of them were bent over?

22 A. Well, if they're picking up money, generally you have
23 to get close to the road to pick it up.

24 Q. But you don't know how much money it was?

25 A. That's right. Mr. Zander said it was about \$4

1 roughly.

2 Q. And so if it's \$4 in one's, that's four people?

3 A. Well, that's supposing it's in one's. It could be in
4 change.

5 Q. Did you ask?

6 A. Oh, well, I asked him. He said he had just whatever
7 change was left in his pockets.

8 Q. No, did you ask them? Did you ask them?

9 A. Yeah, they said there were was change out there,
10 dollars and coins.

11 Q. Okay. And so all of these are the people that picked
12 up the money?

13 A. Some of them are, some of them weren't. Some of their
14 friends were the ones who they thought were in danger, so
15 they went to address it.

16 Q. Who picked up the money?

17 A. You have -- Mr. Chatman was out in the road, I
18 believe.

19 Q. What did he get?

20 A. I don't know how much he got exactly. I believe some
21 of them actually went out there, but it was already picked
22 up by the time they got there to get it.

23 Q. So there were other people out there looking and
24 couldn't find anything; is that right?

25 A. That's right.

1 Q. So there were a number of people around where
2 Mr. Zander's car is; is that correct?

3 A. Uh-huh.

4 Q. So if Mr. Zander is still -- was he still in the car
5 at this point or had he gotten out?

6 A. At that point while they're picking it up, he hadn't.

7 Q. Okay. And then he gets out; is that right?

8 A. Sure.

9 Q. Did he get out before Mr. Dennis pulled up or after?

10 A. No, after.

11 Q. So Mr. Dennis sees all of these people around the
12 car --

13 A. Uh-huh.

14 Q. -- where Mr. Zander is who is his friend, correct?

15 A. Yes, sir.

16 Q. Okay. So then he pulls up. Do you have any evidence
17 to prove that Mr. Dennis did not know what was going on
18 with Mr. Zander at that moment?

19 A. Do I have evidence to prove he did not --

20 Q. Do you have evidence to prove that Mr. Dennis knew or
21 did not know whether Mr. Zander was in trouble at that
22 moment?

23 A. I don't have evidence to prove that.

24 Q. Okay. And how many people were in Mr. Zander's car?

25 A. Mr. Zander has three people in his car including

1 himself.

2 Q. And did you have evidence from these witnesses that
3 Mr. Zander stopped at any point?

4 A. Yes, sir.

5 Q. So he stopped?

6 A. Yes, sir.

7 Q. Okay. And then -- then at some point he moved a
8 little forward; is that right?

9 A. Yes, sir.

10 Q. Okay. So he stopped. Do you know when Mr. Dennis saw
11 his car whether it was stopped or moving? Do you know?

12 A. Mr. Dennis, I believe, states he came up -- he stated
13 that he came up and saw Will stopped.

14 Q. Right.

15 A. But then Will said he stopped because he saw
16 Mr. Dennis stop.

17 Q. Right. And so earlier you testified about something
18 as being in the heat of all this going on, correct?

19 A. Sure, there was a lot of people out there.

20 Q. Exactly. And so Mr. Dennis said that he thought that
21 somebody was attacking Will. Do you have any evidence to
22 prove that he did not think that?

23 A. I -- I can't tell you what he thought, sir, no.

24 Q. Okay.

25 **MR. RUTHERFORD:** Play the video. Can you turn the

1 sound up, please?

2 (Whereupon, State's Exhibit Number 12 was played.)

3 Q. Why did the individual that took this video tell you
4 he wanted to follow them?

5 A. Oh, he didn't tell me that.

6 Q. Well, did you ask him?

7 A. He was saying it to the individuals in the car.

8 Q. No, but did you ask him why he wanted to follow them?

9 A. They were gonna follow just to see if anything else
10 occurred. They're -- they're videotaping it.

11 Q. Why did he take the video in the first place?

12 A. He took the video because he thought something was
13 gonna happen. It was the heat of the moment. He didn't
14 know what was gonna happen.

15 Q. And he thought something was going to happen?

16 A. Sure.

17 Q. Like what?

18 A. Well, he said just in case there was some -- some kind
19 of fight broke out or something crazy. The kids today are
20 doing that, putting stuff on-line. They'll videotape
21 anything, people falling over, getting hit in the head, so
22 he just thought this was his moment.

23 Q. And he wouldn't have hit record if he didn't think
24 something was gonna happen, correct?

25 A. Well, he thought something might happen. That's what

1 he did. His words were "might happen".

2 Q. Might. And, in fact, what he put his video on was all
3 these kids standing at Mr. Dennis's car.

4 A. That would be the place.

5 Q. And he said I thought something was gonna happen, so I
6 hit record; isn't that right?

7 A. He said in case something might happen and it did
8 happen.

9 Q. That's right. Now there were thirty kids that piled
10 out of Cook-Out prior to this point?

11 A. Roughly, yes, sir.

12 Q. Roughly. I mean, it might have been more, it might
13 have been less?

14 A. Sure.

15 Q. Thirty kids pile out of Cook-Out following four?

16 A. Five.

17 Q. Well, he didn't hit play then.

18 A. It was five.

19 Q. Five.

20 A. Right.

21 Q. And he didn't hit play then?

22 A. He wasn't out there then with his iPad. His iPad was
23 in the car.

24 Q. So he had to go get his iPad and that's when he
25 started to record?

1 A. This happened -- yeah, they were trying to leave.

2 This all happened right as they're leaving. It was oh,
3 man, we're stuck here, you know.

4 Q. So then he places the iPad on Mr. Dennis's window
5 because something might happen. He wasn't looking at Will
6 who was outside at this point with a pipe, correct?

7 A. Yes, sir.

8 Q. Just at Mr. Dennis's video -- I mean, just at
9 Mr. Dennis's window; isn't that right?

10 A. I'm sorry?

11 Q. He was only showing Mr. Dennis's window?

12 A. Yeah, he had seen -- he had seen commotion happening
13 with vehicles stopping, the money in the roadway and all
14 of that, and then decided to videotape this. Oh, I better
15 get it because, who knows, something might happen.

16 Q. So even he knows that what's about to happen at
17 Mr. Dennis's window is not good; isn't that right?

18 A. He doesn't know anything's about to happen.

19 Q. Well, he wouldn't have pressed record.

20 A. Well, the word I kept saying was "might. You keep
21 saying he thought it and so that's not what he said.

22 Q. I said he would not have placed -- he would not have
23 pressed record unless he believed something was about to
24 happen. He placed his camera on Mr. Dennis's --

25 A. Let's just say -- well, that's your supposition. I

1 said he stated something might happened, so he recorded
2 just in case.

3 Q. Okay. But he's --- there's a man in the street with
4 a pipe who he does not place his camera on, correct?

5 A. Well, I don't believe he testified that he saw the
6 pipe.

7 Q. Okay. But you don't know, right?

8 A. Right. I don't believe he's one of the ones who saw
9 the pipe.

10 Q. But it's all right in front of him, correct?

11 A. Well, Mr. Zander, by his testimony, would have been
12 up to this lane. It is dark, so he would have been on the
13 other lane, so it would have been more difficult for him to
14 see that, than Mr. Dennis, which he was actually parked
15 directly in front of, which I would suppose it would be the
16 easiest to see.

17 Q. Exactly.

18 A. Especially with being in the back seat and two other
19 heads, it's gonna be hard to angle that way because he
20 couldn't see Mr. Dennis's head.

21 Q. And so he's watching all of these people stand at
22 Mr. Dennis's car --

23 A. Sure.

24 Q. -- and he's saying something might happen?

25 A. He said in case something does happen.

1 Q. And he doesn't see Mr. Dennis, correct?

2 A. No. He can see the car. He can see when he pulls
3 off.

4 Q. He only sees all these people standing at his window?

5 A. Sure. He's in a seated position several feet away and
6 back of the heads, that's what he's got.

7 Q. And so did he tell you what he thought might happened?

8 A. He said he didn't know what happened. He didn't know
9 if there was gonna be a fight. He said everybody was
10 yelling, but that's what they had been doing before anyway
11 and he said he had just seen Mr. Zander stop, he saw
12 Mr. Dennis run out into the crowd with his vehicle at a
13 very high speed and he thought, uh-oh, something's
14 happening, he just ran at these kids in his car, and then
15 he says I don't know what's going on, they're all angry
16 because he just tried to run at them, so I'm gonna put the
17 video on in case something happens.

18 Q. You said he was -- he said that they were all angry
19 because he tried to run at them. Did he say anything about
20 them being angry when they approached Will Zander's car or
21 he missed that?

22 A. He -- he mentioned a crowd of people around Will
23 Zander's car.

24 Q. He only -- it only conveniently --

25 A. He saw Will stop and throw the money. Well, there's

1 -- well, there's a little bit of difference in -- in the
2 roadway near Mr. Zander's car and the lane next to it and
3 on Zander's car I think is what you're getting at, but
4 that's not where our testimony shows, so.

5 Q. Your testimony in terms of --

6 A. On -- on Mr. Zander's car is not exactly what it was.
7 Mr. Zander in his first interview says on his car and
8 touching and shaking, but then later on he doesn't say
9 that. So it appears at that time people were in -- in the
10 roadway near the car, but --

11 Q. What evidence do you have that proves that no one was
12 near Mr. Zander's car?

13 A. You're using a different word. You're using "near"
14 and that's different. Near is subjective. I could say
15 near if I'm --

16 Q. Yes, and if you could answer my question. What
17 evidence do you have to prove that no one was near his car?
18 Near.

19 A. What is your near then? Do you mean right up on his
20 car or in the roadway nearby?

21 Q. You investigated it.

22 A. Right.

23 Q. Was anybody at Mr. Zander's car?

24 A. I -- I went over that. They're in the roadway --

25 Q. And would that place them near his car?

1 A. -- in the lane next to -- in the lane next to his car,
2 yes, sir.

3 Q. In the lane next to his car?

4 A. Yes, sir.

5 Q. And so his car's here. They're in the lane next to
6 it; is that right?

7 A. Yes, sir.

8 Q. Okay. How many people?

9 A. Less than ten.

10 Q. Less than ten?

11 A. Less than ten.

12 Q. What is that, three?

13 A. A cumulative number somewhere in the median there, so
14 roughly four to five.

15 Q. Okay. Four to five. Now -- so not less than ten, but
16 now four to five?

17 A. To refine it there, yes, sir.

18 Q. And those four to five people are at Mr. Zander's car?

19 A. In the roadway.

20 Q. In the roadway. Do they know him?

21 A. No, I'm sure they don't.

22 Q. Before he threw money out the window, did they tell
23 you why they were in the roadway at his car?

24 A. No, they went in the roadway to get the money.

25 Q. Before he threw money.

1 A. That's what brought them in the roadway was the money.

2 Q. So before he threw money, where were they?

3 A. Some people were crossing the street to go to their
4 cars, which was across the street like Mr. Adams did
5 earlier in the video, they're doing the same thing he was
6 doing.

7 Q. The people -- so there was no one near Mr. Zander's
8 car before -- before he threw the money out?

9 A. There may have been one or two stragglers going out
10 across the road to where the parking lots were.

11 Q. Did Mr. -- did Mr. Zander have an exchange of words
12 with someone before he threw the money out?

13 A. Mr. Zander stated that he just went up and then he
14 stopped and threw the money out. His first -- now it's
15 different because he had two different interviews where he
16 said different things.

17 Q. No, sir. Maybe you missed it yesterday or you didn't
18 write it down. Mr. Zander said that someone said that he
19 looked like he had a gun and he said he went down, grabbed
20 his money and threw it out the window. So who was he
21 talking to?

