

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Mar 25 2021

Appeal from Chester County
Honorable J. Derham Cole, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

MONTRELL GRAHAM,

APPELLANT

APPELLATE CASE NO 2020-000250

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STATE’S EXHIBIT NO. 1 (VIDEO INTERVIEW OF APPELLANT)
STATE’S EXHIBIT NO. 10 (BODY CAM VIDEO)

1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS
3 COUNTY OF CHESTER
4 2019-GS-12-00246
5 State of South Carolina
6 Vs.
7 Montrell Graham
8
9 Chester, South Carolina
10 February 3-7, 2020
11 Before the Honorable J. Derham Cole
12 APPEARANCES
13 For the State: Candice Lively
14 For the Defendant: William Frick
15
16 Reported by: Michael C. Watkins
17 Official Court Reporter
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19
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VOIR DIRE

1 MS. LIVELY: The South Carolina calls the case of State
2 versus Quinton Tywan McClinton, 2019-GS-12-258, attempted
3 murder; 2019-GS-12-262, possession or display of a firearm
4 or knife during the commission of a violent crime;
5 2020-GS-12-128, assault and battery first degree. And then
6 as to codefendant Montrell Graham, accessory after the fact
7 of a felony. Oh, I'm sorry, that's 2019-GS-12-246 on
8 Graham, Your Honor.

9 THE COURT: All right. Ladies and gentlemen of the
10 jury panel, we are ready to begin with the trial of the case
11 with the State versus Quinton Tywan McClinton and Montrell
12 Graham. As you've heard, Mr. McClinton is charged in three
13 separate indictments, while Mr. Graham is charged in one
14 indictment. One indictment charges Mr. McClinton with the
15 crime of attempted murder. The State alleges by way of this
16 indictment that on or about December 25th of 2018, Mr.
17 McClinton did with intent to kill attempt to kill Kochese
18 Gregory with malice aforethought, expressed or implied, by
19 shooting him with a handgun, or a firearm. A second
20 indictment charges Mr. McClinton with the crime of assault
21 and battery in the first degree, the State alleging on
22 December 25th of 2018, that Mr. McClinton did unlawfully
23 injure Kochese Gregory, or did offer or attempt to injure
24 Mr. Gregory with the present ability to do so, and that the
25 acts were accomplished by means likely to produce death or

VOIR DIRE

1 great bodily injury, or the acts occurred during the
2 commission of a robbery, a burglary, a kidnapping or a
3 theft. And then they allege that the defendant struck
4 Mr. Gregory in the head and about his body and beat him with
5 a pool stick. The third indictment regarding Mr. McClinton
6 is an indictment charging him with possession of a firearm
7 during the commission of a violent crime. And the State
8 alleges by way of this indictment that on December 25th of
9 2018, Mr. McClinton did possess or visibly display a firearm
10 during the commission of a violent crime, that violent crime
11 being a crime of attempted murder. The separate defendant
12 is Mr. Montrell Graham. Mr. Graham is charged in an
13 indictment with the crime of accessory after the fact to a
14 felony. The indictment alleges that on or about
15 December 25th of 2018 Mr. Graham did harbor or assist
16 Quinton McClinton with the intention of enabling him to
17 escape detection, arrest or punishment for his commission of
18 the crime of attempted murder, which is a felony, and that
19 he had knowledge that he had committed that offense. Now,
20 as to those allegations and each of those separate
21 indictments each of the defendants have entered a plea of
22 not guilty. A plea of not guilty places upon the State
23 because they have made the accusations, they've brought the
24 charges, to prove the allegations that they have made by way
25 of each of these indictments, the burden of proving each of

VOIR DIRE

1 the essential elements of the crimes that are alleged in
2 each of these separate indictments, and therefore the burden
3 is upon State to establish the defendant's guilt as to a
4 particular charge beyond a reasonable doubt before any
5 verdict of guilt could be returned as it relates to that
6 particular charge, and therefore we're going to be selecting
7 a number of you to participate in the trial of these cases.
8 By way of participation you're simply going to be called
9 upon to listen to testimony that will come from the witness
10 stand by way of witnesses, to consider any other evidence
11 that might be introduced during the trial of the case. At
12 the conclusion of the trial the jury will be instructed by
13 me as to the law, you will be called upon to determine the
14 facts as they relate to the allegations in each of the
15 separate indictments. Upon deciding the facts you apply the
16 law that I will have provided you as it relates to that
17 particular criminal offense and the jury will determine
18 whether or not a defendant has been proven guilty beyond a
19 reasonable doubt as to a particular charge. Before we begin
20 with jury selection I've got some folks to introduce to you,
21 and I will also have some additional questions to ask you.
22 The purpose of these introductions is to find out if any
23 member of the jury panel has any type of connection or
24 knowledge with anybody that's going to be involved in the
25 trial of this particular case. And so as these folks are

1 THE COURT: All right. Any matters we need to address
2 before we recess?

3 MS. LIVELY: Well, Your Honor, based on the time I'm
4 assuming that the Court doesn't want to start with any of
5 our Jackson v. Denno issues so we'll just begin in the
6 morning.

7 THE COURT: Okay.

8 MS. LIVELY: And the State will be set up and ready to
9 go with both defendant's statements. We've already
10 discussed the Brewton issue so we can address everything all
11 at one time, and I believe that's it. Because we are all in
12 agreement there will be no mention in regards to any type of
13 gang affiliations or anything of that nature, so other than
14 that I believe that was the only thing that the defense
15 actually raised.

16 THE COURT: All right. The statements that we are
17 addressing, does the defense contend that they're not
18 voluntary in any way? I'm just saying, she mentioned a
19 Jackson v. Denno, do we need a hearing?

20 MR. FRICK: Yes, sir. I don't think it will take very
21 long, but I would request a Denno hearing on Mr. Graham's
22 statement.

23 THE COURT: All right.

24 MS. LIVELY: Also, Mr. McClinton, the codefendant, also
25 gave a statement, Your Honor, after he was arrested. They

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1 were both Mirandized so the issue is going to be whether or
2 not at any point in time obviously there was any type of
3 involuntariness in regards to what they were saying, so --

4 MR. DUNCAN: I think -- I'm joining with Mr. Frick's
5 analysis as to Mr. McClinton as well. I don't think it will
6 take very long. There's not a written statement from Mr.
7 McClinton as contrasted with Mr. Graham. There was a
8 video -- audio/video short interview that involved Mr.
9 McClinton talking.

10 MS. LIVELY: It was an hour and 46 minutes, I don't
11 call that too short. That's why I need to know, what is it
12 the Court -- what is it that the defense is actually
13 bringing up that you want me to address? I'll have whatever
14 part of it, the entire thing or not.

15 THE COURT: Well, y'all discuss it and then we'll
16 discuss it in the morning.

17 MS. LIVELY: Yes, sir, thank you.

18 THE COURT: Court is in recess until 10:00 in the
19 morning.

20 (Court recessed for the day and resumed at 10:00 a.m.
21 On Tuesday, February 4, 2020.)

22 THE COURT: All right.

23 MS. LIVELY: Your Honor, in getting started with this
24 particular matter there's a few things that the State has to
25 clarify for the purposes of evidence that's going to be

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1 introduced in trial. First of all, Your Honor, the State
2 has already marked State's Exhibit Number 1. What this is
3 is a modified statement by codefendant Montrell Graham,
4 which was given three days after the actual shooting at the
5 Images Club. In this particular statement, Your Honor, what
6 the State has done is we have gone into the statement and
7 redacted where he mentions anything about who the shooter
8 was, who had a gun, anything other than the fact that he was
9 actually there and then he left the scene. We do have
10 information, Your Honor, in this particular redaction that I
11 did miss and that was just because I had told my IT guy to
12 pull out anything that said anything about someone having a
13 gun, anything dealing with Quinton McClinton, because I was
14 trying to address the Brewton issue, that would be evident
15 from the fact that this defendant actually is mentioned in
16 the case. So he pulled that out but there is a mention in
17 there of he didn't have a gun, Montrell Graham, because he's
18 on probation, and so I have to take that out, which I will,
19 I can mute that at the appropriate time. And there's
20 another time he says something about gangs, which we've
21 already agreed is not appropriate for this particular case.
22 So, Your Honor, I have the redacted statement and I also
23 have the full interview, which I probably need to have
24 marked as well. So State's Exhibit, Your Honor, Number 1 is
25 the redacted statement, and State's Exhibit Number 11 is the

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1 full statement of the codefendant, Montrell Graham. And
2 Wade Young, who is the lead investigator on the case, is the
3 one who actually conducted the interview of this
4 codefendant.

5 THE COURT: All right.

6 MS. LIVELY: So we're ready to actually proffer the
7 statement. My question would be if we need to proffer the
8 original statement and then the redacted or what is the
9 position of the defense at this point?

10 MR. FRICK: I'm fine with just going forward with the
11 redacted statement because I think that's what you intend to
12 introduce, correct?

13 MS. LIVELY: That is correct.

14 MR. DUNCAN: Me too.

15 THE COURT: Well, y'all have to review the statement
16 then and see if you can agree to it. The purpose of this
17 Denno hearing is not to know what the contents is, the
18 purpose of the hearing is to find out whether it's voluntary
19 or not.

20 MS. LIVELY: That's fine, Your Honor.

21 THE COURT: So if y'all have agreed to what has been
22 admitted by way of the statement then y'all need to look at
23 that to be sure that you have it in the form that you have
24 agreed to, I don't need to see that part of it.

25 MS. LIVELY: I'm fine with that, Your Honor, I would

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1 leave that to the defense then. I know that Mr. Frick has
2 had the opportunity to review it.

3 THE COURT: If I understood, the point of the hearing
4 was to determine if it was voluntary or not, not to
5 determine what the content of it is.

6 MS. LIVELY: I was just concerned about if they were
7 going to raise the Brewton issue, Your Honor. I'm not going
8 to do their job for them, if they want to raise it, that's
9 fine. I'm ready to go forward on the Jackson v. Denno.

10 THE COURT: Well, I am, too, but I thought y'all had
11 talked about this redaction and agreed to it. Did I just
12 make that up?

13 MS. LIVELY: We said we were going to talk about it and
14 let you know if we had agreed to it. I gave them a copy of
15 it this morning and Mr. Frick actually reviewed it but Mr.
16 Duncan hasn't had a chance to so I'm going to leave it with
17 them.

18 THE COURT: Is this case prepared to be tried this
19 week?

20 MS. LIVELY: It is prepared right now. I'll call Wade
21 young to the stand, Your Honor, and we'll handle the Jackson
22 v. Denno.

23 THE COURT: Let's do that.

24 The witness, WADE YOUNG, was first duly sworn and
25 Testified as follows:

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1 DIRECT EXAMINATION

2 BY MS. LIVELY:

3 Q Investigator Young, you work for the Chester County
4 Sheriff's Office; is that correct?

5 A Yes, ma'am, I do.

6 Q And you were the lead investigator for this particular
7 case involving the suspects, Quinton McClinton and Montrell
8 Graham; is that right?

9 A Yes, ma'am.

10 Q At some point after the shooting occurred on
11 December 25th of 2018, did you have an opportunity to speak
12 with Montrell Graham?

13 A I did.

14 Q And how did he actually come to speak with you?

15 A He actually came in and asked to speak with me.

16 Q He came and asked to speak with you.

17 A Yes, ma'am.

18 Q Was this voluntary on his part?

19 A It was voluntary.

20 Q Was he under arrest?

21 A No, ma'am.

22 Q Could he have left at anytime?

23 A Yes, ma'am.

24 Q At anytime during the beginning of the interview, did
25 you actually tell him he was free to leave and he was not

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1 under arrest?

2 A Yes, ma'am. I told him he wasn't being arrested, yes,
3 ma'am, I did.

4 Q And in an abundance of caution what did you do before
5 you actually allowed him to give a statement?

6 A I gave him his Miranda warning, read him his rights.

7 Q Okay. And in giving him his Miranda warnings, did you
8 actually go through the statement with him step by step?

9 A Yes, ma'am. I go through line by line and have them to
10 initial it.

11 Q Okay. Whenever he went through line by line, did you
12 ask him if he understood exactly what it was that he was
13 initialing?

14 A I did.

15 Q I'm going to show you State's Exhibit Number 12 and ask
16 you if you recognize this document as being what you're just
17 now testifying to in court?

18 A It is.

19 Q And in that particular statement, Investigator Young,
20 is that what you actually witnessed Mr. Montrell Graham
21 initialing on that day?

22 A Yes, ma'am, it is.

23 Q All right. And is his initials actually at every
24 single place where there is a statement of his individual
25 rights?

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1 A It is.

2 Q At any point in time did you force him, coerce him or
3 threaten him to make a statement?

4 A I did not.

5 Q Did he appear to understand what you were saying to him
6 at that time?

7 A He did.

8 Q And for the purposes of this hearing, is Mr. Montrell
9 Graham familiar with the criminal justice system?

10 A He should be.

11 Q He should be? And why is that?

12 A He's familiar to law enforcement.

13 Q Has he been in trouble before?

14 A Yes, ma'am.

15 Q Isn't he on probation right now?

16 A Yes, ma'am.

17 Q Okay. So he's actually been through the system before.

18 A Yes, ma'am.

19 Q Did he seem to not understand what it was that you were
20 talking to him about that day?

21 A He understood well.

22 Q He understood well? Did he ever tell you he wanted to
23 stop talking or he wanted a lawyer?

24 A No, ma'am, he wanted to talk.

25 MS. LIVELY: The State would introduce State's Exhibit

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1 Number 12.

2 MR. FRICK: No objection.

3 (The Miranda form was received as State's 12.)

4 CROSS EXAMINATION

5 BY MR. FRICK:

6 Q Investigator Neil (sic), do you know if Mr. Graham
7 spoke to another investigator before he got to you?

8 A Investigator Young.

9 Q I'm sorry, I called you the wrong name.

10 A Yes, sir, he did speak with Investigator Neil.

11 Q That's who I was asking about. So he comes to talk to
12 you but had he talked to Neil before he came --

13 A I'm not sure.

14 Q Do you recall at the very beginning saying that Neil
15 had vouched for Mr. Graham?

16 A I probably said somebody vouched for him, but I know
17 him myself so I didn't have to get anybody to vouch for him.

18 Q And you've known him a long time, too, right?

19 A Yes, sir.

20 Q Since he was about in sixth grade, right?

21 A Yes, sir.

22 Q And you're certain that when you went over this list of
23 things that he knew exactly what he was giving up?

24 A I'm sure he did.

25 Q All right. And at the end did you tell him just sign

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1 the bottom down there?

2 A After I read everything to him, yes, sir.

3 Q You did, right. Any idea how long y'all went over
4 this?

5 A I read the same every time, I made sure he understood
6 and I asked him did he understand it.

7 Q And, in fact, he was not arrested that night.

8 A No, sir. Matter of fact he didn't get arrested that
9 day.

10 Q You didn't have a warrant in hand, did you?

11 A No, sir.

12 Q Okay. But to your knowledge he had spoken to some
13 other law --

14 A I don't know.

15 MR. FRICK: Thank you, sir, that's all the questions I
16 have.

17 REDIRECT EXAMINATION

18 BY MS. LIVELY:

19 Q Is the full statement that you gave, was it audio and
20 video recorded?

21 A Yes, ma'am, it is.

22 Q And if there were any other statements given by this
23 defendant to law enforcement would you have been provided
24 that?

25 A Yes, ma'am.

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1 Q And did you get anything else?

2 A No, I didn't.

3 MS. LIVELY: Thank you, no further questions.

4 THE COURT: Step down.

5 MS. LIVELY: That's the showing from the State, Your
6 Honor.

7 THE COURT: Mr. Frick?

8 MR. FRICK: Your Honor, I requested the hearing so I
9 could protect my client's rights under the Denno case, I
10 think you've heard, I would just ask you to make a ruling at
11 this time.

12 THE COURT: Does he want to testify?

13 MR. FRICK: No, sir.

14 THE COURT: Well, the statement is clearly voluntary.
15 The record reflects that he came in voluntarily, he
16 initiated the conversation, he wanted to talk to law
17 enforcement. Out of an abundance of caution they advised
18 him of his Miranda warnings, which they were not required to
19 do. Nevertheless there is nothing to indicate the statement
20 was anything but a voluntary statement on the part of Mr.
21 Graham, therefore it's admitted to the extent they wish to
22 admit it. All right, what else?

23 MS. LIVELY: Yes, sir, Your Honor. The State is also
24 going to offer the body worn camera video that was taken at
25 the time of the event. I have Captain Al Crawford here, he

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1 will testify as to the credibility of the information that
2 is present on there. Also we have two law enforcement
3 officers who were actually on the video at the time it was
4 being recorded. The person who was wearing the video
5 camera, the body worn camera, Your Honor, is no longer with
6 the agency and he is actually under indictment so we are not
7 calling him as a witness. However, I am bringing in Al
8 Crawford, he is the one who is actually the custodian over
9 whenever the officers turn in their body worn camera to talk
10 about how it is actually docked, how that information cannot
11 be tampered with in any way, shape or form, and we also have
12 two of the officers there that experienced the same thing
13 that Officer Thorpe experienced while he was wearing the
14 camera, so that's --

15 THE COURT: But they did not have a body worn camera?

16 MS. LIVELY: One of them did and he is going to
17 testify, Braylin Thorpe -- Braylin Brown, I'm sorry, he was
18 there and you can see him on the video as well, he is going
19 to be testifying.

20 THE COURT: And he's reviewed the other video from the
21 body worn camera?

22 MS. LIVELY: Yes. Every single one of them have, Your
23 Honor. Rikki Burch was there and she's reviewed it and so
24 has Braylin Brown who was there as well.

25 THE COURT: And they will attest to its accuracy?

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1 MS. LIVELY: Yes, sir. And we would ask to enter it as
2 an excited utterance, Your Honor, because it very clearly
3 was before EMS arrived and the chaos of the scene was going
4 on at that time.

5 THE COURT: All right. Is there anything on the video
6 that relates to any statements made by Mr. McClinton or Mr.
7 Graham?

8 MS. LIVELY: No, sir. They weren't present at the time
9 of the body worn camera.

10 THE COURT: All right. Mr. Duncan, what's your
11 position on the admission of the body worn camera video?

12 MR. DUNCAN: Your Honor, I don't object to the --

13 THE COURT: All right. Mr. Frick, what's your
14 position?

15 MR. FRICK: Your Honor, other than whatever might be
16 403 or possibly 404, but I don't think there's --

17 THE COURT: Well, have you seen it?

18 MR. FRICK: Yes, sir, I have reviewed it.

19 THE COURT: Okay. Well, is there anything that would
20 be possible under 403 that you wish to exclude?

21 MR. FRICK: No, sir, I can't think of anything at this
22 time.

23 THE COURT: All right. Then apparently there's no
24 objection to it.

25 MS. LIVELY: Yes, sir. That would be then for purposes

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1 of that motion State's Exhibit 10. So no objection?

2 MR. DUNCAN: Correct.

3 MR. FRICK: No objection.

4 THE COURT: That was video of the body worn camera
5 regarding which officer?

6 MS. LIVELY: It was on Officer Bryant Thorpe,
7 T-h-o-r-p-e.

8 (The video was received as State's 10.)

9 THE COURT: All right. What else do we have?

10 MS. LIVELY: Your Honor, the only other thing that we
11 do want to bring to the Court's attention is that we have
12 given -- we've got NCIC reports on the different witnesses
13 who are going to be testifying so I will provide that to the
14 defense at the appropriate time, all they need to do is just
15 ask me for it and I'll make sure they get it. And also the
16 victim, Mr. Gregory, has a record, Your Honor, so whenever
17 he testifies I'm going to give you a copy as well and
18 provide the defense a copy, Your Honor. It appears that
19 his -- for issues of moral turpitude or for prior acts,
20 which would be relevant, he had a conviction of involuntary
21 manslaughter back in 2005, the charge, he was convicted in
22 2007. It appears that he actually was released from state
23 custody -- we're supposed to get confirmation of that. And
24 then the only other thing that he's gotten since that time,
25 Your Honor, it looks like there's no actual convictions,

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1 there was DUI's and things of that nature, which you can see
2 is from 2014. So obviously by 2014 he had been released in
3 regards to the particular case.

4 MR. FRICK: Your Honor, just so the Court is aware on
5 behalf of Mr. Graham, I did file a motion last week pursuant
6 to 609B to go into that case. I think it's probably still
7 within the ten years but just to be on the safe side I filed
8 a motion under 609B to go into Mr. Gregory's convictions
9 that may be older than ten years that would satisfy the
10 statute.

11 THE COURT: Okay.

12 MS. LIVELY: And, Your Honor, we're going to have that
13 confirmation to the Court. But our position would be that
14 it shouldn't come in, obviously I'm going to make that
15 argument because it has been over ten years, but I need that
16 information in order to clearly be able to do that. But
17 other than that, Your Honor, when we call Mr. Gregory
18 obviously I'll make sure that we've got that information so
19 we can address it before he's called to the stand.

20 THE COURT: At what stage of the trial will he be
21 called?

22 MS. LIVELY: I'm sorry?

23 THE COURT: At what stage of this trial do you intend
24 to call Mr. Gregory?

25 MS. LIVELY: I think he's going to be my second

1 witness.

2 THE COURT: Okay. Anything else that needs to be
3 addressed before the jury is brought in?

4 MS. LIVELY: No, Your Honor, the State is ready to
5 proceed.

6 THE COURT: Mr. Duncan?

7 MR. DUNCAN: Your Honor, the defense -- Defendant
8 McClinton is ready to proceed at this time.

9 THE COURT: Mr. Frick?

10 MR. FRICK: Ready to proceed, Your Honor.

11 THE COURT: Okay. All right. Bring the jury in and
12 ask Mr. Raines, that's juror 115, to take the foreperson's
13 seat.

14 (The jury returned to the courtroom.)

15 THE COURT: Good morning, ladies and gentlemen of the
16 jury panel. We are ready to begin with the trial of this
17 case for which each of you have been selected. Mr. Raines,
18 I'm going to ask you to serve as the foreperson of the jury,
19 and as the foreperson you will have three specific duties
20 that none of the other jurors will have. First of all
21 you're going to be asked to serve as the spokesperson for
22 the jury, and that just means if something comes up during
23 the course of the trial that needs to be brought to my
24 attention, that is you or one of your fellow jurors has some
25 difficulty or problem or question, you're going to be the

1 person to let me know that fact, and you will do that
2 directly if you're in the courtroom, you will do that
3 through the bailiff if you were outside of the courtroom.
4 Secondly, you will be called upon to preside over jury
5 deliberations when that time comes at the trial's conclusion
6 after all of the evidence has been received and after I have
7 instructed the jury on the law that is applicable. When you
8 do go back to begin your deliberations you will preside over
9 that process in the jury room simply to ensure that those
10 deliberations are carried out in some orderly fashion. And
11 thirdly, you will be actually writing the decision of the
12 verdicts of the jury, you will do that on verdict forms that
13 I will provide you at the trial's conclusion on which you
14 will indicate the jury's unanimous decision as it relates to
15 each of the separate indictments. The foreperson has no
16 specific duties that I have just indicated, that does not in
17 any way mean that he is any more important than any of you
18 other jurors, and that's because the decision of a jury is
19 the unanimous consensus opinion of all 12 jurors. So each
20 and every one of you will have an equal say and vote on what
21 the ultimate decision will be in this case, but somebody has
22 got to delegate those responsibilities that I just indicated
23 and I have delegated those to Mr. Raines and appointed him
24 as the foreperson, but all of you jurors are equally
25 important so far as the ultimate decision in this case are

1 concerned because as I have stated, the decision has to be
2 unanimous, all of you must be in agreement. Ms. Bost and
3 Mr. Price, each of you have been selected as alternate
4 jurors, and the function of an alternate juror is to take
5 the place of one of the original 12 if during the trial one
6 or two of these original jurors were unable to continue to
7 serve in the case that one or both of you will be called
8 upon to become the 12th juror, and in that event you would
9 participate throughout the course of the trial but also you
10 would participate in those deliberations at the trial's
11 conclusion. If, however, when the time does come for the
12 jury's deliberations, if the original 12 are all able to
13 participate in that function then your service as alternates
14 would end and that's because the decision of a jury is that
15 of 12, no more than 12 can participate in that deliberations
16 process. But it's important that you pay just as careful
17 attention as we ask of all of the jurors in the case because
18 it does occur from time to time for one reason or another,
19 one or two of these original jurors may be unable to
20 continue and then in that event one or both of you would be
21 called upon to become the 12th juror. So we do appreciate
22 your participation as alternate jurors just as we appreciate
23 the participation of each of you jurors who have been
24 selected for the purpose of deciding the verdicts in this
25 particular case. You may swear the panel.

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1 (At this time the jury panel was sworn.)

2 THE COURT: Ladies and gentlemen of the jury, of course
3 as you know you have been selected to decide the verdicts in
4 the case of the State versus Quinton Tywan McClinton and
5 Montrell Graham. As you also know Mr. McClinton has been
6 accused by the prosecutor by way of these indictments with
7 having committed the crimes of attempted murder, of assault
8 and battery in the first degree, and possession of a firearm
9 during the commission of a violent crime, that violent crime
10 alleged to be the attempted murder. The State alleges by
11 way of these indictments that Mr. McClinton did here in
12 Chester County on or about December the 25th of 2018 with
13 intent to kill attempt to kill Kochese Gregory with malice
14 aforethought by shooting him with a firearm. The State also
15 alleges that on December the 25th of 2018 Mr. McClinton did
16 here in Chester County unlawfully injure Kochese Gregory, or
17 did offer or attempt to injure Kochese Gregory with the
18 present ability to do so, and that the act or acts was
19 accomplished by means likely to produce death or great
20 bodily injury or incurred during the commission of a
21 robbery, burglary, kidnapping or theft, and they allege
22 specifically that they hit him and struck him specifically
23 about the head and body and beat him with a pool stick. And
24 the remaining indictment against Mr. McClinton alleges that
25 he did on December the 25th of 2018 possess or visibly

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1 display a firearm during the commission of a violent crime,
2 that violent crime being attempted murder. The remaining
3 indictment charges Montrell Graham with the crime of
4 accessory after the fact of a felony, and this indictment
5 alleges that Mr. Graham did here in Chester County on or
6 about December the 25th of 2018 harbor or assist Quinton
7 McClinton with the intentions of enabling Mr. McClinton to
8 escape detection arrest or punishment for his commission of
9 the crime of attempted murder, and that Mr. Graham did that
10 with knowledge that Mr. McClinton had committed that
11 offense. Now, as to those allegations and as to each of
12 those charges contained in those indictments, each of the
13 defendants has entered a plea of not guilty, and as I told
14 you that plea of not guilty places upon the State the burden
15 of proving the allegations that they've set forth in each of
16 those indictments, the burden of proving each of the
17 essential elements of the crimes that they have alleged
18 against each of the these defendants, and therefore the
19 burden is upon the State to establish a defendant's guilt as
20 to a particular charge beyond a reasonable doubt before that
21 person could be found guilty of that particular charge. You
22 are instructed that any person who is accused of having
23 committed a crime is always presumed to be innocent of that
24 charge, and that presumption of innocence remains with every
25 defendant as it does with each of these defendants from the

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1 time that they were placed under arrest and throughout the
2 course of the criminal process, and even throughout the
3 course of the actual trial in the case, and that presumption
4 of innocence will be with each of these defendants even as
5 you go back into your jury room at this trial's conclusion
6 to begin with your deliberations in the case. That
7 presumption of innocence will be with each of those
8 defendants while you're in that jury room, and it will be
9 with them forever unless you 12 jurors unanimously determine
10 that a defendant is no longer entitled to that presumption
11 of innocence. In other words, after you have carefully
12 considered all of the evidence as it relates to a particular
13 defendant and as it relates to a particular charge, and
14 after you have been able to determine the facts as they
15 relate to the allegations relating to that defendant and to
16 that particular charge. If you 12 jurors unanimously
17 determine that a defendant's guilt as to a particular charge
18 has been proven beyond a reasonable doubt, then that
19 defendant would no longer be entitled to that presumption of
20 innocence, but it is only if, unless and until you are
21 satisfied of a defendant's guilt beyond a reasonable doubt
22 that the presumption of innocence would no longer be
23 applicable. Now, the way the trial would proceed is that in
24 a moment the lawyers are going to address you in what are
25 called opening statements. There are two occasions in the

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1 trial of a case where lawyers are permitted to address the
2 jury directly, and that is at the beginning of the trial
3 before any evidence has been introduced, then again at the
4 conclusion of the trial after all of the evidence has been
5 received. But please keep in mind, as I've just indicated,
6 the lawyers' statement aren't evidence. The evidence comes
7 in between the opening and the closing statements, and
8 that's because the lawyers don't know anything about this
9 case of their own personal knowledge or perception like
10 witnesses will be testifying to when they take the witness
11 stand and provide information to you through examination.
12 The lawyers aren't going to take the witness stand, they're
13 not going to be placed under oath and they're not going to
14 be subjected to direct and cross examination like the
15 witnesses will be, and so what the lawyers tell you in their
16 statements is not to be construed by you as any evidence
17 upon which you'll base your decision. But you should listen
18 to what the lawyers have to say because the statements do
19 serve a purpose. The opening statements serve to provide
20 you with the basic understanding of what this case is about
21 from both the perspective of the State and each of these
22 defendants so that you'll have some context in which to
23 place the evidence that we will be receiving shortly
24 thereafter. The closing statements occur after the evidence
25 has been received, and again while those statements are not

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1 evidence those statements do afford the lawyers an
2 opportunity to discuss with you the evidence that you have
3 seen and you have heard throughout the course of the trial,
4 and through that discussion each will be trying to persuade
5 you that the evidence in the case does or does not support a
6 particular decision, and as I've said it's in between those
7 opening and closing statements that we actually receive the
8 evidence upon which you will base your determination of the
9 facts and ultimately your decision in the case. The State
10 has brought the charges, the State has the burden of proof,
11 the State has to prove a defendant guilty beyond a
12 reasonable doubt, and therefore the State will go forward
13 first in its presentation of evidence. After the State has
14 concluded with that presentation of evidence any person who
15 is charged with a crime has an opportunity to take the
16 witness stand and testify, to call additional witnesses, to
17 introduce additional evidence, but understand that a
18 defendant in a criminal trial is never under any obligation
19 to take the witness stand and testify, is never under any
20 obligation to call any additional witness or introduce any
21 additional evidence, and that's because the burden is not
22 upon a person accused of a crime to prove that he or she is
23 not guilty or to prove that he or she is innocent because in
24 some cases that might not be possible. The burden is always
25 upon the State because they made the accusation to prove a

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1 defendant's guilt beyond a reasonable doubt. And so
2 sometimes in a criminal case a defendant may not take the
3 witness stand, may not call any additional witness, may not
4 introduce any additional evidence, and if that occurs that's
5 not a factor or circumstance that a jury may allow to weigh
6 in the slightest degree against the defendant. And that's
7 because, as I say, the defendant doesn't have any burden of
8 proof and may not be able to establish innocence or prove
9 that he is not guilty. However, every person who is charged
10 with a crime is always afforded an opportunity to testify or
11 to present other evidence unless he or she wished to do so.
12 So after all of the evidence has been received and you hear
13 the final summations of the lawyers, I will then instruct
14 you fully on the law as it relates to the criminal law
15 generally and as it relates to these particular crimes
16 specifically. After that you'll be asked to go back and
17 begin with your deliberations, and through that process and
18 through the exercise of good judgment and common sense
19 conscientiously applied to the testimony and evidence
20 received during trial you're going to be called upon to
21 determine the facts where you can as they relate to the
22 allegations made in each of the indictments. After deciding
23 the facts you apply the law that I will have provided you
24 and you will determine whether or not a defendant has been
25 proven guilty of a crime that has been alleged against him,

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1 and if he has been proven guilty of that crime then your
2 verdict would be guilty, and if he has not been proven
3 guilty beyond a reasonable doubt as to a crime, then your
4 verdict would be not guilty as to that particular
5 indictment. Now, all we're going to ask for you to do is to
6 pay careful attention throughout the course of the trial.
7 There are a number of witnesses which might be called during
8 the course of the trial, and all of these witnesses that are
9 going to testify have some relevant information to provide
10 to the jury, and sometimes there might be a conflict in
11 testimony that will be presented by witnesses. In other
12 words, one witness may testify to one thing and some other
13 witness testifies to the absolute opposite or contrary to
14 that testimony. You are the judges of the facts in this
15 case, and therefore you are necessarily the sole judges of
16 the credibility and the believability of each witness that
17 testifies during the trial, and in deciding the facts and in
18 deciding the credibility of witnesses you in your
19 prerogative may believe everything that a witness testified
20 to. You may choose to believe none of it. You may believe
21 some portion of a witness' testimony and reject some other
22 portions of that same witness' testimony. You could believe
23 one witness as opposed to several, or several as opposed to
24 one. But whatever your good judgment and common sense tells
25 you is the most believable and credible testimony is the

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1 testimony that you should accept, and you should reject any
2 testimony or other evidence that you find not to be credible
3 or believable. But in order to be in a proper position to
4 be able to fairly evaluate the credibility of each witness
5 and their testimony you've got to pay attention to them
6 while they're testifying from the witness stand. You've got
7 to observe, because often times you can tell as much about
8 what a witness says by how they say it and their demeanor
9 when they're saying it as by what they act or say by the way
10 of words. So pay attention while they're testifying so that
11 when you do go back at the end you'll be in proper position
12 to fairly evaluate the witness' credibility and
13 believability. It's also important that you keep an open
14 mind throughout the course of the trial, and that just means
15 that you are not to begin making up your minds or
16 formulating your opinions as to what you think the ultimate
17 decisions in this case ought to be until all of the evidence
18 has been received, until I have instructed you on the law
19 that's applicable in the case, and until you've been asked
20 to go back and to begin deliberations. That is the process
21 that has been designed over the last 240 some odd years to
22 ensure that you could arrive at a fair and impartial
23 decision based upon the information provided during the
24 trial and the law that's applicable as I will have provided
25 it to you. So I do want to thank you in advance for your

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1 careful attention and your participation during the trial.
2 Please give the lawyers your attention now as they give you
3 their opening statements. Ms. Lively?

4 MS. LIVELY: Yes. Thank you so much, Your Honor.
5 Ladies and gentlemen, what the Judge has told you are
6 basically the best instructions that you need for what's
7 going to happen over the next couple of days, and that is
8 exactly to use your common sense. The beauty of this case,
9 despite the fact that someone almost died as a result of a
10 gunshot wound to his abdomen, that being Mr. Kochese Gregory
11 who's seated in the light blue shirt and short sleeves,
12 despite the fact that he almost died, he is here to tell
13 each and every one of you and look you in the eye and tell
14 you who shot him that night. This is not a stranger attack
15 where we've had to come up with some type of a composite
16 sketch of who the suspect could be, this is a known person
17 that Mr. Gregory had been around all evening on Christmas
18 Eve 2018. So the beauty of that, and I'm going to take you
19 back to that, is you can use your common sense during the
20 next couple of days. There's no tricks, there's no weird
21 possible evidence. I'll tell you what the evidence is going
22 to be. There's no DNA because we know who it was, and
23 you're going to hear that from not only Mr. Gregory but from
24 other people who were there at the Club Images on the night
25 of Christmas Eve in 2018. There was someone's birthday

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1 going on that night, and we have Mr. James Young who is
2 going to come and testify to you and say, "Yeah, it was my
3 brother's birthday party because, you know, maybe it's a
4 little weird that we have a big party at the club on
5 Christmas Eve." So he's going to explain that to you. It
6 was a big birthday for him. So Mr. Young was there. You're
7 going to have other witnesses testify, Mr. Gregory, Kochese
8 Gregory was there. You're going to have other witnesses
9 tell you that the defendant, Quinton McClinton and Montrell
10 Graham, were there. The one thing you're going to see is
11 how chaotic it was once a fight broke out close to the end
12 of that night when they were closing, which was now
13 Christmas Day, the chaos that happened and the shot that
14 almost killed Kochese Gregory, and they're going to tell you
15 who was shooting that night, and that's the issue. Did they
16 recognize who it was? Yes. Do they know this person? Yes.
17 This is not a stranger shooting and we're still out there
18 looking for a suspect. No. So it would have been nice to
19 find a weapon, but guess what? You'll see a body worn
20 camera, and one thing you will not see on that body worn
21 camera is the defendant, Quinton McClinton or Montrell
22 Graham, they were gone. So no gun was recovered, there's no
23 ballistics, there's no DNA. This is good old timey 1980's,
24 1990 before DNA type of police work. Get witness
25 statements, document what happened, collect whatever

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1 evidence you can. But we have to rely on the people of
2 Chester to come in here and testify against these two
3 defendants and tell each one of you who pulled the trigger
4 that night, and that's so important. And it takes courage,
5 ladies and gentlemen, for anyone to come into a courtroom.
6 Law enforcement doesn't like doing it, eye witnesses don't
7 like doing it, but the defense has a right under the
8 constitution to confront each and every person that accuses
9 that person of doing the crime committed. That is our
10 constitutional right and I welcome that, ladies and
11 gentlemen, because we are here to make sure that justice is
12 served. Justice is doing what is right at the right time,
13 and the right time is this week for this defendant, Quinton
14 McClinton and Montrell Graham, to be found guilty of their
15 charges for shooting Kochese Gregory with malice
16 aforethought. That means you're going to hear witness
17 testimony that they were already fighting. Mr. Gregory
18 doesn't have clean hands here, ladies and gentlemen, he'll
19 tell you, he was in the fight, too, there were a lot of
20 people fighting. But who chose to shoot first, shoot that
21 gun and almost kill Kochese Gregory? The evidence will show
22 it was the defendant, Quinton McClinton. So it takes
23 courage to overcome fear. It doesn't mean you're not scared
24 or these witnesses aren't fearful, but they're here to do
25 justice, and justice is doing the right thing at the right

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1 time, and that is to come in here, swear an oath and tell
2 you what they saw. It is up to every single one of you to
3 decide who to believe, to decide what to believe and to make
4 the final decision as to whether or not we've proved this
5 case beyond a reasonable doubt, and I tell you now as I will
6 tell you at the end of this case, I welcome that burden.
7 And I'm going to tell you that the people who come in here
8 and testify to you, you can doubt them all you want, put it
9 in your mind and think about, what is the common sense that
10 you're going to have to apply to this case? Did Kochese
11 Gregory see who shot him? Did these other witnesses know
12 who the person was and identify him to the police? Open and
13 shut, that's it. I'm going to keep it simple, ladies and
14 gentlemen. I'm going to try to give you this case as soon
15 as I can, and I believe that once you hear all of the
16 evidence you will have no question in your mind both
17 defendants are guilty, and I appreciate your time. Thank
18 you.