22 A. So you're saying Mr. Zander said that it looked like
23 somebody had a gun?

24 Q. Mr. Zander pulled up and stopped. He took the money
25 out. He said they looked at him like he had a gun.

1 A. He's saying as if, not that somebody said anything.

2 Q. Who was that looking at him?

3 A. Several of the kids may have been looking at him.

4 Q. So who were those kids that were near enough to his
5 car to see in his car?

6 A. I believe the same kids that were standing there at
7 the curb watching all this go down. You can see them at
8 the curb in the Cook-Out video.

9 Q. So there are enough kids around to stand there and
10 look in his window, but you didn't talk to them?

11 A. I did. We did talk and interviewed them.

12 Q. And who are they?

13 A. You've got Mr. Butler we spoke to, Mr. Chatman we
14 spoke to. We also had Mr. Farrow we spoke to. Mr. Holiday
15 was spoken to.

16 Q. And so Mr. Chatman -- let's start with Mr. Chatman.
17 He is standing at Will Zander's window when Will Zander
18 throws the money?

19 A. I did not say he was standing at his window.

20 Q. Well, I asked you who was he talking to. Who was --
21 who was standing there?

22 A. It's not -- the question of who he's talking to is
23 different than who's at his window.

24 Q. Okay. Who's at his window?

25 A. So I can talk to you from here, but I'm not standing

1 in your face I guess is what I'm getting at. I'm trying to
2 find out what your near is. I know what you're getting at.
3 I'm just -- I'll let you define "near".

4 Q. When you say they were looking at him as he threw the
5 money out, who was closest to him when he threw the money
6 out?

7 A. I don't know exactly who of that group was closest.
8 They were in a group right there on the -- on the curb.

9 Q. Okay. And so you don't know who they were?

10 A. I don't know which one specifically had an inch in
11 front of the other. I mean --

12 Q. Okay. Because that wasn't significant?

13 A. I can't break down that minutia of who stood too
14 inches closer off the curb. I don't know.

15 Q. Because if it was minutia it's not important to you,
16 right?

17 A. Well, it depends. I mean, I can say okay, you were
18 standing here, here, here, here. I'm not taking
19 measurements of who stood where.

20 Q. If Will Zander were attacked later or told you that he
21 was attacked by these gentlemen, would you have then found
22 out who was closest to him?

23 A. Well, I would have found out there was a group.
24 They're all standing there right in the same area, right in
25 the same place.

1 Q. And if you were --

2 A. I would try to find out who attacked him.

3 Q. If you were where Kierin Dennis was looking at these
4 people standing by his car, would you have driven up to see
5 who that was?

6 A. If I was Kierin Dennis, would I have driven to see who
7 it was?

8 Q. You were in your car, you're looking at Mr. Dennis --

9 A. I probably would have called the police if my friend
10 was being attacked is what I would have done.

11 Q. You would have -- you would have stopped to call the
12 police and let him get attacked?

13 A. I would have had -- I would have hit the phone number
14 and call 9-1-1. I tell people to do that all the time.

15 Q. Okay. Well, tell me which one of these people out
16 here called the police as they piled out of Cook-Out?

17 A. Actually one of the people from the Cook-Out called,
18 someone from the drive-thru called.

19 Q. So somebody -- someone who works in the Cook-Out?

20 A. Yes, sir. Someone from the Cook-Out did call the
21 police.

22 Q. Did they pile out?

23 A. Well, one of them actually comes out and looks at that
24 point, yes, sir.

25 Q. Okay. Was she the one that was --

1 A. It wasn't a woman.

2 Q. Was he the one that called the police?

3 A. I believe he asked somebody to call.

4 Q. So he didn't call?

5 A. He hollered in for somebody to call the police.

6 Q. So all the people that came out, that followed these
7 four kids --

8 A. Yes, sir.

9 Q. -- what was their intention?

10 A. Well, they were just looking to see what's up. High
11 school kids out there jawing. You can see them jawing back
12 and forth, so.

13 Q. So nobody said they wanted to see a fight?

14 A. I'm sure that if there was a fight high school kids
15 would want to see it. I don't know --

16 Q. But you're not sure that that's why they came out?

17 A. No, sir. Nobody told me I'm gonna go start a fight.
18 At least it looked like the crowd was jawing back and
19 forth, so they were going out to see what was up just like
20 all high school kids do.

21 Q. So what did Michael James tell you that he said to
22 Kierin Dennis and Will Zander and Morgan when they came in
23 the restaurant?

24 A. All right. He said he said "Is that all y'all
25 brought". I believe that's what he said. He said that

1 when they came in, he was like "What's up?". He stood up
2 and gave the "what's up", just a general what's up.

3 Q. He said he just said what's up?

4 A. He said he stood up and gave a general greeting to who
5 -- to them that came in and he said that Mr. Dennis said
6 "We're just here to eat".

7 Q. So Michael James told you that he just said "what's
8 up" to people he didn't know. He didn't greet anybody
9 else, but the people that came from Lexington High School
10 he just stood up and said what's up?

11 A. Right.

12 Q. Okay. And Kierin Dennis said "We're just here to
13 eat"?

14 A. He did.

15 Q. Okay. And then after that Michael James stood on his
16 chair and he's doing something with his hands. Did you ask
17 him about that?

18 A. No, sir, I didn't because I don't -- I'm not -- I
19 don't believe we had the Cook-Out video at that point when
20 I interviewed him.

21 Q. Okay. So you didn't know it was important to ask him
22 about that?

23 A. Well, I asked him what he did.

24 Q. Right. But after you had the video, did you call him
25 and ask him --

1 A. After I had the video, it looked like he just stood up
2 on the -- on the bench and was just like, you know, just
3 standing up and -- braggadocio. They were all doing it.

4 Q. And then this same -- you said they were all doing it.
5 Who else in the restaurant?

6 A. Well, I say they all. The taunting. It was just all
7 part of the taunting and jawing back and forth, but it
8 ended right there.

9 Q. It ended with Michael James right there?

10 A. It ended inside the building at that point from what
11 was seen on the video.

12 Q. But then the same individual that did this inside and
13 then stood up and did something with his hands on the
14 booth, now goes outside?

15 A. Yeah. That was a separate incident later on.

16 Q. And so this same person continues to antagonize this
17 group of five, correct?

18 A. No, I'm not gonna say he continued to antagonize
19 because when he walked out it looked to me he was going to
20 his car and somebody said something to him.

21 Q. Where's his car?

22 A. His car is actually across the way. He's going out
23 there for his ride. He's going across the parking lot.

24 Q. His car is across the way, so his car is down here?

25 A. Do you see where he's walking? Do you see where he's

1 walking? It looks like he was about to walk across the
2 street there. He said his ride was over on that side is
3 what he said.

4 Q. Well, who was driving him?

5 A. I can't remember exactly who he was riding with.

6 Q. So this person who spoke to them inside twice who then
7 comes outside and is now walking down towards the car wash
8 where you said his car was waiting?

9 A. Well, he's -- he's really not. He's walking actually
10 that way and not to the car wash.

11 Q. Okay. So where was he going?

12 A. He was going this way towards the roadway, which is
13 over toward where the Petsmart is.

14 Q. So you're saying that he was not walking that way?

15 A. No, I see him angling there. It's an odd angle where
16 you're looking at from the front to the back, so.

17 Q. Okay. So then why doesn't he go to his car?

18 A. Well, because they start talking back and forth.

19 Q. But they're leaving.

20 A. They are now.

21 Q. So why is he still following them?

22 A. Because as he walked by words began to be exchanged
23 between their group and him again and it continued back and
24 forth. That's why.

25 Q. And so as they leave, that's okay for him to keep

1 following them?

2 A. No, sir.

3 Q. He and forty other people?

4 A. That's about right.

5 Q. Okay.

6 A. Well, all forty of those people aren't following them.

7 Q. And how -- tell --

8 **MR. RUTHERFORD:** If you could please pause.

9 (Whereupon, the video was paused.)

10 Q. Which ones are following and which are not?

11 A. Well, this group off to the right that's kind of a
12 core group up there. You see a blue jacket. All right.
13 There's a couple of folks there. Mr. James is in the white
14 shirt. This group over here is actually going -- looks to
15 be going across the street or to that curb, not towards the
16 car wash. This group here is hands in pockets. They're
17 standing there.

18 Q. Now if you're Mr. Dennis and Mr. Zander and
19 Ms. Zander, how do you know who's following you and who's
20 not?

21 A. Well, you turn around and look.

22 Q. So you turn around and look?

23 A. Yeah, they do. You can see them turn around and look.

24 Q. So you would suggest that that is then going to
25 indicate how many of these people are following them and

1 how many are not; is that right?

2 A. I think if you look and see people following you that
3 you're not gonna take those people home.

4 Q. And what would you have suggested that they do now?

5 A. I would say move to your car as fast as you can, call
6 the police, get out of there.

7 Q. So they left Cook-Out, correct?

8 A. Uh-huh.

9 Q. They left from outside of Cook-Out?

10 A. They did, yes.

11 Q. Now you're telling them they have to go to their cars?

12 A. I would say they probably need to -- the best thing to
13 do in that situation would be move to your car as fast as
14 you can.

15 Q. What about the best thing for the people that are
16 following them? Why -- why do you not address what they
17 should have done?

18 A. The best thing for them would have been not to go
19 outside of Cook-Out.

20 Q. Because is it possible that that many people following
21 five people put them in fear?

22 A. I'm sure at that moment they probably were worried
23 about what might have happened.

24 Q. And is it possible that that many people standing at
25 his car window put him in fear?

1 A. Well, that many people weren't.

2 Q. No, the number of people that are there. Is it
3 possible that they put him in fear?

4 A. It depends on what was being discussed, what their
5 situation was. I know they were jawing back and forth
6 about what just happened.

7 Q. So what you're suggesting is that all of these people
8 crowding out of a restaurant following five people --

9 A. Well, they weren't all following.

10 Q. Okay. Again, you determine they're not following them
11 because you're looking at it from the back. Did Mr. Dennis
12 see this?

13 A. Well, there's also several people who aren't moving,
14 so I think they're not following.

15 Q. So, again, when you're looking can you tell me exactly
16 how many people are following and who's not if you're on
17 the other side?

18 A. If you're on the other side, I would -- I would
19 suppose that you could look and see there's a number that
20 are following you, they're moving in your direction.

21 Q. So should Kierin Dennis have written down what number
22 it was or should he have said I need to get out of here?

23 A. No, he made an assessment when he went to his car,
24 sure. He made an assessment and went to his car.

25 Q. Right. So he made the same assessment in the

1 restaurant, correct? He left the restaurant.

2 A. He walked out to talk on the phone.

3 Q. Okay. Did he leave the restaurant? Did they sit down
4 and eat?

5 A. Eventually, yes, sir.

6 Q. Did they sit down and eat?

7 A. No, sir, they didn't sit down and eat.

8 Q. Okay. And so he's outside, Michael James comes
9 outside, he leaves from outside. Michael James comes out,
10 they say something, he leaves from outside.

11 A. Uh-huh.

12 Q. How far does he have to retreat? How far?

13 A. Well, we tell people when there's a situation going on
14 you need to separate from the situation that's happening.

15 Q. How far do you have to separate? He left the
16 restaurant. He left outside. He was leaving the parking
17 lot. How far does he have to retreat before you decide
18 this crowd should not have done what they did?

19 **THE COURT:** Mr. Rutherford?

20 **MR. RUTHERFORD:** Yes, sir.