19 THE COURT: Mr. Duncan?

20 MR. DUNCAN: Thank you, Your Honor. May it please the
21 Court? Good morning, ladies and gentlemen. I represent
22 Quinton McClinton. And as Judge Cole has instructed you
23 here preliminarily this morning the burden is on the State.
24 Mr. McClinton sits before you with a presumption of
25 innocence. And the situation as described by the State, the

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1 word chaotic, that's a correct characterization of what went
2 on at Christmas Eve and the early hours of Christmas morning
3 of 2018 up at Club Images on J.A. Cochran Boulevard. The
4 part that Ms. Lively didn't say to you is there were
5 multiple gunshots from different directions. There were
6 multiple individuals involved in a fight. There were -- it
7 was unclear who was responsible for any gunshots. Again,
8 there was -- they found a number of shell casings. There
9 will be testimony there was shooting from one end of the
10 parking lot, there was shooting from near the door of the
11 club. I submit to you they can't -- the State cannot meet
12 its burden of proof to show that my client, Quinton
13 McClinton, number one, ever even had a gun, ever had a
14 firearm at all. And I think when you listen to the
15 testimony and you hear about a fight in the pool room side
16 of this club you will hear about pool cues, pool balls,
17 people are getting struck in the head, people are swinging
18 pool cues, but they're not going to be able to show that
19 Mr. McClinton did anything with a firearm. In fact, it was
20 so confusing and so chaotic that initially Mr. McClinton
21 obviously has a charge, he's sitting before you today, but
22 Mr. Gregory got charged with attempted murder. I mean, the
23 investigation pointed to Mr. Gregory being guilty of
24 attempted murder enough so that the Chester County Sheriff's
25 Department swore out a warrant against him and arrested him

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1 for attempted murder. I respectfully submit to you if the
2 folks who are investigating the case who are out trying to
3 figure out what's going on, if they can't determine who's
4 responsible, I do not believe that 12 citizens of Chester
5 County are going to be able to say clearly beyond a
6 reasonable doubt Quinton McClinton is guilty of this crime.
7 Not going to happen, they can't do it. They cannot meet --
8 it's a heavy burden, they can't meet it. As you hear the
9 testimony consider it. Consider it is very late, early
10 morning hours, it is after 2:00 a.m. on Christmas
11 Eve/Christmas Day, who can see what was going on, what in
12 the world was happening, who was shooting. Again, I submit
13 to you that it is a confusing situation and the State is not
14 going to be able to carry their burden of proving that Mr.
15 McClinton is responsible for any of the crimes that he is
16 charged with, and I'm confident that at the conclusion of
17 the case when y'all decide the facts as you are instructed
18 by the Court that you will return verdicts of not guilty as
19 to Mr. McClinton on the charges against him. Thank you very
20 much.

21 THE COURT: Mr. Frick?

22 MR. FRICK: Thank you, Your Honor, solicitor, ladies
23 and gentlemen of the jury. Good morning, and congratulation
24 for being here. You got selected for a job that you didn't
25 know you were being interviewed for and you didn't want to

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1 get, and not only did you get that pleasure but you get the
2 pleasure of hearing from three lawyers all week long, so
3 congratulations on that. Let's make one thing perfectly
4 clear, I represent Montrell Graham sitting at the end of the
5 table over there. There are two trials going on
6 simultaneously here. The State is going to attempt to show
7 their case on both of them through the evidence collected
8 but it's two separate tries. Montrell Graham is not charged
9 with shooting Kochese Gregory, he is charged with accessory
10 after the fact. What they're saying is they allege that
11 someone shoots Mr. Gregory and Montrell Graham knew that
12 they had done this thing, had knowledge that some felony had
13 occurred in this case, particularly attempted murder, and
14 that Montrell Graham knowingly took that person away from
15 the scene to evade law enforcement essentially, that's what
16 they've charged him with. The State will provide you no
17 evidence that puts a gun in his hand or says that he fired a
18 shot, let's be perfectly clear about that, okay? And so
19 your job is really two-fold in this one, you get to try the
20 facts against Mr. McClinton and you're going to have the
21 facts against Mr. Graham, okay, and your job is to weigh
22 them and determine what you find believable. Because as
23 you've heard and you're going to hear again and again and
24 again from all of us and the Judge, you're the judge of the
25 facts, that means you can determine what you want to

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1 believe, and what you're going to do is you're going to hear
2 witnesses from this stand, you're going to see some physical
3 evidence, and the solicitor is right, you ain't going to see
4 a whole lot of physical evidence. And they can put as much
5 lipstick on this pig as they want but it's still a pig,
6 ladies and gentlemen, okay? There is really not much
7 evidence other than these statements. And just because
8 somebody puts their hand on the Bible and swears to tell the
9 truth doesn't mean that you've got to believe what they say.
10 You get to look at them, look at their demeanor, see whether
11 they've got any reason to say what they're saying. You can
12 determine whether you want to believe any part of what they
13 say, none of what they say, or if you think they're
14 believable all of what they say. And the State has got to
15 provide you evidence beyond a reasonable doubt. All right.
16 I'll give you my belief of what that is. Beyond a
17 reasonable doubt, it's not all doubt, you can't be beyond
18 all absolute doubt, there's no -- that's impossible. But
19 what it is is, my estimation, it's not, "I've been looking
20 at the trial, Mr. Graham is slouching over over there and I
21 just don't like the way he's sitting in that chair," that's
22 not it. It's not he kind of looks like maybe he did that,
23 it's not possibly he did that, it's not maybe he did that,
24 it's is there any other reasonable explanation. And
25 remember what I told you, and you'll get instructed on the

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1 law at the very end by the Judge and that's what you apply,
2 but my estimation is the State has got to prove to you
3 beyond a reasonable doubt that Montrell Graham knew that
4 someone tried to kill Kochese Gregory and he helped that
5 person escape, that's what they've got to prove for you to
6 find him guilty. This is two separate trials, ladies and
7 gentlemen, keep that in mind. You're getting double duty.
8 They ain't going to pay you doubly this week but you're
9 doing two jobs at the same time. And what the State does is
10 they're going to show you, because they've got to build
11 essentially a house, and they're going to show you, look, we
12 have got nice bricks, see? It's got nice edges, it's got
13 all of the cool stuff, they're solid. And what happens is
14 through the adversarial process you get to see the other
15 sides of the bricks, you get to see that they're thin as
16 this card and that's what the State has got. They don't
17 have solid bricks, they've got a playing card, and their
18 house of cards will not stand and I ask you to find Mr.
19 Graham not guilty. Thank you for your time, attention and
20 service.

21 THE COURT: Ms. Lively?

22 MS. LIVELY: Yes, thank you, Your Honor. The State
23 would call George "Troy" Killian to the stand.

24 The witness, GEORGE KILLIAN, was first duly sworn and
25 Testified as follows:

GEORGE KILLIAN - DIRECT

1 DIRECT EXAMINATION

2 BY MS. LIVELY:

3 Q Good morning, Mr. Killian.

4 A Good morning.

5 Q Were you subpoenaed to be here today?

6 A Yes, ma'am.

7 Q All right. Could you please state your full name for
8 the jury?

9 A George J. Killian, Jr.

10 Q And do you have a nickname that you go by?

11 A Just Troy.

12 Q Just Troy. Do sometimes people call you Big Troy?

13 A Yes, ma'am.

14 Q All right. Now, Mr. Killian, do you live in the
15 Chester County area?

16 A Yes, ma'am.

17 Q How long have you lived in Chester?

18 A Forty-eight years.

19 Q How old are you?

20 A Forty-eight.

21 Q All right. And have you lived here in this community
22 long enough to where you have a lot of really deep set roots
23 with friends, family and all of that?

24 A Yes, ma'am.

25 Q All right. Do you know the defendants in this case,

GEORGE KILLIAN - DIRECT

1 Quinton McClinton and Montrell Graham?

2 A I don't really know them, actually know them, just
3 heard of them.

4 Q Okay. Do you know them by sight, though? If you saw
5 them would you know?

6 A Yes, ma'am.

7 Q And do you know whether or not Mr. McClinton, the
8 defendant, has a nickname that he goes by?

9 A Only thing I ever heard was Tril, that's the only thing
10 I know.

11 Q Tril.

12 A Yes, ma'am.

13 Q And if you were -- let's say at this time whenever this
14 case happened, did you know his name was Quinton McClinton?

15 A No, ma'am.

16 Q What did you know him as at that point?

17 A Tril. Only thing I ever know was Tril.

18 Q All right. Tell the jury why you were at Club Images
19 on the night of Christmas Eve in 2018?

20 A It was just a Christmas party going on and we was all
21 invited to come out there, and that was it. We were just
22 hanging out.

23 Q Were there a lot of people there?

24 A It was a nice little crowd.

25 Q Were any of your relatives there?

GEORGE KILLIAN - DIRECT

1 A Yeah. My brother was there working, and me and a
2 friend of mines, he was with me, just me and him came
3 together.

4 Q And what's your brother's name?

5 A Kelvin Killian.

6 Q What was he doing there that night?

7 A When I got there he was working security at the door.

8 Q Okay. Have you ever worked security at the door there?

9 A No, ma'am.

10 Q All right. Do you know what his duties were as a
11 security person that night?

12 A No, ma'am. Just as in searching the peoples and make
13 sure they didn't have no weapon on them.

14 Q All right. So during the night while you were there,
15 what was the vibe or the environment like with everybody
16 there?

17 A Well, my understanding I think everybody was having a
18 good time until the end.

19 Q All right. Were you having a good time?

20 A Yes, ma'am.

21 Q Were you drinking that night?

22 A No, ma'am, I wasn't drinking.

23 Q So while you were there, at what point, if any, did you
24 have any problems that night?

25 A Just at the point of when the club was about ready to

GEORGE KILLIAN - DIRECT

1 close down for the night and I was exiting the club and a
2 young gentleman approached me with some kind of confusion or
3 something, said something to me.

4 Q Now Mr. Killian, what I need you to do is if you would
5 please, this jury has never heard what happened, you need to
6 tell them exactly what happened. When you're saying some
7 confusion happened, tell them what it was that happened to
8 you.

9 A Yes, ma'am. As I was exiting the club a young
10 gentleman named CiCi Whitlock approached me he said
11 something like I need to speak to my brother or get my
12 brother before he do something dangerous to him at the time.
13 And I told him, "There he go, you know, whatever you're
14 going to do there he go right there." And at that point in
15 time that's when he -- he was surrounded by a bunch of
16 little young friends of his, and that's the point when he
17 threw a drink in my face.

18 Q I'm going to stop you right there. When you said he
19 threw a drink in your face, who threw the drink in your
20 face?

21 A CiCi Whitlock.

22 Q CiCi Whitlock, all right. And when you say his friends
23 were around, were any of the defendants his friends that
24 you're talking about?

25 A Yeah. The young gentlemen that he hangs with at the

GEORGE KILLIAN - DIRECT

1 time from Roundtree Circle, yes, ma'am.

2 Q And what's the person's name that you knew him by?

3 A Who are you speaking of, ma'am?

4 Q That's what I'm asking you. Friends of CiCi Whitlock,
5 who was it that you were talking about that was standing --

6 A It was like three or four guys surrounding him at the
7 time, just stopped right there when he was going out the
8 door and I didn't know those young gentlemen.

9 Q I understand. What were they wearing?

10 A They had on different clothes, different -- see, I
11 never seen those gentlemen in the club, because actually
12 from my understanding they was on the other side of the pool
13 hall side, so I really never seen those gentlemen in the
14 club until I was exiting the club.

15 Q Got you. Well, let me help you out just a little bit.

16 A Uh-huh.

17 Q I'm going to show you -- first of all, explain to the
18 jury what you're saying there's two different sides to the
19 club so they can understand how it's set up.

20 A Well, on one side, I guess the sports side where they
21 shoot pool at, you can go in that door but you don't have
22 access to the actual club unless you go through where the
23 workers work at, but on the other side you can go into the
24 club. But that's why I say, I never seen those guys in the
25 club until I was exiting the club.

GEORGE KILLIAN - DIRECT

1 Q Okay. So just so that -- we want to make sure they
2 understand, so on the pool side you can come and go, but on
3 the club side, is that where they do the security check?

4 A Yeah, the security check and everything like that.

5 Q So it's separate.

6 A Yes, ma'am.

7 Q But it's all Images Club.

8 A Yes, ma'am.

9 Q I just want to be sure they understand. So you said
10 that you were on the pool side?

11 A No, I was on the club side.

12 Q All right. Okay. And when you were leaving, which
13 side of the club were you in at that point, or which part of
14 Images were you leaving from?

15 A The club side.

16 Q So when you're leaving you said CiCi Whitlock threw a
17 drink in your face.

18 A Yes, ma'am.

19 Q Did anyone else approach you at that point?

20 A Not at that point, no.

21 Q So when was the first time the defendant, if he did,
22 approached you, Tril?

23 A This was on the outside of the club. That's when all
24 of the commotion --

25 Q I'm sorry --

GEORGE KILLIAN - DIRECT

1 A Go ahead.

2 Q Okay. Tell the jury what happened when you went
3 outside the club.

4 A On the outside of the club it all was confusion, it was
5 so many of those young gentlemen, I say Roundtree Circle
6 because I don't know the young gentlemen, they was all
7 standing out there. And they approached with -- the CiCi
8 Whitlock guy approached about my brother, that's where the
9 problem supposed to begin with, that's where I came in at,
10 and they was approaching my brother, so me and another
11 cousin of mine stood up and was were trying to separate and
12 get the confusion down, and they just kept going at it.
13 They had pool sticks and different things. And then I'm
14 trying to get my brother back up in the club, this is when
15 me and Tril, the young gentleman, had words and got into it
16 right at the door. And he -- at some point in time that's
17 when he told me on several occasions he would shoot me.

18 Q Okay. And at any point in time did you see a weapon on
19 the defendant McClinton?

20 A Yes, ma'am. He went in his inside coat pocket and
21 pulled out a black pistol.

22 Q All right. And at that point he also said that he
23 would shoot you?

24 A He had already told me several times that he would
25 shoot me.

GEORGE KILLIAN - DIRECT

1 Q So what did you do at that point?

2 A We was just backing up, getting my brother and them
3 backing back up in the club.

4 Q Okay. What happened after you were trying to back them
5 up back into the club? What happened next?

6 A After we got back in the club, sometime after that, we
7 just heard a lot of shots going off at some point in time.

8 Q Okay. And when you were getting back into the club,
9 was the defendant McClinton, or Tril, was he going back into
10 the club or was he out in the parking lot?

11 A He was out in the parking lot. I never seen them no
12 more, ma'am.

13 Q All right. And so where were the shots coming from?

14 A The shots was coming out from the far parking lot.

15 Q From the parking lot.

16 A From the parking lot.

17 Q All right. Were any of your family members or anyone
18 out in the parking lot as well?

19 A No, not at that time, ma'am.

20 Q Was there ever a vehicle that became involved in what
21 was going on right in front of the club?

22 A The only thing, it was a vehicle that was trying to
23 leave when all of this was going on in the beginning, the
24 young lady and her vehicle. I can't remember what kind of
25 vehicle, she was just trying to leave, and those guys were

GEORGE KILLIAN - DIRECT

1 separated from my brother. The young gentlemen from
2 Roundtree Circle was on the other side of her and in front
3 of her and we was up like close to the club.

4 Q Do you remember seeing Kochese Gregory whenever you
5 were outside?

6 A I never seen Kochese at this time, ma'am, so I don't
7 know what happened.

8 Q Okay. And do you remember actually providing a
9 statement to law enforcement regarding what you saw, you
10 actually gave it on the night of the shooting?

11 A Yes, ma'am.

12 Q I'm sorry, hold on just a second, I thought I had
13 pulled it out. Just a second. I'm going to come back to
14 that. But I'm going to ask you, Mr. Killian, do you recall
15 that at the time whenever you were actually at the club that
16 law enforcement showed up at some point and started talking
17 to you about what happened that night?

18 A Yes, ma'am.

19 Q Okay. And do you remember at that time that you
20 actually wrote out a statement to them about who you saw
21 shooting, and do you remember who you told them was
22 shooting?

23 A Yes, ma'am.

24 Q Who was shooting that night?

25 A The only person I seen shoot that I can see as far as

GEORGE KILLIAN - DIRECT

1 from here to where that young gentleman is standing, sitting
2 there was like Robert McClinton, that's the only person I
3 kept seeing shooting back towards the club. Everybody else
4 was further out in the parking lot, yes, ma'am.

5 Q Well, think real hard now, Mr. Killian, I know it has
6 been over a year, but do you remember what you told law
7 enforcement as to who was doing the shooting that night?

8 A Well, I told them Roundtree Circle was shooting. I
9 can't say who was shooting but that's the one person I can
10 see who is shooting.

11 Q I'm going to show you a couple of different shots of
12 you from that night, okay?

13 A Yes, ma'am.

14 Q All right. And for clarification this is State's
15 Exhibit Number 10. All right. I'm going back it up just a
16 little bit.

17 (A video was played.)

18 Q Who was that?

19 A That was me just came out the door, ma'am.

20 Q That's you that just came out the door, correct?

21 (The video was played.)

22 Q Before EMS got there was it kind of a crazy --

23 A Yeah. At that time, yes, ma'am.

24 Q Where was Kochese Gregory at that moment whenever the
25 police arrived, where did y'all have him?

GEORGE KILLIAN - DIRECT

1 A He was out on the pool side laying on the floor, by the
2 pool table on the floor.

3 Q And did you actually personally observe that he had
4 been shot?

5 A I heard him when he said -- when he realized he had
6 been shot and it was a lot of chaotic stuff going on at the
7 time.

8 Q All right. But this happened literally minutes, this
9 is minutes after 911 was called and the police showed up, is
10 that fair to say?

11 A What you mean, ma'am?

12 Q When the police got there it was minutes after the
13 shooting. If it's not just tell me, how long was it from
14 the time he was shot when the police got there?

15 A Oh, I can't -- it was a good little time. I don't know
16 what exactly -- like I said, I don't know exactly when
17 Kochese got shot. But by the time he realized he got shot
18 and the people that got there to come there to help him, it
19 was a good bit of time. Because we was waiting on them and
20 it seemed like they called several times.

21 Q Right. And whenever you actually were there and you
22 immediately addressed the police, did you know they were
23 wearing a body worn camera?

24 A No, ma'am.

25 Q You didn't?

GEORGE KILLIAN - DIRECT

1 A No, ma'am.

2 Q All right.

3 (The video was played.)

4 Q Who is that that's yelling? Do you know the guy that
5 was in the light colored shirt with the cap on him?

6 A Yes, ma'am, I know him.

7 Q Who is that?

8 A They call him Chocolate Pudding, I think.

9 Q Chocolate Pudding?

10 A Yes, ma'am.

11 Q And so were you out there whenever Chocolate Pudding
12 was talking to the police?

13 A I had to be out there, yes, ma'am.

14 Q All right. So all of this chaos was going on and the
15 police just show up, right?

16 A Right.

17 Q Did you hear what he said as to who was shooting?

18 A No, I didn't hear him.

19 Q You didn't? That's all right, the jury can listen to
20 it. But once again, what is the defendant's name that you
21 know about him?

22 A This Tril gentleman.

23 Q Okay. Thank you.

24 (The video was played.)

25 Q Okay. Who is that talking right there that just said

GEORGE KILLIAN - DIRECT

1 CiCi?

2 A I didn't see who said that, ma'am.

3 Q Okay. I'm going to help you, okay? I'm trying to help
4 you out here, okay? Can you see okay?

5 A Yes, ma'am.

6 Q All right. We're going to back it up just a little
7 bit. All right, here we go.

8 (The video was played.)

9 Q Okay. Who is that talking?

10 A I'm talking. That's the only person I can see talking.

11 Q Thank you. That was my question, thank you, I just
12 wanted to be sure. Who was this person standing there with
13 the brown on with the dreadlocks?

14 A My brother.

15 Q That's your brother.

16 A Kelvin Killian.

17 Q Okay. And he was the bouncer that night, right?

18 A Yes, ma'am.

19 Q Okay, thank you. We're going to listen to the rest of
20 what you said.

21 (The video was played.)

22 Q Okay. You said who was shooting from the parking
23 lot --

24 A Uh-huh.

25 Q -- the first name that came out of your mouth was what?

GEORGE KILLIAN - DIRECT

1 A Tril.

2 Q Tril. Thank you. And who do you know as Tril?

3 A The young gentleman right there.

4 Q I need -- please stand up --

5 A This young gentleman right there, that's sitting right
6 there, that's the only Tril I know.

7 THE COURT: Describe what he's wearing.

8 THE WITNESS: Some kind of plaid shirt. The man with
9 the balled head, sir.

10 Q All right. And that is Tril that you know as the
11 defendant, Quinton McClinton.

12 A Yes, ma'am.

13 Q Okay. So you did see him shooting that night.

14 A I stated earlier I didn't see him shooting, the only
15 thing I seen him -- he pulled a gun out on me. His whole
16 crew was out there in the parking lot. I say Roundtree
17 Circle but I couldn't see way out there, but I know a lot of
18 shots was coming from out there. He's the only one I know.

19 Q Thank you, Mr. Killian. If your statement within
20 minutes of the police getting there on the night that it
21 happened states who was doing the shooting and you say Tril,
22 would your statement back then be closer in time and
23 probably more credible than what you remember now?

24 A Yes, ma'am.

25 Q Thank you.

GEORGE KILLIAN - DIRECT

1 (The video was played.)

2 Q All right. So once again you confirmed to the police
3 that it was Tril.

4 A Right.

5 Q That you saw with the gun.

6 A Yeah. As far as right here to me and this gentleman if
7 not closer when he pulled the gun out, that's how close me
8 and him was.

9 Q And I'm just going to refresh your recollection. It
10 looks like you've pretty much cleared that up, you gave a
11 statement on that night and you were clarifying that you saw
12 a lot of shooting coming from the Roundtree Circle guys,
13 correct?

14 A Yes, ma'am.

15 Q And is the Defendant McClinton one of the Roundtree
16 Circle guys?

17 A Yes, ma'am.

18 Q And you also mentioned pool sticks being used, who was
19 swinging a pool stick?

20 A It was Tril and a couple of more of his friends that
21 was with him at the time.

22 Q All right. And was Kochese Gregory around whenever
23 they were doing that?

24 A Once again I never seen Kochese Gregory at this time.

25 Q Okay. But you did see after he had been shot.

GEORGE KILLIAN - DIRECT

1 A Right. The only thing we heard, we was all back in the
2 club and they said they was jumping and they was beating
3 Kochese and that's when we all came out and there was a lot
4 of shots going off at the time.

5 Q Did you ever see Kochese Gregory with a gun?

6 A No, ma'am.

7 Q When he was drug back into the club, did you see any
8 guns on the ground around him?

9 A No, ma'am.

10 Q Or on the sidewalk?

11 A No, ma'am.

12 Q All right.

13 MS. LIVELY: Thank you so much, Mr. Killian, I
14 appreciate it. Please answer any questions that the defense
15 may have.

16 THE COURT: Mr. Duncan?

17 MR. DUNCAN: Thank you, Your Honor.

18 CROSS EXAMINATION

19 BY MR. DUNCAN:

20 Q Good morning, Mr. Killian.

21 A Good morning, sir.

22 Q Mr. Killian, as I -- let me see if I can get your
23 testimony here this morning straight. You were just at the
24 Club Images at the party; is that correct?

25 A Yes, sir.

GEORGE KILLIAN - CROSS

1 Q You were not working the party.

2 A No, sir.

3 Q Your brother was a security man or bouncer at the club.

4 A At that night, yes, sir.

5 Q And that's Kelvin?

6 A Kelvin Killian.

7 Q All right. And what you've testified to, you said
8 there was numerous gunshots; is that right?

9 A Yes, sir.

10 Q Were there gunshots from both ends? In other words the
11 gunshots from the parking lot and from the club area, like
12 the threshold of the club?

13 A The only gunshots I seen was coming from -- at this
14 time I'm inside the club. As we're looking out the window
15 the only thing I see is gunshots coming from the parking lot
16 by the car wash out that end.

17 Q You were inside the club, though.

18 A I was inside the club.

19 Q Okay. You were inside the club.

20 A Yes, sir.

21 Q And you specifically said awhile ago on questioning
22 from Ms. Lively that the one person you could see that you
23 saw shooting was Robert McClinton.

24 A Robert McClinton, right. I think that's Junior
25 McClinton.

GEORGE KILLIAN - CROSS

- 1 Q In your statement you say Junior McClinton.
- 2 A Right, Junior McClinton.
- 3 Q But that's Robert McClinton.
- 4 A That's Robert McClinton.
- 5 Q And that's not Quinton McClinton.
- 6 A No, sir.
- 7 Q And you say you don't really know Quinton McClinton.
- 8 A I never been around that young gentleman too many
- 9 times, no, sir.
- 10 Q You said you're 48?
- 11 A Yes, sir.
- 12 Q So are you closer in age to Robert McClinton, Junior?
- 13 A I don't think I'm close in age to him, I don't really
- 14 know him. I know about him from hearing about him in the
- 15 streets and stuff, but I don't know him.
- 16 Q And one more time, you've -- besides seeing Kochese
- 17 Gregory after he had been shot, you didn't see him at
- 18 anytime close in time to all of this shooting and fighting;
- 19 is that correct?
- 20 A No, I didn't see him at that time.
- 21 Q Period.
- 22 A No. I didn't see Kochese at that time.
- 23 Q You couldn't tell me if he was inside the club or
- 24 outside the club.
- 25 A I believe he was there earlier but I thought he had

GEORGE KILLIAN - CROSS

1 left, and the next thing I know I don't know what happened,
2 they said they was jumping Kochese, that's when we got in
3 the club.

4 Q But that's what you heard, you didn't see.

5 A No, I didn't see that. We didn't actually see that.

6 MR. DUNCAN: All right. I think that's all I have,
7 thank you.

8 THE COURT: Mr. Frick.

9 MR. FRICK: Thank you, Your Honor.

10 CROSS EXAMINATION

11 BY MR. FRICK:

12 Q Mr. Killian, I know it's hard to see over that thing,
13 stand up if you need to, the guy at the end of the table
14 over there, do you recognize him?

15 A The young gentleman in the black shirt?

16 Q Yes, sir.

17 A Never seen him in my life, sir.

18 Q And the solicitor showed you your statement. Did you
19 mention a Montrell Graham in there anywhere?

20 A Montrell Graham? I don't know him.

21 Q Don't know him?

22 A Don't know him.

23 Q Didn't see him that night.

24 A Didn't see him that night.

25 MR. FRICK: Thank you.

JAMES YOUNG - DIRECT

1 THE COURT: Ms. Lively?

2 MS. LIVELY: No further questions for this witness.

3 THE COURT: You may step down, thank you.

4 MS. LIVELY: Your Honor, may he be excused from his
5 subpoena?

6 THE COURT: Any objection.

7 MR. FRICK: No objection?

8 MR. DUNCAN: No objection.

9 THE COURT: He may be, thank you.

10 MS. LIVELY: James Young.

11 The witness, JAMES YOUNG, was first duly sworn and

12 Testified as follows:

13 DIRECT EXAMINATION

14 BY MS. LIVELY:

15 Q Mr. Young, please tell the jury, do you live in Chester
16 County, South Carolina?

17 A Yes, I do.

18 Q And how long have you lived in this county?

19 A All of my life.

20 Q All of your life? How old are you?

21 A Fifty-four.

22 Q Fifty-four. Okay. Please tell the jury what you were
23 doing on the evening of Christmas Eve, 2018.

24 A I was at a birthday party my brother was having at the
25 club called Image.

JAMES YOUNG - DIRECT

1 Q So the club called Images. Where is the Images Club?

2 A It off on Saluda.

3 Q On Saluda and Dawson Drive area?

4 A Yes.

5 Q I'm sorry, J.A. Cochran; is that right?

6 A Yes.

7 Q And tell me if I'm wrong. And is that in like an old
8 strip mall?

9 A Yes, it is.

10 Q All right. So tell the jury how the club Images is
11 actually set up, is it like two sections or what?

12 A Yes. It have a club side on the right and a pool room
13 side on the left.

14 Q All right. So what was your -- you said you were there
15 for a party. It was your brother's birthday party?

16 A Yes.

17 Q And what's his name?

18 A John Sims.

19 Q John Sims. And who else was there that you knew?

20 A It was a lot of people there.

21 Q A lot of people? And how did the night go in regards
22 to people there at the club and in the pool side?

23 A It was -- I mean, everybody was having fun until, I
24 guess, the end and a fight broke out. It was like a fight
25 had broke out and wind up being a shooting.

JAMES YOUNG - DIRECT

1 Q Were there any bouncers working the club that night?

2 A Well, I know I was scanned by Kalbo Killian when I went
3 in the club, I don't know if he was a bouncer or what.

4 Q Kalbo Killian?

5 A Yes.

6 Q What section of the club if you're going into it do you
7 get wanded or scanned?

8 A On the right hand side where the club is going in the
9 door.

10 Q The club side, is that where the DJ is?

11 A Yes.

12 Q And what about the pool side? If you come in through
13 the pool side, do you know whether or not you get scanned?

14 A Well, when I went in I didn't.

15 Q And let me ask you this, if you go in the pool side can
16 you also walk through the pool side to get into the club?

17 A I think you still have to go past the security to get
18 in.

19 Q Okay. And that was my question was if you're going to
20 go into the club, are you going to be wanded or scanned for
21 weapons?

22 A I think you still have to go through security to get
23 in.

24 Q All right. Now, at any point in time do you remember
25 seeing the defendant, Quinton McClinton, in the club?

JAMES YOUNG - DIRECT

1 A Yes, I saw him in the club.

2 Q Do you recall what he was wearing that night?

3 A I think he was wearing something brown, I think.

4 Q Brown?

5 A Yes.

6 Q And Mr. Young, did you ever provide a written statement
7 to law enforcement or anybody that night?

8 A No.

9 Q How long were you there that night?

10 A I was there until the club was over, until it was over,
11 until a little after the shooting.

12 Q Did you know anyone else by name who was with the
13 defendant, McClinton, that night?

14 A No, I don't know who all was with him.

15 Q But you did see him there.

16 A Yeah, he was there.

17 Q Was there any tension or problems that you personally
18 witnessed before the shooting that night?

19 A Well, it looked like there was a fight that had broke
20 out, yeah.

21 Q And who was actually involved in the fight?

22 A Well, I really couldn't tell, it was just so many
23 people, you know. I mean, I don't know who all was
24 involved, but it was a fight, it was like a big fight.

25 Q All right. Well, tell the jury how you became aware

JAMES YOUNG - DIRECT

1 that a fight was going on. Where were you?

2 A I was outside smoking a cigarette.

3 Q So you were outside smoking a cigarette. And what's
4 the next thing that happens?

5 A They was coming out the door.

6 Q Do you mind telling me who they is?

7 A It was Big Troy and his brother, Kalbo, and that's who
8 I seen coming out of the door. They was arguing, it was
9 like a big confusion and I went back into the pool side.

10 Q All right. So whenever there was arguing and --

11 A But they locked the door. Troy pulled the door up and
12 locked the door, that's when I went on back in the pool
13 side.

14 Q So when Troy went to lock the door, where -- did you
15 know where Kochese was at that point?

16 A No, I didn't.

17 Q All right. And had you seen him there that night?

18 A Yeah, he was there.

19 Q He was there? And how do you know Kochese, if you do?

20 A He's my cousin.

21 Q He's your cousin, all right. And what was he wearing,
22 do you remember?

23 A A green sweater.

24 Q So a fight starts happening. Do you know whether or
25 not Kochese was outside when this fight happened?

JAMES YOUNG - DIRECT

1 A I didn't see him.

2 Q Do you know whether the defendant, McClinton or
3 Montrell Graham, were outside when the fight started?

4 A I don't know. It was a lot of us out there.

5 Q Okay. I thought you said that you were back inside at
6 that point.

7 A I mean, I had went back inside. But at the time, you
8 know, when Troy pulled the door closed I went inside,
9 because I couldn't get in the club side so I went in the
10 pool room side.

11 Q All right. So was the defendant, McClinton, outside at
12 that point?

13 A I'm not sure. He could have been, I don't know.

14 Q Do you recall seeing who started the fight since you
15 said you were outside smoking a cigarette?

16 A Well, like I said, it was Big Troy and Kalbo --
17 everything took place right in the doorway and they never
18 really made it all of the way out the door, you know. Like
19 Troy pulled the door and that's when I went back into the
20 pool room.

21 Q Do you recall ever discussing the fact that they were
22 attacking Kochese Gregory, who they was?

23 A Yeah. That's when I was in the pool room side. I was
24 on the -- standing on the inside and I seen just a green
25 sweater and I seen people jumping on him. I couldn't tell

JAMES YOUNG - DIRECT

1 who it was, I didn't know who it was, and that's when the
2 girl had the car trying to shield them from jumping on him.

3 Q Okay. Them. Tell me -- if you can, tell me their
4 names. If you don't know tell me that what they were
5 wearing.

6 A Well, they had some brown clothing on.

7 Q Brown clothing? Were they African-America? Hispanic?

8 A Well, I didn't see no Hispanic people out there that
9 night, so --

10 Q Were they old? Young? I mean, just describe them for
11 us.

12 A Like I said, I was standing back in the club, it was
13 dark, I couldn't really tell. And the girl had the car
14 going up and down, you know, trying to -- she was like using
15 the car for a shield so I really couldn't see past the car.

16 Q Who was driving that car?

17 A A girl named Tina Gregory, I think that's her name.

18 Q So do you know Tina well?

19 A Not well.

20 Q So once this happens, you said that there's a fight and
21 you see Tina with the vehicle, what ended up happening next?
22 What's the next thing you remember?

23 A Well, it wasn't long after that I heard gunshots, and
24 then wasn't long after that, that's when Gregory came back
25 in the club and said he had been hit.

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1 Q So --

2 A Came back in the pool room.

3 Q All right. And you said that you had seen the -- what
4 this defendant, McClinton, was wearing that night in the
5 club; is that right?

6 A Well, he had brown on.

7 Q He had brown on. Okay. Did any of those people with
8 brown on come back into the club after Kochese Gregory had
9 been shot?

10 A I didn't see them.

11 Q From what area were the shots coming from?

12 A I assumed it was coming from the parking lot.

13 Q Okay. Well, I mean, did you get hit?

14 A No.

15 Q Okay. And you were inside the club, right?

16 A Yes.

17 Q So you said you're assuming they came from the parking
18 lot, right?

19 A Yes.

20 Q Were they coming from inside the club?

21 A No.

22 Q Were they coming from the sidewalk in front of the
23 club?

24 A I don't think they was.

25 Q Okay. Thank you. So you said -- so what happened to

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1 Kochese Gregory at that point then?

2 A That's when he said he had been hit, and he ran up in
3 the pool -- well, when he ran up in the pool room he said he
4 had been hit. I laid him on the floor and started to tend
5 to his wounds, and then I went and got a paper towel and put
6 over his head to keep him from fading out.

7 Q All right. So whenever you were doing that at that
8 point in time, did you ever see Kochese Gregory with a gun?

9 A No, I didn't.

10 Q Did you ever see a gun laying around him whenever he
11 was brought back into the pool room?

12 A No, I didn't.

13 Q Now, were you there whenever the police arrived?

14 A Yeah.

15 Q And once they arrived, were you aware that the body
16 worn camera was running at that point?

17 A No.

18 Q How about when EMS arrived, were you there for that?

19 A Yes.

20 Q But in regards to all of the law enforcement and people
21 were there, you never provided an actual statement to them
22 about what you saw.

23 A No.

24 Q But you would agree you clearly were there and you were
25 there at the time when the shooting took place.

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1 A Yes.

2 Q Did you ever see Kochese Gregory shooting a gun?

3 A No.

4 Q Now, whenever Kochese Gregory was laying on the ground
5 and EMS got there, did you witness anything that law
6 enforcement did before they started working on Kochese?

7 A They told everybody to step back.

8 Q And did they do anything to Kochese in regards to what
9 he may have had on him?

10 A They cut his sweater off.

11 Q What about everything else in regards to --

12 A They patted him down.

13 Q They patted him down. Okay. And were you standing
14 there and did you actually witness that?

15 A Yeah. Because we kind of got mad because they was
16 patting go him down. We thought they wasn't tending to his
17 injuries, you know, and they was taking time to pat him
18 down.

19 Q He's your cousin, right?

20 A Yes.

21 Q And you wanted him to be treated immediately, correct?

22 A Yes, I didn't want to see him die.

23 Q But they patted him down for weapons before they
24 started working on him.

25 A Yeah, they patted him down.

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1 Q All right. So were you there until they actually took
2 Kochese away in the ambulance?

3 A Yeah. I pretty much was, yes.

4 Q Did you ever go to the hospital or see Kochese after
5 that?

6 A No.

7 Q And once again you did not -- you haven't provided any
8 other statements or anything to law enforcement. Were you
9 subpoenaed to be here today?

10 A I was.

11 Q Okay. Are you missing out on work?

12 A I am.

13 Q Okay. Now, Mr. Young, I'm just going to show you
14 briefly just so that the jury can know as well, do you
15 recall what you were wearing that night whenever you were
16 there?

17 A Yes, I had on brown, too. I had a brown coat on, brown
18 khakis.

19 Q And I'm just showing you, it's kind a screen shot, but
20 if you will just look at that. Do you recognize who is in
21 that picture.

22 A Yes, that's me.

23 Q That's you?

24 A Yes.

25 Q Okay. Once again, you said you stayed until Kochese

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1 was actually taken to the -- by EMS to the hospital?

2 A Yes.

3 Q I want to just briefly show you their --

4 (A video was played.)

5 Q Were you standing there during the time whenever Big
6 Troy was talking to the police in regards to who did the
7 shooting?

8 A Yeah, I was standing there.

9 Q Okay. And what did he say?

10 A I don't remember exactly what he said.

11 Q Can I refresh your recollection by letting you watch
12 this?

13 A I mean, you can, but it has been a year ago, I don't
14 remember.

15 MR. DUNCAN: Your Honor, I object, he's answered the
16 question, I object to it.

17 MS. LIVELY: He said he doesn't remember, Your Honor.

18 THE COURT: She's going to refresh his recollection
19 perhaps, and if it does refresh it then it will and if it
20 doesn't you say so.

21 MR. DUNCAN: Thank you, sir.

22 (The video was played.)

23 Q I'm going to show you this, and I know it's hard to see
24 so if you need to step down I will ask the Court to allow
25 you to do that. So who is this person right here?

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- 1 A Excuse me, I can't see past you. That's me.
- 2 Q Okay. And who is this person right here?
- 3 A That's Troy.
- 4 Q Okay. And right here?
- 5 A Kalbo, I think.
- 6 Q All right. And I'm pointing to the gentleman that has
- 7 dread locks, correct?
- 8 A That's Kalbo, yeah.
- 9 Q And we're at one minute and 46 seconds into the body
- 10 worn camera. All right.
- 11 (The video was played.)
- 12 A That's not Troy, that's George it looks like.
- 13 Q Right. George Killian?
- 14 A I don't know George's last name but that's his name is
- 15 George.
- 16 Q Okay. And I'm going to let you point out -- because I
- 17 understand, like you say there was a lot of confusion that
- 18 night.
- 19 A Yeah. That's not Big Troy, that's George standing
- 20 there it looks like to me.
- 21 Q All right. Did you see Mr. Killian as you were passing
- 22 him each other? Because he testified before you.
- 23 A Yes.
- 24 Q Okay. So the gentleman that was testifying before you,
- 25 what's his name?

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1 A Troy Killian.

2 Q All right. So do you see Troy Killian?

3 A Yes, he's over on the other side. He's right there
4 beside me, right up above me on the other side.

5 Q Okay. Just want to make sure that we are clear.

6 (The video was played.)

7 Q All right. Now do you remember what he said in front
8 of you?

9 A Yeah, he said that. What he said there on the tape, he
10 said it.

11 Q Okay. I need to you testify to what you heard him say.

12 A He said that he seen Tril do the shooting.

13 MS. LIVELY: Thank you. No further questions, Your
14 Honor.

15 THE COURT: Mr. Duncan?

16 MR. DUNCAN: Thank you Your Honor.

17 CROSS EXAMINATION

18 BY MR. DUNCAN:

19 Q Good morning, Mr. Young.

20 A How are you doing, sir?

21 Q Mr. Young, I represent Mr. Quinton McClinton in this
22 case. If I understood you, you said you were at the Club
23 Images for a birthday party for your brother?

24 A Yes, sir.

25 Q And your brother is John Sims?

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1 A John Sims.

2 Q Goes by Chuck?

3 A Chuck, yes.

4 Q And you were -- at different times in the evening you
5 were on both sides, both on the club side and the pool room
6 side?

7 A Yes.

8 Q And I thought I heard you testify that you were outside
9 smoking when there got to be -- a fight occurred while you
10 were outside?

11 A Yes.

12 Q And the fight was taking place inside the club side?

13 A Yes, sir.

14 Q So you personally don't know what started that fight or
15 who was involved in that fight; is that correct?

16 A No, I don't.

17 Q And then you went back inside --

18 A On the pool side.

19 Q -- on the pool room side. And you remained in the pool
20 room side until you heard some gunshots and you were still
21 in the pool room side; is that right?

22 A Yes.

23 Q So you couldn't tell who was shooting, you didn't see
24 any shots, you were inside.

25 A Yes.

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1 Q So you can't -- of your knowledge you have no idea who
2 was shooting.

3 A No, I don't.

4 Q Can you estimate the number of gunshots that you heard?

5 A It was a lot of shots, I don't know, maybe nine or ten.
6 I don't know.

7 Q Nine or ten -- what you call a lot and you would say a
8 lot being nine or ten?

9 A Yeah, or more.

10 Q Or more. And there were -- as we sit here today is it
11 your testimony that those gunshots were just outside the
12 club, there were no shots inside the club?

13 A Right.

14 Q And you were testifying about a young lady, I think you
15 said her name was Tina Gregory, driving a vehicle, and you
16 couldn't really see beyond the vehicle, but she was
17 shielding --

18 A Yes. It was like she was trying to shield whatever was
19 going on, the fighting that was going on, she was driving
20 the car back and forth in the front of the club.

21 Q Right in front --

22 A I was standing in the club looking out the window.

23 Q And she was driving back and forth like right in front
24 of the doorway?

25 A Yes.

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1 Q All right, sir.

2 MR. DUNCAN: I think that's all of the questions I
3 have.

4 THE COURT: Mr. Frick?

5 MR. FRICK: Thank you, Your Honor.

6 CROSS EXAMINATION

7 BY MR. FRICK:

8 Q It's barely morning, good morning. Do you recognize
9 the guy at the end of table there? Stand up if you need to
10 there. Do you know him?

11 A Yes, sir.

12 Q Did you see him that night?

13 A I'm not sure if I saw him that night, I didn't quite
14 notice him out there.

15 Q You didn't notice him out there?

16 A I didn't.

17 Q And you were right there basically at the club part,
18 right?

19 A Yeah. I was in the club, in and out of the club.

20 Q Okay. All right. So you didn't notice him around the
21 club area or pool hall area or up on the sidewalk or
22 anything.

23 A I have no recollection that I really seen him.

24 Q Okay. And just to clarify one thing, when the shooting
25 happens you're inside the club?

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1 A Yes, I was in the pool room.

2 Q Pool room part.

3 A Yes.

4 Q And Kochese was outside?

5 A I assume he was.

6 Q Because he came back in after the shooting happened,
7 said he'd been hit.

8 A Yes.

9 Q But you don't know where he went, I mean where the
10 shooting was. You didn't know where he was outside.

11 A No, I didn't know.

12 MR. FRICK: Okay. All right. Thank you, sir, that's
13 all of the questions I have.

14 MS. LIVELY: Nothing further from the State, Your
15 Honor.

16 THE COURT: Step down. We're going to take a short
17 break.

18 MS. LIVELY: May he be excused from his subpoena?

19 THE COURT: He may be.

20 MS. LIVELY: You're excused.

21 THE COURT: I'll let you go to your jury room. Don't
22 discuss the case. You can never talk about the case until
23 you're involved in jury deliberations, so don't discuss the
24 case, you can talk about anything else. We'll bring you
25 back out shortly.

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1 (The jury left the courtroom.)

2 THE COURT: We'll be at ease for ten minutes.

3 (A break was taken.)

4 THE COURT: Bring in the jury.

5 (The jury returned to the courtroom.)

6 MS. LIVELY: Bernice June.

7 The witness, BERNICE JUNE, was first duly sworn and

8 Testified as follows:

9 DIRECT EXAMINATION

10 BY MS. LIVELY:

11 Q Hi, Ms. June. Were you subpoenaed to be here?

12 A Yes, ma'am.

13 Q Do you live in Chester?

14 A Yes, ma'am.

15 Q How long have you lived in Chester?

16 A Fifty-three years.

17 Q How old are you?

18 A Fifty-three.

19 Q So your whole life.

20 A Yes, ma'am.

21 Q Do you have family here in the Chester area?

22 A Yes.

23 Q Just -- you don't have to give me their names, do you
24 have brothers, sisters?

25 A Brother, sister, mother, sons.

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- 1 Q Okay. Do you know Kochese Gregory?
- 2 A Yes.
- 3 Q And how do you know him?
- 4 A He's practically family.
- 5 Q And how about the defendant, Quinton McClinton, do you
- 6 know him?
- 7 A I know him but I don't know him.
- 8 Q Okay. Fair enough. How about defendant, Montrell
- 9 Graham, do you know him?
- 10 A No.
- 11 Q Now, Ms. June, were you present at the Christmas Eve
- 12 party that was held at Images Club in 2018?
- 13 A Yes.
- 14 Q And just tell the jury why you were there.
- 15 A Well, it was a party going on so it was Christmas Eve
- 16 and me and my friend girl went down there to have us a good
- 17 time.
- 18 Q And which friend were you with, Ms. June?
- 19 A Angela Cousar.
- 20 Q Angela Cousar. And when you went there with Ms. Angela
- 21 Cousar, were you actually meeting someone there or --
- 22 A No, ma'am.
- 23 Q Were there a lot of people at the club that night?
- 24 A It was a good crowd.
- 25 Q At any point in time do you remember seeing Kochese

BERNICE JUNE - DIRECT

1 Gregory there?

2 A Yes.

3 Q Well, just tell the jury about that. Where did you see
4 him?

5 A He was inside, because me and him had a dance together.

6 Q All right. So when you -- what side of Images is that
7 that you're in?

8 A The dance side.

9 Q The dance side. All right. Explain to the jury, when
10 you go into the dance side, is there security that you have
11 to go through.

12 A Well, there's some time -- it wasn't somewhere I go to
13 regular, there usually be somebody there that do pat you
14 down.

15 Q They pat you down?

16 A Uh-huh.

17 Q Do you know Big Troy, George Killian?

18 A Yes.

19 Q Was he there that night?

20 A Yes.

21 Q How about James Young, do you know him?

22 A Yes.

23 Q Was he there that night?

24 A Yes.

25 Q And how about Kelvin Killian, or Cowboy, was he there?

BERNICE JUNE - DIRECT

1 A Yes.

2 Q Do you remember seeing the defendant, Quinton
3 McClinton, there?

4 A Yeah, I seen him walk through there.

5 Q And once again I had asked you about Montrell Graham,
6 he's the defendant seated all of the way at the end of
7 table, do you recall seeing that young man there?

8 A I know there was three guys walking through there.

9 Q What was Quinton McClinton wearing when you saw him?

10 A It was like I want to say -- to me it might have been a
11 beige or like a cargo jacket.

12 Q Did you recognize what the other boys that were with
13 him were wearing?

14 A No.

15 Q And why did it stand out to you as to what the
16 defendant, McClinton, was wearing?

17 A Because I knew that was him that came up in there
18 because I was sitting down in a chair.

19 Q Do you know -- who were some of the other people that
20 you saw in the club that you spoke to that night?

21 A It done been so long I don't even remember.

22 Q All right, fair enough. Do you recall what you were
23 wearing that night?

24 A Yeah. I had some black boots and black leggings with a
25 like gold and black top.

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1 Q Okay. Ms. June, were you there whenever a fight broke
2 out?

3 A Was I in the club?

4 Q Well, were you still there at Images when the fight
5 broke out?

6 A Yes, ma'am, I was.

7 Q Tell the jury what you saw in regards to that fight.
8 And if you can please use names instead of just saying they
9 or he if you could.

10 A Well, actually I was not outside. The fight didn't
11 take place in the inside and I was in looking out and I
12 really couldn't see anyone, all I know I heard gunshots.

13 Q Okay. And whenever you -- were you looking out through
14 the window inside the club?

15 A Uh-huh.

16 Q Is that yes?

17 A Yes, ma'am.

18 Q Okay. He just has to type everything down you say.

19 A Yes, ma'am.

20 Q And pull your microphone to you, you're speaking --
21 there you go. Now, you said you were looking out. Describe
22 to the jury what you're looking through. Is it a big wall
23 or is it just a bunch of windows?

24 A It's windows.

25 Q It's windows? All right. So if you're looking outside

BERNICE JUNE - DIRECT

1 the window of the club area, are there lights along the
2 sidewalk outside the club?

3 A Yes.

4 Q I'm going to show you what's been marked as State's
5 Exhibit Number 2. And there are four photos that are
6 attached. And just tell me, do you recognize the people in
7 those photos?

8 A Yes.

9 Q Flip through each one.

10 A Yes.

11 Q You know them all? And the female that's in those
12 photos, do you recall what her name is?

13 A Uh-huh, Tina Davis.

14 Q Do you know what she was driving that night?

15 A No, I don't.

16 Q Okay. Let me grab that from you. And one thing when
17 you're looking at this, was the area of the sidewalk in
18 front of the club, was it well lit?

19 A Yes.

20 Q All right. Are there lights out in the parking lot of
21 where this club was, or where the club is?

22 A There's light in the parking lot.

23 Q There's lights in the parking lot. All right. I'm
24 going to show you State's Exhibit Number 8. It's not in
25 evidence so I'm just going to have you flip through it. If

BERNICE JUNE - DIRECT

1 you'll tell me if you are in any of those photos.

2 A Yes.

3 Q What were you wearing that night, Ms. June?

4 A A gold and black top and black leggings.

5 Q And is that you that's actually in those photos?

6 A Yes, ma'am.

7 Q And do you recognize the other individuals that are in
8 those photos?

9 A Yes, I do.

10 Q And is that an accurate reflection of what it looked
11 like in the pool room after Mr. Kochese Gregory was removed
12 by EMS?

13 A Yes.

14 Q All right.

15 MS. LIVELY: Your Honor, the State would move State's
16 Exhibit Number 8 and all of its photos into evidence at this
17 time.

18 THE COURT: How many photos are in that packet?

19 MS. LIVELY: State's Exhibit Number 8 has six total
20 photos included.

21 MR. DUNCAN: No objection.

22 MR. FRICK: No objection.

23 THE COURT: They're admitted.

24 (The photos were received as State's 8.)

25 Q Now, at the time during what's in evidence now State's

BERNICE JUNE - DIRECT

1 Exhibit Number 8, were you talking to law enforcement at
2 that point?

3 A Yeah. I was saying some things, I was.

4 Q You were? Okay. And do you recall whenever law
5 enforcement was talking to Mr. Killian about providing a
6 statement that night?

7 A Yes.

8 Q And did you ever actually provide a written statement
9 that night?

10 A No.

11 Q All right. Did you realize that the officer who was
12 actually interviewing all of you had a body worn camera on?

13 A No.

14 Q Do you know now?

15 A Yes.

16 Q Have you reviewed the body worn camera prior to your
17 testimony here today?

18 A Yes.

19 Q Do you recall who you said was shooting that night?

20 A When I said it I said they was shooting like outside,
21 they.

22 Q Okay. Do you recall the context of whenever Mr.
23 Killian was talking to law enforcement and whenever he was
24 talking about who actually did the shooting?

25 A Yeah, I said they was shooting outside. I said Quinton

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1 and them were shooting outside.

2 Q Quinton and them were shooting outside. They were
3 shooting like what, you can say.

4 A Hell.

5 Q They were shooting like hell. And you told that to law
6 enforcement.

7 A Uh-huh.

8 Q Is that a yes?

9 A Yes, ma'am.

10 Q Did you ever see Kochese Gregory with a gun?

11 A No, ma'am, I didn't.

12 Q Did you ever see Kochese Gregory shoot at anyone?

13 A No, ma'am.

14 Q Did you actually see whenever Kochese Gregory was in a
15 fight outside?

16 A No, I didn't.

17 Q Did you suffer any kind of damage from what occurred
18 that night?

19 A I didn't but my car did.

20 Q Okay. Your car, all right. What kind of car do you
21 have, Ms. June?

22 A Well, at that time I had a 2013 Chevrolet Impala white.

23 Q All right. What kind of damage was sustained by your
24 vehicle?

25 A There was a bullet hole in the door, they shot up the

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1 passenger window and the front window.

2 Q I'm going to show you --

3 MS. LIVELY: And I need to have these marked.

4 Q I'm showing you State's 13 through 19 and I'm going to
5 hand these to you as well. Do you recognize the vehicle
6 that is actually in those particular pictures?

7 A A yes.

8 Q Whose vehicle is that?

9 A Mine.

10 Q And please tell us, does that -- those pictures reflect
11 the damage that was suffered by your vehicle on that
12 evening?

13 A Yes, it was.

14 Q All right. Let me show these to the defense, if I may
15 retrieve those. Thank you, ma'am.

16 (Break in proceedings.)

17 MS. LIVELY: Your Honor, the State would move State's
18 Exhibit 13 through 19 into evidence at this time.

19 MR. DUNCAN: No objection.

20 MR. FRICK: No objection.

21 THE COURT: They're admitted.

22 (The photos were received as State's 13-19.)

23 Q All right. I'm going to show you State's Exhibit
24 Number 13. And if you could --

25 MS. LIVELY: Your Honor, may I have the witness step

BERNICE JUNE - DIRECT

1 down from the witness stand?

2 THE COURT: You may.

3 Q This is microphone so we want to make sure that they
4 can hear you. I'm going to show you State's Number 13,
5 we're going to show this to the jury, okay? So the damage
6 to that vehicle in 13, let's just back up just a little bit
7 okay -- and number 13. Which side of your vehicle had
8 damage? Was it the side that was facing the parking lot or
9 the side coming from the club?

10 A The side -- this side, the passenger side.

11 Q The passenger side. And so what we're seeing at the
12 top of this photo in 13, what is this we're seeing in the
13 background? Where is that?

14 A The club.

15 Q That's the club, okay. So that's the background of the
16 club. So what is on the passenger side of your vehicle? If
17 you look from your passenger side out what do you see?

18 A Nothing.

19 Q Is it the parking lot --

20 A It's the parking lot.

21 Q It's the parking lot, okay. So the passenger side of
22 your vehicle is facing the parking lot.

23 A Uh-huh.

24 Q Is that a yes?

25 A Yes, ma'am.

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1 Q The driver's side of your vehicle is facing what?

2 A Towards the club way.

3 Q Towards the club. Okay. All right. So that's in 13.

4 And I'm going to show you a backed up picture here, too. Do
5 you see that?

6 A Uh-huh.

7 Q Is that a yes?

8 A Yes, ma'am.

9 Q All right. So State's Exhibit Number 14 here, this
10 white car is your car, right?

11 A Yes, ma'am.

12 Q Once again the damage was on which side of your
13 vehicle?

14 A This side, passenger side.

15 Q Okay. The passenger side. What actually happened to
16 the passenger side of your vehicle from the parking lot?

17 A It got shot up.

18 Q Got shot up. Okay. So this is State's 15?

19 A Uh-huh.

20 Q Is that yes?

21 A Yes, ma'am.

22 Q What are we seeing that's in this photo?

23 A The car with blood on the window, yes, ma'am.

24 Q And what is that that we're seeing in regards -- which
25 side of the car is that?

BERNICE JUNE - DIRECT

1 A That's the passenger side.

2 Q Passenger side. And is that facing the parking lot?

3 A Yes, ma'am.

4 Q And once again I'm showing you one from State's Exhibit

5 Number 16. Are we seeing the same thing but it's a

6 nighttime shot?

7 A Yes, ma'am.

8 Q Okay. And then in State's Number 17. What are we

9 seeing in State's 17?

10 A A bullet hole.

11 Q A bullet hole. Where is that bullet hole?

12 A I think it was on the passenger side, the window right

13 here, the front passenger window.

14 Q Is that the windshield or was that still the passenger

15 window, do you recall?

16 A I don't recall. Because both of them was shot, the

17 windshield and the passenger -- and the window was shot.

18 Q Okay. So there was more than one shot that hit your

19 car.

20 A Yes, ma'am.

21 Q Coming from the parking lot.

22 A Yes, ma'am.

23 Q Now, I'm going to show you State's Exhibit Number 18.

24 And where is that? Do you recall where that -- I'm sorry,

25 what is that?

BERNICE JUNE - DIRECT

1 A That's the bullet hole in the back door.

2 Q Is that on the passenger side or --

3 A Passenger side.

4 Q Okay. So that State's Number 18. Were any of these
5 bullet holes or damage to your vehicle there before that
6 night?

7 A No, ma'am.

8 Q And then finally I'm going to show you State's Number
9 19, okay? And where was that particular damage to your
10 vehicle?

11 A That might have been the front window.

12 Q That's the front window? Okay. Once again, where were
13 all of the bullet holes and damage located on your vehicle?

14 A One was on the door, the back seat door, the window was
15 shattered out and the front window was shattered out.

16 Q Were there any bullets that came from the side of where
17 the club was into the driver door or driver window?

18 A No, ma'am.

19 Q Thank you, you can sit down. Do you know the nickname
20 that Defendant McClinton goes by?

21 A Yes, ma'am.

22 Q What is it?

23 A Tril.

24 Q Tril?

25 MS. LIVELY: Thank you. Answer any questions that the

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1 defense may have.

2 CROSS EXAMINATION

3 BY MR. DUNCAN:

4 Q Good afternoon, Ms. June.

5 A How are you doing?

6 Q I'm representing Mr. Quinton McClinton in this case.

7 A Uh-huh.

8 Q And you were testifying that you were at -- you were at
9 Club Images at Christmas Eve 2018.

10 A Yes, sir.

11 Q And you were attending a party?

12 A Yes, sir.

13 Q Okay. And that was your -- was it your family's party?

14 A No, sir, just a public party.

15 Q Just friends.

16 A Yes, sir.

17 Q And you testified that you and Ms., I think, Angela
18 Cousar --

19 A Yes, sir.

20 Q -- is a friend of yours.

21 A Yes, sir.

22 Q Had gone together.

23 A Yes, sir.

24 Q And you had driven your vehicle and she rode with you.

25 A Yes, sir.

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1 Q All right. And I was trying to hear, did you say you
2 were -- that Kochese Gregory, you knew him -- is he in your
3 family or --

4 A No, he's not.

5 Q How did you know him?

6 A I know his mother, I've been knowing him all my life.

7 Q You've been knowing him all your --

8 A Kochese and his family.

9 Q All right. Ms. Lively showed you a lot of photographs
10 of your vehicle.

11 A Yes, sir.

12 Q I want to understand, were you inside the club when
13 shots were fired?

14 A Yes, sir.

15 Q Which side of the club were you on? Were you on the
16 dance side or the pool hall side?

17 A At that time I was on the pool hall side.

18 Q All right. And did you actually see shooting or you
19 just heard gunshots?

20 A I heard gunshots.

21 Q Okay. And again, you're inside, you didn't -- did you
22 run to the door or did you just --

23 A Yeah. I ran to the door but then I stepped back
24 because all of the shooting and I was not going to catch a
25 bullet.

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1 Q I understand. So is it fair to say you didn't actually
2 see the shooting, you just heard the gunshot?

3 A Yeah. I just heard it looking out the window.

4 MR. DUNCAN: Okay. That's all of the questions I have.

5 CROSS EXAMINATION

6 BY MR. FRICK:

7 Q Very briefly, Ms. June. I believe the solicitor asked
8 you did you know Mr. Graham here sitting at the end of the
9 table you said you did not.

10 A I don't know him. I know of him but I don't know him,
11 no.

12 Q Well, you know of him. Do you recognize him -- do you
13 recall him being at that club on Christmas Eve?

14 A Yeah. He walked in with Quinton, there was another guy
15 and him walked in the club together.

16 Q Okay. I thought you told the solicitor you didn't
17 recognize who those folks were.

18 A I said Quinton did, it was three guys.

19 Q So which is it, was Mr. Graham one of those guys or was
20 he not one of those guys?

21 A I thought she asked me did I know him.

22 Q Okay. She did, and then you said three guys walked in
23 with Quinton.

24 A There was three guys, I didn't pay them all attention,
25 I only paid him some attention.

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1 Q So you don't know who it was.

2 A I know it was Quinton.

3 Q But you don't know who the three guys were.

4 A No.

5 Q And you can't say today that it's Montrell Graham.

6 A No.

7 MR. FRICK: Thank you, ma'am.

8 REDIRECT EXAMINATION

9 BY MS. LIVELY:

10 Q All right, Ms. June. Do you remember when law
11 enforcement asked you about were you there all night and did
12 you see who was doing the shooting?

13 A Uh-huh, yes, ma'am.

14 Q Okay. So you do remember that. And you testified just
15 a few minutes ago in front of this jury that you saw them
16 shooting, they were shooting like hell?

17 A I said they was shooting like hell because I know they
18 was out there doing the shooting, but I didn't actually see
19 the one who was doing the shooting.

20 Q I'm going to have to break that down because I want to
21 make sure the jury understands what you're saying. You said
22 you know they were doing the shooting but you didn't see
23 that they were doing the shooting.

24 A Because I wasn't outside.

25 Q I understand that, I understand you were inside. But

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1 you already testified that there were windows and there's a
2 bunch of glass so you can --

3 A I couldn't see. I didn't stand there the whole time
4 they was doing the shooting.

5 Q Okay. Do you remember telling law enforcement that
6 night that they, being Quinton McClinton, Tril, was doing
7 the shooting?

8 A No, ma'am. I had been drinking, I don't recall that.
9 I could have said it, I don't recall saying it.

10 MS. LIVELY: Your Honor, at this time I would like to
11 refresh her recollection.

12 THE COURT: Okay.

13 (A video was played.)

14 Q All right. Who is that?

15 A That's Bernice, me.

16 Q Okay, just want to be clear. I'll play this portion
17 and let you refresh your recollection, okay?

18 A Okay.

19 (The video was played.)

20 Q So they were talking about who was doing the shooting,
21 did you just hear that?

22 A Yes, ma'am.

23 Q And what did you say?

24 A They was shooting like hell.

25 Q Okay. Did you ever tell him, "But no, I didn't

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1 actually see it." You didn't say that, did you?

2 A No, ma'am.

3 Q And if this was done on the night of the actual
4 shooting, would your recollection and memory be better at
5 that moment than it is now?

6 A No, ma'am.

7 MS. LIVELY: Okay. That's fine. I have no further
8 questions.

9 THE COURT: Do y'all have anything else?

10 MR. DUNCAN: No, sir.

11 THE COURT: Okay. You may step down.

12 MS. LIVELY: May she be excused from her subpoena?

13 THE COURT: She may be.

14 MS. LIVELY: Thank you.

15 THE COURT: We are going to break for lunch. Keep in
16 mind my caution previously given, you can't talk about the
17 case to anybody, don't allow anyone to try to discuss it
18 with you. Do have a good lunch and please report back to
19 the jury room this afternoon at 2:15, 2:15 this afternoon.

20 (The jury left the courtroom.)

21 THE COURT: Court is in recess until 2:15.

22 (A lunch break was taken.)

23 THE COURT: Any matters we need to address before the
24 jury comes in?

25 MS. LIVELY: Not from the State, Your Honor.

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1 MR. FRICK: No, sir.

2 (The jury returned to the courtroom.)

3 THE COURT: Good afternoon, ladies and gentlemen. As
4 you know when we recessed for lunch the State was in the
5 midst of their presentation so we'll continue with that
6 presentation this afternoon. Ms. Lively?

7 MS. LIVELY: Thank you, Your Honor. The State would
8 call Daverican Gregory to the stand.

9 The witness, DAVERICAN GREGORY, was first duly sworn
10 And testified as follows:

11 DIRECT EXAMINATION

12 BY MS. LIVELY:

13 Q Mr. Gregory, would you please spell your first name?

14 A D-a-v-e-r-i-c-a-n.

15 Q How old are you, Mr. Gregory?

16 A Forty-eight.

17 Q Are you from the Chester area?

18 A Yes, ma'am.

19 Q How long have you lived in the Chester area?

20 A Most of my life.

21 Q Do you have any family members that live here in
22 Chester?

23 A My whole family.

24 Q Your whole family? Do any of those -- of your family
25 members, are they involved in this case that you know of?

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- 1 A My first cousin.
- 2 Q Who are you pointing to?
- 3 A Kochese Gregory.
- 4 Q Kochese Gregory. I just wanted to be clear for that.
- 5 A Yes, ma'am.
- 6 Q All right. Now, Mr. Gregory, do you have a nickname
- 7 that you go by?
- 8 A Yes, ma'am, Chocolate Pudding.
- 9 Q Chocolate Pudding. Who gave you that nickname?
- 10 A My grandmother.
- 11 Q And is that what you normally answer to when you go out
- 12 with friends and family?
- 13 A Yes, ma'am.
- 14 Q Now, Mr. Gregory, are you currently working anywhere?
- 15 A No, ma'am, not at the present time.
- 16 Q All right. And in December of 2018, did you have an
- 17 opportunity to actually go to the Images Club, which is over
- 18 there in Chester County?
- 19 A Yes, ma'am.
- 20 Q All right. Tell the jury why you went to Images Club
- 21 that night.
- 22 A To celebrate Christmas Eve.
- 23 Q And were there people there that you knew?
- 24 A Yes, mostly everyone.
- 25 Q So mostly everyone. Just pull that microphone to you

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1 just a little. There you go, thank you. So name some of
2 the people that you saw there that you knew.

3 A Bob Foster, Sabrina Isom, a whole lot of different
4 people.

5 Q Okay. How about --

6 A Tina Davis.

7 Q Tina Davis, all right. And how about the defendant,
8 Quinton McClinton, did you see him there?

9 A Yes, ma'am.

10 Q All right. And how about the defendant, Montrell
11 Graham, did you see him there?

12 A Yes, ma'am.

13 Q Whenever you saw them there, did you ever speak with
14 either one of them?

15 A Yes, ma'am.

16 Q Tell the jury when you spoke to the Defendant
17 McClinton.

18 A I did speak to him. But I also had some mace because
19 the young folks would be showing out so I would be like,
20 "I'll spray you with some mace," but it was like water off
21 his back, he wasn't paying no attention.

22 Q All right. So were you just kind of messing with him a
23 little bit?

24 A Yes, ma'am. He took it as that as well, though.

25 Q All right. So when you said he took it as that as

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1 well, what happened?

2 A After that I didn't speak to him anymore that night.

3 Q You didn't speak to him anymore that night.

4 A No, ma'am.

5 Q And whenever you saw him, did you actually see what it
6 was he was wearing?

7 A Yes, ma'am.

8 Q What was he wearing?

9 A He had on like a wheat colored jacket.

10 Q A wheat colored jacket?

11 A Yes, ma'am.

12 Q Who else was with the defendant, Mr. McClinton? Other
13 than the defendant, Mr. Graham, who else was with him?

14 A Carlton Dixon and his brother.

15 Q Carlton Dixon and whose brother?

16 A Quinton McClinton. Junior. His brother's name is
17 Junior.

18 Q So he was there, too?

19 A Yes, ma'am.

20 Q Does the defendant, Quinton McClinton, have a nickname
21 that you know him by?

22 A Yes, ma'am.

23 Q What is it?

24 A Tril.

25 Q Tril? All right. Okay. So on that night you said

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1 that you were in the club and -- so the first interactions
2 you had was whenever you were kind of messing with him and
3 you had the mace.

4 A Yes, ma'am.

5 Q All right. Which side of Images were you on? Were you
6 in the club DJ side or were you in the pool room?

7 A On the pool room side.

8 Q Pool room side. When you go into the pool room side --
9 well, let me back up. Was there anybody working security at
10 the club that night?

11 A Yes, ma'am.

12 Q Who?

13 A Antonio Curig (phonetically) and Eric Stroud.

14 Q When they worked security, what part of the club are
15 they working? Is it the DJ side or the pool side or both?

16 A Actually it's in an admission booth that's right there
17 when you first come in.

18 Q So when you went in there, were you searched?

19 A No, ma'am.

20 Q Were you wanded or scanned for weapons?

21 A No, ma'am.

22 Q You were not. So what section did you go in to, was
23 it --

24 A I went to the pool room side first, which wasn't no
25 security in there, though.

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1 Q I'm sorry, I wanted to be clear. So the pool room
2 area, can you walk in without being wanded?

3 A Yes, ma'am.

4 Q So you went in there. At some point did you actually
5 go into the club?

6 A Yes, ma'am.

7 Q So when you went into the club, were you wanded or
8 searched at that time?

9 A No, ma'am.

10 Q You were not. All right. So when were you in the club
11 area, about how long did you stay in that area before things
12 started to kind of close down?

13 A I'm not sure. I was back and forth, maybe over there
14 ten minutes, go back to the other side five or ten minutes.
15 I was back and forth.

16 Q So were you being very social that night?

17 A Yes, ma'am.

18 Q Had you been drinking that night?

19 A Yes, ma'am.

20 Q So when you were going back and forth, at any point in
21 time was there a problem or any kind of an altercation or a
22 fight that broke out?

23 A Later on that night, yes, ma'am.

24 Q Well, tell the jury what happened.

25 A Troy Killian and CiCi Whitlock and Antonio Killian got

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1 in a confrontation -- so he threw a drink in Troy's face and
2 it was chaos from there.

3 Q Who threw the drink in Troy's face?

4 A CiCi Whitlock.

5 Q CiCi Whitlock. Was anybody else with CiCi Whitlock
6 when that happened?

7 A After he threw the drink, yeah, people were with him
8 then.

9 Q Who were the people with CiCi Whitlock?

10 A Katril, Tril, it was just a bunch of guys. I can't
11 remember all of the faces and names, but some of them I do
12 know, I know them for a long time now.

13 Q But you do remember Tril, Defendant McClinton, was one
14 of them.

15 A Yes, ma'am.

16 Q So when you say that it all just kind of -- his people,
17 it just started happening, tell the jury -- because they
18 weren't there, they need to know, what do you mean by stuff
19 started happening?

20 A They got pool sticks, slinging pool sticks, just chaos.
21 So I'm involved now because Big Troy is my homeboy, so I got
22 them pool sticks in the pool hall, which at that time we ran
23 them out the club and somehow from there it was chaos again.

24 Q All right. So you ran who out of the club?

25 A Them young guys.

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1 Q The young guys? Was Tril one of them?

2 A Yes, ma'am.

3 Q So you ran them out of the club. Did you then go
4 outside too?

5 A At that very incident I didn't, because there was so
6 much chaos in there, like they jumping on Kochese outside,
7 that's when the rest of us went out there.

8 Q So I'm going to stop you there so we can be clear. So
9 when you're back inside, are you in at the pool side at that
10 point after --

11 A I went through the pool side, yes, ma'am.

12 Q All right. At any point, did you see Tina Davis?

13 A No, not at that point.

14 Q Not at that point, all right. So you get back into the
15 pool room. At what point do you then see, you said them,
16 jumping on Kochese? Tell me about that.

17 A I never saw them jump on him, I heard people saying
18 they jumping on Kochese. So from that point we ran outside,
19 I guess, to help him, and by the time I got outside they
20 were getting him up off the ground.

21 Q And Kochese, you said he's your first cousin, right?

22 A Yes, ma'am.

23 Q So you went out there to help him.

24 A Yes, ma'am.

25 Q And the defendant, you said Tril, he was one of the

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1 ones that y'all had pushed out the door; is that right?

2 A Yes, ma'am.

3 Q All right. So was he one of the ones that was fighting
4 with Kochese?

5 A Yes, ma'am.

6 Q Who else?

7 A They said Quinton, Carlton, Junior and the little
8 Graham guy.

9 Q Little Graham guy. Do you see Tril, or Quinton
10 McClinton, in the courtroom here today?

11 A Yes, ma'am.

12 Q What's he wearing?

13 A Camouflage shirt, balled head.

14 Q Plaid shirt?

15 A Yes, ma'am.

16 MS. LIVELY: Let the record reflect, Your Honor, that
17 he has identified Quinton McClinton.

18 THE COURT: It shall.

19 Q And do you see the Graham boy in here?

20 A Yes, ma'am.

21 Q And where is he sitting?

22 A He's sitting with the black jacket on, Nike jacket.

23 Q Okay. All right. And is he sitting next to Tril?

24 A Yes, ma'am.

25 MS. LIVELY: Your Honor, let the record reflect he's

DAVERICAN GREGORY - DIRECT

1 identified Montrell Graham.

2 THE COURT: It shall.

3 MS. LIVELY: Thank you, Your Honor.

4 Q So both of them are fighting Kochese. And at some
5 point did you actually join in the fight to help Kochese?

6 A No, because they were getting him up. I had me some
7 mace but it back fired on me actually.

8 Q All right. So your mace backfired on you.

9 A On me, yes, ma'am.

10 Q Okay. So what was Kochese doing at that point when you
11 said they were getting him up?

12 A He was getting up off the ground holding his side.

13 Q At what point in time did you see Tina Davis?

14 A When they were getting Kochese off the ground.

15 Q Tell the jury what you saw with Tina Davis. What was
16 she doing?

17 A Helping Kochese off the ground.

18 Q Helping Kochese off the ground?

19 A Yes, ma'am.

20 Q Were there any vehicles that were in front of the club
21 at that time?

22 A There was one vehicle parked out in front of the club.

23 Q And when you say out in front of the club, where
24 exactly was it parked, in front of what door?

25 A I think in front of the entrance door to the club, not

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1 the pool hall side but the main entrance.