21 **THE COURT:** I don't care what this officer thinks.
22 That's not relevant.

23 **MR. RUTHERFORD:** Yes, sir. I'm getting -- yes,
24 sir. Thank you.

25 **THE WITNESS:** And typically what I think isn't

1 important.

2 BY MR. RUTHERFORD:

3 Q. So when Mr. Dennis is in his car and there are how
4 many people around his car?

5 A. There's roughly five to six.

6 Q. Five to six people around his car?

7 A. Yes, sir. Uh-huh.

8 Q. Okay. Did anyone tell you they reached in the car?

9 A. No, sir.

10 Q. What did the young lady standing at the window say
11 that Kierin Dennis did when he was in his car?

12 A. She says that he is actually sitting in the car
13 looking at everybody and they're jaw -- they're all
14 mutually jawing back and forth trading insults and at one
15 point he said "You really want to do this? Do you really
16 want what I got?".

17 Q. Did she describe how his body was leaning?

18 A. If I can recall, she said he was looking like this,
19 kind of slouched to this side looking at him.

20 Q. She said he was leaning away from them?

21 A. She did. And she did say his hand was back down here
22 on the side of his leg.

23 Q. So he's leaning away from them and according to her
24 saying "You don't want to do this. Do you really want to
25 do this?" Is that right?

1 A. From -- from what I understand from her he said "You
2 don't want this", but when I asked her to further explain
3 that her idea was it seemed like he was like "You don't
4 want what I got", that kind of terminology.

5 **MR. GRAHAM:** Judge, if I can object. We're
6 getting into a lot of hearsay. We've got other
7 witnesses. We've got Ms. Brunson ready to call up.
8 I'd rather have her testify to what she said and what
9 she saw than have this officer.

10 **THE COURT:** Well, he can cross-examine her. He
11 can cross-examine this officer.

12 **MR. GRAHAM:** Well, it's hearsay about witnesses
13 and what they said. I mean, he's not -- the officer
14 doesn't have his notes in front of him.

15 **THE COURT:** If you're objecting to hearsay, I'll
16 sustain your objection to any hearsay.

17 **MR. RUTHERFORD:** Is that the objection?

18 **THE COURT:** I think it is. Is that a hearsay
19 objection?

20 **MR. GRAHAM:** Yes.

21 **THE COURT:** I'll sustain as to any hearsay.

22 BY MR. RUTHERFORD:

23 Q. So did you get the indication that Kierin Dennis was
24 leaning away from the window with his hand down by his
25 side?

1 A. Yes, sir.

2 Q. Did that make her back away from the car?

3 A. No, sir. She said -- she said at first it made her
4 kind of like I don't know what he's got and what's going
5 on, so she's like I'm just saying you just need to go, you
6 just need to leave, just -- just go.

7 Q. So did him doing that make anyone back away from the
8 car from your investigation?

9 A. No, sir. They just all stood there and continued to
10 talk pretty much.

11 Q. So even after he looked like he had something down
12 below him --

13 A. Right.

14 Q. -- and was telling them you don't want this, you don't
15 want this, they still didn't leave?

16 A. Yes, sir. Just like them standing there jawing back
17 and forth, he still didn't leave. So it was kind of the
18 same thing. Everybody was kind of standing up to each
19 other and they were kind of, you know --

20 Q. So could you --

21 A. Yes, sir.

22 Q. -- tell whether he could leave without hitting
23 someone?

24 A. Well, whenever the stabbing did occur, he took off
25 right when he wanted to --

1 Q. Okay. And so --

2 A. -- so I presume that he could.

3 Q. -- on the iPad video you heard the gentleman in the
4 car say that he almost ran over his own guy. Didn't you
5 hear him say that?

6 A. Yes, sir.

7 Q. So he took off, but he almost hit somebody; is that
8 right?

9 A. I don't know how close that was or not.

10 Q. But the gentleman in the car did. He said he almost
11 hit --

12 A. That gentleman in the car's view would have been to
13 the opposite of where Mr. Zander was. The car would have
14 been between Mr. Zander so he would know really how close
15 it was.

16 **THE COURT:** The gentleman did say that. I got it.

17 Q. Right.

18 A. Sure. He said that.

19 Q. Okay. And so even though Kierin Dennis could leave
20 at that point, in doing so he created such a danger that
21 somebody commented on it; is that right?

22 A. I don't -- I can't ascertain as to what the danger
23 was. I wasn't there.

24 Q. Okay. The investigator asked several times about the
25 other exits at Cook-Out.

1 A. Yes, sir.

2 Q. Is there any way that you can tell me that -- I'm
3 sorry. If you play this, there are two other cars --

4 A. I'm sure there is.

5 Q. -- that come out behind Kierin Dennis and Will Zander;
6 is that right?

7 A. Yes, sir.

8 Q. There's a truck that passes by and then a car that
9 comes up behind him, correct?

10 A. There's three cars. I think there's one that comes
11 up, then a truck and then a third.

12 Q. So three cars?

13 A. Yes, sir. I believe so.

14 Q. Why didn't they go the other way?

15 A. You know, they didn't. They weren't part of that
16 melee. They weren't part of that -- that -- whatever that
17 group was.

18 Q. They weren't part of the group that had attacked Will
19 Zander's car and Kierin Dennis's car?

20 A. They were in their cars already loaded up and ready to
21 go.

22 **MR. GRAHAM:** Your Honor, objection to the
23 characterization of attacked.

24 **THE COURT:** Sustained.

25 BY MR. RUTHERFORD:

1 Q. So one of those cars, in fact, backs up?

2 A. Yes, sir.

3 Q. And that would be the one that was behind Kierin
4 Dennis, right?

5 A. Yes, sir, it appears so.

6 Q. So he backs up and goes the other way; isn't that
7 right?

8 A. Yes, sir.

9 Q. Why didn't he just go around like the truck? Was the
10 road blocked at that point?

11 A. I have no idea why they made that decision.

12 Q. When you interviewed Kierin Dennis at your
13 headquarters, the first interview or the second interview,
14 did you have a door?

15 A. I didn't, sir, no.

16 Q. Okay. So you didn't have any way to say to him show
17 me using this door where you were?

18 A. No, sir.

19 Q. Okay. And so in terms of where the window was or
20 where anybody's hands were, you couldn't do this example
21 because you didn't have an example?

22 A. I couldn't do that. I just asked him and had him
23 explain.

24 **MR. RUTHERFORD:** Okay. No further questions,
25 Your Honor.

1 **MR. GRAHAM:** Nothing else, Your Honor.

2 **THE COURT:** Thank you, sir. You may step down.

3 **THE WITNESS:** Thank you.

4 (Witness excused.)

5 **MR. HUBBARD:** The State calls Kenneth Williams.

6 **THE COURT:** While Mr. Williams is coming up, y'all
7 step up here real quick if you would.

8 (Proceedings held at the bench; not reported.)

9 (Whereupon, Kenneth Williams was duly sworn by the
10 Clerk of Court.)

11 **THE CLERK:** Once you're seated, state your full
12 name, spelling your last on the record, please.

13 **THE WITNESS:** Kenneth Williams, W-I-L-L-I-A-M-S.

14 KENNETH WILLIAMS,

15 having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. HUBBARD:

18 Q. Kenneth, where did you go to high school?

19 A. Dutch Fork High School.

20 **THE COURT:** One second. Go ahead, sir.

21 Q. You went to Dutch Fork?

22 A. Yes, sir.

23 Q. And I see you're wearing a uniform. Where are you
24 going now?

25 A. I attend Georgia Military Junior College.

1 Q. All right.

2 A. Yes, sir.

3 Q. Now I want to ask you back in February of this year,
4 did you go to the Lexington High School-Dutch Fork game?

5 A. Yes, sir.

6 Q. During the game did you have any issues with anybody?

7 A. No. No, sir. We had an awesome time because, you
8 know, the basketball program really wasn't that good just
9 until this year, so we actually won the game so we were
10 pretty pumped that we won.

11 Q. All right.

12 A. So I'd say everything was fine until we got in the
13 parking lot.

14 Q. Well, let's talk about the parking lot. Did you have
15 any issue or -- who were you with?

16 A. I was with -- you know, I would say I was with a
17 couple of friends who were included, you know, some are
18 here today, and we just were walking -- walking back,
19 celebrating, you know. I was Nae Naeing. I was having a
20 good time.

21 Q. So you were joining in the Nae Nae?

22 A. Yes, sir.

23 Q. Now did you have any problems with any Lexington High
24 School students?

25 A. We ran across Mr. Kierin -- well, Mr. Dennis.

1 Q. Did you know him at the time?

2 A. No.

3 Q. His name?

4 A. No, sir.

5 Q. Who was with him?

6 A. A heavysset guy and three other people.

7 Q. What, if anything, did you hear from the Defendant in
8 the parking lot as you're leaving?

9 A. Basically like he was saying, we're jawing back and
10 forth, and then they just told us -- because we didn't --
11 we were just planning to get something to eat afterwards,
12 then --

13 Q. What did he say?

14 A. He was like "We got something for y'all, don't worry
15 about it, meet us at Cook-Out, don't worry" was what he
16 kept saying.

17 Q. Meet us at Cook-Out?

18 A. Yes, sir.

19 Q. Did you go to Cook-Out?

20 A. Yes, sir.

21 Q. Now did you go there just to eat?

22 A. Oh, I ate. I ate plenty.

23 Q. Well, let me ask you this. This is just being direct
24 and honest. Did you think something else might happen?

25 A. Yeah.

1 Q. What were you thinking might happen?

2 A. I don't know what we were expecting. I don't know
3 what we were expecting, but we just went there and whatever
4 -- honestly, our attitude was whatever happens happens, but
5 when we first got there, there was nothing but love. I
6 mean, I seen -- I saw Grayson Chumley, he used to play
7 football for Lexington, I started talking to him, and I
8 think that kind of set the mood that everybody in there
9 was, like, you know what I'm saying, we're just gonna have
10 a good time and enjoy the win, so we started conversing
11 with other Lexington students and --

12 Q. So the atmosphere was good?

13 A. The atmosphere was -- the atmosphere was -- it was
14 calm. It was real calm.

15 Q. When you got there and this calm atmosphere was taking
16 place, was the Defendant and his friends at Cook-Out at
17 that point?

18 A. No, sir. No, sir.

19 Q. Do you remember them walking in?

20 A. Yes, sir.

21 Q. Can you describe the atmosphere at that time?

22 A. Everything kind of tensed up, all the tension with
23 them towards the door because that's where they entered at,
24 and --

25 Q. And why was that?

1 A. Because everybody knew those were the people, you
2 know, that -- who were in the parking lot -- I don't want
3 to say going off, but people who were taunting and -- well,
4 from the Lexington side that were taunting and they pretty
5 much made a name for themselves, so everybody knew who they
6 were when -- by the time they came to Cook-Out.

7 Q. All right. Did you see Michael James stand up and do
8 the -- the raised arms at the doorway?

9 A. Actually I did not because I was sitting -- he sat at
10 the front table with Cape, but I was sitting in the far
11 corner all the way in the back, but I did not, no. I just
12 remember him walking outside.

13 Q. Well, let me ask you when they come in, was there a
14 point when that tension finally broke and everything was
15 okay again?

16 A. Once they turned -- once they turned around and
17 started ordering their food, everybody was like okay and
18 then that's when everybody -- because everybody was
19 planning to leave because we were already there I'd say
20 twenty -- fifteen, twenty minutes, so everybody was
21 wrapping up their food, everybody had their food, sitting
22 down, everybody was joking around and we were getting ready
23 to leave because I remember my ride was, like, you know
24 what I'm saying, let's get ready, you know, let's start
25 so we can -- because that's a long ride over there to

1 Lexington and so we was trying to make it over there and
2 then we had school the next day because I think it -- was
3 it Thursday night, I think?