2 Q The main entrance. And so whenever you saw that and
3 you said you saw Tina Davis, tell us again what was she
4 doing.

5 A Helping get Kochese off the ground.

6 Q Helping to get Kochese off the ground. Did you ever
7 see Tina Davis actually driving that car at anytime?

8 A No, ma'am.

9 Q So after she is helping Kochese get off the ground,
10 where was the defendant, McClinton and Graham, at that
11 point?

12 A They had dispersed. Gunshots rang out then.

13 Q So they dispersed and then you heard gunshots.

14 A Yes, ma'am.

15 Q When you said they dispersed, where did they disburse
16 to?

17 A They went every direction, but the defendant, they went
18 straight down the parking lot to their cars. I could see
19 them as clear as day, some shooting in the air, some
20 shooting forward.

21 Q And you need to tell me who it was that was shooting in
22 the air and who was shooting forward.

23 A Quinton was shooting in the air, the Graham guy, he was
24 shooting straight forward, and Quinton's brother, which he
25 was shooting in the air as well. But Carlton Dixon, he

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1 didn't have a gun. I didn't see him with a gun.

2 Q I'm going to show you what's been marked as State's
3 Exhibit Number 3. I'm going to show you State's Exhibit
4 Number 3, it has five photos in it. Just if you will, look
5 at that and tell me if you recognize who is actually in
6 those photo.

7 A I see George, I see -- I can't tell, Big Troy, George,
8 and myself. But the guy with his back there, I can't tell
9 who that is.

10 Q That's fine. So are those pictures of you as you
11 recall from the night of December 25th, 2018?

12 A Yes.

13 Q That's you? And if you'll just flip through, and are
14 all of those pictures, do they have you or some portion of
15 you in those photos?

16 A Yeah, pretty much all of them.

17 Q Thank you so much, Mr. Gregory.

18 MS. LIVELY: Your Honor, the State would move State's
19 Exhibit 3 into evidence at this time.

20 MR. DUNCAN: No objection from Mr. McClinton.

21 MR. FRICK: No objection, Your Honor.

22 THE COURT: It's admitted.

23 MS. LIVELY: Thank you, Your Honor.

24 (The photos were received as State's 3.)

25 Q Now, on that night, were you there the entire time

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1 until the EMS arrived to get Mr. Gregory?

2 A Yes, ma'am.

3 Q And did you have an opportunity to speak with law
4 enforcement that night?

5 A I probably did.

6 Q Do you recall from those particular photos how you were
7 caught in those pictures?

8 A No, ma'am.

9 Q Were you aware that the officer who showed up on scene
10 had a body worn camera?

11 A I wasn't aware of that.

12 Q You weren't aware of that? Okay. Do you recall what
13 you told the officer whenever he was asking who did the
14 shooting, do you recall actually walking up and telling him
15 one name?

16 A Yes, ma'am, I remember that.

17 Q And what name did you give him?

18 A Tril.

19 Q You gave him Tril.

20 A But that was out of anger and frustration and being
21 upset, yes, ma'am.

22 Q Okay. Well, were you angry that your cousin got shot?

23 A Yes, ma'am.

24 Q Did Quinton McClinton have a gun?

25 A Yes, ma'am, he had a gun.

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1 MS. LIVELY: Thank you, no further questions.

2 THE COURT: Mr. Duncan?

3 MR. DUNCAN: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MR. DUNCAN:

6 Q Good afternoon, Mr. Gregory.

7 A How are you doing, sir?

8 Q I represent Mr. McClinton in this case and I've got a
9 few questions for you in follow-up to what you just
10 testified to with the State. So you said that you -- when
11 the situation started after Mr. Whitlock threw a drink in
12 Big Troy's face, that's kind of what instigated the
13 situation; is that right?

14 A I ain't going to say instigated it, because from the
15 start wasn't no situation, they made it a situation. It
16 wasn't -- we was getting along all night, everything was
17 going good all night long, so it wasn't a situation period
18 until, like you said, that incident with Big Troy threw a
19 drink. Like I said, Kochese Gregory, he wasn't nowhere on
20 the scene, nowhere around this incident.

21 Q And at the point of the drink being thrown I think you
22 testified that you, and I'm not sure who, ran the young guys
23 out, that's what you were saying. You and who?

24 A Because they're the ones initiated the pool sticks,
25 they started swinging pool sticks trying to assault us.

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1 Q Let me try that again. I was saying who -- when you
2 say we or you, who was with you --

3 A Troy and Antonio Killian.

4 Q Big Troy.

5 A Troy Killian and Antonio Killian, just us three against
6 ten or 15.

7 Q All right.

8 A So they -- actually let me through -- once they were
9 swinging pool sticks at Big Troy, though, they actually let
10 me through to get stuff to help Big Troy. If I didn't they
11 would have been inside the club as well, they would have
12 been laid out, too.

13 Q All right. And then you said once the young guys --
14 and, I mean, you called them the young guys, once they were
15 outside the club you went back inside or you never came
16 outside?

17 A I didn't make it outside until they say they was
18 jumping on Kochese. I was still inside the club, that's
19 when we came out of the club.

20 Q And when --

21 A He was already laid out outside.

22 Q When Kochese -- and again, what you testified to was
23 that you never saw anybody hitting Kochese, it was already
24 over by the time you got outside.

25 A Kochese was on the ground, yes, sir.

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1 Q And you said -- I heard you say Tina Davis was trying
2 to get him off the ground, other people too?

3 A There was a lot of people, I can't remember every face
4 was out there. Tina Davis is my first cousin as well and I
5 always watch out for my people, so, yes, sir.

6 Q So as you recall it now you remember your first cousin,
7 Tina Davis, helping Kochese off of the ground --

8 A And a few more people, a lot of people out there.

9 Q -- and getting him back into the club.

10 A Yes, sir.

11 Q Okay. All right. And then you said there was shooting
12 going on, shots rang out I think you said.

13 A Shots were everywhere.

14 Q All right.

15 A I never said Tina took him back in the club, you're
16 putting them words in my mouth now, I said she took him off
17 the ground. Now, you said she helped him in the club, I did
18 not say that one time.

19 Q Did he go back in the club?

20 A Sir?

21 Q He did not go back in the club at that time?

22 A No. Once the shooting ranged out folks was going
23 everywhere. Once he was hit, of course he went back in the
24 club then, that's where he fell inside and we had the doors
25 locked.

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1 Q All right. So when you were testifying a few minutes
2 ago you were talking about some people shooting in the air
3 and you said Mr. McClinton, Quinton, you said Quinton was
4 shooting in the air and you said his brother was shooting in
5 the air; is that correct?

6 A Yes, sir.

7 Q And then Ms. Lively said -- asked you at the scene that
8 night did you say who was shooting and you said Quinton, but
9 you then said you said that out of anger and frustration.

10 A That he shot Kochese, yeah, I said that. Because at
11 that time adrenaline rushing and you don't know what's
12 really going on your mind is rushing a thousand places, but
13 yes, sir, I actually seen him shooting a gun.

14 Q You saw him shooting a gun in the air.

15 A Yes, sir.

16 Q Did you see him shoot Kochese?

17 A No, sir.

18 MR. DUNCAN: I don't have any other questions.

19 CROSS EXAMINATION

20 BY MR. FRICK:

21 Q How are you doing, Mr. Gregory?

22 A How are you doing, sir?

23 Q I'm going to go back. You said when Kochese was
24 getting jumped on you were still inside the club, right?

25 A Yes, sir.

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1 Q So you didn't see who was involved with that, right?

2 A No, sir.

3 Q Okay. And when you said it was Quinton, Carlton and
4 that Graham boy, you said they said that.

5 A I seen the shooting, I actually seen the shooting.

6 Q We're not there yet, we'll get there don't worry, okay?
7 Right now I'm at when Kochese is getting jump on. When the
8 solicitor asked you the question I believe your response was
9 "They said Quinton, Carlton, Junior, the Graham boy," is
10 that what you said?

11 A Yes, sir.

12 Q Because you don't know who jumped on Kochese.

13 A No, sir.

14 Q Now, after that you see him on the ground, you're
15 outside?

16 A I saw him on the ground.

17 Q What drew you outside? The ruckus?

18 A No. They said, "They're outside jumping on Ko," so we
19 all went outside at that point.

20 Q Because, as you said, you watch out for your people.

21 A Yes, sir.

22 Q And he's your first cousin, right?

23 A Yes, sir.

24 Q Okay. Now, were you out there when Tina Davis was
25 driving around the parking lot --

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- 1 A No, sir.
- 2 Q -- trying to run over people? You didn't see that.
- 3 A No, sir, I didn't see that.
- 4 Q All right. And was Kochese doing any fighting?
- 5 A No, sir. He was down, they were helping him off the
- 6 ground. He wasn't in no shape to fight.
- 7 Q He never picked up a pool stick or anything like that?
- 8 A No, sir.
- 9 Q Didn't have a gun?
- 10 A No, sir.
- 11 Q Didn't fire a gun?
- 12 A No, sir.
- 13 Q Because he's your people, right?
- 14 A No, sir, that's not the case.
- 15 Q Okay. And then you said you see everybody disperse but
- 16 you're certain it's Quinton McClinton and Montrell Graham
- 17 that are shooting.
- 18 A Yes, sir. I can remember vividly what they had on that
- 19 night, two had on wheat jackets and two on had on gray
- 20 jackets.
- 21 Q Okay. Did you see Junior McClinton out there?
- 22 A Yes, sir.
- 23 Q Was he shooting?
- 24 A Yes, sir. He was shooting in the air as well.
- 25 Q You didn't mention that when the solicitor was talking,

DAVERICAN GREGORY - CROSS

1 why did you not --

2 A I did see Junior was shooting as well, shooting in the
3 air, his brother.

4 Q Okay. So you were out there that night, right? And
5 you were there when law enforcement showed up, right?

6 A Yes, sir.

7 Q This is your cousin, right?

8 A Right.

9 Q You were upset your cousin got shot, right?

10 A Yes, sir.

11 Q Didn't even know if he was going to make it, right?

12 A Right.

13 Q Who did you tell that story to that night?

14 A I ain't told nobody really, just written out just
15 saying stuff at that point because I was angry and
16 frustrated at the time not knowing if my cousin was going to
17 live or die. Yeah. Those I involved, of course I was going
18 to say his name because he was involved in the mix.

19 Q So which cop did you talk to?

20 A I can't remember, pretty much yelling out pretty much
21 in anger. I can't remember which cop I talked to.

22 Q After that night did anybody from Chester Sheriff's
23 Department contact you about a statement?

24 A Yes, sir, they tried a whole lot of times.

25 Q They did?

DAVERICAN GREGORY - CROSS

- 1 A Yeah.
- 2 Q Why isn't there a statement?
- 3 A Say again?
- 4 Q Why isn't there a statement?
- 5 A At the time I didn't really want to give a statement.
- 6 Like I say, I'm a street person, I don't want to see this
- 7 young man back in prison a long time and stuff like that.
- 8 Q But today is okay to give that statement?
- 9 A Yes, sir.
- 10 Q This is, in fact, the first --
- 11 A Because they subpoenaed me.
- 12 Q This is the first time you've given that statement,
- 13 isn't it?
- 14 A If she wouldn't have subpoenaed me you was going to
- 15 subpoena me, right?
- 16 Q I don't know, Mr. Gregory.
- 17 A Okay.
- 18 Q Are you still on probation?
- 19 A Yes, sir.
- 20 Q Thank you, sir.
- 21 A You were my lawyer for my probation.
- 22 Q Yes, sir.
- 23 THE COURT: Anything else?
- 24 MR. FRICK: No further questions.
- 25 THE COURT: You may step down.

KELVIN KILLIAN - DIRECT

1 MS. LIVELY: Can you be excused from his subpoena, Your
2 Honor?

3 THE COURT: He may be.

4 MS. LIVELY: Kelvin Killian.

5 The witness, KELVIN KILLIAN, was first duly sworn and
6 Testified as follows:

7 DIRECT EXAMINATION

8 BY MS. LIVELY:

9 Q Mr. Killian, please tell the jury what name you
10 normally go by.

11 A Kalbo.

12 Q Kalbo?

13 A Uh-huh.

14 Q Do some people call you Cowboy?

15 A Yes, ma'am.

16 Q Are those some nicknames that you go by?

17 A Yes, ma'am.

18 Q Just pull that microphone to you so we can make sure
19 everybody can hear you, okay?

20 A Okay.

21 Q Was your brother here earlier, Mr. Killian?

22 A Yes, ma'am.

23 Q Who is your brother?

24 A George.

25 Q George? It looked like you were about to say something

KELVIN KILLIAN - DIRECT

1 else, what does he go by?

2 A Troy.

3 Q Troy? Okay. Now, Mr. Killian, are you from the
4 Chester area?

5 A Yes, ma'am.

6 Q How long have you lived in Chester?

7 A My whole life, I'm 50.

8 Q So for 50 years. Do you know the defendant, Quinton
9 McClinton?

10 A Yes, ma'am.

11 Q And do you know what nickname he goes by?

12 A Tril.

13 Q Okay. How about Montrell Graham, the codefendant, do
14 you know Mr. Graham?

15 A Yeah, I saw him before.

16 Q You saw him before?

17 A Yes, ma'am.

18 Q Are they family members or related to you in any way?

19 A No, ma'am.

20 Q How about Kochese Gregory, do you know him?

21 A Yes, ma'am.

22 Q And how do you know Kochese?

23 A I just know him, just know him.

24 Q So he's not family or anything?

25 A No, ma'am.

KELVIN KILLIAN - DIRECT

1 Q All right. Now, Mr. Killian, were you at the club
2 Images and the pool room Images on the night of Christmas
3 Eve, 2018?

4 A I was at the door.

5 Q You were at the door. What was your role, or what were
6 you doing at the door?

7 A I was security.

8 Q You were security. We've had another witness mention
9 someone by the name Antonio Killian, that's you?

10 A That's me.

11 Q All right. So you were working the door. Which door
12 do you normally work? Do you work the club door or the pool
13 hall door?

14 A The club door.

15 Q The club door. When you were working at the club door,
16 what do you actually do for security?

17 A Basically use the metal detector and kind of pat them
18 down and stuff.

19 Q All right. So whenever the defendant, Quinton
20 McClinton, showed up, did you see whenever he got there that
21 night?

22 A Yes, ma'am.

23 Q Which area did he and his friends go in to?

24 A He passed -- they came through the front door.

25 Q Through the front door.

KELVIN KILLIAN - DIRECT

1 A Yes, ma'am.

2 Q And if you don't mind just saying if it's the club door
3 or the pool hall.

4 A The club door.

5 Q The club door. Were you at your place whenever they
6 came through the door?

7 A Yes, ma'am.

8 Q Did you check them for weapons?

9 A No, ma'am. I scanned them down the first time, you
10 know. And then like the second time they came through, you
11 know, somebody -- you know, I had a partner working there
12 with me, too, and I don't think we -- you know, really
13 patted them down. I realized they got on them coats, and I
14 was like, "Man, we should have made them take that coats and
15 stuff off."

16 Q Was this your first night working as security?

17 A Yes, ma'am.

18 Q Now, Mr. Killian, about what time -- at some point in
19 time did some issues come up, or some problems start
20 happening in the club that you remember?

21 A I remember -- I remember as the club was almost about
22 over and CiCi Whitlock had said something and threw a cup in
23 my brother's face.

24 Q Did you see that?

25 A Yes, ma'am.

KELVIN KILLIAN - DIRECT

1 Q And was that on the pool side or the --

2 A Club side.

3 Q It was on the club side. So CiCi Whitlock throws a cup
4 in your brother's face. Was anybody else with him, any of
5 his friends?

6 A I'm thinking he was with like all of the Roundtree
7 boys.

8 Q And you need to tell me who that is that you know.

9 A Like Quinton, all of them guys, they was together.

10 Q All right. So Quinton and some of the other guys and
11 CiCi Whitlock?

12 A Yes, ma'am.

13 Q So after that got thrown in your brother's face, what
14 happened next?

15 A Then next thing I know it was like a big scuffle, you
16 know, everybody, and then we ended up outside. I don't know
17 how Quinton ended up with a stick but I got hit with the
18 stick.

19 Q Okay. Where did he hit you with the stick?

20 A On my left harm.

21 Q And when you say a stick, what kind of stick was it?

22 A Pool stick.

23 Q Was anybody else using pool sticks that night that you
24 remember?

25 A Not as I know of.

KELVIN KILLIAN - DIRECT

1 Q And was it just McClinton or were there other people
2 that were fighting as well?

3 A At that time it was so many peoples, it was peoples
4 everywhere, you know. And then at that time after they hit
5 me with the stick, I don't know how I end up in the parking
6 lot with three guys surrounding me ready to fight.

7 Q And I'm going to stop you right there, okay? So you're
8 out in the parking lot with guys ready to fight. I'm going
9 to show you -- about how far into the parking lot would you
10 say you were? And I'm going to find a picture to try to
11 help you here. Was it well lit outside the club? Were
12 there a lot of lights?

13 A I think so.

14 Q Okay. And so where you were in the parking lot, were
15 you able to see the people that were around you?

16 A At that time I was really trying to protect myself,
17 because like I said, it was three guys ready to try to jump
18 me.

19 Q Okay. And were any of those three guys one of the
20 defendants sitting at that table?

21 A Yes, ma'am.

22 Q Who was it?

23 A Quinton.

24 Q It was Quinton. Okay. I'm going to show you State's
25 Exhibit Number 14 and just ask you, does that look familiar?

KELVIN KILLIAN - DIRECT

1 Do you know kind of what you're seeing when you look at
2 that?

3 A Uh-huh.

4 Q Is that a yes?

5 A Yes, ma'am.

6 Q Yes. Okay. So what I'm going to ask you -- and I'm
7 going to have you point to where you think you were standing
8 in the parking lot and then I'm going to put my finger
9 there, then we'll show the jury, okay? Can you tell from
10 there kind of how far out you were standing?

11 A I probably was about -- probably about right there
12 towards the gray car.

13 Q Towards the gray car? Okay.

14 A Yeah, the gray car.

15 Q And that's closest to which one of the entrance ways
16 for the club?

17 A Yes.

18 Q The double doors, what is that, the entryway, is that
19 to the club?

20 A Yeah, to the club.

21 Q So you put your finger right here below where this
22 silverish gray car is. Now, is that where -- and if I'm
23 saying it wrong, I'm just trying to repeat what you're
24 saying, is that where you were confronted by three guys, one
25 of them being the defendant, Mr. McClinton?

KELVIN KILLIAN - DIRECT

1 A Yes, ma'am.

2 Q What happened next?

3 A They knew I was going to stand my ground, so I guess
4 they backed off and then went on about their way.

5 Q So that happens. At what point does Kochese get into
6 this whole problem of what's going on? At what point is he
7 around?

8 A At that time I hadn't seen Ko, I hadn't seen him.

9 Q All right. So when you were outside and you said you
10 got hit by the pool stick and all of this fighting was going
11 on, who was outside with you helping the fight?

12 A My brother.

13 Q Your brother, Big Troy?

14 A Yes, ma'am.

15 Q What about Choc Pudding, was he out there?

16 A I think Marcel was there.

17 Q Marcel, that's Daverican Marcel Gregory? What about
18 then at some point, Kochese, after all of this happened,
19 when was the next time that you actually saw Kochese
20 Gregory?

21 A When he said he was hit.

22 Q When said he was hit?

23 A Yes, ma'am.

24 Q Before he said he was hit, what did you either see or
25 hear happening?

KELVIN KILLIAN - DIRECT

1 A Only thing he said was, "I'm hit," and came in the club
2 and on the floor.

3 Q I understand, Mr. Killian. I'm asking you to go back a
4 little bit before he said he was hit. What, if anything,
5 did you see or hear before Kochese said, "I'm hit?"

6 A I didn't see nobody shooting, only thing he said that
7 he was hit.

8 Q Okay. Do you remember writing a statement that night
9 for law enforcement?

10 A Yeah. I said Quinton McClinton or either Junior or
11 Carlton Dixon was the one that shot Ko, that's what I wrote
12 in my statement.

13 Q That's what -- I wanted to see if you remember that
14 because it has been a year.

15 A Yeah, that's what I wrote in my statement.

16 Q All right, okay. So I want to be clear, on the night
17 that this happened, did you identify Quinton McClinton as
18 being one of the shooters?

19 A I actually didn't see it, ma'am.

20 Q Okay. All right. You were outside when the fight
21 finally stopped; is that right?

22 A Yes, ma'am.

23 Q Okay. And at that point -- at any point did you hear
24 guns going off?

25 A Yes, ma'am.

KELVIN KILLIAN - DIRECT

1 Q Okay. Because I asked you a minute ago what did you
2 see or hear, okay? So before Kochese said, "I've been hit,"
3 shots are going off.

4 A Yes.

5 Q Where were you when those shots were going off?

6 A Like I was saying, by the gray car making my way back
7 towards the club. The shooting and stuff was going on then.

8 Q Okay. All right. So the shooting and all was going on
9 then. And then it sounds like you would have been the
10 closest to whoever was shooting, am I right or wrong?

11 A No. I mean, like in that picture you showed that was
12 out -- it was kind of closer to the car wash where all of
13 bullets and everything, all of the shooting and stuff was
14 coming from.

15 Q Okay. And then whenever -- at that point in time did
16 you see what they -- did they leave at that point or did
17 they just keep on shooting, or did they run off?

18 A They shot. They just kept shooting, which, you know,
19 before all of that -- now, if the police would have got
20 there a little sooner then everything would have been
21 resolved right then and there.

22 Q Whenever you were standing there, do you remember Ms.
23 June being there in the pool room with you whenever you were
24 talking to -- Bernice, do you remember Derrick Pendergrass
25 being in, Slick?

KELVIN KILLIAN - DIRECT

1 A Yes, ma'am.

2 Q And also your brother, do you remember him being in
3 there?

4 A Yes, ma'am.

5 Q And at that time, was that whenever you actually
6 provided a statement to law enforcement as to who was
7 shooting that night?

8 A Yeah, them three names I said.

9 Q Okay. All right. Did you ever see a gun on Kochese
10 Gregory that night?

11 A No, ma'am.

12 Q So I'm going to show you a form and ask you just to --
13 it's pretty short, so if you'll just read through it. Don't
14 read it out loud but just look at it. And does that refresh
15 your memory?

16 A Okay.

17 Q So I'll just ask you to be really clear, on that night
18 within a couple of hours of it happening, did you identify
19 the defendant, Quinton McClinton, as being one of the
20 shooters? I can let you look at your statement again.

21 A Can I see?

22 Q That's fine. It's your last line.

23 A That's fine.

24 Q So is that a yes or no, you identified Quinton
25 McClinton as one of the shooters?

KELVIN KILLIAN - CROSS

1 A Yes, ma'am.

2 MS. LIVELY: Thank you. No further questions.

3 CROSS EXAMINATION

4 BY MR. DUNCAN:

5 Q Good afternoon, Mr. Killian.

6 A Good afternoon.

7 Q I represent Mr. Quinton McClinton in this case, and the
8 solicitor has asked you a number of questions. You
9 testified just a moment ago that you did not see anybody
10 shoot Kochese.

11 A Right.

12 Q Is that a true statement?

13 A It's like in my statement, I said either Quinton
14 McClinton, I named three names.

15 Q Yes, sir.

16 A Yeah.

17 Q But you said a moment ago here today that you didn't
18 know who --

19 A Which one did it.

20 Q Okay. And that is the truth, that you don't know
21 who --

22 A Which did it.

23 Q -- shot Kochese. Were there shots coming from the club
24 area? Were there shots going the other direction down
25 toward the parking lot, down toward the car wash?

KELVIN KILLIAN - CROSS

1 A No. They was all coming from the parking lot from
2 towards the wash -- the car wash towards the club.

3 Q Okay. So your testimony is nobody was shooting from
4 the club down toward the car wash.

5 A Not to my knowledge.

6 Q All right.

7 MR. DUNCAN: That's all of the questions I have.

8 CROSS EXAMINATION

9 BY MR. FRICK:

10 Q How are you doing, Mr. Killian?

11 A I'm good.

12 Q You said you recognize Mr. Graham sitting down there?

13 A Yes.

14 Q Okay. And you said you saw him at the club that night.

15 Do you remember where you saw him in the club?

16 A I'm security, I'm at the door so obviously he had to
17 walk past me.

18 Q So coming in and out?

19 A Yeah.

20 Q Okay. Do you know where he went or what he did or
21 anything like that once he got past you?

22 A No. I'm at the door so I don't know what he did in the
23 club.

24 Q Okay. All right. And when you went outside and all of
25 this shooting is going on, did you see him out there then?

KELVIN KILLIAN - CROSS

1 A No, I didn't see him.

2 Q Okay. And in the statement the solicitor was showing
3 when you named these three names, what did you put in
4 between each one of those names? What word did you use? Do
5 you see what I'm talking about?

6 A No.

7 Q What I'm talking about here is you said or, right?

8 A Yeah.

9 Q Okay. Or. So you named three people and said it could
10 have been any of those three people.

11 A Yes.

12 Q But your testimony today is, "I didn't really see
13 anybody shooting," and you told Mr. Duncan that's the
14 correct statement, correct?

15 MS. LIVELY: Objection, Your Honor. I think he's
16 misstating the facts.

17 THE COURT: Okay. Well, ask the question and the
18 witness can verify it.

19 Q Is your testimony today that you didn't really see
20 anybody shoot?

21 A Really -- like I said, I know they was out there
22 shooting and I said in my statement with the three that I
23 did say. But as far as to see anyone that really did shoot
24 him, I really didn't see that.

25 Q Okay. So you just came up with the three names that

KELVIN KILLIAN - REDIRECT

1 were out there, three names out in the street?

2 A No, I was there.

3 Q Okay. All right. But you don't know who did what.

4 A I really don't know.

5 Q But Montrell Graham was not one of those three.

6 A Not to my knowledge.

7 MR. FRICK: Thank you, sir.

8 REDIRECT EXAMINATION

9 BY MS. LIVELY:

10 Q And is the reason why you said or is because all three
11 of them were shooting?

12 A Yes, ma'am.

13 MS. LIVELY: Thank you, no further questions.

14 THE COURT: You may step down.

15 MS. LIVELY: Can he be released from his subpoena?

16 THE COURT: He may be.

17 The witness, TERQUILA CLIFTON (TINA DAVIS) was first
18 Duly sworn and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. LIVELY:

21 Q Miss Clifton, what is your legal name?

22 A Terquila Clifton.

23 Q You're going to have to pull that down so we can hear
24 you.

25 A Terquila Clifton.

TERQUILA CLIFTON - DIRECT

1 Q Is there another name that people know you to go by?

2 A Tina Davis.

3 Q Can you explain that to us as to you have two complete
4 different names?

5 A When I was younger my brother couldn't say my name,
6 Terquila so he called me Tina.

7 Q He called you Tina? Okay. So what do you prefer me to
8 refer to you as here today for the record?

9 A Tina.

10 Q Tina, yes, ma'am. All right, Ms. Tina. So do you live
11 in Chester?

12 A Yes.

13 Q How long have you lived in Chester?

14 A Thirty years or more.

15 Q Do you have family in this area?

16 A Yes.

17 Q Do you know Kochese Gregory?

18 A Yes.

19 Q How do you know him?

20 A He's my cousin.

21 Q And how about the defendant, Quinton McClinton, how do
22 you know him?

23 A I don't know him.

24 Q You don't know him. How about Montrell Graham, do you
25 know him?

TERQUILA CLIFTON - DIRECT

- 1 A Yes.
- 2 Q If you don't mind, can you stand up and point out who
- 3 Montrell Graham is to us?
- 4 A With the black jacket on, blue jacket.
- 5 Q With the black jacket on?
- 6 A Yes.
- 7 Q Do you recognize the defendant in the plaid shirt?
- 8 A No.
- 9 Q Now, if you'll have a seat. So Ms. Tina, whenever
- 10 you -- do you have a job?
- 11 A Yes.
- 12 Q And do you have any children who live here in Chester
- 13 with you?
- 14 A Yes.
- 15 Q Were you subpoenaed to be here today?
- 16 A Yes.
- 17 Q Do you want to be here today?
- 18 A No.
- 19 Q Were you at Images club on Christmas Eve, 2018?
- 20 A Yes.
- 21 Q Please tell the jury why you were there.
- 22 A For a birthday party.
- 23 Q Whose birth party was it?
- 24 A His name was Chi Chi.
- 25 Q Did you go there with anybody or were you by yourself?

TERQUILA CLIFTON - DIRECT

- 1 A I think I met up with somebody.
- 2 Q Who did you meet up with?
- 3 A My brother and another guy.
- 4 Q What's your brothers name?
- 5 A Rick.
- 6 Q What's his last name?
- 7 A Davis.
- 8 Q And who was the other guy?
- 9 A I don't know his name.
- 10 Q That's fine. Just pull the microphone to you, you're
- 11 just a little soft spoken. We want to make sure that we can
- 12 hear you, okay? Just lean into the microphone. All right.
- 13 So whenever you got there, how did you get there that night?
- 14 A My car.
- 15 Q What kind of car were you driving?
- 16 A Silver Malibu.
- 17 Q A silver Malibu. And did your brother meet you there?
- 18 A Yes.
- 19 Q What was he driving?
- 20 A Black truck.
- 21 Q A black truck?
- 22 A Like a Cherokee, something like that. It's a jeep.
- 23 Q It's a jeep. Is it kind of like a SUV or is it a
- 24 truck?
- 25 A SUV.

TERQUILA CLIFTON - DIRECT

1 Q SUV? All right. So whenever you got to the club, was
2 it busy? Were there a lot of people? Describe to the jury
3 what you were seeing.

4 A It was -- (inaudible.)

5 Q Did you know a lot of those people?

6 A Yes.

7 Q So whenever you got there, did you stay on the pool
8 side or the club DJ side?

9 A The club side.

10 Q And what did you do while you were there?

11 A Had a good time, danced, partied.

12 Q And so while you were dancing and partying, at any
13 point in time did you have any problems with any of the
14 people there?

15 A No, ma'am.

16 Q Did you argue with anybody at all?

17 A No.

18 Q Did you see Kochese Gregory there that night?

19 A Yes.

20 Q Did you speak with Kochese?

21 A Yes.

22 Q And how was he doing that night?

23 A He was fine.

24 Q He was fine? All right. And so after you talked to
25 him, was there a time whenever you had decided to leave?

TERQUILA CLIFTON - DIRECT

1 A Yes.

2 Q Tell the jury about that.

3 A They said somebody overheard them saying, "I think them
4 boys ready to fight," so that's when I went and gathered my
5 family and told them let's go because they're getting ready
6 to fight.

7 Q Okay. And do you know the gentlemen that testified
8 earlier, the Killian brothers?

9 A Yes.

10 Q All right. So do you know Big Troy, George Killian?

11 A Yes.

12 Q And how about Mr. Kalbo Killian?

13 A Yes.

14 Q Were they there that night?

15 A Yes.

16 Q Did you talk to them or hang out with them?

17 A When I -- standing at the front door where you paid
18 money out, we were standing right there.

19 Q So whenever you heard that there might be a fight or
20 some trouble, what did you do?

21 A I told my brother, "It's time for us to go," and told
22 the rest of us let's go. I went outside, pulled the truck
23 up to the door and let it warm up.

24 Q And what was the temperature like that night?

25 A It was cold.

TERQUILA CLIFTON - DIRECT

1 Q It was December, by that time -- what time was it that
2 you were getting ready to leave? Do you remember about what
3 time it was?

4 A I don't know.

5 Q That's fine. So you're getting ready to leave. Was it
6 after midnight? Was it Christmas by that time?

7 A I don't know.

8 Q All right, that's fine. So you get the car, and what
9 did you do next?

10 A We stood back in the inside waiting for the club to
11 turn out where you pay the money at.

12 Q Okay. Who was standing there with you?

13 A Cowboy and Troy.

14 Q Cowboy and Troy. And what was going on with them at
15 that point?

16 A Nothing. We was just standing there waiting on the
17 club to turn out.

18 Q All right. And while you're waiting, what ended up
19 happening?

20 A Okay. We're standing there talking and the club was
21 letting out, some guys came around to the front door and was
22 fussing with Troy and them.

23 Q Who was fussing with them?

24 A CiCi. A guy named Cici.

25 Q Is it CiCi Whitlock, does that sound familiar?

TERQUILA CLIFTON - DIRECT

1 A Yes.

2 Q So CiCi. And who was CiCi arguing with?

3 A I think it might have been Big Troy. It was one of
4 them guys that was at the door with me.

5 Q And so y'all were still standing at the door. Was that
6 inside of the club or were you outside by then?

7 A It's not inside the club. They have got another
8 entrance in the hallway where you stay and pay your money.

9 Q Okay. So that's where you were. So when CiCi comes up
10 and you see arguing, what happens next?

11 A He threw a drink in Troy's face. Well, he threw it in
12 the door and it went in Troy's face.

13 Q So what happened once CiCi threw that drink in Troy's
14 face?

15 A They started fighting. Everybody just went wild and
16 started fighting.

17 Q Okay. And at that point did -- who started fighting?

18 A Big Troy, I think, yeah. They came out the door, they
19 came out. When he threw the drink everyone rushed out the
20 door, everyone.

21 Q I understand that. You need to tell me who.

22 A Oh, Big Troy. I didn't see who he was fighting, but I
23 knew of that drink being throwed. All of the guys that was
24 outside were the ones that he was fighting.

25 Q Well, weren't you outside, too?

TERQUILA CLIFTON - DIRECT

1 A I didn't come inside until it was almost over with,
2 everybody was running.

3 Q All right. And at some point whenever you go
4 outside -- was there ever a time when you finally saw
5 Kochese Gregory outside?

6 A No, I never seen him.

7 Q You never saw him in front of that jeep?

8 A No.

9 Q You don't remember?

10 A Not that I can recall.

11 Q Okay. What do you remember, Tina, from that night?
12 Don't leave anything out. Do you need me to help you by
13 giving you copies of your statements to refresh your memory?

14 A Yes.

15 Q Okay. I'm going to show you first of all a
16 statement -- how many statements did you end up giving to
17 the police?

18 A Two.

19 Q Two? All right. I'm going to show you the one -- I'm
20 just going to go in line here, okay? I'm going to show you
21 this one and let you read it for just a minute.

22 A Okay.

23 Q And then you gave a second statement, I'm going to let
24 you refresh your memory with this one.

25 A Okay.

TERQUILA CLIFTON - DIRECT

1 Q So I'm going to ask you again, whenever you were there
2 did you -- after Big Troy got the drink thrown in his face,
3 which you said, and they were fighting outside and people
4 start running, what was one of the people wearing that was
5 running from the fight?

6 A The ones that was standing out there when I got in the
7 jeep, it was a brown jacket, he had on a brown jacket.

8 Q Okay. And what about -- and do you remember saying
9 what you saw the person in the brown jacket doing?

10 A That was after I moved the car, he was -- I seen some
11 guys at the back of the car standing there with their arms
12 extended, so I assumed they was shooting.

13 Q Now, I'm asking you what you put in your statement.
14 Clearly tell me what you just refreshed your recollection,
15 what did you see them doing?

16 A Shooting.

17 Q Thank you. Which way were they shooting, towards the
18 club or out in the parking lot?

19 A I think it was towards the club.

20 Q Okay. And at that time whenever that happened, was
21 anybody actually shot as a result of those shootings?

22 A I don't know. I didn't stay around to see who got
23 shot.

24 Q You didn't? So you left. Did you ever come back?

25 A Yes.

TERQUILA CLIFTON - DIRECT

1 Q Okay. When you came back, what did you see?

2 A When I came back they was telling me Kochese had got
3 shot.

4 Q Okay. Thank you. Kochese had gotten shot. Did you
5 see him actually shot? I'm not saying did you see who shot
6 him, I'm saying did you see him injured at the club?

7 A Yes.

8 Q Okay. So when you saw him injured at the club where
9 was he when you saw him?

10 A He was laying on the floor beside the pool table.

11 Q At that time, were you aware that law enforcement when
12 they showed up they had their body worn camera activated?

13 A No.

14 Q Do you recall telling law enforcement who had shot?

15 A Yes.

16 Q And what did you tell them?

17 A I said that -- Tril.

18 Q Tril?

19 A Tril.

20 Q Who is Tril?

21 A They said Quinton.

22 Q Okay. I'm asking you to tell me who Tril is.

23 A Oh, I don't know who he is. I just went by the name
24 everybody was hollering so I said the same thing.

25 Q So you're just copy-cattin'.

TERQUILA CLIFTON - DIRECT

1 A Yeah.

2 Q Don't you think that's kind of important to be sure
3 about who it is that may have shot your cousin?

4 A Yes.

5 Q Okay. So I want you to tell this jury who you said
6 shot your cousin that night.

7 A I said Tril.

8 Q Thank you. If you need me to I can show on the
9 recording where you said that. Do you want me to refresh
10 your memory or are you good with that?

11 A I'm good.

12 Q Thank you. Do you remember giving a statement to
13 Investigator Young?

14 A Yes.

15 Q What did you tell him about not wanting to be involved
16 in this?

17 A I was afraid.

18 Q Why are you afraid?

19 A Because I had heard rumors --

20 Q No. Don't tell me what rumors are, why were you
21 personally afraid?

22 MS. LIVELY: She can give person knowledge as to why
23 she's afraid.

24 Q Why are you afraid?

25 A Because they said he is in a gang.

TERQUILA CLIFTON - DIRECT

1 Q No. No.

2 MR. DUNCAN: Objection --

3 MS. LIVELY: That was unresponsive, I asked that it be
4 stricken.

5 THE COURT: No. You asked her what her reason was and
6 she gave it, that's why they objected to it so I sustain the
7 objection.

8 MS. LIVELY: That's fine.

9 Q Don't tell me what people say, I need to know
10 personally from you, why are you afraid?

11 MR. DUNCAN: Your Honor, I object --

12 THE COURT: I think we've already been there. Do we
13 need to send the jury out and talk about it?

14 MS. LIVELY: No, sir, Your Honor, I'll move on.

15 THE COURT: Okay.

16 Q So you were subpoenaed to be here today, correct?

17 A Yes.

18 Q All right. And at any point in time whenever you were
19 told to come here, did you have the opportunity to review
20 your statement from whenever this happened back in 2018 up
21 until you come into court here now?

22 A Can you repeat that?

23 Q Okay. Have you had a chance to come and meet with me
24 to look at your statement before coming to court today?

25 A My statement? I seen the video.

TERQUILA CLIFTON - CROSS

1 Q Okay. You've seen the video --

2 A Right.

3 Q -- the body worn camera. So did I give you the
4 opportunity to look at that?

5 A Yes.

6 Q And is it fair to say that the video represents within
7 a couple of hours of this happening compared to what you're
8 remembering here today?

9 A Yes.

10 MS. LIVELY: Thank you, Ms. Tina. Answer any questions
11 that the defense may have.

12 CROSS EXAMINATION

13 BY MR. DUNCAN:

14 Q Good afternoon, Ms. Tina. I represent Mr. McClinton in
15 this case and I have a few questions for you. First off,
16 you're a cousin to Kochese Gregory --

17 A Yes, sir.

18 Q -- is that right? And I thought I heard you say that
19 you never saw Kochese outside the club; is that right?

20 A Right.

21 Q At all. You didn't see him outside the club at all.

22 A No.

23 Q I'm sorry?

24 A No.

25 Q And you further didn't see any shooting, you heard

TERQUILA CLIFTON - CROSS

1 shots?

2 A I seen some guys at the back of a car with their arms
3 extended.

4 Q With their arms extended like in the air like, or not
5 that way?

6 A Not that way.

7 Q All right. But you said some guys, and you don't know
8 who those guys were.

9 A Right.

10 Q And you had -- I thought you testified that you had
11 left -- you had gone away and then come back to the club,
12 did I hear that right?

13 A No.

14 Q I did not hear that right. You testified about
15 being -- not seeing Kochese outside but then you saw him
16 inside the club.

17 A Yes, I seen him inside the club.

18 Q After he had been hit.

19 A Yes.

20 Q And in between you were outside in your vehicle; is
21 that right? I'm saying -- you talked about warming up your
22 car --

23 A Yeah. The car was already running before anything
24 started.

25 Q Okay. And so you -- did you move your car or it kept

TERQUILA CLIFTON - CROSS

1 sitting right in front?

2 A After everybody started fighting I got in my car and I
3 tried to move it.

4 Q All right. And then you came back in the club?

5 A No. They had been shooting -- when I sat in the
6 parking lot -- that's what I'm saying, I left the club. I
7 sat in the parking lot, that's when I seen the guys standing
8 at the back of the car with these brown jackets on with
9 their arms extended.

10 Q All right. And then you exited your vehicle?

11 A Yeah. I think everybody had left them out there and I
12 came back and everybody was hollering "Kochese got shot."

13 Q Okay.

14 A And I was trying to get in the club to see if he was
15 all right.

16 Q All right.

17 MR. DUNCAN: Beg the Court's indulgence just a minute.

18 (Break in proceedings.)

19 MR. DUNCAN: No further questions.

20 THE COURT: Mr. Frick?

21 MR. FRICK: No questions.

22 THE COURT: You may step down.

23 MS. LIVELY: May she be excused, Your Honor?

24 THE COURT: Yes, she may.

25 The witness, BRAYLIN BROWN, was first duly sworn and

BRAYLIN BROWN - DIRECT

1 Testified as follows:

2 DIRECT EXAMINATION

3 BY MS. LIVELY:

4 Q Officer Brown, if you would just pull that microphone
5 to you so we can make sure we can hear you, please, sir.

6 Please tell the jury where you currently work.

7 A I currently work at the Chester County Sheriff's Office
8 as a patrol deputy.

9 Q How long have you been in that position?

10 A For two years.

11 Q In December of 2018, how long had you been with the
12 agency at that point?

13 A A few months.

14 Q A few months. Had you ever been to the academy yet?

15 A No, ma'am.

16 Q All right. So lucky you, you had to respond to a
17 shooting, is that correct, on December 25th of 2018?

18 A Yes, ma'am.

19 Q All right. Tell the jury what happened and how you
20 ended up responding to that call.

21 A On December 25th, 2018, at approximately 2:00 in the
22 County of Chester I, Deputy Brown, responded to 2091 J.A.
23 Cochran Bypass to help assist with a shooting incident that
24 took place. Upon arrival I observed several individuals
25 running from the club screaming, yelling in pure panic. At

BRAYLIN BROWN - DIRECT

1 that time I located my supervisor to seek instructions on
2 what I needed to do. He stated to me to get crime scene
3 tape and rope off the parking lot to help contain the
4 incident. At that time that's what I began to do, what he
5 instructed me to. Also attempt to gather information from
6 individuals who seemed to have it.

7 Q As you did that -- who was your supervisor that night?

8 A Bryant Thorpe.

9 Q Did any other officers finally show up to assist that
10 night?

11 A County Deputy Rikki Burch and City Officer Rinke.

12 Q So you said there were people in a panic. Was it
13 difficult for you and Thorpe to get the scene under control?

14 A Yes. We were severely outnumbered and understaffed at
15 the time of this incident.

16 Q So whenever you responded, was there anybody injured on
17 site?

18 A Yes.

19 Q And who was that?

20 A Mr. Kochese Gregory, he appeared to have a gunshot
21 wound.

22 Q A gunshot wound. How were the people acting around
23 him -- where were they? Let me ask you this, where was
24 Mr. Gregory and everybody else?

25 A Mr. Gregory was inside of the club, he was laying on

BRAYLIN BROWN - DIRECT

1 his back, appeared to be unconscious. There were people in
2 the parking lot attempting to get to their vehicle. People
3 were everywhere.

4 Q At any point in time were you trying to avoid people
5 leaving the area?

6 A Yes, ma'am.

7 Q When you first got there, did you have any indication
8 as to whether or not the shooter could possibly still be in
9 the building?

10 A We were unsure. It was such chaos that it took us a
11 little time to get everything under control to help see if
12 the shooter had left or if he was still on scene.

13 Q At some point in time, were you able to start speaking
14 with some of the potential witnesses to this crime?

15 A Yes, ma'am.

16 Q And did you actually -- were you actually documented on
17 the body worn camera from Officer Thorpe that night?

18 A Yes.

19 Q And did you review that body worn camera before coming
20 to court here today?

21 A Yes.

22 Q And is it an accurate reflection of what your duties
23 were and what you had to actually deal with that night in
24 regards to the shooting?

25 A Yes, ma'am.

BRAYLIN BROWN - DIRECT

1 Q All right. Did you actually take any statements
2 specifically yourself from anyone, any written statements?

3 A No, ma'am.

4 Q So what were your main duties then at that point other
5 than trying to control the scene?

6 A To get people that possibly seen what happened so that
7 when investigations arrived they could take over from there.

8 Q So what is the protocol in a shooting or a violent
9 crime situation like that? Are you supposed to be
10 collecting evidence whenever you arrive on a scene?

11 A No, ma'am.

12 Q So what are you supposed to do as a patrol officer?

13 A We provide scene security and preserve the scene for
14 investigation.

15 Q All right. And is that what you did that night?

16 A Yes, ma'am.

17 Q Okay. Do you have any other further knowledge other
18 than what you've told us here now as well as the body worn
19 camera that you have reviewed for this case?

20 A No, ma'am.

21 Q Okay.

22 MS. LIVELY: Your Honor, at the appropriate time I
23 would like to publish the full body worn camera, however I
24 didn't know -- if defense wants to cross examine him at this
25 point or how they want to do that. I would ask to publish

BRAYLIN BROWN - CROSS

1 it at this time.

2 THE COURT: Okay. I think you should.

3 MS. LIVELY: Thank you, Your Honor.

4 (The video was played.)

5 MS. LIVELY: That's all from the State, Your Honor,
6 regarding the publishing, thank you.

7 THE COURT: Is that all of the examination from the
8 State?

9 MS. LIVELY: It is, Your Honor. Answer any questions
10 that the defense may have for you.

11 THE COURT: Okay. Before you do that, let's take a
12 short break. Don't talk about the case, we'll bring you
13 back in a few minutes.

14 (The jury left the courtroom.)

15 THE COURT: You can step down but don't discuss your
16 testimony during the break.

17 (A break was taken.)

18 THE COURT: All right. Are we ready for the jury?

19 MS. LIVELY: Yes, sir, Your Honor.

20 MR. FRICK: Yes, sir.

21 MR. DUNCAN: Yes, sir.

22 (The jury returned to the courtroom.)

23 THE COURT: All right. As you know when we took the
24 break the witness had undergone direct examination by the
25 prosecution, so we'll continue with cross-examination by

BRAYLIN BROWN - CROSS

1 defense counsel. Mr. Duncan?

2 MR. DUNCAN: Thank you, Your Honor. Your Honor, I
3 don't have any questions for Deputy Brown.

4 THE COURT: Okay, thank you. Mr. Frick?

5 MR. FRICK: Your Honor, quickly.

6 CROSS EXAMINATION

7 BY MR. FRICK:

8 Q Deputy Brown, you were working to help secure the
9 scene, correct?

10 A Yes, sir.

11 Q And you were a trainee or whatever at the time?

12 A Yes, sir.

13 Q You weren't a full fledged deputy is what I'm saying.

14 A No, sir.

15 Q But you were qualified to go out there and run crime
16 scene and all of that stuff, right?

17 A Yes, sir.

18 Q Who were you riding with?

19 A I was riding by myself, but I was under the direct
20 supervision of Sergeant Thorpe.

21 Q Sergeant Thorpe?

22 A Yes, sir.

23 Q And, of course, you heard the radio traffic come
24 across, right?

25 A Yes, sir.

1 Q Okay. And, of course, you've been in law enforcement a
2 couple of years, you're aware of what a CAD is now, correct?

3 A Yes, sir.

4 Q When y'all responded, what was the initial thing that
5 y'all responded to? I believe y'all got a call at 2:02?

6 A Yes, sir.

7 Q Okay. What was that call about?

8 A Shots fired.

9 Q Okay. All right. Did you get any information who a
10 possible suspect of the shooting was?

11 MS. LIVELY: I'm just going to object, Your Honor, to
12 hearsay. That information is not in evidence at this point
13 in time.

14 THE COURT: Sustained.

15 MR. FRICK: No further questions.

16 THE COURT: Thank you, you may step down. All right.
17 Have you got a short one?

18 MS. LIVELY: Not that short, Your Honor.

19 THE COURT: All right. We're going to break for the
20 afternoon. Keep in mind my caution previously given, no
21 discussion about the case with anybody, no research, no
22 investigation, no exposure to any type of media coverage
23 that might relate to the case whether it be television,
24 radio or newspaper, you must avoid it all. Otherwise have a
25 good evening, we'll see you in the morning at 10:00,

1 10:00 in the morning.

2 (The jury left the courtroom.)

3 THE COURT: Any matter we need to address before the
4 recess?

5 MS. LIVELY: Your Honor, I did get confirmation from
6 the department of corrections as to the release date of my
7 victim from SCDC. It confirms that his verification of
8 incarceration dates were from November 27th, 2007 to
9 5/2/2009. And since I intend to call him probably as my
10 second witness tomorrow, I have to get the doctor in first,
11 I just wanted to go ahead and let the Court know that I did
12 have that confirmation because I know we had discussed it
13 earlier. And it's in relation to the defense motion 609B.

14 THE COURT: So am I calculating that to be more than
15 ten years?

16 MS. LIVELY: Correct, Your Honor.

17 THE COURT: All right. Mr. Frick or Mr. Duncan, who
18 wants to address that?

19 MR. FRICK: Your Honor, that was my motion. I don't
20 have any further argument on that at this time.

21 THE COURT: Okay. Well, are you still seeking to use
22 that for impeachment purposes under 609?

23 MR. FRICK: Yes, sir. I'm just going to attempt to do
24 a little further research and if I have anything to address
25 that I will bring that forward.

1 THE COURT: Okay. Because if it's more than ten years
2 it's presumptively too prejudicial to admit, that's why they
3 have a ten year limit. However, there may be circumstances
4 where it should be permitted, so you figure that out and let
5 me know in the morning.

6 MR. FRICK: That's what I will attempt to do.

7 THE COURT: All right. Court is in recess until
8 10:00 in the morning.

9 (Court recessed for the day and resumed at 10:00 a.m.
10 On Wednesday, February 5th, 2020.)

11 THE COURT: Any matters to addressed before the jury is
12 brought in?

13 MS. LIVELY: Just the 609B, Your Honor, which I
14 understand that Mr. Frick was going to address with you
15 before I call the victim.

16 THE COURT: Mr. Frick?

17 MR. FRICK: Yes, sir, just briefly on the matter. Your
18 Honor, as you're aware Mr. Gregory was convicted of, I
19 believe it was involuntary manslaughter, did a five year
20 prison sentence, was released May 1st, 2009. The date of
21 the incident here, of course, is December 25, 2018, that
22 would put the expiration of the 10 years May 1st, 2019. Of
23 course, here we are February 2020. So as of the date of
24 trial we are outside that ten year window, however the date
25 of the incident when he gives the statement of who he says

1 did the thing, that occurred within the ten year statute.
2 The Court is also aware, the defendant really has no control
3 over when a case was called. Because if this case was
4 called in the first half of last year, before May 1st, then
5 the ten year rule wouldn't have applied and the victim could
6 be cross examined about that conviction. Judge, I think
7 just because -- as a result of that the defendant becomes
8 prejudiced by when the case is called that they have no
9 control over it, and we're talking about a matter of months,
10 not a very distant passing of time. Of course, as we know,
11 the Colf factors mainly are designed to protect a defendant
12 who testifies but you would still have to do a 403 balancing
13 test if you were to determine that this could come in. And
14 three of the main factors that I think would apply from Colf
15 would be the point in time of the conviction and witness'
16 subsequent history. Judge, the victim was, in fact, charged
17 in this case, warrants were dismissed but he was, in fact,
18 charged in this case. He has had subsequent charges, I
19 believe resisting arrest and failure to stop for a blue
20 light subsequent to this, so he continues to be involved in
21 criminal activity. And the importance of the witness'
22 testimony, I mean, he's the victim in the case so it could
23 not be more paramount what his testimony would be. And then
24 the credibility of the witness. As you have seen as the
25 solicitor eluded to in her opening, there is very little to

1 any forensic evidence, so everything is testimony of
2 witnesses. Credibility is the most paramount thing in this
3 case. So weighing all of that I do believe that the
4 defendant is prejudiced by the calling -- the timing of the
5 calling of the case that now puts it outside the ten year
6 window, and then when you weigh the factors I believe it
7 outweighs the prejudicial effect and we should be able to
8 inquire as to this prior conviction.

9 THE COURT: Ms. Lively?

10 MS. LIVELY: Yes, thank you. Your Honor, in a more
11 recent case that came out, which was not obviously
12 overturned or changed by the supreme court, State v.
13 Mizelle, it clearly states that evidence of conviction is
14 not admissible if a period of more than ten years has
15 elapsed since the date of the conviction or the release of
16 the witness from confinement imposed for that conviction,
17 whichever is the later date unless you determine, of course,
18 the 403 balance. And, Your Honor, it says furthermore that
19 according to this rule a conviction more than ten years old
20 is presumptively inadmissible. So under those -- you know,
21 the courts are frowning against it even though Your Honor
22 has that discretion. And I will tell you, Your Honor, this
23 case has been -- it has been ongoing very -- everybody has
24 been very judicious in trying to move it forward. The
25 defense filed a stand your ground motion, so, of course,

1 that is one of those things where as the State we have to
2 respond and call witnesses. Well, that happened July 9th of
3 last year, so by that time we'd already missed the ten year
4 mark. There was absolutely no intent on the State's part, I
5 did not even know for sure when he had gotten released until
6 we started to go back into his record, Your Honor, so there
7 was not any type of malicious ongoing behind the scenes way
8 of holding this case out until we could get it in. As a
9 matter of fact, July 9th was on the basis of the defense
10 motions for a stand your ground hearing, they were already
11 too late at that point. We had their hearing, if we were
12 going to go by that ten year cutoff mark in what Mr. Frick
13 is saying that the State somehow pushed this out when we did
14 in order for this matter to be heard. So I would just ask
15 that Your Honor follow what has been the basic overriding
16 presumption of the court and that is with the amount of time
17 that's passed over ten years, that it is presumptively --
18 shouldn't come in, it would be prejudicial and have no
19 weight or value to this jury for what we're here for today.

20 THE COURT: Any reply?

21 MR. FRICK: No, Your Honor.

22 THE COURT: Of course, the purpose of the admission of
23 prior convictions for impeachment purposes is to allow the
24 jury to determine the credibility of a witness based on that
25 prior conduct, based upon a conviction of it, ordinarily

1 that involves convictions that involved the fault or
2 dishonesty or deceit, lying under oath, of the like. So I
3 understand the prior convictions are not involuntary
4 manslaughter, which is not a crime involving dishonesty,
5 fraud or deceit, and it has been agreed upon, outside the
6 ten year period where the rule provides that it is
7 presumptively more prejudicial than probative. And I've not
8 been provided any factor or circumstance that will make me
9 believe that now it becomes more probative than prejudicial,
10 and because I cannot articulate any reason to permit it in
11 conflict with the rule I sustain the State's objection to
12 the use of it for impeachment purposes by doing an
13 examination of Mr. Gregory. However, should something occur
14 during the examination that would otherwise open that door
15 or permit it we'll address that at that time. All right.
16 What else?

17 MS. LIVELY: That's all, Your Honor, we're ready to
18 proceed.

19 MR. DUNCAN: Defendant McClinton is ready to proceed.

20 THE COURT: Okay. Bring them in, please.

21 (The jury returned to the courtroom.)

22 THE COURT: Good morning, ladies and gentlemen. As you
23 know when we recessed yesterday the State was in the midst
24 of their presentation of evidence so we will continue with
25 that presentation this morning. Madam Solicitor.

BENIKA KERSHAW - DIRECT

1 MS. LIVELY: Yes, thank you, Your Honor. The State
2 would call Benika Kershaw to the stand.

3 The witness, BENIKA KERSHAW, was first duly sworn and
4 Testified as follows:

5 DIRECT EXAMINATION

6 BY MS. LIVELY:

7 Q Good morning, Ms. Kershaw.

8 A Good morning.

9 Q How are you doing today?

10 A I'm fine.

11 Q Ms. Kershaw, were you subpoenaed to be here for court
12 this week?

13 A Yes, ma'am.

14 Q And are you a resident of Chester County?

15 A Yes, ma'am.

16 Q How long have you lived in Chester?

17 A About four years.

18 Q Four years? Okay. And do you have any relatives that
19 live in Chester?

20 A Yes, ma'am.

21 Q Who?

22 A My dad, he's deceased. But Robinsons -- Fredrick
23 Robinson was my dad.

24 Q Okay. How about your mom, what is her name?

25 A Marilyn Tucker.

BENIKA KERSHAW - DIRECT

- 1 Q Does she live in Chester?
- 2 A Yes, ma'am.
- 3 Q How old is your mom?
- 4 A Fifty-six.
- 5 Q How old are you?
- 6 A Thirty-nine.
- 7 Q Are you nervous?
- 8 A Kind of.
- 9 Q Okay. Just take a deep breath. Now, Ms. Kershaw, do
- 10 you know where the Images Club and pool hall is here in
- 11 Chester?
- 12 A Yes, ma'am.
- 13 Q Have you ever been there before?
- 14 A Yes, ma'am.
- 15 Q Tell the jury about -- well, let me ask you this, were
- 16 you there on Christmas Eve night, 2018?
- 17 A Yes, ma'am, I was.
- 18 Q Well, tell the jury why you ended up going over to
- 19 Images on that night.
- 20 A I was invited to a birthday party.
- 21 Q Whose birthday party was it?
- 22 A They call him Chi Chi.
- 23 Q Okay. So when you went there, did Chi Chi invite you
- 24 himself or were there other friends?
- 25 A Yes, ma'am, he did.

BENIKA KERSHAW - DIRECT

1 Q He did. Okay. And so who all went with you to the
2 club that night?

3 A My mom and my friend, Felicia Ware.

4 Q So who drove there?

5 A My mom.

6 Q Your mom did. What kind of car did she drive?

7 A It is a Buick Lesabre.

8 Q What color?

9 A Silver.

10 Q And so whenever got there, do you remember about what
11 time it was when you arrived?

12 A No, ma'am.

13 Q Okay, that's fine. Do you know if it was before or
14 after midnight maybe?

15 A It was before midnight.

16 Q When you got there, were there a lot of cars in the
17 parking lot, or did it seem pretty empty?

18 A Yes, ma'am.

19 Q Which one?

20 A It was a good bit of cars there.

21 Q A good bit of cars. Well, so whenever you got there,
22 what did y'all do next? Where did you go in regards to
23 going to the party?

24 A We went into the main entrance and we went into the
25 club.

BENIKA KERSHAW - DIRECT

1 Q All right. So you said you went into the main
2 entrance. I'm going to show you -- let's see if I can show
3 you the main entrance. Well, kind of describe it and I'll
4 see if I can actually find it in one of these photos.

5 A It's not the door close to Golden Wok, it's the one
6 closer to the grocery store.

7 Q I'm going to show you State's Exhibit Number 14, and if
8 you will please point it out to me and then I'll show --
9 which door did you go into? It was this one here?

10 A Yes, ma'am.

11 Q Okay. So you're pointing to the one that's over -- if
12 we're looking at Club Images, okay? If we're looking at it,
13 I'm looking at it right now, we're looking at this, and it's
14 the door farthest over to the right?

15 A It's the right door.

16 Q It is? Okay. So I'm going to show this to -- is it
17 like a double door or is it a single door?

18 A It's a double.

19 Q It's a double door. Okay. So when you go into that
20 double door, is that the dance side or the pool hall side?

21 A The dance side.

22 Q The dance side. All right. When you got there, did
23 you see anyone working the door?

24 A Yes, ma'am.

25 Q Who was working the door?

BENIKA KERSHAW - DIRECT

- 1 A They call him Cowboy.
- 2 Q Cowboy. All right. So when you got there, was he --
- 3 you said he was working the door. What was he doing?
- 4 A Well, it was another guy sitting behind the thing where
- 5 they take the money and he was standing there like security.
- 6 Q All right. So what did they do to you guys?
- 7 A They basically used a wand and frisked us.
- 8 Q They use a wand and frisked you? Okay. Was there a
- 9 cover charge for you to go in there that night?
- 10 A Yes, ma'am.
- 11 Q All right. So did you actually observe each one of
- 12 your party get wanded and patted down?
- 13 A Yes, ma'am.
- 14 Q All right. Did you have any weapons on you?
- 15 A No.
- 16 Q All right. Now, Ms. Kershaw, do you know Mr. Kochese
- 17 Gregory?
- 18 A No, ma'am, I don't.
- 19 Q Do you know Quinton McClinton, the gentleman seated
- 20 right next to the attorney with the glasses on?
- 21 A No, ma'am.
- 22 Q Do you know the defendant, Montrell Graham, with the
- 23 gray hoodie on?
- 24 A No, I don't.
- 25 Q Are you related to any of them?

BENIKA KERSHAW - DIRECT

1 A No.

2 Q Do you have any knowledge about these individuals prior
3 to that night of December 24th into the 25th, 2018?

4 A No, ma'am.

5 Q All right. Do you know someone by the name of George
6 "Big Troy" Killian?

7 A I don't know him. I just learned of all of these
8 people the night of the incident.

9 Q How was it -- well, let me ask you this then, let me go
10 through each one. You said Kalbo was working the door?

11 A Working security, but it was another guy taking money.

12 Q Did you know Kalbo before that night?

13 A No, ma'am.

14 Q So do you know whether or not his real name is Kelvin
15 Antonio Killian?

16 A No, ma'am, I don't.

17 Q How about Daverican Gregory, do you know him?

18 A No.

19 Q Do you know Chocolate Pudding?

20 A I don't know him.

21 Q Do you know Tina Davis?

22 A I know of her through my mom.

23 Q Through your mom?

24 A Yes, ma'am.

25 Q And your mom was with you that night; is that right?

BENIKA KERSHAW - DIRECT

1 A Yes, ma'am.

2 Q So that night was Tina Davis there?

3 A Yes, ma'am.

4 Q Now, I'm going to show you what is State's Exhibit
5 Number 7, and tell me if you can identify the people --
6 well, let me show it to the defense real quick.

7 (Break in proceedings.)

8 Q Just look at these three photos and tell me if you
9 recognize those people that are in those photos.

10 A Myself is and my mom.

11 MS. LIVELY: Your Honor, the State would move State's
12 Exhibit Number 3 into -- I'm sorry, State's 7, I apologize,
13 into evidence at this time. There are three attached photos
14 as a group in State's 7.

15 MR. DUNCAN: No objection from McClinton.

16 MR. FRICK: No objection, Your Honor.

17 THE COURT: They're admitted.

18 MS. LIVELY: Thank you.

19 (The photos were received as State's 7.)

20 Q The top photo of State's Exhibit Number 7, who is that?

21 A That's me.

22 Q That's you? All right. And in that photo, do you
23 recall what you were doing at that point?

24 A I guess I was talking to the police.

25 Q You were talking to the police. Okay. That night --

BENIKA KERSHAW - DIRECT

1 and I'm going to get back into it but I just want to be sure
2 that the jury hears, were you able to actually give a
3 written statement as to what happened?

4 A Yes, ma'am.

5 Q All right. So did you cooperate fully with the police?

6 A Yes, ma'am.

7 Q About how long were you there that night?

8 A I don't recall.

9 Q That's fine. At some point in time did you see any
10 issues or problems arise at the club while you were in the
11 club?

12 A What you mean, during the inside of the club?

13 Q Yeah. While you were inside of the club, were there
14 any issues or problems that you personally witnessed?

15 A No, ma'am.

16 Q All right. So at what point did you decide that y'all
17 were going to leave?

18 A At the end of the night.

19 Q At the end of the night. How did you know -- well,
20 tell me now you knew it was the end of the night, end of the
21 night why?

22 A Because they turned the lights on and the DJ said it
23 was the last song.

24 Q It was the last song, all right. So when that
25 happened, when the DJ said this is the last song what did

BENIKA KERSHAW - DIRECT

1 you do next?

2 A Me and my mom and Felicia, we started to go out the
3 door.

4 Q Which door were you going out of?

5 A The main entrance, the one we came in.

6 Q The one you came in. So that was the one you pointed
7 out to the jury already, the double doors?

8 A Yes.

9 Q Did you ever at any point go into the pool room area?

10 A No, ma'am.

11 Q Okay. So when you were going out the double doors with
12 your mom and your friend, tell the jury what happened next.

13 A I went to get in the car. Because my mom walked with a
14 limp so I went to get the car, and as I pulled the car in
15 front of the front entrance and I got out to help her down
16 to get into the car and I noticed a guy threw a cup into Big
17 Troy's face, and then they just started fighting. It just
18 got real chaotic.

19 Q Okay. So you saw -- did you know the person who threw
20 the drink in Big Troy's face?

21 A No, ma'am, I didn't.

22 Q Okay. So you see this happening. Was your mom in the
23 car yet or what was going on?

24 A No, she was on her way to the car.

25 Q So what was going through your mind at that point?

BENIKA KERSHAW - DIRECT

1 A To try to get her to the car as fast as possible so she
2 wasn't going to be attacked or get in the middle of
3 anything.

4 Q How are you feeling at that moment?

5 A Nervous and scared.

6 Q So at that point what did you do?

7 A I just went and got in the car. We went across the
8 street to the Texaco and turned facing the club, and as we
9 were sitting there when we saw the individual laying on the
10 ground by himself getting beaten so I --

11 Q Okay. Stop you right there. Could you from where you
12 were at the gas station -- and is this across the street
13 from -- tell us exactly where --

14 A It's across the street.

15 Q It's across the street. Okay. And I'm actually going
16 to ask you, if you don't mind, I'm going to show you State's
17 Exhibit Number 20. Just take a look at it for just a
18 minute. Okay. Do you know where this is?

19 A Yes, ma'am.

20 Q Okay. So are you able to identify where the Images
21 Club is in comparison to everything?

22 A Yes, ma'am.

23 MS. LIVELY: Your Honor, may the witness step down and
24 assist me in showing where she was during this incident?

25 THE COURT: She may.

BENIKA KERSHAW - DIRECT

1 Q Will you step down for me, Ms. Kershaw? Thank you. If
2 you would just make sure you speak up because that gentleman
3 has to take down everything you say, okay? So just show the
4 jury, if you would please, when we're looking at this map
5 approximately where Club Images would be.

6 A In this area here.

7 Q So in this area here. So what we're going to do if you
8 would, just put a little X where that would be, where is it?

9 A (Witness complies.)

10 Q Right in this area here? Okay. So right here. So
11 what we've got is we've got this area. So is this kind of
12 where the -- is this where the double doors are or is it
13 just that whole area right there?

14 A I mean, by looking at it I really can't tell, but the
15 double doors is to the right.

16 Q Not a problem, thank you so much. Now, do you remember
17 about where the vehicle was parked, your mom's vehicle
18 whenever you got there, about how far out in the parking
19 lot?

20 A When we first got there?

21 Q When you first got there.

22 A It was closer to the --

23 Q Make sure you say --

24 A It was closer to the Family Dollar.

25 Q Closer to the Family Dollar area.

BENIKA KERSHAW - DIRECT

1 A Yes, ma'am.

2 Q All right. So whenever you said that you left and you
3 went and got the car, how close to the club or the front of
4 the club did you pull the vehicle?

5 A Right in the front, by the front entrance.

6 Q So right in the front. So why did you do that?

7 A So she could get to the car easily because of her
8 condition.

9 THE COURT: Ms. Kershaw, I know that you're speaking to
10 the jury and, of course, they can probably hear you, but I'm
11 not certain that the court reporter can and I certainly
12 can't, so you're going to have to speak much louder even
13 though it might not be your normal volume. But you've got
14 to speak louder so everybody can hear what you say, okay?

15 Q Talk loud like me. So you pulled the vehicle here, and
16 then you said your mom is coming out. What happened next?

17 A I got her in the car and then we pulled off, because
18 she said she didn't know what would happen. So we pulled
19 off and we pulled over here to the Texaco.

20 Q Okay. So you pulled off and you pulled over to the
21 Texaco. All right. So I want to see -- point to me where
22 the Texaco Gas Station is.

23 A (Witness complies.)

24 Q Right here?

25 A Yes, ma'am.

BENIKA KERSHAW - DIRECT

1 Q Okay. So where you were at that point, were you able
2 to still see what was going on?

3 A If I'm not mistaken this might be our car.

4 Q All right. And I just want to be sure, I don't want to
5 put words in your mouth, so where was the vehicle in
6 relationship to what was going on when you went over to the
7 gas station?

8 A It was facing back toward the road toward the club.

9 Q So I'm going to -- do an arrow pointing which way the
10 car was facing.

11 A (Witness complies.)

12 Q So when you were in the car -- were you in the car or
13 out of the car by that point?

14 A In.

15 Q You were still in the car. And let me just back you up
16 for just a second. You said the drink got thrown in Big
17 Troy's face, then you saw -- it was chaos, you said that
18 there was a fight.

19 A Yes, ma'am.

20 Q When you saw that, if you don't know the people that's
21 fine, describe what they were wearing and tell us what
22 happened.

23 A I can't really say what no one was wearing, it was just
24 so many individuals.

25 Q Got it. Okay. And at some point when you were up

BENIKA KERSHAW - DIRECT

1 there you said there was somebody on the ground. Could you
2 see what the person on the ground was wearing?

3 A A green sweater is all I remember.

4 Q A green sweater?

5 A Yes, ma'am.

6 Q All right. I'm going to let you sit back down so we
7 can make sure we can hear you, okay? All right. So you
8 said the person on the ground was wearing a sweater. Was it
9 like a dark green, light green? Describe what kind of
10 green.

11 A I just know it was a shade of green.

12 Q A shade of green. Did you know who this person was?

13 A No, ma'am, I didn't.

14 Q What was happening to the person that was on the
15 ground?

16 A They were being beaten with pool sticks, stomped,
17 kicked, just literally like they were trying to stomp him.

18 Q Okay. And so was this something that even though you
19 were across the street at that point you were able to
20 witness?

21 A Yes, ma'am.

22 Q And when you were across the street at the gas station,
23 was it well lit in that particular area?

24 A Yes, ma'am.

25 Q And were there lights outside of the club? Was it

BENIKA KERSHAW - DIRECT

1 pretty well lit whenever you walk out?

2 A Yes, ma'am.

3 Q It is? All right. So at that point did you see any
4 other vehicles that were in the front of the club?

5 A Just a black jeep.

6 Q A black jeep? When did the black jeep get there?

7 A It was already parked there. Like they were warming up
8 the car to leave there also.

9 Q So was the jeep there before you left with your mom, or
10 did you notice it after you had gone across the street?

11 A I can't recall.

12 Q That's fine. Did you know who was driving that jeep?

13 A I didn't at the time, but I found out it was Tina
14 Davis.

15 Q And you had testified earlier that your mom knows Tina
16 Davis?

17 A Yes, ma'am.

18 Q So whenever you see the black jeep there and you're in
19 the car with your friend and your mom, what did you decide
20 to do?

21 A I called 911.

22 Q And when you called 911 why did you decide that you
23 needed to call at that point?

24 A Because of the way he was getting beaten and I just
25 wanted some help to get there.

BENIKA KERSHAW - DIRECT

1 Q All right. And whenever you called 911, were you --
2 were you providing information based on what you could see
3 from that point?

4 A Yes, ma'am.

5 Q All right. So tell the jury what all you told the 911
6 dispatch.

7 A I just told them that, you know, someone was on the
8 ground being beaten really bad, I noticed that no one were
9 on their phones trying to call for help so I was calling to
10 get him some kind of help.

11 Q Did anything happen while you were on the phone with
12 911 dispatch?

13 A As far as --

14 Q As far as did the fight end at some point?

15 A After awhile they started to get off of him, and I saw
16 individuals going down toward the car wash to the left, and
17 then I seen --

18 Q Let me stop you just real quick because I just want to
19 make sure we're clear. Where was the black jeep whenever
20 that was going on?

21 A It was -- at one point she pulled off, I'm not sure
22 when, but she was like in the jeep. She would go forward,
23 then she would go backward, then finally she got away from
24 the crowd and left.

25 Q So she would go forward and then go backward. Do you

BENIKA KERSHAW - DIRECT

1 know whether or not she hit anybody or was -- hit the curve?

2 A From the way -- from the distance I was and from the
3 way it looked, I thought she had hit the individual that was
4 actually laying on the ground.

5 Q Okay. Were you sure?

6 A No, I wasn't 100 percent sure.

7 Q Did you ever get a glimpse of what some of those guys
8 who were beating him were wearing?

9 A I mean --

10 Q Colors, it can be colors or it can be --

11 A I seen some guys in brown, white, it was just multiple
12 colors.

13 Q Got you. All right. About how many people, if you had
14 to give us an estimate, did you see actually beating the guy
15 that was on the ground?

16 A I'm not really sure.

17 Q Okay.

18 A I'm not sure. I would say probably 15, maybe more.

19 Because they were coming out of the pool room, they was just
20 coming out of different areas.

21 Q So once you saw all of this chaos -- and you said
22 that's why you called 911?

23 A Yes, ma'am.

24 Q All right. While you were on the phone with 911, what
25 happened next?

BENIKA KERSHAW - DIRECT

1 A I noticed shots being fired from the lower end by the
2 car wash.

3 Q So I'm just going to show you -- I'm going to hold it
4 so you don't have to come down so I can just have you point
5 it out to me. I'm going to show it to you. If you would,
6 point to me where the car wash is on here and I'll point it
7 out to the jury. It may not be in the picture, but if you
8 can just tell me what area?

9 A Down from the club.

10 Q So down from the club. It would be on this side of the
11 parking lot.

12 A Yes.

13 Q And I'm asking you, I'm not telling you, I want to
14 know, I want to be clear. So which side of the parking lot
15 did you see the shots being fired from?

16 A It was just like -- it wasn't like a certain specific,
17 it was like they were standing and it was just shots being
18 fired.

19 Q So you would say at least from -- draw an arrow so the
20 jury could be clear, which way were the shots coming from?

21 A From here going toward the club.

22 Q So from here going towards the club. Okay. So when
23 you saw that happening, what did you see next?

24 A I probably saw the guy with the green sweater get up
25 off the ground.

BENIKA KERSHAW - DIRECT

1 Q And what did you see after that?

2 A He was basically just like pacing but he didn't go like
3 down far, he was just pacing back and forth, and then I seen
4 more gunshots.