4 Q. I can't remember.

5 A. Well, it was -- it was during the week that's for
6 sure.

7 Q. Well, let me ask you did you see Michael James, the
8 guy in the white shirt, green tie, walk outside?

9 A. Yes, sir.

10 Q. You know, you're interacting with all your friends.
11 Did you know if he was leaving? And if you don't know,
12 that's fine. Or was he --

13 A. I do because I remember Michael was like KJ, I'm about
14 to go to my wallet for my car -- or go to my car for my
15 wallet and I was like you're gonna walk out there by
16 yourself and he's like yeah, because I remember seeing them
17 out there.

18 Q. You remember seeing "them", you mean the Defendant and
19 his friends?

20 A. Yes, sir, the Defendant and his group. And Michael
21 started to walk and then I was watching him the whole time
22 because I just -- I just didn't feel right. So I was
23 watching him, he was walking to the car and he just stopped
24 and threw up his hands again, so that's when everybody in
25 Cook-Out was, you know -- because I thought they were

1 trying to walk up on Michael and I had no -- I had no idea
2 what there intentions were, so I went outside basically for
3 a better view.

4 Q. Did Da'Von Capers go outside, too?

5 A. Eventually, yes, sir. After he finished his food,
6 yes, sir.

7 Q. Now when y'all went outside, were y'all trying to
8 fight?

9 A. No. No, sir. We were trying to see what their
10 intentions were.

11 Q. At any time did you hear Da'Von Capers yelling at --
12 at this group?

13 A. No, sir, not at all.

14 Q. Now did you watch the Defendant and his group as they
15 walked to their cars?

16 A. Oh, yeah, yes, sir. They were talking the whole
17 entire time.

18 Q. And they were what?

19 A. They were like taunting, I'd say, and name-calling,
20 you know what I'm saying, the whole time pretty much.

21 Q. And you saw them go to their cars?

22 A. Yes, sir.

23 Q. Did anybody follow them to their cars?

24 A. No. No, sir. We -- I mean, it was -- I was towards
25 the back --

1 Q. Right.

2 A. -- and I'd say we talked -- I mean, they -- people
3 were still Nae Naeing and dancing and caring on, but it
4 wasn't to a certain extent that we were right up on them.

5 Q. Well, let me ask you when they get to their cars --

6 A. Yes, sir.

7 Q. -- did you think it was over, that they were gonna
8 leave or --

9 A. I thought that -- that was the whole mood basically
10 for the night. We were trying to figure out why they
11 hadn't left, why they were still there, why they were still
12 in the parking lot because they were supposed to leave two
13 or three times. Well, we see them -- we see them -- we saw
14 them in their vehicle at least two or three times, so we
15 thought that was it, you know, everybody was -- really
16 after they ordered we thought that was it, but once we saw
17 them walking to their car and getting in their car, we
18 thought it was over with and everybody was claiming to head
19 home.

20 Q. At some point did you see the white car with the big
21 guy come by?

22 A. Yes, sir.

23 Q. Do you remember where you were standing?

24 A. Yes, sir, I was -- I'd say I was --

25 Q. You can step down and show the judge, with Your

1 Honor's permission, on Exhibit Number 1.

2 A. Okay.

3 (Whereupon, the witness steps down from the witness
4 stand.)

5 Q. And just keep your voice up.

6 A. I was right here by the curb.

7 Q. Right next to Car Number 1?

8 A. Yes, sir.

9 Q. All right. Now go ahead and have a seat again.

10 A. Yes, sir.

11 (Whereupon, the witness returns to the witness stand.)

12 Q. This white car with the big guy, did it just drive
13 past you or what did it do?

14 A. No, sir. It came to a stop and parked -- I won't say
15 parked, but stopped, his car.

16 Q. What, if anything, happened when he parked it?

17 A. He like -- I don't know. I guess he had -- he was
18 rolling down the window and the window went like this
19 because I was looking dead at him, looking dead at him. I
20 was in his -- I was in his pathway and the window just went
21 like this and he put it down some more and put it down some
22 more and then that's when he just threw money out and then
23 that's how I first got my first crack on my phone because
24 I froze up because I thought oh, man, it's over with. I
25 thought he was about to draw a weapon or something on me

1 because that's the way -- I mean, that's the way he rolled
2 down the window as if he had some intentions of pulling a
3 weapon, and so I dropped my phone. And after I dropped my
4 phone, he threw money and some people tried to retrieve the
5 money.

6 Q. Did he stay put right there where that Number 1 car is
7 or did he move up a little bit more?

8 A. No, he -- he moved on further, sir.

9 Q. When he threw money, did anyone run around and jump on
10 his car or grab his car?

11 A. No, no nobody ran or jumped. Nobody ran -- nobody
12 touched his car.

13 Q. Where were people going?

14 A. Where he threw the money at.

15 Q. And, again, is that about where you were standing
16 around Number 1?

17 A. Yes, sir, over there. I'd say right there by the
18 curb.

19 Q. When people were out there picking up money or -- or
20 out in the road --

21 A. Yes, sir.

22 Q. -- what did you see at that point?

23 A. I saw my classmate Tyreke Farrow and I saw student
24 body president Devon Chatman trying to retrieve the money
25 and that's when I saw them almost get hit.

1 Q. By who?

2 A. The second car, Car Number 2.

3 Q. Is that the one driven by the Defendant?

4 A. Yes, sir.

5 Q. Now when he comes up, is he just crawling up or -- or
6 how's he driving that car?

7 A. He came up -- he came up pretty fast.

8 Q. Pretty fast?

9 A. Yes, sir.

10 Q. These students, do they move out of the way or did he
11 just stop before he hit them?

12 A. I mean -- yeah, Telo moved out of the way, yes, sir,
13 and so did Devon. They both have good sense, so they moved
14 out of the way and that's when a lot of people from our
15 school weren't like really happy at that point at all
16 because they was -- we just felt like we were -- they say
17 they were the ones getting picked on, but our whole mood
18 was like y'all are still here, y'all are still here, and
19 they were already in their vehicles.

20 Q. Did you see people go up to the Defendant's window?

21 A. Yeah. No, I wouldn't say up to it, but they were --
22 yes, sir, they were lined up by his window.

23 Q. You weren't one of those people though, were you?

24 A. No, sir. No, sir.

25 Q. But from your vantage point, did you see at some point

1 any hand come out of that window?

2 A. Oh, yeah. Yes, sir.

3 Q. When that hand came out of the window, who, if
4 anybody, was struck?

5 A. Da'Von.

6 Q. Who?

7 A. Da'Von.

8 Q. Da'Von Capers?

9 A. Yes, sir.

10 Q. When that happened, did you realize he had been
11 stabbed?

12 A. No. No, sir. I thought it was just a push.

13 Q. And is that when the car starts taking off?

14 A. Yes, sir.

15 Q. What do you see Da'Von Capers do as the cars begin to
16 move?

17 A. He just went like this and he was just like "Marcus,
18 Marcus, they got me", and then that's when -- I don't know,
19 he just looked -- he was looking at -- like he was looking
20 at the place and then he just ran full speed to Marcus's
21 truck.

22 Q. And after all that, that's when you found out he had
23 actually been stabbed or when you heard him say that?

24 A. We went -- yes, sir. We followed Marcus to wherever
25 he went to right up -- what's that --

1 Q. Urgent Care?

2 A. Urgent Care.

3 Q. Just a couple blocks down the road?

4 A. Yes, sir.

5 Q. All right.

6 **MR. HUBBARD:** Thank you, KJ. Just answer any
7 questions the defense has.

8 CROSS-EXAMINATION

9 BY MR. RUTHERFORD:

10 Q. KJ, do you remember filling out a questionnaire for
11 the investigator?

12 A. Yes. Yes, sir.

13 Q. Is this your handwriting?

14 A. No, sir.

15 Q. So that's not you?

16 A. No, sir.

17 Q. All right. Your full name is what now?

18 A. Kenneth Williams. Kenneth Earl Williams, Junior.

19 Q. Did the investigator fill this out for you?

20 A. I'm assuming he did, sir.

21 Q. So he filled it out for you. You just gave him the
22 answers?

23 A. Yes, sir.

24 Q. Okay. And so do you remember him asking you were you
25 standing in the parking lot?

1 A. Yes, sir.

2 Q. And it says, "Did you participate in or overhear any
3 argument in the parking lot prior to the incident?". Do
4 you remember what you said?

5 A. Sir?

6 Q. Do you remember what you said?

7 A. No, sir.

8 Q. You don't remember what you said?

9 A. Are you asking me what my answer was on that piece of
10 paper?

11 Q. Yeah. Do you -- did you, and I'll ask you the same
12 question he asked you. Did you participate in or overhear
13 any argument in the parking lot prior to the incident?

14 A. Yes, sir.

15 Q. And you said?

16 A. I just said it, yes, sir. I don't -- I'm not -- are
17 you asking me the same question now?

18 Q. I'm asking you the same question that he asked you
19 here.

20 **MR. HUBBARD:** I ask that he refresh his memory by
21 showing him what he's looking at. I think he's got a
22 right to see it.

23 **MR. RUTHERFORD:** He said he didn't write it, so
24 that's why I'm going over it the same way it was done
25 for him.

1 **MR. HUBBARD:** Well, then I object to him crossing
2 him on it.

3 **THE COURT:** Well, it's supposed to be his response.
4 I'm assuming he read it after it was done.

5 **THE WITNESS:** Yeah. I mean, yes, sir, there was
6 not nothing I was not aware of. I'm just -- you asked
7 me the question was I involved in any -- any taunting
8 or --

9 BY MR. RUTHERFORD:

10 Q. No, I'm asking you the same question he did, and it
11 said did you participate in or overhear any argument in the
12 parking lot prior to the incident?

13 A. Yes, sir. And I said yes, sir.

14 Q. Okay.

15 A. I stated yes, sir.

16 Q. Do you remember what you told the investigator?

17 A. No, sir. That's why I was waiting on you to answer --
18 or tell me what I put.

19 Q. Tell you what you put or tell you what you said?

20 A. What I said.

21 **MR. HUBBARD:** Your Honor, I -- I'm not even sure
22 which parking lot he's talking about and I'm --

23 **MR. RUTHERFORD:** I'm -- I'm sorry, Your Honor.
24 I'm reading the questions off of the questionnaire. I
25 can show it to Your Honor. These are the questions

1 that are on the questionnaire.

2 **MR. HUBBARD:** I'd like the witness to see it.

3 **MR. RUTHERFORD:** The -- the point I'm trying to
4 make, Your Honor, is that all of Mr. Dennis's witnesses
5 came up, had no notes, nothing in front of them, and
6 answered the questions. This witness testified that
7 Mr. Dennis said to him "Meet me at Cook-Out, I got
8 something for you.". I just asked him the same question
9 that was asked of him: Did you participate in or
10 overhear any argument in the parking lot prior to the
11 incident.

12 **THE WITNESS:** And I said yes, sir.

13 **MR. RUTHERFORD:** His response on here is "Why you
14 still here?". That's what it says that he told the
15 investigator.

16 **THE COURT:** Yeah, but --

17 **MR. RUTHERFORD:** He never says what he just told
18 Your Honor and this courtroom.

19 **THE COURT:** I understand that.

20 **MR. HUBBARD:** It's a different parking lot.

21 **MR. RUTHERFORD:** I didn't say which one. I just
22 read the question.