5 Q And then you saw more gunshots. Did you have any idea
6 as to who was shooting at that point?

7 A No, ma'am.

8 Q And you were -- were you sitting in your vehicle or had
9 you gotten out of your car?

10 A I never got out.

11 Q You never got out?

12 A No, ma'am.

13 Q And whenever you actually just kept seeing all of those
14 shots, at any point in time did you actually see anyone get
15 hit or shot from where you were --

16 A I mean, I couldn't tell that someone was shot. But as
17 he was going back toward the door he was holding his stomach
18 area and that's when my mom said, "Tell them to hurry and
19 get here because he's been shot."

20 Q So from your perspective and your mom's perspective
21 across the street you could tell someone had been shot.

22 A Yes, ma'am.

23 Q What was that person wearing?

24 A The green sweater.

25 Q The green sweater. And, Ms. Kershaw, was there a time

BENIKA KERSHAW - DIRECT

1 when you had given a statement to law enforcement as to what
2 you saw happen that night?

3 A Yes, ma'am.

4 Q And have you reviewed that statement before?

5 A Yes, ma'am.

6 Q All right. And have you given sworn testimony
7 regarding that statement before as well?

8 A Yes, ma'am.

9 Q And when you reviewed that statement, was there
10 anything in the statement that you recall wanting to address
11 with the State and law enforcement after the fact?

12 A Yeah, I had to clear some things up. Because by me
13 getting names from individuals I was putting them in as they
14 were telling me, but apparently it wasn't right.

15 Q Apparently it wasn't right.

16 A Yes, ma'am.

17 Q So when you were there and the people were telling you
18 names and who was who and everything, did you know
19 personally who any of those people were?

20 A No, ma'am, I did not.

21 Q Did you put those names in that statement based on what
22 other people were telling you?

23 A Yes, ma'am.

24 Q Okay. And so I'm going to show you your statement and
25 just so you can -- and I know you're familiar with it but

BENIKA KERSHAW - DIRECT

1 I'm going to show it to you again to refresh your memory.

2 Could you please tell us what in that statement you realized
3 was incorrect and you're telling this jury under oath here
4 today?

5 A As far as where it says Tina Davis was driving the
6 black Jeep Cherokee and hit Kochese, like I said, I thought
7 she made contact with him as he was laying there.

8 Q But from your perspective across the street, were you
9 sure that that actually happened?

10 A From the way it looked, because the way she would pull
11 up and pull back and I was thinking that she hit him
12 actually with the jeep.

13 Q Okay. Is there anything else in there that you put in
14 your statement that you want to clear up for the jury here
15 today?

16 A I want to clear up that the first shots that were fired
17 came from the lower end.

18 Q Okay. Where did those first shots come from that you
19 heard?

20 A The lower end by the car wash.

21 Q By the car wash. So not the lower end towards the
22 club.

23 A No.

24 Q All right. So when you say the lower end what --
25 you've already given us an arrow on this. Is this where you

BENIKA KERSHAW - DIRECT

1 saw from your perspective in the vehicle the shots were
2 coming from and going towards?

3 A Yes, ma'am.

4 Q Okay. Is that your recollection and your clarification
5 from what you had said that night?

6 A Yes, ma'am.

7 Q Were you drinking that night?

8 A No, ma'am, I was not.

9 Q Okay. Was it chaotic for you that night?

10 A Yes, ma'am, it was.

11 Q And as a matter of fact, Ms. Kershaw, look at that
12 statement. What time did you provide that statement to law
13 enforcement?

14 A 4:51 a.m.

15 Q 4:51 a.m. So let me understand this, you were in the
16 parking lot clear across the street, but you went back to
17 the club after that?

18 A I was directed to go back since I made the 911 call and
19 I could see everything that happened.

20 Q Okay. So you cooperated with the police that night.

21 A Yes, ma'am, I did.

22 Q And did you do it to help the victim, Kochese Gregory?

23 A Yes, ma'am, I did.

24 Q Okay. Is it because you know him or you're a family
25 member?

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1 A No. I don't know him and I'm not related to him, it's
2 just I just seen an individual that needed help.

3 Q So -- and you wanted to help.

4 A Yes, ma'am.

5 Q Okay. Do you have any grudge or bias against the
6 defendant, Quinton McClinton?

7 A I don't know him.

8 Q You don't know him?

9 A No.

10 Q How about Montrell Graham? Do you have any grudge or
11 bias against Mr. Graham there in the gray hoodie?

12 A I don't know him either.

13 Q You don't know him either? Okay. When you went back
14 across there and met with law enforcement, did you ever say,
15 or do you remember ever saying that the victim had a gun or
16 was shooting?

17 A Yes, ma'am.

18 Q Okay. Tell the jury about that.

19 A As he got up and the shots were being fired, I seen
20 shots coming from toward him.

21 Q Okay. From him?

22 A Yes, ma'am.

23 Q Okay. So at what point are you saying that you saw
24 shots coming -- who shot first?

25 A The people in the lower by the car wash.

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1 Q In the lower by the car wash? How many shots did you
2 hear?

3 A I'm not sure, it was just multiple shots.

4 Q Multiple shots? Okay. Were you -- when you went back
5 across the street, were you able to actually see Mr.
6 Gregory, the shooting victim, while you were waiting for
7 EMS?

8 A I didn't see him until EMS brought him out of the pool
9 room and he was on the stretcher.

10 Q Okay. And so after you did that, was that around the
11 time of a few hours later that you provided the statement to
12 law enforcement?

13 A Yes, ma'am, because they wouldn't let us leave.

14 Q They wouldn't let you leave, yes, ma'am. And was your
15 mom still with you as well?

16 A Yes, ma'am.

17 Q Now, Ms. Kershaw, I just want you to be real clear to
18 this jury, who was it that started the shooting?

19 A The people in the lower by the car wash.

20 Q By the car wash. Okay. Were these the same people
21 that you saw running from the fight with Kochese Gregory on
22 the ground?

23 A Yes, ma'am.

24 Q And once again, what color clothes were they wearing?

25 A They just had on like multiple colors. I seen a few in

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1 brown jackets, white shirts, just multiple colors.

2 Q But once again, you don't know these people.

3 A No, ma'am.

4 Q Okay.

5 MS. LIVELY: Thank you so much, Ms. Kershaw, I'm going
6 to grab that statement from you. And please answer any
7 questions the defense may have regarding your testimony.

8 CROSS EXAMINATION

9 BY MR. DUNCAN:

10 Q Good morning, Ms. Kershaw.

11 A Good morning.

12 Q Again, I'm Mike Duncan and I represent Mr. McClinton in
13 this case. I believe I've -- as Ms. Lively eluded to, you
14 testified back last summer in this same case, correct?

15 A Yes, ma'am.

16 Q And Ms. Kershaw, on your statement that Ms. Lively
17 showed you, you are Chester -- you live here in Chester?

18 A Yes, sir.

19 Q And have lived in Chester most your life?

20 A No. I just moved here about four years ago.

21 Q Where are you from, Ms. Kershaw?

22 A Union.

23 Q Union, South Carolina.

24 A Yes, sir.

25 Q Ms. Kershaw, you said that you had gone to Club Images

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- 1 on this Christmas Eve to a birthday party for CiCi?
- 2 A Chi Chi.
- 3 Q Chi Chi.
- 4 A Yes, sir.
- 5 Q Last name Sims?
- 6 A Yes, sir.
- 7 Q That's how you know -- you know him as Chi Chi?
- 8 A Yes.
- 9 Q Is he a relative or just a friend?
- 10 A He's just a friend.
- 11 Q Just a friend. All right. And you indicated you went
- 12 with your mother -- your mother drove -- your mother drove
- 13 her vehicle?
- 14 A Yes.
- 15 Q And it was you and your mom and --
- 16 A And a friend.
- 17 Q And your friend.
- 18 A Uh-huh.
- 19 Q So the lady about your age?
- 20 A She's a little older than me.
- 21 Q And y'all all three went to the club. Were you always
- 22 on the dance club side of the club?
- 23 A Yes, sir.
- 24 Q And you indicated you on that night were not drinking.
- 25 A No, sir.

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1 Q I don't care one way or the other, but do you drink or
2 is that not something you do?

3 A Not like that, occasionally I do.

4 Q All right. But on this night you were having a good
5 time at the birthday party over on the dance side of the
6 club.

7 A Yes, sir.

8 Q And I think your testimony was you had stayed until the
9 last song. I mean, in other words, they called out the time
10 this will be the last song.

11 A Yes, sir.

12 Q And then -- and you've showed the jury in questions
13 from Ms. Lively, you were parked a good ways away initially
14 from the door.

15 A Yes, sir.

16 Q Where are you parked kind of?

17 A Close to Family Dollar.

18 Q Family Dollar, all right. And some folks on the jury
19 live here in Chester and they'll know where that is and
20 other folks live out in the county and might not, but
21 anyway, down at the strip shopping where the Family Dollar
22 is and the grocery store is at the other end?

23 A Yes, sir.

24 Q Okay. All right. So you had just gone -- your friend,
25 Felicia, did she leave with you and your mother or had she

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1 already gone or what?

2 A No, she had left.

3 Q She had already gone?

4 A Yeah. She left with someone else.

5 Q Okay. So when it was time to go you said your
6 mother -- your mother is a little older and she walks with a
7 limp I thought I heard.

8 A Yes.

9 Q Okay. So you went down to get the car --

10 A Yes.

11 Q -- and bring it back up to pick her up.

12 A Yes, sir.

13 Q All right. At that --

14 A At that point Felicia was in the car, but she left
15 after we pulled back over to the club.

16 Q All right. Tell me that again. In other words, you
17 and Felicia went to go get your car.

18 A Felicia stood there with my mom as I went to go get the
19 car, she got in the car with us.

20 Q Okay. So it was you and your -- your mom is in the
21 front seat and Felicia is in the back?

22 A Yes, sir.

23 Q That doesn't really matter, but anyway there's three of
24 y'all in the car. At what point did you see the individual
25 throw a drink, where were you then?

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1 A I had got out of the car to help my mom off the
2 sidewalk.

3 Q And so literally as you got out of the car a drink got
4 thrown in a guy's face?

5 A Yes, sir.

6 Q And then a fight broke out kind of right then and
7 there?

8 A Yes, sir.

9 Q Obviously you didn't want nothing to do with the fight,
10 you were just trying to get your mother in the car.

11 A Get her out of the way.

12 Q And is that basically what happened? Were you able to
13 get your mom and get your friend and y'all get in the car
14 and kind of get across the street?

15 A Yes, sir.

16 Q Did you see -- of the fight, did you really see what
17 happened or who was involved, or were you just busy trying
18 to get your mother and friend out of there and across the
19 road?

20 A The only person that I could recognize that was
21 involved was Troy Killian.

22 Q Troy Killian who --

23 A The drink got thrown in his face.

24 Q All right. Okay. Did you know Troy Killian?

25 A No, I didn't.

BENIKA KERSHAW - CROSS

1 Q Let me get this right, and I think you testified to it,
2 you said you've lived in Chester now about four years?

3 A Yes, sir.

4 Q So at the time you'd lived in Chester like three years,
5 something like that.

6 A Yeah.

7 Q All right. And so you knew your friend who was having
8 the birthday party.

9 A Yes.

10 Q Is your mom from Chester?

11 A No.

12 Q Okay. Your mom just came along basically.

13 A She basically -- she's been living over here about
14 eight years.

15 Q Okay. She's been here a little bit longer than you.

16 A Yes, sir.

17 Q Okay. All right. So anyway, y'all are out, and the
18 whole -- most of these people who you're encountering this
19 night you really don't know --

20 A No.

21 Q -- at all.

22 A No.

23 Q All right. And so when you say you saw somebody throw
24 a drink in Troy Killian's face, you knew Troy Killian
25 because somebody said that's Troy Killian?

BENIKA KERSHAW - CROSS

- 1 A Yes.
- 2 Q You didn't know him of your own knowledge.
- 3 A No.
- 4 Q All right. Okay. So you saw a drink get thrown in his
- 5 face and you got your mother in the car.
- 6 A Yeah. As that fight and everything was going on I was
- 7 getting her in the car.
- 8 Q And then you pulled on across the street.
- 9 A Yes, sir.
- 10 Q All right. And you just pulled -- you got kind of
- 11 basically at a safe distance away --
- 12 A Yes, sir.
- 13 Q -- across the road.
- 14 A Yes.
- 15 Q And then you just -- you're watching what was going on
- 16 over across the road.
- 17 A Yes, sir.
- 18 Q And again, your testimony was you saw a guy -- a man in
- 19 a green sweater --
- 20 A Yes.
- 21 Q -- on the ground?
- 22 A Yes.
- 23 Q And other people wearing multiple color of clothes
- 24 around him and beating on him.
- 25 A Yes, sir.

BENIKA KERSHAW - CROSS

1 Q All right. And is that the point you called 911?

2 A Yes, sir.

3 Q Okay. All right. Help me here, you said something
4 about your friend had at some point left your vehicle. Was
5 it the three of y'all still or had she already gone?

6 A What you mean?

7 Q Let me try again, that was a bad question. You got --
8 it was you, your mother and your friend go across the street
9 to the Texaco.

10 A Yes.

11 Q You're still watching what's going on across the street
12 at the club or in the parking lot now at the -- I guess it's
13 at the edge of the door, right?

14 A It was on the ground from the sidewalk.

15 Q I mean, basically in front of the club, though.

16 A Yeah.

17 Q Okay. Near the door, near the door of the club.

18 A It was more directly towards the pool room door.

19 Q Okay. All right. At that entrance of the club.

20 A Yes.

21 Q Okay. I was just trying figure out who was still --
22 was your friend still with you? The three of y'all are all
23 in the car together?

24 A Yes.

25 Q And you call 911. What do you report? At that point

BENIKA KERSHAW - CROSS

1 what do you report to 911?

2 A I was reporting the fighting incident and that they
3 needed to get some help there.

4 Q Okay. All right. And then you end that call.

5 A No.

6 Q You're still on the phone.

7 A Still on the phone.

8 Q You've got the phone, you're talking, and you see --
9 what else happens? What else did you see?

10 A After the fighting had ceased I seen the individuals
11 that were beating him run down toward the car wash area, and
12 then moments later I seen gunshots.

13 Q And you said the individuals. I mean, it's a bunch of
14 people, you said like 15 people awhile ago I thought.

15 A Yeah, it was a bunch of people. I can't recollect the
16 exact number.

17 Q The whole group of people run down toward the bottom of
18 the parking lot.

19 A Yeah, and he was by himself.

20 Q The green sweater man is by himself.

21 A Yes.

22 Q All right. And again, you're on the phone with 911
23 while this is happening?

24 A Yes, sir.

25 Q I'm looking at your statement, and I'm not holding it

BENIKA KERSHAW - CROSS

1 from you but you just looked at it, right?

2 A Uh-huh.

3 Q You recall -- do you need to see it again or do you
4 recall it?

5 A No, I don't.

6 Q All right. You indicate that a lady named Tina Davis
7 was driving a black Jeep Cherokee, and what you're saying is
8 she hit Kochese twice with the car. You're not sure that
9 that's what happened, but that's what it looked like to you.

10 A That's what it looked like to me.

11 Q From across the street.

12 A Yes, sir.

13 Q Okay. And again, you didn't know Tina Davis by name;
14 is that correct?

15 A Yes, I knew her.

16 Q You did know her?

17 A I knew Tina.

18 Q You knew Tina and you knew what she was driving. I
19 mean, you knew her well enough to know?

20 A I didn't know at first that that was her until Felicia,
21 the girl in the car, told us that's who was driving the
22 jeep.

23 Q Got you. So your friend said that's Tina's vehicle --
24 or Tina is driving that vehicle.

25 A Yes.

BENIKA KERSHAW - CROSS

1 Q I understand. All right. So anyway, it appeared to
2 you that Ms. Davis had -- she was going frontwards, then
3 backwards in front of the club and it looked like she had
4 made contact with a person and it appeared to be the man in
5 the green sweater to you from across the street.

6 A Yes, sir.

7 Q And from across the street you saw the man with the
8 green sweater who you are identifying in here as Kochese
9 because somebody told you Kochese was wearing a green
10 sweater.

11 A Yeah. That's who they was saying the individual was
12 after the fact.

13 Q Right. I mean, you're giving the statement at like
14 5:00 in the morning.

15 A Yes.

16 Q So it's about three hours after the incident.

17 A Right.

18 Q And by then people's names have come up. In other
19 words, you didn't have to call him the green sweater guy
20 anymore because people had said --

21 A Yeah, they provided a name.

22 Q So you indicate that Mr. Kochese had gotten off the
23 ground and you saw him with a gun shooting down into the
24 parking lot.

25 A Yes.

BENIKA KERSHAW - CROSS

1 Q And you say in here -- I mean, Ms. Lively asked about
2 you correcting anything, but you say in your statement
3 "returning shots." So really you don't need to correct it,
4 that's what you said, "He was returning shots." So somebody
5 was shooting this way and he was returning shots, isn't that
6 right? Do you see what I'm saying?

7 A But I wanted to clear it up that the first shots was
8 from the car wash area.

9 Q Okay. From -- a group of people that had run down to
10 the bottom of the parking lot were firing shots, multiple
11 shots.

12 A Yes, sir.

13 Q And then the gentleman who was wearing a green sweater,
14 who you then learned was Kochese, was shooting back.

15 A Yes, sir.

16 Q And you saw all of that from the Texaco.

17 A Yes, sir.

18 Q Okay. All right. One thing you were talking about
19 earlier, you said that -- obviously you made the 911 call
20 and apparently you were the first person to do that. I
21 mean, nobody -- let me ask that. When you called, did the
22 911 operator say, "Oh yeah, we already know about that," or
23 it was pretty clear to you that you were the first one
24 saying anything.

25 A Yes, sir.

BENIKA KERSHAW - CROSS

1 Q I'm sorry.

2 A Yes, sir, I was the first one.

3 Q You were the first one. So did you leave the area?

4 Did you take your mother home and stuff or did you just stay
5 at the Texaco?

6 A We stayed at the Texaco until they instructed us once
7 law enforcement got there to go back across the street.

8 Q Okay. In other words you were at the Texaco, law
9 enforcement came, obviously came to the other side, came to
10 the club side.

11 A Yes.

12 Q And they made their way over to find you at the Texaco
13 basically?

14 A No.

15 Q Tell me what happened.

16 A The 911 caller told us to go back over there through
17 dispatch.

18 Q Okay. You kept them on the phone?

19 A Yes.

20 Q All right. So you were on the phone, and they finally
21 said -- they said to you when you see the police arrive you
22 need to go over there.

23 A They told us to go back to the scene.

24 Q Okay. And you then drove yourself and your --

25 A My mom drove.

BENIKA KERSHAW - CROSS

1 Q Your mom drove. Help me out here, you're on the phone
2 with the 911 operator the whole time?

3 A Yes.

4 Q And once law enforcement arrives on the scene -- and
5 Ms. Lively showed you some photographs of you -- I think of
6 you and your mom over talking to the police basically.

7 A Yes, sir.

8 Q All right. Y'all -- the 911 operator says, "Ms.
9 Kershaw, you need to go back across the street, you need to
10 go back to the scene?"

11 A Yeah, basically. In other words, that's what she told
12 me.

13 Q All right. And your mom drove the vehicle across the
14 road?

15 A Yes.

16 Q And it was just you and her at that point.

17 A No, Felicia was still in the car.

18 Q Still Felicia. Okay. All right. You provided the
19 statement obviously to law enforcement at that point in
20 time. I mean, it was a good while later, you were just
21 waiting around, is that --

22 A Yeah, because they wouldn't let us leave the scene.

23 Q Okay. Where were you? Where did you go? I'm sorry,
24 bad question. You come back across the street, you're in
25 the parking lot? You're in the club? Where did you go?

BENIKA KERSHAW - CROSS

1 A I mean, we were between inside the club and out as law
2 enforcement was talking to us.

3 Q Okay. And there's pictures of it. But, I mean, your
4 mom was basically outside the vehicle. You didn't stay in
5 the car, you and your mother --

6 A Well, at first when we first got there a law
7 enforcement officer came to the car and started talking to
8 us first in the car, then we got out.

9 Q Okay. All right. And you provided this information as
10 best you could on that night, and, I mean, continued to be
11 as truthful as you can and provide as complete of
12 information as you can last July and today.

13 A Yes, sir.

14 Q And again, you don't know my client, Mr. McClinton, at
15 all?

16 A No, I don't.

17 Q And you don't know Mr. Frick's client, Mr. Graham, at
18 all.

19 A No.

20 Q And you don't know Mr. Gregory at all.

21 A No.

22 MR. DUNCAN: Beg the Court's indulgence just a minute.

23 (Break in proceedings.)

24 MR. DUNCAN: I think that's all I have, Your Honor.

25 CROSS EXAMINATION

BENIKA KERSHAW - CROSS

1 BY MR. FRICK:

2 Q Good morning, Ms. Kershaw. I'm going to try not to
3 keep you up there much longer but I do have to ask you a few
4 questions, okay?

5 A Okay.

6 Q And I think Mr. Duncan, again, asked you about your
7 statement and the solicitor went over the statement. There
8 is no question in your mind that the person who got shot is
9 the man that was wearing the green sweater, correct?

10 A Yes.

11 Q Okay. And you later heard while you were over there
12 that that person is Kochese.

13 A Yes.

14 Q And that's the name that you wrote in there, correct?

15 A Yes.

16 Q You don't have to tell me what you heard if you did,
17 but did you hear other names while you were over there?

18 A What --

19 Q When you were back over at the club or in the parking
20 lot or wherever while you were waiting for law enforcement
21 to take this statement, did you hear other names mentioned?

22 A Yeah, I heard --

23 Q A lot of other names?

24 A Yeah.

25 Q But you didn't write any of those names in your

BENIKA KERSHAW - CROSS

1 statement, right?

2 A No.

3 Q Why didn't you write those names?

4 A Because the things that they were asking me about the
5 individuals I couldn't just pinpoint that's who it was.

6 Q Okay. So you don't know who was down at the other end
7 of the parking lot, right?

8 A No.

9 Q And that's essentially why you didn't write that in
10 there, right?

11 A Right.

12 Q And as far as when the fight begins and you're across
13 the street, you're over at Saluda Drive over at what they
14 call the Speed Station?

15 A Yes.

16 Q And that's across that four lane spot right there,
17 isn't it about four lanes? It's wide, right?

18 A Yeah.

19 Q But from there you could still see what was going on.

20 A Yes.

21 Q But because you don't know who these parties are until
22 after the fact, you've got no idea who is beating up on the
23 green sweater guy.

24 A No.

25 Q And you said y'all were driving a silver, gray, what

BENIKA KERSHAW - CROSS

1 color as it?

2 A It was.

3 Q Is there damage to the front of that car?

4 A To the front?

5 Q Yeah. Was there any damage to the front of that car?

6 A There was damage to the back.

7 Q To the back?

8 A Yeah.

9 Q I mean, it didn't look like it had been in a car wreck
10 or something.

11 A No.

12 Q Okay. Was your car still parked there while law
13 enforcement was going around and collecting evidence or do
14 you know?

15 A Yeah.

16 Q Okay. When they started putting out little yellow
17 things and taking pictures and such?

18 A Yeah. I was there until the end, until they released
19 us.

20 Q They wouldn't let you go until they cleared the scene,
21 right?

22 A Yeah.

23 Q But the way you got back over there is you drove back
24 over from the Speed Station back into that parking lot,
25 right?

BENIKA KERSHAW - CROSS

- 1 A Yes, sir.
- 2 Q And parked back in front of the club, right?
- 3 A We parked in the parking lot.
- 4 Q Okay. All right. But kind of right there somewhere in
5 front --
- 6 A Yeah.
- 7 Q -- of Golden Wok or the club here, right?
- 8 A Yes, sir.
- 9 Q And again, the reason why you put Kochese's name in
10 there is because you have no question that the person who
11 got shot is that guy in the green sweater.
- 12 A Yes.
- 13 Q And in your statement you said that person also pulled
14 out a gun.
- 15 A Yes.
- 16 Q And shot.
- 17 A Yes.
- 18 Q Okay. From the club, or the club area.
- 19 A Yeah.
- 20 Q Okay. And it's also your testimony that you have no
21 idea who the gentleman in the gray hoodie over there on the
22 end of the table is.
- 23 A No.
- 24 Q And you can't say whether he was there that night.
- 25 A No.

BENIKA KERSHAW - REDIRECT

1 MR. FRICK: Thank you, Ms. Kershaw, that's all of the
2 questions I have.

3 REDIRECT EXAMINATION

4 BY MR. FRICK:

5 Q Ms. Kershaw, whenever you wrote that statement very
6 clearly you've said that you've identified the guy in the
7 green sweater. In your statement, do you indicate whether
8 or not he started shooting or he was returning shots?

9 A Returning.

10 Q Where did the beginning of the shooting happen?

11 A From the lower end by the car wash.

12 Q By the car wash.

13 A From the individuals that ran away from him after he
14 was beaten.

15 Q Okay. I'm going to show you what's been marked by
16 State's Exhibit Number 6 and ask you if you see the vehicle
17 that y'all came in that night in this picture so we can just
18 clarify that.

19 A I think that's it right here.

20 Q That's it right there?

21 A Yeah.

22 Q All right. I'm going to show you the second picture in
23 this group. Is that kind of a further out picture of the
24 same thing?

25 A Yeah.

BENIKA KERSHAW - REDIRECT

1 Q Okay. And I think that's about -- is this -- were you
2 there whenever the ambulance arrived?

3 A Yeah. I was standing on the other side of the
4 ambulance on the sidewalk.

5 Q So do you recognize what we're seeing in this third set
6 of photos?

7 A Yes.

8 Q Okay. And is this also a picture of what was going on?

9 A Yes, ma'am.

10 Q And you were there?

11 A Yes, ma'am.

12 Q And that picture as well?

13 A Yes, ma'am.

14 Q And how about this final picture?

15 A Yes, ma'am.

16 Q All right.

17 MS. LIVELY: Your Honor, the State would move State's
18 Exhibit Number 6 into evidence.

19 MR. DUNCAN: No objection.

20 MR. FRICK: No objection.

21 THE COURT: How many photos are in the exhibit?

22 MS. LIVELY: It's Exhibit 6 and it is a total --

23 THE COURT: How many photos is it?

24 MS. LIVELY: Six, I apologize. It is six collectively.

25 (The photos were received as State's 6.)

BENIKA KERSHAW - REDIRECT

1 Q If you would on the face of this, just put an X on the
2 vehicle that you came in that night just on this first page,
3 please.

4 A (Witness complies.)

5 Q All right. So was that -- that's where you parked when
6 you came back or was that where you were parked -- close to
7 where you were parked whenever you left?

8 A Say at that again.

9 Q Was that where you were parked before y'all left and
10 called 911 or is this where you parked when you came back?

11 A When we came back.

12 Q When you came back. Okay. Did you know anyone else's
13 cars who were in this parking lot?

14 A No, ma'am.

15 MS. LIVELY: Okay. Thank you. No further questions,
16 Your Honor.

17 THE COURT: You may step down.

18 MR. FRICK: Your Honor, I had one, I'm sorry, I was
19 waiting to see if Mr. Duncan was going to recross.

20 RECROSS EXAMINATION

21 BY MR. FRICK:

22 Q I'm sorry, just real quick. When you came back across,
23 did you notice whether they had put up yellow tape or not?

24 A I don't think they had put it up yet.

25 Q By the time you left had they put up yellow tape?

BENIKA KERSHAW - RECROSS

1 A Yes, sir.

2 Q So they put it up after you had come back in?

3 A I'm not sure.

4 Q Well, they didn't have it before and it's there when
5 you leave, does that sound reasonable?

6 A I mean, I'm not sure if they had put it up before as --
7 I don't think they had put it up before we came across
8 street.

9 MR. FRICK: Thank you, ma'am, that's all I have.

10 THE COURT: Step down.

11 MS. LIVELY: Your Honor, may we approach for one
12 moment?

13 (A bench conference was held.)

14 MS. LIVELY: Your Honor, the State would call
15 Dr. Duncan Holaday to the stand.

16 The witness, DUNCAN HOLADAY, M.D., was first duly
17 Sworn and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. LIVELY:

20 Q Dr. Holaday, where are you currently employed?

21 A I work mostly at the Chester Emergency Room. I also
22 work in Winnsboro at the free standing ER that Robbins
23 Health has.

24 Q And how long have you been in that position?

25 A I've been in Chester for three and a half years.

DUNCAN HOLADAY - DIRECT

1 Q Okay. And what are your duties working in the ER?

2 A Whatever comes in the door; treat, stabilize, admit to
3 the hospital, transfer, send home.

4 Q Is the Chester Regional Medical Center a trauma -- is
5 it set up for trauma care?

6 A No. Other than -- in order to be credentialed and be
7 able to stand and offer emergency services there are said
8 trauma capabilities that we must have that any emergency
9 room in America has to have, but being designated as a level
10 one, level two or level three trauma center, it does not
11 have any of those designations.

12 Q Is there a protocol that you follow as a treating ER
13 physician if a gunshot wound victim comes into your
14 department and it's considered a severe gunshot wound?

15 A Yes.

16 Q What do y'all do?

17 A For any patient that comes into the emergency room they
18 get triaged, and a gunshot wound tends to get attention
19 right away, especially a gunshot wound to the torso and I
20 like to term all hands on deck. We all go in to get the
21 airway under control, we get lines in place, resuscitate.

22 Q Okay. Were you working on Christmas morning, 2018?

23 A I was.

24 Q You were. And please tell the jury what you had to do
25 on the morning of the early morning of Christmas, 2018?

DUNCAN HOLADAY - DIRECT

1 A I think my shift was just about to end, maybe 4:00 or
2 5:00 in the morning, I get off at 6:00, but just towards the
3 end of my shift a gunshot wound came in. He came in by
4 private vehicle, that part I'm sure about. But he came in,
5 gunshot wound to the torso, and you know, that's easily
6 identifiable as an emergency so all hands on deck. He goes
7 into a stretcher and we made sure the airway is under
8 control. We tried to get bleeding if it can be stopped, and
9 we put in IV lines to be able to resuscitate and give fluids
10 and blood if needed, and so on and so forth.

11 Q How was the patient responding that night?

12 A Initially he was -- we have a terminology Glasgow coma
13 scale, but his alertness was appropriate and normal, could
14 carry on a conversation in a reasonable stable cognitive
15 manner.

16 Q And were you able at that point to actually treat him
17 and stabilize him in regards to any bleeding that he was
18 suffering from the gunshot wound?

19 A Yes.

20 Q Where was the gunshot wound, do you recall?

21 A Not exactly. I think it was -- where the chest ends
22 and where the abdomen begins is kind of a bit an argument,
23 internally is where the diaphragm is, everything above is the
24 chest, everything below is abdomen. But externally looking
25 at the human body it's where the bottom of the rib cage is

DUNCAN HOLADAY - DIRECT

1 at the end of the chest, and I think it was just under the
2 ribs, so right at the border of the abdomen and chest. It
3 turns out as time went on and I was able to get an x-ray, I
4 could tell that the bullet had traversed both compartments.
5 It had definitely gone into his chest because he had a chest
6 injury and he had a lung injury.

7 Q And is that the type of injury where somebody could
8 actually die if not treated?

9 A Absolutely.

10 Q Based on the type of gunshot wound it was, were you
11 going to be able to continue the treatment of this
12 individual if he stayed there?

13 A He had to be transferred to a higher medical center
14 where trauma services were available and immediate surgery
15 could be done.

16 Q I'm going to show you a collection of three photos, and
17 I'm just going to ask you if you can identify who's in these
18 photos. You don't have to say it out loud. Just see if you
19 recognize the people in those photos and if that refreshes
20 your memory as to some of the people that was there that
21 night?

22 A The EMT's -- I think that's an EMT in the background, I
23 wouldn't know her name but I think that's who that is.
24 Because one of guys that works with us, one of the nurses,
25 Dawn and another tech., his name is Charlie.

DUNCAN HOLADAY - DIRECT

1 Q Okay. All right. And I wanted you to flip through.

2 Do you recognize who's in that -- you don't have to tell me

3 who they are, I'm just asking if you recognize them.

4 A Yes, I recognize those.

5 Q Okay.

6 A Yes.

7 Q At any point in time were you in there actually

8 observing and working on the gunshot wound victim?

9 A Yes. I mean, I think from the minute he got there I
10 was in the room with him, and I think I was in the room with
11 him pretty much constantly except when I had to go to the
12 computer to look at x-rays and get back to treat him. Once
13 he was stable then I think I had to be at the computer to
14 work out all of the things that have to be done to get him
15 transferred. But I think I was there from the time he
16 walked in the -- I don't know if he walked in the door, that
17 part I can't remember. But I was there -- the moment I laid
18 eyes on him I was with him until he was stable enough that I
19 could walk away.

20 Q Well, you said you identified the EMT that's in the
21 picture. If the EMT was there would that mean he came by
22 ambulance?

23 A It seems that would logically, I just can't remember
24 for sure that he came in with a crew.

25 Q That's fine. And are you in any of these photos?

DUNCAN HOLADAY - DIRECT

1 A Yes.

2 Q Okay. All right. I just wanted to be sure here. I'm
3 going to have this marked as State's Exhibit 31. I'm going
4 to show this to the defense.

5 (Break in proceedings.)

6 MS. LIVELY: Okay. Your Honor, State's Exhibit 31, it
7 is my understanding without objection, is three photos,
8 black and white photos attached as one exhibit.

9 MR. DUNCAN: No objection.

10 MR. FRICK: No objection.

11 THE COURT: It's admitted.

12 (The photos were received as State's 31.)

13 Q All right, Doctor, if you would just in this photo,
14 will you put in -- will you circle where you are in the
15 photos so we can be sure?

16 A I think I'm in that one at the head of the bed.
17 Circle?

18 Q Yes, please.

19 A (Witness complies.)

20 Q All right. And how about on the last page?

21 A (Witness complies.)

22 Q So just for purposes of identification and the second
23 photo and the third photo, that is you treating the gunshot
24 wound victim that came in that evening, correct?

25 A Correct.

DUNCAN HOLADAY - DIRECT

1 Q All right. Now, Dr. Holaday, were there -- was law
2 enforcement and other -- and you said you saw EMT's, so were
3 all of those people in the room where the victim was?

4 A Yes.

5 Q And during that time, were there any conversations
6 about what had happened regarding the shooting that night?

7 A I remember pretty much immediately, you know, as ER
8 staff was working on the patient with me and the nurses, I
9 remember right there also law enforcement being there. I
10 think EMT's were nearby to maybe offer a helping hand should
11 they be needed, but law enforcement was right there at the
12 bedside, like it was a big guy standing right next to me on
13 my left.

14 Q At any point in time was the victim able to provide any
15 information as to what had happened to him?

16 A Well, of course, we figured out he had been shot. He
17 hadn't been shot anywhere else, didn't think so, just one
18 bullet wound is what we thought we had. And police were
19 avidly asking him, "Who shot you? Who shot you? Who shot
20 you?" And that question was being repeated frequently.

21 Q Was that being repeated frequently in your presence?

22 A Yes.

23 Q And did the victim ever tell who had shot him in your
24 presence?

25 A He started off saying, "I can't, I can't," I remember

DUNCAN HOLADAY - DIRECT

1 that well, "I can't." And my interpretation of that, you
2 know, trying -- my biggest directive was just focused on the
3 medical issue at hand so I was blocking out a lot of
4 information, but it was just so apparent right there with me
5 that he was being asked, "Who shot you? Who shot you?" And
6 the initial response was, "I can't, I can't." And I
7 interpreted that as I think he knew -- this is an
8 interpretation, I think he knew but he didn't want to say is
9 what I felt like was happening. I think the questioning
10 officer maybe was picking up on that because he continued to
11 ask, "Who shot you? Come on, who shot you?" And then an
12 answer was given and --

13 Q Was it given in your presence?

14 A Yes.

15 Q What was that name?

16 A That name I had to -- I would have to be jarred. I
17 just remember he gave an answer.

18 Q Did you have an opportunity to review the body worn
19 camera that was on at the time you were in the presence of
20 the victim when he said this?

21 A Yeah. I did not know that was going on at the time,
22 but as a result of this court hearing and trial I've been
23 made aware that the body cam evidence was available and I
24 have viewed it, and that's exactly how I remember it going.
25 He finally did say who did it.

DUNCAN HOLADAY - CROSS

1 Q Who did it?

2 A He said Quinton.

3 Q Okay. Thank you.

4 MS. LIVELY: No further questions.

5 CROSS EXAMINATION

6 BY MR. DUNCAN:

7 Q Good morning, Dr. Holaday.

8 A Good morning.

9 Q My name is Mike Duncan, so you'll appreciate that, and
10 I represent Mr. Quinton McClinton in this case. Dr.

11 Holaday, briefly here, you were working a 12 hour shift --

12 A That's right.

13 Q -- at the Chester Emergency Room on Christmas Eve and
14 early Christmas morning --

15 A Correct.

16 Q -- 2018. And I know Ms. Lively just asked you about
17 reviewing the body cam that you didn't know was being filmed
18 at the time but you have learned, you know, that it was, and
19 you have viewed that recently?

20 A Yes.

21 Q Like in the last couple of days?

22 A Yes.

23 Q All right. Do you recall giving a statement? And I
24 say -- I don't know if you wrote it or what, but it's
25 ascribed to you, and I'll be glad to show it to you.

DUNCAN HOLADAY - CROSS

1 A I remember that, yes.

2 Q You remember this statement?

3 A Yes, sir.

4 Q I've been looking at it since you've been testifying so
5 I can hand it to you. I'll let you take a moment and look
6 through it.

7 A I remember writing that well, it's very accurate.

8 Q And you typed it up?

9 A Yeah.

10 Q And in there obviously, you know, you recount a lot of
11 what you've just said that, you know, the individual was
12 asked numerous times by law enforcement and he said, "I
13 can't do it," and ultimately gave a name, and in there you
14 say it like a nickname.

15 A The best I can do. It did not sound like it was a name
16 that we would give if we were applying for a job
17 application, and it's what it felt like at the time.

18 Q I understand. And again, your job on that night was to
19 work on the man. I mean, you're the ER physician and your
20 job is to give him medical treatment, you weren't trying to
21 figure out the perpetrator of the situation.

22 A Correct.

23 Q So that's sort of like a sideline of what's going on
24 around you.

25 A Right.

DUNCAN HOLADAY - CROSS

1 Q And you said you recall a big -- like a big guy, a
2 deputy, I guess, standing next to you; is that right?

3 A Yes, I recall a big guy.

4 Q Wearing a badge.

5 A Yeah. I think he had a dark top.

6 Q Got you, that's fine. I mean, law enforcement?

7 A Pretty sure he was African-American, I can say that.

8 Q Clearly a law enforcement person, though.

9 A Yeah.

10 Q Okay. All right. And Dr. Holaday, at that point in
11 time from reviewing your statement, does -- it appears to me
12 that law enforcement offered a name to you and you said,
13 "Yeah, I think that's right," and that name was Tri or --
14 Trio, T-r-i-o.

15 A Yeah, that's what I put here.

16 Q And that's what you recalled on December 26th when you
17 wrote that statement.

18 A Yeah. When they mentioned that to me it had a
19 familiarity to me, it was like maybe that was it. It wasn't
20 a slam dunk, like yeah, that was definitely it, it just had
21 a familiarity to me. As I mentioned in here, there were
22 certain names that I could definitely have crossed off the
23 list. I just remember he gave an answer, and when he gave
24 the answer I was thinking, "Oh, he gave an answer." I was
25 working on him and I kept working on him, but it was "Oh, he

DUNCAN HOLADAY - CROSS

1 just said who did it." But, you know, as I mentioned here
2 and as I can say today, I would not have been able to recall
3 the name clearly without having seen that video evidence
4 today.

5 Q All right, sir. And other than treating the gentleman
6 gunshot victim that's all you know about this case.

7 A I kind of tried my best to look in and see how he did
8 and I heard he survived.

9 Q Right. And do you know -- this is the gentleman over
10 here.

11 A Hello, sir. I figure I might not recognize him because
12 people in duress, they look a whole lot different.

13 Q He is present so you know you did a good job that night
14 or --

15 A (Points upward) upstairs.

16 Q Praise God.

17 A Amen.

18 MR. DUNCAN: I think that's all I have.

19 MR. FRICK: Very briefly, Your Honor.

20 CROSS EXAMINATION

21 BY MR. FRICK:

22 Q I think Mr. Duncan just took your statement back. Can
23 you tell me what the date of that statement is?

24 A I signed it the 26th.

25 Q December 26th?

DUNCAN HOLADAY - CROSS

- 1 A Yes.
- 2 Q 2018?
- 3 A That's right.
- 4 Q That was the next day then, right? Or some time during
- 5 the next day.
- 6 A Yeah. The 25th is when it happened, the next day,
- 7 that's right.
- 8 Q Okay. All right. And this is your summation of your
- 9 conversation with law enforcement, correct?
- 10 A Correct.
- 11 Q And this is to the best of your recollection an
- 12 accurate summation, correct?
- 13 A Correct.
- 14 Q Okay. And in that one it didn't say Quinton, right?
- 15 A Right.
- 16 Q Okay. But they said is it Billy or Tommy and you said
- 17 no, definitely not that; is that correct?
- 18 A Law enforcement didn't offer that. I threw that in
- 19 there as an explanation to try to identify that I would feel
- 20 strongly that there were names that clearly he did not say.
- 21 Q And then when offered Trio or Tril or something like
- 22 that you said that's sounds about right.
- 23 A That's correct. If I -- let me look at how I worded
- 24 that. Just because what I would like to make sure the way I
- 25 feel today is that in no case would I be able to say

DUNCAN HOLADAY - CROSS

1 absolutely for certain that was the name, in no way would I
2 be able to. What I would be able to say is that there were
3 some names I would absolutely be able to say weren't it. It
4 wasn't David, it wasn't Ralph, and there were some names in
5 there for sure. But if someone threw out a bunch could it
6 have been this, this or this, yeah, maybe. That's how I
7 kind of felt like with Trio. Trio had a familiarity to me,
8 and the reason that it had a familiarity to me is I felt in
9 the midst of the melee that when Kochese gave his answer
10 that one of my familiarity things, I thought it felt like it
11 was a nickname kind of a sound, like a friendly name.

12 Q Okay. All right. So when the solicitor asked you the
13 name and you said Quinton, that's based on your review of
14 the video --

15 A Correct.

16 Q -- subsequent?

17 A Correct.

18 Q And your coming to court today in preparation for
19 trial?

20 A Correct.

21 Q Okay.

22 MR. FRICK: Thank you, sir, that's all of the questions
23 I have.

24 REDIRECT EXAMINATION

25 BY MS. LIVELY:

DUNCAN HOLADAY - REDIRECT

1 Q Dr. Holaday, the recording that you reviewed from the
2 night whenever you work on the gunshot wound victim, Mr.
3 Gregory, was that recording a reflection of what you were
4 doing working on the victim at that time when law
5 enforcement was questioning him?

6 A Yes.

7 Q All right. You were in that video.

8 A Yes.

9 Q And you were there when they were questioning the
10 victim as to who shot you several questions, several times,
11 right?

12 A Yeah. I'm going to add that when I reviewed the video
13 that looked like exactly the way I remembered it happening,
14 he was being questioned, questioned and questioned and then
15 he gave an answer.

16 Q And you've been questioned by the defense as to a
17 different name that you gave about a day and a half after
18 this happened in a statement that is something different
19 than Quinton; is that right?

20 A Right.

21 Q Okay. But would this video reflect exactly what you
22 heard that night in regards to the victim's statement while
23 you were working on him?

24 A As I viewed that video it seems to fill in what I
25 couldn't clearly get, which is I know he gave a name, oh,

DUNCAN HOLADAY - REDIRECT

1 there it is, that's what he said. I would not have been
2 able to do that without the video.

3 Q And this was the night of December 25th, 2018 when you
4 worked on the victim of this case.

5 A Yes.

6 MS. LIVELY: Your Honor, the State would move State's
7 Exhibit Number 32 into evidence at this time.

8 MR. DUNCAN: No objection from Defendant McClinton.

9 MR. FRICK: No objection.

10 THE COURT: It's admitted.

11 (The disc was received as State's 32.)

12 Q Can you see that, Dr. Holaday?

13 A Yes, ma'am.

14 Q So how did he arrive at the hospital?

15 A He clearly arrived by ambulance.

16 Q Okay.

17 A I work back further in and patients get there and how
18 they got there isn't always top of my list.

19 Q Yes, sir, I understand. And what I'm going to do
20 probably is have you identify yourself when you see yourself
21 on camera, and then for brevity I'm just going to move
22 straight to the statement that I've questioned you about,
23 okay?

24 A Yes, ma'am.

25 Q Are you in that still shot?

DUNCAN HOLADAY - REDIRECT

1 A Yes. I think I'm at the head of the bed there.

2 Q Once again, Dr. Holaday, right in the moment it
3 happened before you wrote that later statement, what was it
4 that he -- who was it that he said shot him that night?

5 A He clearly says Quinton.

6 MS. LIVELY: Thank you. No further questions.

7 MR. DUNCAN: Nothing further.

8 MR. FRICK: No further questions.

9 THE COURT: Okay. Thank you, you may step down, you
10 may also be excused. We're going to take a short break.
11 I'll ask the jury to please go to your jury room, don't
12 discuss the case, I'll bring you back after the break.

13 (The jury left the courtroom.)

14 THE COURT: We'll be at ease 15 minutes.

15 (A break was taken.)

16 THE COURT: Are we ready for the jury?

17 MS. LIVELY: Yes, sir, Your Honor, the State is ready.

18 THE COURT: Bring them in.

19 (The jury returned to the courtroom.)

20 THE COURT: All right. You may proceed.

21 MS. LIVELY: Yes, sir, Your Honor. The State would
22 call Kochese Gregory to the stand.

23 The witness, KOCHESSE GREGORY, was first duly sworn and
24 Testified as follows:

25 DIRECT EXAMINATION

KOCHESE GREGORY - DIRECT

1 BY MS. LIVELY:

2 Q Mr. Gregory, just pull that microphone toward you so we
3 can make sure we can hear you, okay? Thank you. Mr.
4 Gregory, where are you from?

5 A I am from Chester.

6 Q How long did you live in Chester?

7 A It will be 44 years [REDACTED].

8 Q [REDACTED]. Okay. Is that your birthday?

9 A Yes.

10 Q So you'll be 44.

11 A Correct.

12 Q Now, Mr. Gregory, do you have any other family members
13 that live in this area?

14 A I do.

15 Q Who all lives around Chester?

16 A My mom, my dad, aunts, uncles, cousins, the works.

17 Q The works. And are any of your family members here
18 with you today?

19 A Yes, my mother and my sister. My dad in the far back.

20 Q Okay. Now, Mr. Gregory, do you have a job right now?

21 A I don't.

22 Q Have you worked in the past?

23 A I have. I worked prior to this incident at West
24 Marine, I was lead there and since the incident I haven't
25 been able to work.

KOCHESE GREGORY - DIRECT

1 Q All right. Now, let's jump right to the night of
2 December the 24th of 2018, okay?

3 A All right.

4 Q Now, first of all I just need to know, do you know the
5 defendant, Quinton McClinton?

6 A I know him from -- we're from Chester. Chester is a
7 small area so it's kind of easy to get familiar with people
8 and faces and names. So I know him from this community.

9 Q And do you know whether or not he goes by any kind of
10 nicknames?

11 A True. He goes by the name of Tril as well. My son
12 hung out with him, also. Tril is kind of like his name.

13 Q Do you know the codefendant, Mr. Montrell Graham?

14 A I do.

15 Q For the same reasons? Or how do you know him?

16 A Well, Montrell tell used to live on the street where we
17 reside so I know him from there as he grew up.

18 Q Do you hang out with these guys?

19 A Neither.

20 Q Neither one?

21 A Neither.

22 Q Is there a big age --

23 A A big gap.

24 Q How old is your son?

25 A JaMarcus is 25.

KOCHESE GREGORY - DIRECT

1 Q Twenty-five, okay. And when you said your son and
2 Quinton may hang, so is that the son you're referring to?

3 A Correct.

4 Q Now, back to December 24th of 2018. Tell the jury what
5 you were doing that day, Christmas Eve.

6 A That night?

7 Q That night, yes, that night.

8 A Well, I went to Images. I didn't even know about the
9 party per se. My father had checked himself out of the
10 hospital and he was there, so I got the call and I went
11 there for my father. So we talked and everything was
12 cordial. We end up engaging in -- my aunt was there, a
13 couple of other familiar faces were there so we convened, we
14 partied, we had a good time.

15 Q Let me stop you there just real quick, okay, if you
16 don't mind. When you talk about your aunt and other people
17 you saw that you talked to, could you please provide us
18 with the names so we know --

19 A One of the aunt's name was Delores Jackson Howze, she's
20 married. The other name is Bernice, we call her Lady
21 Jackson, but she was married, too, her maiden name was
22 Jackson, she was there. My father is Major Jackson and a
23 couple of friends, people I know.

24 Q Is Bernice, Bernice June who testified here?

25 A Bernice June is not my aunt, my aunt's name a Bernice

KOCHESE GREGORY - DIRECT

1 as well.

2 Q Okay. I just want to be clear because we had another
3 Bernice.

4 A Ms. June is not my aunt.

5 Q Got you. Do you know Daverican Marcel Gregory?

6 A Marcel is my cousin.

7 Q He's your cousin. What about Terquila Clifton who
8 goes -- Tina Davis?

9 A She's my cousin as well.

10 Q She's your cousin, too. All right. Do you know George
11 Killian?

12 A I know George.

13 Q Big Troy?

14 A Big Troy.

15 Q Do you know Kelvin Killian?

16 A Kalbo.

17 Q All right. So where were George and Kalbo that night?

18 A That night? Well, Kalbo was security, so Troy had to
19 already be inside the club or something. I ran into Kalbo
20 and he wanded me down and patted me down to come inside.

21 Q Did you have on a jacket that night?

22 A No, ma'am.

23 Q What did you have on?

24 A I had some blue jeans, white button up with a lime
25 green Polo sweater.

KOCHESE GREGORY - DIRECT

1 Q Okay. And so you were patted down?

2 A I was wanded and patted down.

3 Q So when you went in, did you go in then through the
4 club side?

5 A Correct.

6 Q All right. So all of that happens and you're talking,
7 you said, to family members and having a good time. What
8 happens next?

9 A Well, the night goes on. And again, the chaos that
10 happened at the door, I had no idea about the chaos at the
11 door because we were still in the inside of the club part,
12 so when that transpired then people was asked to leave
13 because it was time to close the club up.

14 Q All right.

15 A So I exited through the pool room side because they had
16 locked the main entrance door, so while I'm over there they
17 still chaotic and stuff. I'm on the phone, I couldn't hear
18 my daughter, I'm telling her I'm on my way. So as I'm
19 exiting out the pool room side, as soon as I step on the
20 sidewalk out of my peripheral Mr. McClinton comes and he
21 strikes me. When he strikes me I kind of grabs him and then
22 I was struck again, and then I was struck again, so I'm just
23 balled up and just fell. So they beat me. I was out there
24 with no assistance for awhile, so by the time that I get
25 assistance to get up it's gunfire, people is in pandemonium,

KOCHESE GREGORY - DIRECT

1 it's crazy. So as I'm getting help and we're walking past
2 the doors is locked again, so the pool room side door was
3 locked. I went to the front door, that door was locked as
4 well. So when I was pulling on the door didn't nobody open
5 the door. So when I turned around clear as day I seen
6 Quinton lean over the white car and he shot, and when he
7 shot me it hit me immediately. So I didn't panic because it
8 was a through and through like so it was just -- it just
9 hurt. So I tried to get in that front door, they didn't get
10 me in again. So I went to the pool room side and I'm
11 telling him, the guy, Derrick, "I'm shot, he shot me," but
12 I'm holding it so no one really actually saw the actual
13 wound so they didn't understand what I was saying. So when
14 I got in I fell in the floor, then they seen the gunshot
15 wound and the blood and that's what happened. It was quick.
16 It wasn't no long, drawn out process, it was a chaotic
17 fight, shooting, shooting, I got shot, I get inside and the
18 rest is a blur.

19 Q So when you go out and on your phone with your daughter
20 to tell her you're getting ready to come out, out of your
21 peripheral who is the person you saw attack you?

22 A Quinton.

23 Q Quinton. All right. Do you remember what he was
24 wearing that night?

25 A Quinton had on a brown Carhartt jacket. I remember

KOCHESE GREGORY - DIRECT

1 seeing him come in, so it was a brown Carhartt. It's easy
2 for me to know who Quinton is, I wasn't confused about who
3 had on what colors or nothing.

4 Q You know Quinton?

5 A I know Quinton through the city. I seen him. We've
6 had all kind of events with everybody who will be able to
7 go. So I wasn't distinct about, "Oh, I didn't know who did
8 what." I witnessed it.

9 Q I understand. And while you were being beat, was
10 anybody using any type of weapons --

11 A Pool sticks, their feet. They were stomping me. It
12 was horrific. It was a lot, and that's where I wanted to
13 address more so. The gunshot come later. Prior to that
14 what I went through from them blows was critical even when I
15 was in the hospital. Blood clots from the pool sticks, all
16 of these different blood thinners I have to take. Like the
17 beating was more so painful to me than the gunshot. The
18 gunshot was instant. So I just don't want nobody to
19 downplay prior to me getting shot what I went through so
20 they can't be like second guessing what my moves could have
21 been. Physically I wasn't able to do whatever they want to
22 say I did because of what I went through. It was 15 or more
23 estimated, it was kind of hard.

24 Q Mr. Gregory, at any point in time were you helped or
25 assisted by anyone from your side of the family or any

KOCHESE GREGORY - DIRECT

1 friends when you were getting beat up?

2 A No, ma'am.

3 Q All right. So do you remember exactly how all of
4 that -- these people, were they on top of you?

5 A Right, they was all over me.

6 Q So you don't know necessarily if maybe someone had
7 joined in these 15 other people --

8 A Right.

9 Q Okay. So you said at some point you were able to get
10 off the ground.

11 A Yes, ma'am.

12 Q And whenever you got off the ground, you weren't shot
13 at that point, correct?

14 A No, ma'am.

15 Q So were you trying to get away from the people that
16 were beating you at that point?

17 A At that point they had already dispersed as well, so I
18 was able to get up without having to defend myself anymore.

19 Q Okay. That's what I wanted to know. So you -- at that
20 point you were able to get up because they had already ran
21 off.

22 A Right.

23 Q Was Quinton McClinton one of those people?

24 A Correct.

25 Q Do you know whether or not you saw Montrell Graham with

KOCHESE GREGORY - DIRECT

1 Quinton McClinton?

2 A I saw Montrell Graham.

3 Q Was he also there -- was Montrell Graham there with
4 Mr. McClinton when you were getting beat up?

5 A Yes.

6 Q He was. So after you were able to stand up, how were
7 you feeling at that moment?

8 A Injured. I was badly beaten. We can't downplay the
9 beating. So for me to be physically able to do anything
10 other than try to get help or get away from what's going on,
11 it's not possible.

12 Q At any point in time did you have a gun on you?

13 A No, ma'am.

14 Q And did anyone hand you a gun or anything while you
15 were outside?

16 A No, ma'am.

17 Q So did you ever shoot a weapon or have any kind of
18 weapon on you at that point?

19 A No.

20 Q So Mr. Graham, whenever you said that you turned and
21 you tried to get back in that both of the doors were locked?

22 A Right, correct.

23 Q All right. So at that point was that before you
24 actually were shot?

25 A The front door?

KOCHESE GREGORY - DIRECT

1 Q Yes.

2 A The front door was locked --

3 Q Okay.

4 A -- before, because they had the incident there.

5 Q The incident that you weren't involved in.

6 A That I had nothing to do with.

7 Q Now, take us to the moment whenever right before you
8 were shot, Mr. Gregory, so you can clearly give us an idea
9 of what you can see when it happened.

10 A As I was trying to get into the front door after I
11 couldn't get into the pool side door, I was pulling on the
12 door trying to get in. So as I turned around -- because
13 they wasn't letting me in -- so as I turned around I see
14 Mr. McClinton leaning over the car and he shot, and when he
15 shot he shot me.

16 Q All right. About how far away was he from you at that
17 point?

18 A I was in the front of the club door, which is the
19 double doors, the main doors, Mr. Quinton was in the parking
20 lot. Here was a street light there, so with the street
21 light you have very close -- it's close. It's not as far on
22 the picture shows, so it's close. So there was a white car
23 that was right by the handicapped spot when we showed the
24 picture, he's leaning on that car and he had the accurate
25 shot and he shot me.

KOCHESE GREGORY - DIRECT

1 Q Do you remember how many shots took place at that
2 point?

3 A At that point it had been so many shots, it was shots
4 ringing out from the moment that they left me. After they
5 beat me it was immediate gunfire.

6 Q All right. Okay. I'm going to let you just if you
7 would, flip through State's Exhibit Number 6. There's
8 actually six photos that are attached. And I'm not sure if
9 this is going to be one that can show the vehicle that you
10 believe that he was leaning over when he shot you. If
11 you'll look through that and just tell me if you happen to
12 see it. Do you see the car, Mr. Gregory?

13 A Yes, ma'am.

14 Q Okay. And now I'm going to show you 13 and 14. I'm
15 going to ask you if this is a close-up of the vehicle that
16 you saw him leaning over?

17 A Yes, ma'am.

18 Q First of all in State's Exhibit Number 6, will you
19 point to me which picture you recognize the vehicle from?

20 A This one.

21 Q In this one? So point to it so I can make sure I can
22 show everybody.

23 A (Witness points at the picture.)

24 Q All right. So in State's Exhibit 6, the very first
25 picture, the one where my finger is, is the white vehicle

KOCHESE GREGORY - DIRECT

1 that you said McClinton was leaning over when he shot you?

2 A Yes, ma'am.

3 Q All right. Now, I've shown you a close-up, I think
4 it's State's -- let me see, I apologize, State's 13 and 14.
5 Is this the same vehicle?

6 A Yes, ma'am.

7 Q All right. So in State's 13 I want you to show me
8 approximately where you were standing whenever McClinton
9 shot you.

10 A I was standing here.

11 Q You're standing here? All right.

12 MS. LIVELY: And let the record reflect he's showing
13 the double doors, which is the club side entrance of Images.

14 A Yes, ma'am.

15 Q So what I'm going to do, if you would please just put
16 an X where you were standing.

17 A (Witness complies.)

18 Q And I'm going to circle it. Okay. So you were
19 standing right there. And which side of the white vehicle
20 was Mr. McClinton on?

21 A This front part.

22 Q This front part. Make sure said that out loud.

23 A Yes. He leaned off the front park of this vehicle and
24 I was standing here and he shot me.

25 Q And once again, where that vehicle is, is it right next

KOCHESE GREGORY - DIRECT

1 to a street light in the parking lot?

2 A Yes, ma'am.

3 Q Could you clearly say who was shooting at you that
4 night?

5 A Yes, ma'am.

6 Q Are you 100 percent convinced it was Quinton McClinton?

7 A Yes, ma'am.

8 Q And actually since I have you already identifying it,
9 if you'll put an X where McClinton was actually standing
10 whenever he shot you.

11 A (Witness complies.)

12 Q So will you please just, if you don't mind -- and don't
13 hit this, pretend like this is that white vehicle, show us
14 how he looked, what you saw him doing whenever you were
15 shot.

16 A Like this is the hood of the car --

17 Q Uh-huh.

18 A -- "pow," just like that.

19 Q Just like that. Okay.

20 MS. LIVELY: Just let the record reflect that he held
21 up his hand as if he was holding a handgun and shot.

22 A Correct.

23 Q Were you looking in his eyes when he shot you?

24 A I was looking at him.

25 Q Did you see the gun?

KOCHESE GREGORY - DIRECT

1 A I seen the gun in his hand. I heard the shot. I heard
2 the -- I felt the thump. I went through it all. This is
3 what I went through.

4 Q At anytime that night did you ever threaten, yell at or
5 make any kind of violent comments towards Quinton McClinton
6 or Montrell Graham?

7 A No, ma'am.

8 Q All right. Did you have anything to do with them that
9 night, that entire night while you were there until you
10 actually left the club?

11 A No, ma'am.

12 Q And were you blind-sided by Quinton McClinton that
13 night?

14 A Yes, ma'am.

15 Q Okay. At anytime did you have a gun on you or return
16 fire?

17 A No, ma'am.

18 Q Are you aware if the police ever even found a gun
19 around you?

20 A No, ma'am.

21 Q And whenever you were in -- and as soon as the shooting
22 happened, did you immediately go back into the pool room
23 once they finally opened the door?

24 A When they finally opened the door for me I was let in
25 and then they laid me on the floor.

KOCHESE GREGORY - DIRECT

1 Q And they laid you on the floor. Do you remember
2 anything after that?

3 A After that I just remember a lot of screaming, a lot of
4 "hold on, don't close your eyes," just a lot of -- it was a
5 lot.

6 Q All right. And do you remember recently going back to
7 the parking lot where you were shot that night?

8 A I do.

9 Q And actually while you were there with the solicitor's
10 office, did you actually provide actual spots where
11 everybody was standing and measurements in regards to how
12 far you were from Quinton McClinton?

13 A Correct.

14 Q So you did provide that to our office, correct?

15 A I did.

16 Q Okay. So will you point out where the Images Club is
17 on this particular picture so we just know that you're
18 familiar with the area?

19 A Yeah. This is the club area here, this is the parking
20 area here, this is where the vehicle was, this is where the
21 gunshots was coming from.

22 Q The gunshots were coming from which area?

23 A The parking area.

24 Q The parking area? Towards the club?

25 A Towards the club.

KOCHESE GREGORY - DIRECT

1 Q Was anybody behind you shooting or shooting towards the
2 parking lot and the car wash?

3 A No, ma'am.

4 Q Did you see anyone around you at all with a gun
5 shooting towards that area?

6 A No, ma'am.

7 Q After you were able -- where did you end up being sent
8 to for treatment?

9 A Well, when I came too I was in CMC Hospital in
10 Charlotte.

11 Q How long were you in the hospital?

12 A I was in the there roughly almost a month. I got -- I
13 went in the 25th and I got out January the 19th.

14 Q And have you lost any type of use of any bodily
15 functions?

16 A Definitely. I can't -- I don't talk about it --

17 Q I understand.

18 A -- but all to my whole life like my body is not the
19 same. I'm not functioning right no more. Appearance-wise
20 it looks like I'm healthy, I'm not. This incident has
21 scarred me for the rest of my life and that's just the
22 bottom line.

23 Q Do you have actual scarring to your skin?

24 A I have lacerations from my left to my right. I have
25 lacerations from here all of the way down, so I've been cut

KOCHESE GREGORY - CROSS

1 open and put back together not quite as well as I was
2 before. So I have scars I look at everyday. I have
3 movements I can't make I'm mad about everyday, so it's been
4 life alternating.

5 Q Do you have any reason to point the finger at Quinton
6 McClinton for shooting you here today in front of this jury
7 other than that's what happened?

8 A That's it.

9 Q That's it. That's what you remember happening on that
10 evening?

11 A That's what I remember happening.

12 MS. LIVELY: Thank you, Mr. Gregory. Please answer any
13 questions that the defense has for you.

14 CROSS EXAMINATION

15 BY MR. DUNCAN:

16 Q Good afternoon, Mr. Gregory.

17 A Good afternoon.

18 Q Mr. Gregory, you testified you will be 44 years old
19 Friday?

20 A Correct.

21 Q And you're a life long resident of the Town of Chester?

22 A Correct.

23 Q And on Christmas Eve, 2018, the night of this incident,
24 you had gone -- you testified that you didn't really know
25 anything about the birthday party that was being held over

KOCHESE GREGORY - CROSS

1 at Club Images; is that right?

2 A That's correct.

3 Q So you said your father -- I thought I heard you say
4 your father had just gone out of the hospital?

5 A I said that.

6 Q And he was -- was he friends with the people having the
7 party? What was he doing at the Club Images that night?

8 A You will have to ask him.

9 Q Okay. I'm saying what brought you to Club Images that
10 night?

11 A My father had checked out of the hospital and he was
12 there.

13 Q How do you know he was there?

14 A His wife, his girlfriend/wife.

15 Q You went over to your daddy's house and you --

16 A That was through telephone.

17 Q Through the telephone. You were looking for your
18 father on Christmas Eve basically.

19 A Correct.

20 Q And so you went up to the club.

21 A So I went to his location, which was at Images.

22 Q I understand. So what time of night did you go up to
23 the club?

24 A It was a little after 11:00.

25 Q So like 11:00 p.m.?

KOCHESE GREGORY - CROSS

1 A Correct.

2 Q And you testified about going in, and I might have
3 misunderstood, you went through the dance club side?

4 A I went through the main entrance.

5 Q Is that the dance club side? I've never been there so
6 help me.

7 A It's the main entrance. It's the club's main entrance.

8 Q All right. And you went through and got scanned and
9 wanded and all of that kind of thing?

10 A Yes, sir.

11 Q And, Mr. Gregory, then you said you met your father,
12 saw your father there and a couple of aunts, Aunt Bernice
13 and an aunt, I couldn't remember the other name.

14 A Delores.

15 Q And they're roughly your father's age, something like
16 that?

17 A They're my father's sisters.

18 Q Okay. So --

19 A He's the oldest so they're younger.

20 Q So 15 years older than you or something like that,
21 close to.

22 A That would be --

23 Q Just approximately?

24 A That would be approximately right for you. It might
25 not be 15 years older than me, I'm not sure.

KOCHESE GREGORY - CROSS

1 Q That's fine. I'm just trying to get an idea who was
2 there that you were hanging out with, I mean, you know, what
3 you are doing at the club. And you went -- were you -- you
4 were on the dance club? Did you stay on the dance side?

5 A I frequent both sides.

6 Q Okay. So once you got in you went to the pool room
7 side and the dance side.

8 A Correct.

9 Q Mr. Gregory, were you drinking any alcohol that night?

10 A Yeah, I was.

11 Q All right. What were you drinking, sir?

12 A I had a Bud Light.

13 Q Okay. You drink a few or --

14 A No, I had a Bud Light.

15 Q All right. And you were at the club until it was
16 closing; is that correct?

17 A I was at the club until it ended.

18 Q You testified just a moment ago that you had called
19 your daughter just to tell her you were on the way home?

20 A Yeah. Me and my youngest daughter, we spent Christmas
21 Eve together and wake up every morning Christmas Day
22 together, so we had been doing that since she's been born.
23 So that was my call to let them know I was on my way --

24 Q Okay.

25 A -- so we can keep the tradition going.

KOCHESE GREGORY - CROSS

1 Q And that was roughly 1:30 in the morning or something
2 like that?

3 A That's roughly right.

4 Q Okay. All right. And you've -- I'm trying to remember
5 what you said so you correct me if I say it wrong, all
6 right? You were coming -- you didn't know there was any
7 commotion, you didn't see the commotion that was going on at
8 the front door that -- strike that, hold up a minute.
9 You've obviously been here throughout the trial. You've
10 been here I think the whole time since yesterday morning,
11 correct?

12 A Correct.

13 Q All right. And so you've heard the testimony about a
14 drink being thrown in Big Troy's face and then commotion
15 starting, confusing starting and a fight starting, correct?

16 A I heard that.

17 Q I mean, you've heard it, now I'm asking you, did you
18 see any of that on that -- on Christmas Eve/Christmas Day of
19 2018?

20 A No.

21 Q You don't even know when it started.

22 A No.

23 Q All right. When you came through you were coming out
24 the pool room side?

25 A Repeat that.

KOCHESE GREGORY - CROSS

1 Q I'm just trying to figure out when you were trying to
2 leave the club. You've been on the phone with your
3 daughter, you say, "I'm leaving the club." And you were
4 going to leave -- you know, there's two doors as I
5 understand it, there's the main entrance and then there's
6 the other door. Which door were you coming out?

7 A As I stated earlier I left through the pool room side
8 door, the main entrance door was locked.

9 Q It was already locked. So you didn't have -- there
10 wasn't but one way to go out.

11 A Correct.

12 Q All right. And you're coming out that pool room side.
13 And, I mean, you saw -- you saw the folks fighting or you
14 didn't see the folks fighting?

15 A No. When I came up they -- the incident had diffused
16 where they had locked the people who was going to be inside
17 inside, and the people who was going to be outside outside.
18 So that wasn't the same incident when I was leaving out.

19 Q All right. And you've said it, I mean, you've
20 described it in pretty good detail about getting hit and
21 then getting jumped on. And I heard the young lady, I heard
22 Ms. Kershaw say it was like 15 people involved in that. You
23 just know there was some people jumping on you.

24 A I know there was multiple people beating me.

25 Q Okay. And that's outside, that was right outside the

KOCHESE GREGORY - CROSS

1 door, is that right? Outside the door of the club. I'm
2 just trying to figure out --

3 A I just want to be able to understand your question as
4 well.

5 Q I'll try. So you were inside the pool room, and then
6 you got jumped on inside or outside of the pool room?

7 A You're asking me?

8 Q That's what I am asking you.

9 A I was jumped on outside of the pool room.

10 Q Okay. All right. And so there were people hitting
11 you, beating you, kicking you, is that correct? Am I
12 accurate on that?

13 A Yes.

14 Q And at that point in time you -- I mean, you're telling
15 us today, telling the jury, telling everybody today that
16 there were multiple people doing that, correct?

17 A Yes.

18 Q All right. And you further said that at some point the
19 people disbursed, they stopped kicking you and beating you
20 and they left. I'm trying to recount that testimony. Is
21 that the way you recall it?

22 A What do you mean by left?

23 Q They were over you kicking you and beating you, and
24 then they left. I mean, no -- if I heard you right, no one
25 came to your aide, the people just left. I might have

KOCHESE GREGORY - CROSS

1 misunderstood that but I thought that's what you said.

2 A No one helped me.

3 Q Yes, sir.

4 A They stopped beating me and ran into the parking lot.

5 Q Okay. All right. And your testimony here today is you

6 at no point on that Christmas Eve night did you have a

7 firearm. You never had a firearm.

8 A Never.

9 Q So if anyone says you were shooting that is a lie.

10 A Correct.

11 MS. LIVELY: Your Honor, I would just object and ask

12 that be stricken for pitting witnesses, the credibility of

13 witnesses.

14 THE COURT: Rephrase your question.

15 MS. LIVELY: Thank you.

16 Q Okay. There's no question that you did not have a

17 firearm at any point on Christmas Eve night at Images Club.

18 A Correct.

19 Q Also correct that you -- if you didn't have a firearm

20 you couldn't have possibly shot a firearm. I didn't mean to

21 sound tricky. If you didn't have a gun you couldn't have

22 shot a gun.

23 A I was thinking that.

24 Q Okay. You heard multiple gunshots, did I hear that

25 right from you?

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1 A Yes. They're loud, gunshots are loud so I heard them.

2 Q Right. And they were all coming from outside in the
3 parking lot down the way.

4 A All of the gunshots were coming from -- away from me
5 towards the club.

6 Q No one -- is it correct that there were no gunshots
7 coming from the club area going out toward the parking lot
8 toward the car wash area?

9 A No.

10 Q In other words no gunshots coming from the club area.

11 A No gunshots coming from me, nobody around me, no
12 club -- I don't know what to say, sir, I'm sorry, I've said
13 no.

14 Q Okay. All right. Mr. Gregory, not picking on you
15 about this, but you're not a stranger to law enforcement, is
16 that fair to say?

17 MS. LIVELY: Objection, Your Honor. We may need to
18 take up a matter outside the presence of the jury.

19 MR. DUNCAN: We can, maybe.

20 THE COURT: Okay. Y'all come up here.

21 (A bench conference was held.)

22 MR. DUNCAN: Your Honor, with that ruling I'm finished
23 with Mr. Gregory.

24 THE COURT: Okay.

25 MR. DUNCAN: Thank you, sir.

KOCHESE GREGORY - CROSS

1 THE COURT: Mr. Frick?

2 MR. FRICK: Thank you, Your Honor.

3 CROSS EXAMINATION

4 BY MR. FRICK:

5 Q Mr. Gregory, let me be clear, you've been present in
6 the courtroom for the whole trial, right?

7 A I have been.

8 Q You've heard all of the testimony in the trial,
9 correct?

10 A I have.

11 Q Okay. And you've heard testimony about this --
12 whatever this beef was between CiCi and I think it was Troy,
13 I'm not entirely sure, but the bouncer.

14 A The bouncer was Kalbo, Big Troy was not the bouncer.

15 Q Okay. Whichever one it was, the testimony has been
16 that CiCi threw a drink in somebody's face, correct?

17 A That's correct.

18 Q And your testimony is that didn't have anything to do
19 with this other fight.

20 A Didn't have nothing to do with what happened to me.

21 Q So your testimony today is CiCi and Cowboy have this
22 incident going on and that's when Quinton comes up and just
23 sucker punches you.

24 A That's not true.

25 Q Well what happened then?

KOCHESE GREGORY - CROSS

1 A I had no recollection of the incident with Big Troy,
2 Kalbo and those guys at the front door. I stated that I was
3 inside when that transpired so I wasn't there for that.

4 Q Okay.

5 A So it had nothing to do with me.

6 Q Okay. So why did you go outside?

7 A The club is over when the incident happened, they was
8 dispersing people from the inside to leave.

9 Q So when the bouncer gets a drink dashed in his face
10 that didn't draw anybody's attention? Didn't draw your
11 attention?

12 A Didn't draw mine. I was already involved in
13 communicating with others so that wasn't nothing to do with
14 me. Like other people were there who had anything to do
15 with it, it's the same with me.

16 Q Who were you communicating with?

17 A My family. I told you my dad was there, my aunts was
18 there, that was still going on, that wasn't nothing that
19 disappeared, they still were there.

20 Q Tina Davis was there.

21 A Tina Davis was there.

22 Q You had no other friends in there?

23 A I said there was friends -- I'm from Chester, it was a
24 Chester party.

25 Q Right. And you didn't know this party was happening

KOCHESE GREGORY - CROSS

1 and you just showed up, right?

2 A Yeah.

3 Q And they let you in, right?

4 A They let me in --

5 Q Because they knew you, right?

6 A They charged me. I mean, it's public, if you can pay
7 to get in then you can come in.

8 Q They can also say you can't be here, too, can't they?

9 A If they denied then they would probably be prejudiced.

10 Q But they let you in, right?

11 A They let several people in other than me.

12 Q Okay. So as the club is leaving you're just kind of
13 standing on the sidewalk/parking lot minding your own
14 business.