23 **THE WITNESS:** I'm confused what he's asking.

24 **MR. RUTHERFORD:** I just read the answer.

25 **MR. HUBBARD:** Then I'm confused to how the

1 question's -- because asked -- because he's kind of
2 picking -- there's a whole list of questions and if
3 it's going -- if it's talking about the high school --

4 **THE COURT:** Do you know what parking lot,
5 Mr. Rutherford --

6 **MR. RUTHERFORD:** It says -- and I -- I can show
7 Your Honor the question.

8 **THE COURT:** -- that he's referring to?

9 **MR. HUBBARD:** What number is it?

10 **MR. RUTHERFORD:** It says prior to the incident.

11 **MR. HUBBARD:** What number though?

12 **THE COURT:** Let's see. Prior to the incident? I
13 don't even see it.

14 **MR. HUBBARD:** Yeah, what number is it?

15 **MR. RUTHERFORD:** Did you participate in --

16 **THE COURT:** Oh, yeah. 20.

17 **MR. RUTHERFORD:** I can move on.

18 BY MR. RUTHERFORD:

19 Q. Can you -- these are your answers; is that right?

20 A. Yes, it is.

21 Q. You are Kenneth Earl Williams; is that right?

22 A. Yes, sir.

23 Q. You were interviewed on March 14th --

24 **MR. HUBBARD:** I still have an objection. I would
25 like him to clarify for the witness, because he's been

1 in two parking lots that night, which parking lot we're
2 talking about just so it's clear to him so he knows --
3 because he's just heard argument at one place and --

4 **THE COURT:** Well, I think he's starting to get
5 there and clarify, so let him go forward and let's see.

6 **MR. HUBBARD:** Yes, sir.

7 BY MR. RUTHERFORD:

8 Q. March 14th at 4:30 with Investigator Carter; is that
9 correct?

10 A. Yes, sir.

11 Q. Do you remember him asking you these questions?

12 A. Yes, sir.

13 Q. But you didn't fill that out?

14 A. No, sir.

15 Q. He filled that out, right?

16 A. I just answered the questions, yes, sir.

17 Q. You answered the questions?

18 A. Yes, sir.

19 Q. And did you look at this afterwards?

20 A. Yes, sir, I did because he put it in my hands.

21 Q. I'm sorry?

22 A. Yes, sir.

23 Q. So you looked at it afterwards and you told him that
24 this was your complete rendition of what happened that
25 night?

1 A. Yes, sir.

2 Q. Can you show me on there where you said that Kierin
3 Dennis said "Meet us at Cook-Out, I got something for you"?

4 **MR. HUBBARD:** Objection. Now we're talking
5 about the wrong parking lot. That's my whole problem.

6 **MR. RUTHERFORD:** I said on the whole paper.

7 **THE COURT:** Okay. Here's the thing. He -- he's
8 not asking him about that question. He's -- what the
9 question is, here's the -- here's the paper, it's some
10 three or four pages long, throughout all those questions
11 can you show me anywhere where you said "Meet me at
12 Cook-Out"?

13 **MR. HUBBARD:** I'm sorry. I was looking at Number 20.
14 That's all I heard.

15 **THE COURT:** Right. But, see, we -- right. And
16 pursuant to your objection, Mr. Rutherford went to the
17 beginning and gave him the whole document.

18 **MR. HUBBARD:** I missed that part, Judge. I was
19 looking at 20. That's all I had in mind. I apologize.

20 **THE COURT:** But that's -- no, that's fine. But --
21 anyway. Go ahead.

22 And, sir, do you understand Mr. Rutherford's
23 question?

24 **THE WITNESS:** Yes. Yes, sir.

25 **THE COURT:** Go ahead and take your time to review

1 that and answer the question.

2 **THE WITNESS:** If he'll wait.

3 BY MR. RUTHERFORD:

4 Q. Did you see it?

5 A. No. No, sir.

6 Q. So you didn't tell him that?

7 A. I'm not -- I think because on -- on here where he did
8 write down something is what I said to -- what I said to
9 him, why are they still here, which I was talking about
10 earlier when I was asking why they haven't pulled off yet
11 because they were already in their vehicles.

12 Q. And you looked at that afterwards and you never
13 corrected the investigator to say hold on, Kierin Dennis
14 said to me before this ever happened, come to Cook-Out, I
15 got something for you; is that right?

16 A. I mean --

17 Q. You didn't put that on there?

18 A. I'm still confused. I just -- they wrote what I put.
19 They wrote what I said to him, not what --

20 Q. And so -- so you never told the investigator then that
21 Kierin Dennis said --

22 A. Oh, yeah, I told them because they know about it
23 already. It's not on here. They wrote down my answer.

24 Q. But you looked at it afterwards and said it's correct,
25 right?

1 A. Yeah, from my answer.

2 Q. All right.

3 A. Yes, sir, from my answer.

4 Q. So let me ask you this.

5 A. Yes, sir.

6 Q. On Question 20, did you read that one? Do you want to
7 read it again?

8 A. You can put it there. Put it right here. Yes, sir.

9 Q. Okay. That's referring to the parking lot at
10 Cook-Out, correct?

11 A. Yeah. Yes, sir.

12 Q. Prior to the incident, correct?

13 A. Yes, sir.

14 Q. And you said you stated to them --

15 A. Yeah.

16 Q. -- why you still here?

17 A. Yeah, right here. Number 20, yeah.

18 Q. Did they not have a right to be there?

19 A. Oh, they had to right to be there, but I was just
20 wondering why they haven't pulled off yet because they were
21 -- you know what I'm saying, they were taunting.

22 Q. They were -- five was taunting the thirty that came
23 out the door?

24 A. No, all thirty of us weren't talking. That's --
25 that's incorrect.

1 Q. But you were?

2 A. Oh, yeah. Yes, sir, because she was cursing us out.

3 Q. So you were close enough to them --

4 A. Oh, no, sir. They were screaming and yelling.

5 Q. So she was screaming, but you were talking?

6 A. She and I would say them, too, because it was a lot
7 of -- it was pretty much all of them were involved in the
8 taunting.

9 Q. So they were screaming as they walked out of the
10 Cook-Out to get on the phone, screaming as they walked to
11 their cars; is that right?

12 A. I wouldn't -- out of the Cook-Out, okay. Basically I
13 said it was all cool -- I'm gonna go ahead and retrace my
14 steps. It was all cool until Mike went outside and that's
15 when everybody came outside because when Mike was walking
16 to his car it looked like they were following Mike.

17 Q. So Mike -- I'm sorry. Let me stop you. Mike was
18 walking to his car?

19 A. Yeah.

20 Q. So he wasn't catching a ride. He was -- he didn't
21 catch a ride?

22 A. Mike didn't catch a ride. I caught a ride with Mike.

23 Q. You rode with him; isn't that right?

24 A. Yes, sir.

25 Q. How long had y'all been in Cook-Out before the

1 Defendant came in?

2 A. About twenty -- fifteen, twenty minutes.

3 Q. Y'all had been there twenty minutes before Mike walked
4 outside?

5 A. Yeah. Yes.

6 Q. Then why was he going to get his wallet?

7 A. Well, I don't -- I mean -- I was -- I don't know.

8 Ask Michael James. Michael James pretty much can explain
9 that.

10 Q. But he told you he was going outside to get his
11 wallet; did he not?

12 A. Yes, he -- you can --

13 Q. Did you ask him not --

14 A. He did not say -- he looked back at me, are you okay
15 if I run to the -- run to the car for the wallet?

16 Q. Even though he had been in Cook-Out for twenty
17 minutes?

18 A. You're asking me about him?

19 Q. Yeah. Had he -- y'all came together, correct?

20 A. Yeah. Yes, sir.

21 Q. He had been there for twenty minutes, correct?

22 A. I'm not sitting with him. So, I mean --

23 Q. You didn't sit with him?

24 A. No. No, sir.

25 Q. Did he eat?

1 A. Did he eat?

2 Q. Uh-huh.

3 A. I'm not sure. I know I did. I know I ate. That's
4 all.

5 Q. So when he told you he was going to get his wallet, it
6 didn't make any difference to you?

7 A. I was literally, I'd say, two tables or three tables
8 away from him.

9 Q. So when you said --

10 A. And I said -- I said I just looked out the window to
11 make sure nothing was happening and then that's when he
12 walked out, he was walking to his car and it looked like
13 they were following him, but found out, I guess, their car
14 was right here, everybody cleared Cook-Out and that's when
15 the taunting began.

16 Q. So when you asked Mr. Dennis or Mr. Zander, whoever it
17 was, that you were asking "Why y'all still here?" --

18 A. Yeah.

19 Q. -- where were you standing when you said that?

20 A. Let's -- let's see. This was probably in the middle
21 of the parking lot.

22 Q. In the middle of the parking lot?

23 A. This was probably -- you know, this is -- this is when
24 everybody was walking out.

25 Q. So you walked all the way to the middle of the parking

1 lot to say "Why you still here"?

2 A. No, I didn't. It was -- the group was like -- I would
3 say they were sitting there in one part of the parking lot
4 and we were in another part of the parking lot.

5 Q. Did you feel like when you said "Why you still here"
6 like you were threatening them?

7 A. No. No, sir. I was trying to figure out why they
8 haven't left yet.

9 Q. Did they have to?

10 A. They didn't have to, but all the -- all the trouble,
11 all the taunting, all the -- all the curse words did not
12 have to go down if they would have left. We're not saying
13 we're making them. No one -- we didn't say y'all better
14 leave, y'all better do this. No one said that to them.

15 Q. You just asked them why they're still here?

16 A. Yes, sir, because there was unknown -- unneeded drama.
17 Unneeded drama.

18 Q. So did anyone say to Morgan Zander that she was a
19 three out of ten?

20 A. Oh, yes, sir.

21 Q. What does that mean?

22 A. Rating her appearance.

23 Q. So somebody was talking to trash to Morgan; is that
24 right?

25 A. Yes, sir.

1 Q. Okay. And you said on here that Kierin Dennis said
2 nothing?

3 A. No. No.

4 Q. He said nothing?

5 A. No. No, sir. She was the -- the one barking the
6 whole time.

7 Q. But he said nothing?

8 A. You're asking me again?

9 Q. Yes.

10 A. No, he didn't say anything. That's what's on that
11 paper.

12 Q. You said it seemed -- he seemed out of sync?

13 A. Yeah, he was just -- I don't know if he was like
14 thinking or plotting. I don't -- I don't know.

15 Q. But he never said anything?

16 A. No. No, sir.

17 Q. So he wasn't talking trash to you?

18 A. He didn't -- it was -- it was more the -- I would say
19 the big guy and the girl.

20 Q. So Kierin Dennis, again, was not talking trash to you?

21 A. At Cook-Out, yes, sir.

22 Q. Okay. You said he said nothing.

23 A. At Cook-Out, yes, sir.

24 Q. Show me on here where you indicated that he said
25 something to you prior to that?

1 A. When he told us to meet them --

2 Q. On the paper.

3 A. On the paper? You want me to find that? But I'm just
4 telling you right now. I mean, I don't -- well, let's not.
5 I don't think it's on the paper, sir, if you want to say
6 that, yes, sir.

7 Q. So at some point Kierin Dennis drives up; is that
8 right?

9 A. Yes, sir.

10 Q. What did Da'Von Capers do?

11 A. Cape -- let me try -- I don't recall. Let's put it --
12 let's put it like that.

13 Q. You don't recall?

14 A. Yes, sir, because I don't want to -- he said if I
15 don't remember everything right away, just say -- just say
16 that I don't recall.

17 Q. Somebody told you if you don't remember everything
18 just say I don't recall?

19 A. No, I can't. I don't want to lie. I'm not -- I'm not
20 sure the incident -- I don't know what he did. I wasn't
21 really watching Cape that whole time. That's what I'm
22 basically saying, sir. Yes, sir.

23 Q. Okay.

24 A. Yes, sir.

25 Q. And so at some point did you see Da'Von Capers again

1 after Kierin Dennis had driven up?

2 A. Did I see him like -- can you repeat that question one
3 more time?

4 Q. After Kierin Dennis drove up --

5 A. Yes, sir.

6 Q. -- at what point did you see Da'Von Capers again?

7 A. When he was holding his heart.

8 Q. So you didn't walk up to Kierin Dennis's car?

9 A. No. No, sir, I did not.

10 Q. I thought you said that you saw Da'Von Capers punch
11 inside the car?

12 A. After he got stabbed.

13 Q. So the next time you saw him was not when he said --
14 or when he touched his shirt, but when he reached into the
15 car?

16 A. Yeah. Yes, sir, if that's what you want to -- yes,
17 sir.

18 Q. So you saw Da'Von Capers reaching his hand in the car?

19 A. After he got stabbed, yes, sir.

20 Q. But you saw Da'Von Capers reach in with his hand?

21 A. Yes, sir.

22 Q. Okay. Which hand?

23 A. I'm not sure. I don't recall, sir.

24 Q. Okay. And you were standing where? If this is the
25 car, where are you standing? Where I am?

1 A. Yeah.

2 Q. So you're looking at Da'Von Capers like this?

3 A. Yes, sir.

4 Q. And you see Da'Von Capers punch his hand in the car?

5 A. Yes, sir, after he got stabbed.

6 Q. Did you hear him talking to Mr. Dennis prior to that?

7 A. No, sir, I wasn't -- I don't recall because I -- I
8 wasn't --

9 Q. You don't recall or you didn't hear him?

10 A. I -- I would say I wouldn't hear him because I was
11 further away. I was over there by that curb. I wasn't in
12 the street.

13 Q. I'm sorry. I said were you standing this close. Let
14 me ask you again. Where were you -- if that's the car --

15 A. Yeah.

16 Q. -- where were you?

17 A. If the car's right there -- can I show you on there?

18 Q. Yeah.

19 A. That's what we used when they were talking to me.

20 **THE COURT:** Go ahead and step down.

21 **MR. RUTHERFORD:** You can step down, sir.

22 (Whereupon, the witness steps down from the witness
23 stand.)

24 A. I was right here, sir.

25 Q. So you were right there?

1 A. Yes, sir.

2 Q. Okay. And where was Kierin Dennis's car?

3 A. By that time he was somewhere up in here, yes, sir.

4 Q. Tell me exactly. Because you're -- you're standing
5 there.

6 A. Right there.

7 Q. He's right where the Number 1 car is?

8 A. Somewhere in there, yes, sir.

9 Q. That would be right in front of you?

10 A. No. No, sir. This would be right in front of me. He
11 was -- I'd say he's where Number 2 was, yes, sir.

12 Q. So he was in front of you?

13 A. No, sir. Because if he was in front of me, he would
14 have been right here, sir.

15 Q. You're standing where? Right here?

16 A. Yes, sir.

17 Q. Okay. And he is right here?

18 A. Yes, sir. Oh, you -- you're not talking about the
19 distance. Yeah, he was in my -- yeah, I can see him.

20 Q. You could see Da'Von Capers at Kierin Dennis's window?

21 A. Well, it wasn't just Cape at -- it wasn't just Da'Von
22 Capers at his window, sir.

23 (Whereupon, the witness returns to the witness stand.)

24 Q. So you're behind -- I'm just trying to get your

25 vantage point. I'm not trying to trick you. I'm just

1 trying to get your vantage point.

2 A. Okay. See -- okay. The car's right here. Excuse me,
3 sir. The car's right here, the curb is right here, I'm
4 right here on the curb and they're at my back. They -- I'm
5 looking at their back.

6 Q. You're looking at their backs?

7 A. Yes, sir. Yes, sir.

8 Q. So if you're looking at their back, how do you know
9 that he punched him after he got stabbed?

10 A. Because I sat there and watched it. After he reached
11 out the window --

12 Q. So you're saying that he reached out and stabbed
13 Da'Von Capers in the chest?

14 A. Yes. Yes, sir.

15 Q. But you're behind him and you can see it?

16 A. Yes. Yes, sir. Because I -- I promise I could.

17 Q. So even though you're behind someone --

18 A. I'm right here, yes, sir.

19 Q. Like you're behind me?

20 A. I'm confused about what you're asking me.

21 Q. I'm asking your vantage point. You testified that
22 Da'Von Capers threw a punch only after he got stabbed.

23 A. Yes, sir.

24 Q. But how could you see him get stabbed if you were
25 behind him?

1 **THE COURT:** Can I make a suggestion?

2 **MR. RUTHERFORD:** Yes, sir.

3 **THE COURT:** You've got an expensive thing here.

4 Why don't you get him down in front of the thing and
5 tell him to stand --

6 **MR. RUTHERFORD:** I can't get his vantage point and
7 that's kind of the -- yes, sir.

8 (Whereupon, the witness steps down from the witness
9 stand.)

10 **MR. RUTHERFORD:** Tell me your vantage point. If
11 I'm at the door --

12 **THE COURT:** Where were you when Mr. Capers was
13 standing --

14 **THE WITNESS:** Boom, yeah. Right here on the
15 sidewalk. Right here on the curb.

16 **THE COURT:** And is -- and is Mr. Rutherford
17 roughly where Mr. Capers was standing?

18 **THE WITNESS:** Yes. Yes, sir. I'd say he was in
19 the midst between because he wasn't really the only one.

20 **THE COURT:** Right. There were other people.

21 **THE WITNESS:** There was other -- yes, sir.

22 **THE COURT:** But you were there?

23 **THE WITNESS:** Yes, sir.

24 **THE COURT:** And about that distance?

25 **THE WITNESS:** Yes, sir. Right there.

1 **THE COURT:** All right, Mr. Rutherford. You can
2 continue.

3 **THE WITNESS:** But that doesn't mean I -- well --

4 BY MR. RUTHERFORD:

5 Q. So from this distance, how many other people are at
6 the car window?

7 A. I'd say about three to five.

8 Q. So three to five people?

9 A. Yes, sir.

10 Q. And you can see someone inside the car reach their
11 hand out and stab somebody in the chest?

12 A. Yes, sir. Because he leans back like that, yes, sir.
13 Yes, I saw that. I saw.

14 Q. So you saw this and then this; is that correct?

15 A. Come show -- I'll show you how -- you can see it from
16 here.

17 Q. I'm just asking. You don't have to explain. I'm
18 just --

19 A. Okay, sir.

20 Q. Between five people you saw from behind somebody?

21 A. Yes, sir.

22 Q. How many punches did Da'Von Capers throw before you
23 say he got stabbed?

24 A. Zero.

25 Q. What was he doing?

1 A. What was Cape doing?

2 Q. Uh-huh.

3 A. When? What -- what are you asking? What was he
4 doing?

5 Q. You're behind him?

6 A. Yes, sir.

7 Q. What was he doing?

8 A. What was he doing when?

9 Q. When he's standing at the window.

10 A. Oh, I'd say all three to five of them were conversing
11 with him.

12 Q. Conversing?

13 A. Yeah, conversing.

14 Q. Were they arguing with him?

15 A. I wouldn't say arguing.

16 Q. Why didn't you approach?

17 A. Because after -- I was the guy in front of
18 Mr. Zander's car and after that -- after I basically froze
19 up because I thought, you know, he was drawing a weapon on
20 me. I didn't -- I didn't want to step any -- nowhere near
21 any more cars that night, sir.

22 Q. Okay. So you stayed away from this car because you
23 had enough?

24 A. Yeah, I was ready -- I was ready to leave. I was
25 ready to leave.

1 Q. And so at this point --

2 A. Yes, sir.

3 Q. -- prior to that point, you were at Mr. Zander's car,
4 correct?

5 A. No, sir, I wasn't at his car. I was -- I'll show you
6 on here.

7 Q. Well, you can show me with this car. This is a car
8 door.

9 A. I can't show you where I was sitting. I can't -- I
10 mean, I could show you --

11 Q. Well, if I'm Will Zander, how close are you to the
12 car?

13 A. I'm right here on the curb by it. Right here on the
14 curb and everybody else is behind me -- or I don't want say
15 behind me, but no one's -- no one's in front of me, no
16 one's near the car.

17 Q. So you're this far away from his car?

18 A. Sir?

19 Q. You're this far away from his car?

20 A. I would say even back further.

21 Q. Did he have his light on in the car?

22 A. I don't recall, sir.

23 Q. You don't recall?

24 A. No, sir.

25 Q. Then how do you know that he reached down like he had

1 a gun?

2 A. Because I saw him reach -- I saw him reach like that.

3 I saw him. I sat there a --

4 Q. Wasn't it dark?

5 A. Yeah. No, well, because of the parking lot lights.

6 Q. So the parking lots lights shined in his car --

7 A. Yes, sir.

8 Q. -- enough for you to see down below the belt line of
9 the car, if this is the belt line?

10 A. I couldn't -- I mean, I was just -- the way he rolled
11 down the window made it seem like he was gonna attack me.
12 That's the -- that's the only point I'm making.

13 Q. He was gonna attack you and you're that far away?

14 A. I don't know. I don't know what his intentions were.

15 Q. Okay. And yet what he did scared you enough that you
16 didn't approach Kierin Dennis's car; is that right?

17 A. Yeah. Yes, sir. I wouldn't say scared. I just --
18 you know, I got --

19 Q. You said you had enough?

20 A. Yeah. I got way more sense than that.

21 Q. You were ready to go home?

22 A. Yeah. Yes, sir.

23 Q. You had way more sense than the other people who went
24 to his car that night?

25 A. No, I didn't say that. I was put in the -- I was

1 in a situation previously. A lot of those other people
2 weren't at the car -- weren't put in that same situation.
3 I was head-on with somebody lowering their window like
4 they were gonna do something to you and then ride off.

5 Q. So you had enough sense not to approach his car?

6 A. No, I didn't say that. I didn't say that.

7 **THE COURT:** You can come have a seat, sir.

8 **THE WITNESS:** Yes, sir.

9 (Whereupon, the witness returns to the witness stand.)

10 BY MR. RUTHERFORD:

11 Q. You said that when you were standing at the window you
12 didn't hear what was going on. Do you recall telling the
13 investigator that Mr. Dennis said "Back up or I'll hurt
14 you"?

15 A. I just -- I kept hearing him saying back up, back up
16 back up, back up, and --

17 Q. Who was he talking to?

18 A. I'm guessing some of the people who were in front of
19 his car, sir.

20 Q. So he was telling people that were at his car window
21 to back up?

22 A. Or -- yeah. He said "I've got something for you, back
23 up, back up".

24 Q. Did they back up?

25 A. As soon as -- I'd say as soon as -- I'd say it was

1 like a ten, fifteen second window. That's when my boy,
2 Da'Von Capers, got struck, sir.

3 Q. So your testimony is that Kierin Dennis kept telling
4 people to back up, back up, back up?

5 A. I would -- I think that was -- he didn't keep telling
6 them. He told them to back up, I got something for you.
7 Back up, I got something for you. I turned around --

8 Q. So he said it twice?

9 A. I did not see. I turned around. I see my friend I
10 thought at that point got pushed and then we find out it
11 really wasn't a push.

12 Q. But you did hear Kierin Dennis say back up, back up?
13 He said it twice?

14 A. Right before. I'd say it was five seconds -- ten,
15 fifteen seconds right before he --

16 Q. So like 1001, 1002, 1003, 1004, 1005, 1006, 1007,
17 1008, 1009, 1010. You heard him say back up and then ten
18 seconds later --

19 A. It -- it wasn't that slow, sir. I'd say it was about
20 three to five seconds then.

21 Q. Okay. So now it's three to five seconds?

22 A. Yes, sir.

23 Q. Three to five seconds after he told people to back up
24 from his window, that's when something else happened?

25 A. He stabbed him.

1 **MR. RUTHERFORD:** Okay. No furthest questions,
2 Your Honor.

3 **MR. HUBBARD:** Nothing, Your Honor.

4 **THE COURT:** Thank you very much, sir. You may
5 step down.

6 (Witness excused.)

7 **THE COURT:** Y'all come up.

8 (Proceedings held at the bench; not reported.)

9 **THE COURT:** All right, folks. We're gonna -- we're
10 gonna adjourn for the evening, but we're gonna start back
11 tomorrow at 9:00 in the morning, okay? We're gonna start
12 at nine. Court will be in recess until that time.

13 (Whereupon, the proceedings for November 18, 2014,
14 were concluded at 5:12 PM.)

15 (The following proceedings were held November 19,
16 2014, beginning at 9:17 AM.)

17 **BAILIFF:** All rise. Court's now in session. The
18 Honorable Tommy Russo presiding.

19 **THE COURT:** Thank you, folks. Please have a seat.
20 Mr. Graham, is the State ready to proceed?

21 **MR. GRAHAM:** We can go ahead, Judge.

22 **THE COURT:** Okay. Call your next witness.

23 **MR. GRAHAM:** The State calls Devon Chatman.

24 **THE COURT:** Mr. Chatman, come around and be sworn.

25 (Whereupon, Devon Chatman was duly sworn by the

1 Clerk of Court.)

2 **THE CLERK:** Once you're seated, speak up loud and
3 clear. State your full name on the record, spelling your
4 last, please.

5 **THE WITNESS:** Devon Chatman, C-H-A-T-M-A-N.

6 DEVON CHATMAN,

7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. GRAHAM:

10 Q. Mr. Chatman, how old are you, sir?

11 A. Nineteen.

12 Q. And where did you go to high school?

13 A. Dutch Fork High School.

14 Q. And when did you graduate?

15 A. 2014. June, 2014.

16 Q. And you were the class president of Dutch Fork; is
17 that right?

18 A. Student body.

19 Q. Student body president?

20 A. (Nods head.)

21 Q. And you're wearing a uniform now. Where are you
22 attending school now?

23 A. The Citadel.

24 Q. The Citadel. Did you go to the Dutch Fork-Lexington
25 High School game at Lexington?

1 A. Yes, sir.

2 Q. Can you tell me about what the atmosphere was like and
3 if you noticed anything in particular during the game?

4 A. The atmosphere during the game, I would describe it
5 as a typical high school basketball game, or any sporting
6 event for that matter. Especially high school basketball,
7 high school football, the energy is gonna be high. It's a
8 rivalry game. Dutch Fork High School and Lexington High
9 School, they're rivals. The energy's high. Everyone's
10 having a great time. The taunting's, nothing -- nothing's
11 abnormal about that. Everything is pretty cool -- pretty
12 cool there.

13 Q. Okay. How about after the game, say, as you were
14 exiting the basketball court or out in the parking lot at
15 Lexington High? What was the atmosphere like there and if
16 you noticed anything unusual?

17 A. After the game, I'd describe that to be just the same.
18 Everything was still fine. The Lexington High School
19 administrators and police officers they facilitated a lot
20 of Dutch Fork students through the back of the gym and all
21 the Lexington students through the front of the gym, but
22 we went like through a tunnel and we ended up back at the
23 front, but that was after many of the Lexington students
24 had already exited. I went out to the parking lot. For me
25 I went directly to the car with the people I was riding

1 with and didn't notice much at all out there. I did notice
2 the dancing and all that stuff, but I went to my car.

3 Q. Did you notice any harsh words or anything like that?

4 A. No, sir.

5 Q. Did you see the Defendant, Mr. Dennis, or any of his
6 friends outside as you were leaving in the parking lot?

7 A. No, sir.

8 Q. How was it that you-all came to go to the Cook-Out?

9 A. Typically after any basketball game, any football
10 game, any sporting event, most of -- I mean, Dutch Fork we
11 would normally say hey, you know, we're going to Sonic or
12 hey, we're going -- you know, whatever's near. If the
13 game's played at Dutch Fork, we say hey, we're gonna go to
14 Sonic. If the game's played over at -- if the game's
15 played over in Lexington, we're like hey, Cook-Out's right
16 around the corner, it's fairly new, hey, let's go to
17 Cook-Out. We're all coming to a consensus as a -- as a
18 class, as a school, of where were going, yeah.

19 Q. When you arrived at the Cook-Out, what was going on?

20 A. When we arrived at Cook-Out, it was crowded, everyone
21 was there, they were eating. I mean, I was sitting down.
22 I was having a burger with one of my friends who goes to
23 Lexington, Braxton. I sat down with him, talking to him.
24 We were up. Everything was -- everything was good. Having
25 a burger, laughing, joking around about the game.

1 Q. Do you remember Mr. Dennis and his friends from
2 Lexington High School coming into the Cook-Out?

3 A. Yes, sir.

4 Q. Did you notice anything on -- did the atmosphere
5 change when they entered?

6 A. I'd say the atmosphere changed just a bit. I mean,
7 they came in and they stood at the door. A lot of
8 attention went to them. They just kind of stood at the
9 door. I don't remember them moving around much inside,
10 but, then again, my -- my attention wasn't mainly on them.
11 I just remember them standing near the door.

12 Q. Do you know any reason why the tension would have
13 changed when they came in?

14 A. No, sir.

15 Q. Do you remember them leaving?

16 A. Yes, sir.

17 Q. Okay. And what was it about them leaving that caught
18 your attention?

19 A. When they left, a -- a few others kind of went out the
20 door as well. I mean, I -- I can't really remember too
21 much about that because I was still in there having a
22 burger, laughing and taking pictures, but I did notice,
23 again, the other folks leave as well.

24 Q. Did you go out with that group of -- good amount of
25 other folks that left?

1 A. No, sir.

2 Q. Okay. How long was it before you went outside?

3 A. Probably another five to seven minutes.

4 Q. When you went outside, what did you notice going on in
5 the parking lot?

6 A. When I went outside, it was just kind of -- I was -- I
7 kind of stood there. I was just looking around, just, you
8 know, kind of observing the area like okay, what's going on
9 here. I didn't notice too much. Just kind of walked up
10 and just, you know, saw some folks exchanging words back
11 and forth and then that's when I noticed money being thrown
12 on the ground.

13 Q. Okay. When you go outside, do you see Mr. Dennis or
14 any of his people still in the parking lot?

15 A. No, sir, I -- no, sir.

16 Q. Do you know where they are at that time when you come
17 out?

18 A. No, sir.

19 Q. All right. So you're out in the parking lot. Mainly
20 Dutch Fork people out there as well?

21 A. Yes, sir.

22 Q. The next thing you know -- you talk about money being
23 thrown out. Tell me what you remember about money being
24 thrown out and describe that.

25 A. As I was walking out, I was just kind of standing

1 right out on the -- actually near the curb of the Cook-Out,
2 standing right out there, and I was kind of looking around,
3 you know, just kind of seeing there's a lot going on. So
4 just kind of surveying the area, seeing what's going on.
5 Next thing I know this vehicle drives up and somebody puts
6 money on the ground, you know. I'm like man, there's money
7 on the ground. I'm gunning for the money.

8 Q. Okay. Let me show you State's Exhibit Number 1. You
9 talked about -- where are you standing when the vehicle
10 comes up and money's thrown out? You can step down,
11 please.

12 (Whereupon, the witness steps down from the witness
13 stand.)

14 A. I'm standing right over on this side somewhere.

15 Q. That's over in the -- the raised bed area near the --
16 the front?

17 A. Right. Somewhere right over in this area.

18 Q. Okay. You say the vehicle comes up. Do you remember
19 what the vehicle looked like?

20 A. The vehicle, I -- no, sir.

21 Q. Okay. Using the markers 1, 2 and 3 as lanes, in which
22 lane was the vehicle that came up that the money came from?

23 A. It would have been like in like the Lane 2.

24 Q. In the middle lane?

25 A. It was possibly in -- in between Lane 2 and 3 from

1 what I remember.

2 Q. Okay. Where was the car when the money was thrown?

3 A. As the car came around -- let's see. The money was
4 kind of -- they kind of threw it -- the money kind of
5 scattered around in this area here because that's why I
6 ran out. So the car might have been over in Lane 3. I --
7 I'd still say somewhere in the middle there when the money
8 was thrown. I can't necessarily remember.

9 Q. After the car -- was the car moving or was the car
10 stopped when the money was thrown?

11 A. The car had stopped it seemed like and then rolled up
12 a bit.

13 Q. Okay. Where did the car that threw the money roll up
14 and stop at?

15 A. I'd say it stopped about right up in here, sir.

16 Q. Where are you when -- you say you go out and get the
17 money, correct?

18 A. Yes, sir.

19 Q. Is it just you or are there other people as well?

20 A. There's probably two or three others.

21 Q. Okay. Where are you at, using State's Exhibit
22 Number 1, when you're trying to get the money?

23 A. Trying to get the money, I'm -- there's probably like
24 a dollar right out in this area, so I'm out there trying to
25 get the dollar.

1 Q. Okay. When you're out in the road trying to -- did
2 you actually get any money?

3 A. No, sir.

4 Q. Okay. When you're trying to get the money and you're
5 in the road, what's the next thing that you remember
6 happening?

7 A. Almost simultaneously as I'm out in the road, I'm --
8 I'm kind of, you know, near this curb right here. Almost
9 simultaneously there's a car that's speeds around the
10 corner almost hitting my leg.

11 Q. How close was it to hitting you?

12 A. It was -- if this is the curb right here, I literally
13 barely -- my right leg barely made it off the curb before
14 the car had gotten there, so it was a good three, maybe
15 five feet.

16 Q. Okay. Did you move to get out of the way?

17 A. Yes, sir.

18 Q. If you hadn't of moved, what would have happened?

19 A. I -- I would have been hit.

20 Q. How fast was the car going?

21 A. The car was going way too fast to be inside -- I mean,
22 just to be exiting a building. I mean, it came around the
23 corner with some -- some speed.

24 Q. Did the car keep going past you or did the car stop?

25 A. The car, it kind of rolled a little bit.

1 Q. And where did that car end up stopping?

2 A. That car ended up stopping probably right up in this
3 area.

4 Q. And that's in Lane 1, the lane that it was coming in?

5 A. Yes, sir.

6 Q. You can have a seat.

7 (Whereupon, the witness returns to the witness stand.)

8 Q. Do you remember what kind of vehicle that was?

9 A. No, sir.

10 Q. Do you remember who was driving that car?

11 A. Yes, sir.

12 Q. Okay. Do you see that person in the courtroom?

13 A. Yes, sir.

14 Q. And who is that?

15 A. Mr. Dennis, the Defendant.

16 Q. Did you say anything to Mr. Dennis when he almost hit
17 you?

18 A. No, sir.

19 Q. What did you do?

20 A. As I -- I kind of backed out of the road at the same
21 time as he was rolling up. We locked eyes and I just
22 remember -- I remember locking eyes with him and I remember
23 him just kind of nodding his head, just kind of like him
24 nodding his head within his car as he's rolling up.

25 Q. What happened next?

1 A. What happened next? That's when a -- a lot of Dutch
2 Fork students were like hey, man, what's going on, you
3 know, you almost hit three or four people in the road,
4 including myself, so a lot of Dutch Fork people approached
5 him.

6 Q. So his -- his car is stopped where you indicated.
7 There's Dutch Fork people going up to his window asking him
8 not politely what he did, what are you doing, you almost
9 hit our people, right?

10 A. Yes, sir.

11 Q. Okay. What you are doing during that time?

12 A. During that time, I'm -- I'm back out of the road and
13 I'm having a fit because I almost got hit. I'm talking to
14 some of my classmates about hey, man, yeah, I almost got
15 hit, like I was this close to getting hit.

16 Q. Did you hear Mr. Dennis say anything?

17 A. No, sir.

18 Q. You did not?

19 A. No, sir.

20 Q. How long was Mr. Dennis's vehicle stopped at the
21 location that you indicated?

22 A. His vehicle was stopped for a good two to
23 three minutes, maybe five.

24 Q. Was there -- during the time that he was stopped,
25 where were you at? You had almost gotten hit. You went

1 back into the parking lot?

2 A. Yes, sir.

3 Q. You did not go up to the window?

4 A. No, sir.

5 Q. Where were you at? You can step back down.

6 (Whereupon, the witness steps down from the witness
7 stand.)

8 A. I came back over to this -- I -- when I initially
9 backed up, I backed up on the curb and I kind of made my
10 way around to this area over here.

11 Q. How far would you say you were away from his car?

12 A. I was probably -- I'd say probably about five to
13 ten yards.

14 (Whereupon, the witness returns to the witness stand.)

15 Q. Now the vehicle that threw the money out, did that car
16 throw the money out and leave or what happened to that
17 vehicle?

18 A. No, sir, that vehicle threw the money out and they
19 kind of rolled up a little bit ahead of the -- where
20 Mr. Dennis's car was parked, but over in another lane.

21 Q. And did you see anybody exit that car?

22 A. Yes, sir.

23 Q. And what was that person doing?

24 A. He was simply standing almost in front of his car,
25 just standing there kind of looking back and forth kind of.

1 Q. Do you remember what that individual looked like?

2 A. Yes, sir.

3 Q. Did you see that person in the courtroom earlier this
4 week?

5 A. Yes, sir.

6 Q. And who was that?

7 A. It was Mr. Zander.

8 Q. Did Mr. Zander have anything in his hand?

9 A. Yes, sir.

10 Q. Do you remember what it was?

11 A. I just remember it being a round pipe.

12 Q. Do you remember when Mr. Zander exited his car
13 time-wise in relation to Mr. Dennis driving up?

14 A. I would say he exited his car after he had driven up
15 and almost hit people.

16 Q. During the time that Mr. Dennis's car was stopped over
17 in Lane Number 1 and the Dutch Fork students rushed up and
18 were yelling at him, during the time -- during that time
19 period, was there anybody in front of Mr. Dennis's car
20 stopping him from leaving?

21 A. No, sir.

22 Q. So he could have left at any time?

23 A. Yes, sir.

24 **MR. GRAHAM:** Thank you, Mr. Chatman. Please
25 answer any questions that Mr. Rutherford has.

1 **THE WITNESS:** Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. RUTHERFORD:

4 Q. Mr. Chatman, you were standing in the road looking for
5 money; is that right?

6 A. Yes, sir.

7 Q. When the Defendant drove up to you; is that right?

8 A. Yes, sir.

9 Q. And you said that he almost hit you?

10 A. Yes, sir.

11 Q. You said you had to pull your leg out of the way to
12 stop from being hit; is that right?

13 A. Yes, sir.

14 Q. Why didn't you say anything to him?

15 A. I -- I was almost hit. So without saying, I was
16 almost hit, so I backed up. At the same time he continues
17 rolling forward.

18 Q. Right. But he stops?

19 A. Yes, sir.

20 Q. And you said he stopped for five minutes?

21 A. Yes, sir.

22 Q. So why didn't you say anything to him?

23 A. That was not my concern at the moment. I was almost
24 hit, so I'm yelling and yakking to my classmates hey, man,
25 yeah, this kid almost hit me.

1 Q. So although you were almost hit, you didn't walk up to
2 the window?

3 A. No, sir.

4 Q. You didn't walk up and yell at him?

5 A. No, sir.

6 Q. You didn't walk up and say anything to him?

7 A. No, sir.

8 Q. You didn't engage him, you didn't stick your hands in
9 his window?

10 A. No, sir.

11 Q. You didn't do any of that even though were almost hit;
12 is that right?

13 A. Yes, sir.

14 Q. You said there were two or three other people in the
15 street with you; is that correct?

16 A. Yes, sir.

17 Q. Where was the victim?

18 A. I -- I have no idea.

19 Q. So he wasn't in the street?

20 A. I -- I do not remember.

21 Q. You said there were two or three other people with
22 you. Was he -- was he not your best friend?

23 A. Yes, sir.

24 Q. Was he in the street with you or not?

25 A. I -- I have no idea.

1 Q. So you don't remember who the two or three people were
2 with you -- two or three people with you in the street
3 getting money?

4 A. We were not together in the road getting money. We
5 all came from different spots to get the money. We all
6 saw the money thrown. We all came to the road to get the
7 money.

8 Q. So at that point where you're getting money and you're
9 almost hit, the car almost hit you, who was closest to you?

10 A. There was no one close to me. Whenever the money was
11 thrown, I was standing by myself. I was standing by myself
12 and I saw the money thrown, so I ran by myself to the road
13 to get the money.

14 Q. Right. But if we could focus on when you're in the
15 street trying to get the money, when you're in the street
16 trying to get the money, was the victim standing anywhere
17 near you?

18 A. I can't answer that because while I was in the road
19 trying to get the money simultaneously another vehicle was
20 coming around to hit me.

21 Q. Right. So when that other vehicle came around as you
22 say to hit you --

23 A. Yes, sir.

24 Q. -- and you moved out of the way, did you see anybody
25 else moving out of the way?

1 A. Absolutely.

2 Q. Who was it?

3 A. I have no idea.

4 Q. Do you know whether it was Mr. Capers or not?

5 A. No, sir.

6 Q. You didn't see these people or you just didn't care?

7 A. I didn't care. I was -- my main concern was getting
8 out of the road.

9 Q. Okay. So then once you got out of the road and the
10 person that you say almost hit you is sitting right there,
11 why didn't you run up to his window?

12 A. Because I was almost hit. Why would I run to the
13 window to someone I saw as a threat who almost hit me?

14 Q. Right. So why did everybody else do it.

15 **MR. GRAHAM:** Judge, he's asking for speculation
16 at this point.

17 **THE COURT:** Sustained.

18 BY MR. RUTHERFORD:

19 Q. So when you saw Dutch Fork people because that's what
20 they were, right, Dutch Fork people and you're the student
21 body president, so you know they were Dutch Fork people;
22 isn't that right?

23 A. Yes, sir.

24 Q. When you saw Dutch Fork people running up to his car
25 window, you're the student body president, why didn't you

1 tell them to back away?

2 A. They didn't run up to his window. They went up to the
3 window and were like hey, man, what's going on? Why are
4 you trying to hit people and what's going on here, what's
5 your problem?

6 Q. I'm sorry. You said they didn't run up to the window,
7 but you said they ran up to the window and said. So did
8 they run or did they walk?

9 A. You're asking me the difference between -- I mean,
10 it's a -- no matter how we put it, they approached the
11 window.

12 Q. I'm not asking you how you put it. Did they run or
13 did they walk?

14 A. I -- I have no idea.

15 Q. Okay. So you didn't see that either?

16 A. I did see that.

17 Q. So did they run or did they walk?

18 A. You have to decide what -- you know, running and
19 walking, they -- they went to the window. I can't say
20 whether they ran to the window. They definitely didn't
21 sprint to the window.

22 Q. So you saw it, but you can't tell us whether they ran
23 or walked?

24 A. They approached the window.

25 Q. Okay. So when they approached the window and you say

1 you almost got hit, did you go and talk to them about your
2 experience with this gentleman they're now talking to?

3 A. No, sir, because while -- this is all happening at
4 the same time. You have to understand this. This is all
5 happening at the same time. At the same time I'm almost
6 hit, I'm backing up and I'm talking to some other of my
7 friends and classmates saying hey, man, you know, I almost
8 got hit. At the same time people who witnessed this were
9 saying hey, you know, what's going on? They -- these guys
10 are the ones who approached the window. Hey, what's going
11 on? Why did you almost hit people?

12 Q. So did you feel it appropriate to go and speak to this
13 gentleman?

14 A. No, sir, not at the moment because I was almost hit.

15 Q. Not at all?

16 A. No, sir.

17 Q. Okay. Did you call the police? You had a cell phone?

18 A. No, my cell phone was dead.

19 Q. Okay. Did you ask for someone else's cell phone so
20 you could called 9-1-1 and say hey, this guy almost hit me?

21 A. One of my classmates did go inside and let the police
22 know.

23 Q. But that was inside. But did you ask for a cell phone
24 so that you could say somebody almost hit me or was it not
25 that serious?

1 **MR. GRAHAM:** Objection. Relevance.

2 **THE COURT:** Overruled. You can answer.

3 A. No, sir.

4 Q. Okay. So when you saw all of these people at the
5 Defendant's car, and you say this car sat still for about
6 five minutes, so according to you they're at his car for
7 five minutes and you're the student body president, you are
8 over all these Dutch Fork kids who are now standing at this
9 window, did it not occur to you to tell them to back away
10 from his car?

11 **MR. GRAHAM:** Objection. Relevance.

12 **THE COURT:** What relevance is that, Mr. Rutherford?

13 **MR. RUTHERFORD:** Because this is about whether he
14 witnessed something that he thought was an antagonistic
15 situation or whether he was just standing there while
16 he sees his best friend stand at this window and I'm
17 wondering whether he bothered to do anything about it,
18 whether he thought that it was something that he should
19 stop or if he thought it was something he should engage
20 in.

21 **THE COURT:** I think he said -- he answered that he
22 didn't.

23 **MR. RUTHERFORD:** No, he answered that he did not
24 engage in it --

25 **THE COURT:** Right.

1 **MR. RUTHERFORD:** -- but whether he thought he
2 should stop them is what I asked him last.

3 **THE COURT:** All right. You can answer the
4 question.

5 A. No, sir. Like -- like I said before, I was almost
6 hit. My main concern was I got out of the road and I was
7 talking with some of my classmates, hey, man, you know, I
8 almost got hit, at the same time while they approached the
9 vehicle. I -- do I know who approached the vehicle? No, I
10 do not know who approached. Well, I know that they were
11 Dutch Fork students because they were like hey, what's
12 going on and why did you almost hit people in the road.

13 Q. And is that what they said or are you paraphrasing?

14 A. I can't exactly quote what they said, but that's what
15 I would imagine they said.

16 Q. So when you say they said hey, what's going on, you're
17 guessing; is that correct?

18 A. No, sir. No, sir. I'm not guessing.

19 Q. So did they say hey, what's going on or are you
20 guessing?

21 A. I can't put words in their mouth. I can't testify for
22 them.

23 Q. I'm asking you what -- what they said. You said
24 initially under direct that you heard them say "Hey, what's
25 going on". Did they say -- I'm sorry.