15 A I never even got to do the standing. As I said before,
16 as I came out the pool room side of the door on the phone I
17 was attacked, so I didn't --

18 Q Okay. With pool sticks?

19 A Pool sticks, feet, hands, whatever they had.

20 Q Okay. And so when you left out of the pool room you
21 were standing near the pool tables, correct?

22 A No. I don't understand your question for one, because
23 I didn't leave --

24 Q Hold on, I'll rephrase it. You're in the pool hall
25 side, right?

KOCHESE GREGORY - CROSS

1 A Correct.

2 Q That is where they have the pool tables, correct?

3 A Right.

4 Q With cue sticks, right?

5 A Correct.

6 Q And pool balls, right?

7 A Correct.

8 Q So you were standing in the room where all of these
9 implements were, correct?

10 A Remember what I said, I was leaving, so if -- I'm not
11 standing -- you --

12 Q I'm asking you a simple question, were you standing in
13 the room where the pool tables were?

14 MS. LIVELY: Your Honor, if he could please allow the
15 witness to answer his question, then he could ask another
16 question.

17 THE COURT: Ask the question again and then provide him
18 an opportunity to respond to it.

19 MS. LIVELY: Thank you.

20 Q My question is are you standing in the room where the
21 pool cues and pool balls are?

22 A No.

23 Q So you weren't in the pool hall.

24 A I was. You said standing, sir, I was walking. If I am
25 walking through the pool room side I'm not standing, I am

KOCHESE GREGORY - CROSS

1 moving.

2 Q Were you located in the pool hall?

3 A I exited through the pool hall.

4 Q Okay. And you didn't see anybody carrying pool cues
5 out?

6 A No.

7 Q But someone magically had one and hit you up side the
8 head with it just as you walked out the door?

9 A You're asking me -- I didn't say he hit me with a pool
10 cue, I said he attacked, he attacked me. So all of the pool
11 cues, when they came involved that was after I was on the
12 ground, sir, so I'm not hearing you.

13 Q So 15 people that walked out with pool cues and pool
14 sticks while you're standing in the room where these things
15 are located, you just don't see that happening.

16 A I don't understand your question.

17 Q Okay. I'm sure you don't. So 15 people jump on you,
18 right? That's what you said.

19 A The witness stated that it was 15 or more people. I
20 said the same thing she said, I said 15 or more people on
21 me.

22 Q Oh, okay. So you're just repeating what you've heard
23 in the courtroom this week.

24 A All I'm telling you this week, sir, is multiple people.
25 I am here to accurate how many people beat me.

KOCHESE GREGORY - CROSS

1 Q And while you were on the ground being beat with an
2 inch of your life, pool sticks, pool balls, God knows what
3 else, this club full of your friends and family, nobody
4 helps you?

5 A Sad to say.

6 Q Tina Davis didn't come out and try to help you?

7 A Sad to say.

8 Q And she didn't drive her car around the parking lot and
9 almost run over you?

10 A Sad to say.

11 Q Or hit anybody else?

12 A Sad to say.

13 Q So that's your testimony, none of these people came to
14 assist you?

15 A No one assisted me while I was getting beaten. I was
16 assisted getting up, not getting down or while that was
17 going on.

18 Q Okay. And it is your sworn testimony today that you
19 did not have any firearm.

20 A No.

21 Q That no shots came from where you were standing --

22 A No.

23 Q -- where this beat down occurred?

24 A No.

25 Q Okay. And, in fact, you really never left that area;

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1 is that correct?

2 A What area, sir?

3 Q Right there where the beat down occurred?

4 A That's not true.

5 Q Okay. What did you do? You got back up and went in
6 the pool room, right?

7 A I didn't.

8 Q Where did you go?

9 A I went to the first exit, which would have been the
10 pool room, which was locked.

11 Q Uh-huh.

12 A And then I proceeded to go to the second door, which
13 was the main entrance door, and it was also locked.

14 Q The dance side?

15 A The main entrance, the dance side, the club entry side.
16 I wasn't -- I didn't remain where I was beaten, I wasn't
17 shot where I was beaten either.

18 Q And you stood up of our own accord?

19 A I was assisted up.

20 Q Okay. And then what?

21 A And then I went to the door, it was locked, and I
22 walked to the other door, it was locked.

23 Q Okay. All right. And it's also your testimony today
24 that you saw the shooter, you saw him point the gun at you
25 and pull the trigger.

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1 A Correct.

2 Q And he was leaning over that white car.

3 A Correct.

4 Q Do you know which part of the car?

5 A I circled on the picture, it's the hood of it.

6 Q The hood of the car. I'm going to show you State's 13.

7 Right there.

8 A Right here leaning over this car.

9 Q That's the hood of the car that he's leaning over,
10 pointing the gun and fired at you.

11 A Yes, sir.

12 Q And it's also your testimony that no shots came from
13 further down from that car wash area.

14 A Say that again.

15 Q You said, I believe, correct me if I am wrong --

16 A I will.

17 Q -- I know you will, that no other shots came from
18 further down in the parking lot near the car wash.

19 A I never said -- no.

20 Q You didn't say that?

21 A I said that shots was coming from all over. It was
22 multiple shots.

23 Q Oh, now shots were coming from all over. All right,
24 that's fine. The fight that you were involved with, okay,
25 it didn't go any further into the parking lot, right? It

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1 was just that little spot right there in the driveway in
2 front of the pool hall, correct?

3 A On the sidewalk.

4 Q It was on the sidewalk?

5 A Sidewalk.

6 Q But it didn't leave there, right?

7 A It didn't what?

8 Q It didn't leave there. These people are beating on you
9 right there, but you didn't get up and go running through
10 the -- you didn't go down to Golden Wok, you didn't run
11 across trying going to the Speed Station, you stayed right
12 there, right?

13 A No. I went to the pool room door.

14 Q That's afterwards, I'm talking about during the fight.
15 The whole fight took place on the sidewalk, correct?

16 A I was knocked to the ground and I remained on the
17 ground.

18 Q So the answer is yes, you stayed right there, correct?

19 A Until I was done being beaten.

20 Q Okay. So that's where the entire fight happened,
21 right?

22 A That's where the fight happened.

23 Q Okay. And then the folks dispersed and go and then
24 this shooting occurs, right?

25 A Correct.

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1 Q And again, your sworn testimony is you didn't have a
2 firearm.

3 A No, sir.

4 MR. FRICK: Thank you, no further questions.

5 MS. LIVELY: Nothing further.

6 THE COURT: You may step down. We're going to break
7 for lunch. I'll ask the jury to remember the cautions
8 previously given; no discussions, no research, no
9 investigation, no media exposure, do have a good lunch.
10 Please report to your jury room this afternoon at 2:15, 2:15
11 this afternoon.

12 (The jury left the courtroom.)

13 THE COURT: Court is in recess until 2:15.

14 (A lunch break was taken.)

15 THE COURT: Are we ready for the jury?

16 MS. LIVELY: The State is ready, Your Honor.

17 MR. DUNCAN: Yes, sir.

18 MR. FRICK: Yes, sir.

19 THE COURT: Bring them in.

20 (The jury returned to the courtroom.)

21 THE COURT: Good afternoon. We're going to continue
22 with the State's presentation.

23 MS. LIVELY: Yes, thank you, Your Honor. The State
24 would call Dr. David Jacobs to the stand.

25 The witness, DAVID JACOBS, M.D., was first duly sworn

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1 And testified as follows:

2 DIRECT EXAMINATION

3 BY MS. LIVELY:

4 Q Good afternoon, Dr. Jacobs.

5 A Good afternoon.

6 Q Dr. Jacobs, please tell the jury what your occupation
7 is.

8 A I'm a trauma surgeon at Carolinas Medical Center in
9 Charlotte.

10 Q And how long have you been in that position?

11 A Twenty-five years.

12 Q And so in that position as a trauma surgeon, what are
13 your specific duties?

14 A We meet the patient in the emergency department and we
15 provide care for them wherever they need it. So if they
16 need an operation we do the operation, if they don't need an
17 operation and their care is in the ICU, we take care of them
18 in the ICU. We take care of them from the time that they
19 get to the hospital until the time they're discharged and
20 actually see them in the outpatient office after they're
21 discharged.

22 Q Okay. Thank you, Doctor. What trauma level hospital
23 is Carolina Medical Center?

24 A It's a level one trauma center.

25 Q And if someone were to have a high level trauma

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1 traumatic injury in some place like Chester who doesn't have
2 that type of a facility, is it a normal procedure for them
3 to be brought to your emergency room?

4 A Yes.

5 Q And whenever people in that kind of situation are
6 brought to your emergency room, are you put on notice as to
7 what it is that's coming in so you can be prepared?

8 A We get a little bit of information. Whatever the
9 paramedics or the folks who were either flying in the
10 helicopter or driving the ambulance, whatever information
11 they can give us. They can't tell us what injuries the
12 patient has, but they can tell us gunshot wound, motorcycle
13 crash, fall, whatever it is and we have that information,
14 yes.

15 Q Do you know approximately how many surgeries you've
16 performed in your career?

17 A I have no idea. It's probably in the thousands.

18 Q Yes, sir. And have you ever actually been qualified in
19 a court of law as to being an expert in trauma surgery?

20 A Yes.

21 Q About how many times?

22 A Not that many actually, it was probably less than 20.

23 Q Less than 20? All right. And is it in the field of
24 trauma surgery that you've been qualified as an expert?

25 A Yes.

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1 Q And so are you fully licensed, are you board certified
2 in the State of North Carolina in that field?

3 A I'm board certified by the American Board of Surgery in
4 general surgery and what's called surgical critical care.
5 There are no specific boards for trauma surgery.

6 Q Thank you for clarifying, thank you so much.

7 MS. LIVELY: Your Honor, at this time the State is
8 going to offer Dr. Jacobs as an expert in the field of
9 trauma surgery.

10 MR. DUNCAN: No objection from Mr. McClinton.

11 MR. FRICK: No objection.

12 THE COURT: All right. He is so qualified.

13 Q So Dr. Jacobs, in December of 2018, did you have --
14 were you working that particular or -- let me stop. Did you
15 have the opportunity to treat an individual by the name of
16 Kochese Gregory for a gunshot wound?

17 A Yes.

18 Q Please tell the jury about how you became involved in
19 the treatment of Kochese Gregory.

20 A I was not involved in his initial treatment. He spent
21 the first probably two weeks, week or ten days in the ICU.
22 He was operated on several times by my partners. I have
23 like 12 partners that all do what I do, and so he had been
24 to the ICU. I was assigned to take care of trauma patients
25 who were now out of the ICU being taken care of on our

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1 trauma floor. So I cared for him for probably a week or ten
2 days and then saw him in the office after he was discharged.

3 Q Do you remember -- you said you cared for him after the
4 surgeries for about a week to ten days. Do you remember
5 exactly how many days he actually spent in ICU under your
6 care?

7 A Again, I do not provide the ICU care. I came on
8 service, as I recall. I looked at the records, think I came
9 on service on January 11th or January 10th, something of
10 that nature, 2019, and he was discharged on I want to say
11 the 19th, so I probably took care of him for seven or eight
12 days. So as I look at the record the gunshot wound occurred
13 on Christmas Day.

14 Q Yes, sir.

15 A And so he was probably in the ICU for two weeks before
16 I took care of him.

17 Q All right. And, Dr. Jacobs, initially whenever my
18 office actually made contact with you about the care of Mr.
19 Gregory, did you have all of those records made available to
20 you or did you have access to them?

21 A Yes.

22 Q All right. And were you able to actually review those
23 records in order to be prepared to come in here to court
24 today?

25 A Yes.

DAVID JACOBS - DIRECT

1 Q And are you qualified to refer on your -- you said you
2 have medical partners that are in this group with you, are
3 you qualified as a trauma surgeon to review those records
4 and to use those in order to continue the care of any type
5 of victim?

6 A Yes.

7 Q All right. And is that what you did in this particular
8 case?

9 A Yes.

10 Q Well, tell us, Dr. Jacobs, in your expertise as a
11 trauma surgeon, was the injury that was suffered by Kochese
12 Gregory as a result of the gunshot wound, could that have
13 been fatal?

14 A Yes.

15 Q Did it result in great bodily injury to Kochese
16 Gregory?

17 A Yes.

18 Q And can you say that within a reasonable degree of
19 medical certainty?

20 A Yes.

21 Q During your care of him, what were some specific
22 injuries that he had the most trouble with that you had to
23 kind of keep an eye on?

24 A His major injury was an injury to the liver. He had
25 lost a significant amount of blood before he got to us. He

DAVID JACOBS - DIRECT

1 was seen in another hospital, then transferred to us. He
2 had lost a significant amount of blood from the liver
3 injury, and so he had surgery for that initial injury. But
4 even once you stop the bleeding with the liver, the liver
5 can have a lot of complications. The liver is an organ that
6 makes bile, and you can stop the bleeding but frequently
7 there's leakage of bile that occurs that we don't
8 necessarily see at surgery. And he had a lot of trouble
9 with bile leakage that leaked into his lung cavity, leaked
10 into his abdomen, so we needed to do a number of other
11 things to get that leak under control.

12 Q This may be an obvious question but just for the
13 record, is the liver considered one of our most important
14 functioning organs in our body?

15 A You can't survive without your liver.

16 Q You cannot survive without your liver. Okay. And
17 whenever you were treating Mr. Gregory, was there a
18 situation where he had to be medicated for pain medication
19 for what he was dealing with?

20 A Yes, absolutely.

21 Q Was he in a lot of pain?

22 A Yes.

23 Q He was. So an injury like that, what are the dangers
24 of actually letting him go out on his own and if you were to
25 let him go too early, what kind of things could happen?

DAVID JACOBS - DIRECT

1 A Well, the big issue is infection. Again, when you have
2 leakage of things into your abdominal cavity that are not
3 supposed to be there, that's the best way to get infection,
4 so he had a lot of tubes. He had a tube in his nose, he had
5 a tube coming out of his chest on both sides, he had tubes
6 coming out of his abdomen to try and prevent that infection.
7 So once you get the bleeding under control, the second major
8 cause of death and problems after surgery is infection.

9 Q Thank you. Were there any problems during the surgery
10 in regards to how Mr. Gregory was actually performing while
11 the surgery was taking place?

12 A I read through the operative note, and according to the
13 operative note his heart actually stopped twice during the
14 operation. It stopped a total of three times, once right
15 upon arrival to the emergency department and we were able
16 to -- in the emergency department he had a procedure where
17 we actually opened the chest in the emergency department and
18 massaged the heart to get the heart to start beating again.
19 We were able to get him to the operating room, and then even
20 in the operating room we were trying -- as my partners were
21 trying to get control of the bleeding his heart stopped
22 again on two different occasions.

23 Q So in your opinion, and again, as an expert in trauma
24 surgery, this was an extremely dangerous and significant
25 injury to Kochese Gregory?

DAVID JACOBS - DIRECT

1 A Yes.

2 Q And based upon the notes that you reviewed he
3 actually -- I guess if his heart stopped basically was --
4 had to be resuscitated or he would have died.

5 A That is correct.

6 Q And whenever -- and I don't know in North Carolina and
7 whenever you've been qualified before if you have to
8 establish certain things legally. I asked you about great
9 bodily injury and whether or not this would classify as
10 great bodily injury, and I just want to make sure for the
11 jury, if you would just please explain in your medical
12 opinion within a reasonable degree of medical certainty was
13 the injury to Mr. Gregory great bodily injury?

14 A Absolutely, yes.

15 Q Absolutely. All right. And was there any other
16 injuries that you observed or that was in the chart
17 regarding other parts of his body?

18 A No. We didn't have a lot of time in the emergency
19 room. Normally in the emergency room when a patient comes
20 in we take a lot of time and go from head to toe looking for
21 any evidence of other injuries, but given the fact that his
22 heart stopped in the emergency department we were
23 anxiousness to get to the operating room, and so there's no
24 other -- there's no documentation of any other injuries.

25 Q And that was based upon the fact that he basically was

DAVID JACOBS - DIRECT

1 coding or -- when he was brought in.

2 A That is correct.

3 Q So would it be fair to say that the goal at that moment
4 is to save his life?

5 A Yes.

6 Q Have you had any further contact with Mr. Gregory since
7 he was treated by you at Carolina Medical Center?

8 A I saw him on one or two occasions in the office after
9 we discharged him, but probably not since February of 2019.

10 Q Okay. Was there any documentation in the medical
11 records that showed where a possible bullet or projectile
12 was recovered after the surgery?

13 A Not in the operative records.

14 Q Was there any information there that stated whether or
15 not the bullet had just gone through and through?

16 A There were two wounds noted on the operative report,
17 one in the front of the abdomen on the right side and one in
18 the back, so we try not to make any conclusions from that.
19 All we can tell you is that there are two wounds, it could
20 be one in and one out, it could be two wounds both in and
21 the two bullets in there. All we do is record what we see.

22 Q When he was released, did he have any restrictions as
23 to his daily activities?

24 A When he went home from the hospital when he was
25 released from the trauma -- because he wasn't released until

DAVID JACOBS - DIRECT

1 after he came back to the office several times.

2 Q Yes, sir, I understand that. Because you had to see
3 his progress; is that right?

4 A Right.

5 Q Once he had finished with what your observations were
6 and sent home, at that point were there any restrictions for
7 him?

8 A Well, when we first sent him home he had tubes in his
9 chest, he had a tube in his abdomen and he had a tube coming
10 out of his nose. And so yeah, we needed to see him
11 frequently to monitor the stuff that was coming out of those
12 tubes and to determine when it was the right time to get
13 those tubes and drains out. So he was able to eat, he was
14 able to walk with the assistance of a walker, but was very,
15 very weak. But yeah, we needed to see him several times in
16 the office after he was discharged.

17 Q And Dr. Jacobs, you actually had the chance to see Mr.
18 Gregory before you came in here today.

19 A Yes.

20 Q And do you see him seated in here in the courtroom?

21 A Yes.

22 Q Does he look anything like when you saw him during --
23 right after the surgery?

24 A No. I would not have recognized him if I would have
25 seen him on the streets today.

DAVID JACOBS - CROSS

1 Q All right.

2 MS. LIVELY: Dr. Jacobs, thank you so much for being
3 here. Please answer anything that the defense may have for
4 you.

5 MR. DUNCAN: Your Honor, I don't have any questions for
6 the doctor.

7 MR. FRICK: Just very briefly.

8 CROSS EXAMINATION

9 BY MR. FRICK:

10 Q Just following up on something that the solicitor had
11 asked you, Doctor, about the wound. Of course, you -- the
12 other people had done surgery on him before you got to him,
13 correct?

14 A That is correct.

15 Q Okay. So relying on the notes, that's where you come
16 up with whether there was a projectile in him or not?

17 A There was no evidence of a projectile in him based upon
18 the notes that I read.

19 Q Okay. And that is, I guess laymen's term, but what
20 would be called a through and through shot then?

21 A Again, all we do is say where we see wounds. We try
22 not to say through and through because we don't know how
23 many times a patient was shot. Did it just graze the skin
24 and cause a wound? So we just document exactly what we saw.

25 Q Got you. If you had to opine, though, in this case,

DAVID JACOBS - CROSS

1 could you?

2 A I would be hesitant to do so. Again, first of all
3 because I wasn't there at the original operation, and second
4 of all because we've been told over and over again just
5 write down what you see.

6 Q Sure. Okay. But as you said, there was no evidence
7 that there was fragments or projectiles or anything.

8 A That was not mentioned in the record.

9 MR. FRICK: Thank you, sir.

10 MS. LIVELY: There are no further questions by the
11 State.

12 THE COURT: Thank you, you may step down.

13 MS. LIVELY: And Your Honor, may he be excused from his
14 subpoena?

15 THE COURT: He may be.

16 The witness, BARBARA CAMERON, was first duly sworn and
17 Testified as follows:

18 DIRECT EXAMINATION

19 BY MS. LIVELY:

20 Q Good afternoon. How are you, Ms. Cameron?

21 A Fine, how are you?

22 Q I'm good, thank you. Now, Ms. Cameron, please tell the
23 jury where you're currently employed.

24 A I'm currently employed with the Chester County
25 Sheriff's Office.

BARBARA CAMERON - DIRECT

1 Q And in working at the Chester County Sheriff's Office,
2 what are your specific duties?

3 A My duties are evidence custodian, civil process clerk
4 and grants coordinator.

5 Q And how long have you been in that specific position?

6 A I started this position in the evidence part on
7 January the 20th of this year.

8 Q Of this year. So it's pretty new to you.

9 A Yes.

10 Q Now, in regards to what you do in -- or what's required
11 of you in the evidence room, will you please explain to the
12 jury how everything is documented and maintained for a
13 potential court case?

14 A Okay. For a potential court case when the officer
15 collects the evidence at the crime scene he fills out what
16 is called an evidence form and he lists every part of the
17 evidence that he has collected. He puts his name beside it,
18 the time he collects it. And then I have a locker that has
19 a number on it that has a key hanging in it and they drop it
20 in that locker and put the key inside the locker where no
21 one else can get to it. I'm the only one that has the
22 master key to that locker after he locks that evidence in
23 it. So after he drops it I collect it, I take it to the
24 evidence vault and I log it in up under the case that it's
25 assigned to, I give it an item number and I secure it in the

BARBARA CAMERON - DIRECT

1 vault, which is the evidence vault. If it's any evidence
2 that needs to be processed by SLED it's my responsibility to
3 fill out the paperwork, it's called I-lab with SLED, and
4 it's my responsibility to take that evidence to SLED, the
5 whole time in my possession, go into SLED, secure it to a
6 locker there, lock the key in it for the evidence tech. to
7 take it from there. And then in the process back I will go
8 back down there and the evidence clerk will check it back
9 out to me, I will sign for it and I'll bring it back to
10 Chester, put it back in our inventory and that's where it
11 will stay until court.

12 Q It sounds like there's a lot of checks and balances to
13 secure the integrity of whatever evidence is actually put
14 into the evidence room.

15 A It is.

16 Q In this particular case, I think it -- I don't know
17 what the 2018 number is, it's a law enforcement number, but
18 is it all logged under one specific case number when
19 evidence is collected?

20 A It is. Sometimes if SLED is called in and they have
21 evidence of their own I have to add it to that same case
22 file so they'll know it belongs to that case.

23 Q So just make sure that everything still ends up
24 together where it is supposed to be.

25 A Yes.

BARBARA CAMERON - DIRECT

1 Q In this particular case, was there just a law
2 enforcement number through the county sheriff's office?

3 A Yes, it was.

4 Q All right. And was it -- did it start out as a 2018
5 number?

6 A It did, it's 201802980.

7 Q 2980. All right. So please tell the jury in regards
8 to that particular law enforcement case number, how many
9 items were logged in total for that evidence?

10 A I believe it's 34.

11 Q And have you reviewed that evidence submission form to
12 see the substance of the items that were actually provided
13 to you for safekeeping?

14 A Yes, I have.

15 Q And what was a majority of those individual items that
16 were submitted to you as evidence?

17 A Shell casings.

18 Q Shell casings? And I won't get you to count how many,
19 that's fine. Shell casings was the majority, would you say
20 more than half or around two-thirds?

21 A About two-thirds.

22 Q Now, are all of the items that were submitted, did you
23 go back through and check in the evidence room to make sure
24 that you were able to put your hands on all of those items?

25 A I have and they are with me today.

BARBARA CAMERON - DIRECT

1 Q So all of those items which were collected from the
2 investigation involving the defendant, Quinton McClinton and
3 Montrell Graham, is going to be with what you have here with
4 us today.

5 A Yes, ma'am.

6 MS. LIVELY: Your Honor, may the witness step down and
7 assist as we go through each of the items and have them
8 marked?

9 THE COURT: She may.

10 MS. LIVELY: Thank you.

11 MR. FRICK: Your Honor, if I may, can I just scoot to
12 the other side of the room?

13 Q Okay. Let's look at your evidence sheet. And as you
14 start to remove items if you would please identify them and
15 I'm going to have to take a second and let our court
16 reporter actually mark them, okay? While you're pulling
17 that out I'm going to get him to mark some of these, okay?

18 A Okay.

19 Q All right. Let me show you item one and item two.

20 A Item two is a small brown envelope containing the spent
21 bullet, that's item 64288 with the Chester County Sheriff's
22 Office.

23 Q And what's item one?

24 A Item one is our item 64287, again, a small brown
25 envelope spent bullet that was collected on the ground.

BARBARA CAMERON - DIRECT

1 Q All right. I will have him mark that so just hold on.

2 THE COURT: Any objection as to these two, gentleman?

3 MR. DUNCAN: No objection.

4 MR. FRICK: No objection.

5 MS. LIVELY: Thirty-three and 34, Your Honor, the State
6 would move to enter those into evidence.

7 THE COURT: They're admitted.

8 (The shell casings were received as State's 33 and
9 34.)

10 Q What's this one?

11 A This is a small brown envelope, a projectile, this is
12 our item 64317.

13 Q All right. And then what is this one?

14 A This is a small brown envelope containing another
15 projectile, and that number is 64316.

16 MS. LIVELY: The State would move to enter 35 and 36
17 into evidence.

18 MR. DUNCAN: No objection.

19 MR. FRICK: No objection.

20 (The projectiles were received as State's 35 and 36.)

21 Q And this one?

22 A That's our item number 65103, which is a swab from the
23 nine millimeter bullet.

24 Q And what is that one?

25 A DNA samples. DNA swabs from the suspect.

BARBARA CAMERON - DIRECT

1 Q Okay.

2 MS. LIVELY: The State would move State's Exhibits 37
3 and 38 into evidence at this time.

4 MR. DUNCAN: No objection.

5 MR. FRICK: No objection.

6 THE COURT: They're admitted.

7 (The swabs were received as State's 37 and 38.)

8 A This is our item number 64297, one large brown bag
9 envelope containing the cue ball, white cue ball.

10 Q All right. What about that is?

11 A And this one is our item number 64700 for SLED combined
12 all 18 Luger shell casings.

13 Q Eighteen --

14 A Shell casings.

15 Q Shell casings?

16 A Of the single casings that our office collected?

17 MS. LIVELY: State would move 39 and 40 into evidence.

18 MR. DUNCAN: No objection.

19 MR. FRICK: No objection.

20 THE COURT: They're admitted.

21 (The shell casings and cue ball were received as
22 State's 39 and 40.)

23 Q Let's get into this box.

24 A This box is our item number 64293. This is the
25 clothing of Mr. Gregory, which was the victim, and that's

BARBARA CAMERON - DIRECT

1 the GSR, they analyzed it and all.

2 Q Can you open that for us?

3 A I can. This is how the clothing is collected and
4 placed it in a paper bag, our item number on it. The
5 description says one white Nike shoes, one white shirt, one
6 white tank top and one green sweater.

7 Q All right.

8 MS. LIVELY: State would move 41 into evidence.

9 MR. DUNCAN: No objection.

10 MR. FRICK: No objection.

11 THE COURT: It's admitted.

12 (The clothing was received as State's 41.)

13 Q And if you would -- all right. Tell us what this is,
14 please.

15 A This is a pool stick, and it is item number 6314 that
16 was collected for evidence.

17 MS. LIVELY: States 42 offered into evidence.

18 MR. DUNCAN: No objection.

19 MR. FRICK: No objection.

20 THE COURT: Admitted.

21 (The pool stick was received as State's 42.)

22 Q Now, Ms. Cameron, if you don't mind, we need to open
23 this bag and see the items that you've referred to, please.

24 A Okay. Tennis shoes, tank top, white shirt, T-shirt,
25 and a green sweater.

BARBARA CAMERON - DIRECT

1 Q So those are all of the items that were taken, you
2 stated, from the victim, Mr. Kochese Gregory --

3 A Correct.

4 Q -- as documented by the evidence in here?

5 A Correct.

6 Q Okay. Will you just hold that up for me here? Just
7 help me out for a second. So it looks like it was cut from
8 the back.

9 A Yeah.

10 Q So this was the T-shirt. It looks like this is also --
11 so this would have been from the front?

12 A It is a V-neck.

13 Q I'm just having you show them before I have to put it
14 all of the way back in. Okay. And once again, cut from the
15 back. All right. Okay. This looks like the back?

16 A Uh-huh.

17 Q Okay. And then the shoes. Some of these other items
18 that are in here are the swabs taken off the white Impala,
19 body camera discs that were done, interviews and things like
20 that?

21 A Yes, that's correct.

22 MS. LIVELY: Did y'all want to see any of these items,
23 defense?

24 MR. DUNCAN: I do not.

25 MR. FRICK: I'm fine.

BARBARA CAMERON - DIRECT

1 MS. LIVELY: Okay. I just want to be sure.

2 Q If you'll just take the stand.

3 A Okay.

4 Q All right. Now, Ms. Cameron, you talked about, you
5 know, whenever you take stuff to SLED and then whenever
6 things are analyzed, do you get a copy of the I-lab reports
7 once the -- I-lab reports are the actual analysis or the
8 conclusions, if any, that are made after SLED does whatever
9 testing is requested; is that right?

10 A That's correct.

11 Q Okay. I just want to be clear for the record, as for
12 the victim's, Mr. Kochese Gregory's, clothing that -- it was
13 sent for analysis, but was there ever any analysis actually
14 done? Do you have any indication from your records that any
15 analysis was ever done?

16 A I do not.

17 Q Okay. I just want to be clear because I know you
18 mentioned that before. So there was not an analysis of his
19 clothing.

20 A No.

21 Q All right. And do you know where his clothing was
22 actually gotten from on that evening? And if you don't
23 that's fine.

24 A The white shoes, tank top, green sweater and all was
25 inside Club Images at the pool room.

BARBARA CAMERON - DIRECT

1 Q Okay. All right. So it was not actually immediately
2 taken off of his body and then protected or preserved in any
3 kind of way.

4 A No.

5 Q Okay. From your information.

6 A From my information it's not.

7 Q Okay. That's what I'm asking, thank you. And as a
8 matter of fact, when the evidence comes to you, is the only
9 thing that you know what the officer had collected it
10 provides to you?

11 A Correct.

12 Q So that officer would be the one who would know
13 specifically where the items were collected and how he
14 actually identified them.

15 A Correct.

16 Q Okay. All right.

17 MS. LIVELY: Well, thank you so much, Ms. Cameron.
18 Please answer any questions that the defense may have for
19 you.

20 MR. DUNCAN: I don't have any questions, I think Mr.
21 Frick is going to kind of cover it.

22 MR. FRICK: Just briefly.

23 CROSS EXAMINATION

24 BY MR. FRICK:

25 Q Ms. Cameron --

BARBARA CAMERON - CROSS

1 A Yes, sir.

2 Q -- you don't go out to the scene and collect items,
3 correct?

4 A I do not.

5 Q As the custodian you just take them as they come to
6 you.

7 A That's correct.

8 Q Okay. You don't do any --

9 A Forensics.

10 Q You don't do any testing at this stage, do you?

11 A No, I do not.

12 Q Because I think everything goes off to SLED for
13 testing.

14 A That's correct.

15 Q And you don't determine what testing should be done, do
16 you?

17 A No, sir.

18 Q You were just told to send this up to SLED and you take
19 it up there and they do whatever.

20 A Yes, sir.

21 Q Okay. Who does the requesting of testing?

22 A An investigator that's assigned to the case.

23 MR. FRICK: Okay. Thank you, ma'am, that's all of the
24 questions I have.

25 REDIRECT EXAMINATION

BARBARA CAMERON - CROSS

1 BY MS. LIVELY:

2 Q Do you -- have you documented who the investigators
3 were assigned to the case both for evidence collection and
4 in any other fashion?

5 A The investigator at the time was Brian Sanders from my
6 paperwork.

7 Q Brian Sanders. Okay. So he was the one who actually
8 documented what was collected and what was to be tested and
9 what was just supposed to be kept preserved?

10 A Yes, ma'am.

11 MS. LIVELY: Okay. Thank you, no further questions.

12 THE COURT: Step down.

13 MS. LIVELY: The next witness is going to be Brian
14 Sanders.

15 The witness, BRIAN SANDERS, was first duly sworn and
16 Testified as follows:

17 DIRECT EXAMINATION

18 BY MS. LIVELY:

19 Q Good afternoon, Lieutenant Sanders.

20 A Good afternoon.

21 Q Where are you currently employed?

22 A Chester City Police Department.

23 Q And where were you employed in December of 2018?

24 A Chester County Sheriff's Office.

25 Q And how long have you been in law enforcement?

BRIAN SANDERS - DIRECT

1 A Roughly right around 14 years.

2 Q And what type of different positions have you held as
3 you've been in law enforcement?

4 A I worked in the detention center for a few years. I
5 did patrol. I was a patrol supervisor for a few years and
6 in investigations at the sheriff's office, and I'm a
7 lieutenant over investigations for the City of Chester now.

8 Q So you're over investigations now where you are
9 currently.

10 A Yes, ma'am.

11 Q And when you were at the Chester County Sheriff's
12 Office, I'm sorry, you may have said this, you were also in
13 investigations at that time too?

14 A Yes, ma'am.

15 Q Did you have the opportunity to be called out to work a
16 crime scene at the Images Club in the County of Chester?

17 A Yes, ma'am.

18 Q Would that have been in your jurisdiction in the County
19 of Chester?

20 A Yes, ma'am.

21 Q So when you responded to that, do you remember when you
22 actually got there, about what time it was?

23 A It was the early morning hours of December 25th.

24 Q So Christmas morning like real early, nighttime early.

25 A Yes, it was still dark.

BRIAN SANDERS - DIRECT

1 Q All right. And whenever you got there, were there
2 still witnesses and people in the area?

3 A Yes, ma'am.

4 Q There were. What were your duties that night? Were
5 you to talk to witnesses and take statements or were you to
6 collect evidence?

7 A I was there to collect evidence.

8 Q So that was your primary goal?

9 A Yes, ma'am.

10 Q And when you were collecting evidence, what did you
11 actually do in order to document the scene of what you came
12 across that night?

13 A We photographed the scene. We put markers out for the
14 items that we collected as of the shell casings and
15 everything after we photographed them. I documented what
16 time I collected each item and placed them into evidence.

17 Q Okay. And we just now had Ms. Cameron testify as the
18 evidence custodian that you were the one that submitted
19 evidence to the evidence room in Chester County for the
20 purposes of investigation in this case; is that correct?

21 A Yes, ma'am.

22 Q All right. So that was your lead role at this point.

23 A Yes, ma'am.

24 Q And were you the one that took the photos that night?

25 A Yes, ma'am.

BRIAN SANDERS - DIRECT

1 Q What was the -- what item was the most, I guess,
2 voluminous or the most items that you found, what type of
3 items were those?

4 A Shell casings.

5 Q And where were you finding those?

6 A All throughout the parking lot.

7 Q The parking lot.

8 A Yes, ma'am.

9 Q And do you recall, I don't know, approximately how many
10 you located?

11 A Not an exact number, no, ma'am.

12 Q Was it more than ten?

13 A Yes, ma'am.

14 Q Maybe 20?

15 A I can look back and check and tell you exactly how many
16 it was.

17 Q Was it a lot?

18 A Yes, ma'am.

19 Q That's fine. And did you put markers up where the --
20 not projectiles, I apologize, where the shell casings were
21 found to document them before you collected them?

22 A Yes.

23 Q And all of that would be in your photographs.

24 A Yes, ma'am.

25 Q So I'm going to show you some pictures and ask you if

BRIAN SANDERS - DIRECT

1 these are the ones that you took. Just flip through them
2 quickly, just let me know if this looks familiar, if it
3 documents the pictures that you took from that crime scene
4 at Images.

5 A Yes, ma'am. This exhibit, this one, we took during the
6 search warrant of -- when we did the vehicle.

7 Q Will you tell me what the number on that one is?

8 A Exhibit 15.

9 Q Exhibit 15. That was actually done afterwards --

10 A Yes, afterwards.

11 Q After the search warrant.

12 A Yes. During the search warrant in the impound lot at
13 the sheriff's office.

14 Q Okay. Thank you.

15 MS. LIVELY: Your Honor, I believe that 13 through
16 19 --

17 THE COURT: 19?

18 MS. LIVELY: 19, thank you, Your Honor. 13 through 19
19 are in.

20 THE COURT: They are.

21 MS. LIVELY: So the State would move -- so Your Honor,
22 the State would move 21 to 30 in evidence -- the State would
23 move 21 through 30 into evidence at this time, Your Honor.

24 MR. DUNCAN: No objection.

25 MR. FRICK: No objection.

BRIAN SANDERS - DIRECT

1 THE COURT: Admitted.

2 (The photos were received as State's 21-30.)

3 MS. LIVELY: Thank you, Your Honor.

4 Q All right. I'm going to show you State's Exhibit 13
5 and I'm going to let you hold the actual picture. What was
6 the significance of this particular picture that you
7 documented from the scene?

8 A You can see that the glass on the passenger side had a
9 bullet hole in it as well as the back passenger door.

10 Q I'm going to walk up and I'm going to point at a spot
11 on the vehicle, and can you tell me what it is I'm pointing
12 at?

13 A That would be the bullet hole at the back passenger
14 door.

15 Q That's the bullet hole. And you documented that as
16 being a bullet hole?

17 A Yes.

18 Q Were there any bullet holes coming from the club going
19 into that vehicle?

20 A No, ma'am. The only one we had was on the front
21 windshield of it, I believe.

22 Q The front windshield, all right. So the front
23 windshield, which would be right through here?

24 A Yes, ma'am.

25 Q All right. And you took a picture of that, right?

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1 A During the search warrant of the vehicle, yes.

2 Q Okay. All right. I'm going to show you State's 16.

3 And then that's the same vehicle, correct?

4 A Yes, ma'am.

5 Q And is this a clearer photo of what it was we were just
6 looking at?

7 A Yes, ma'am.

8 Q And so once again, the bullet hole, this is a little
9 bit easier to see. What is this here in that passenger side
10 window?

11 A That would be the hole from the bullet.

12 Q That would be a hole from a bullet. Let me ask you
13 this, Investigator Sanders, did you -- is that the reason
14 why you got a search warrant for the inside of the vehicle?

15 A Yes, ma'am.

16 Q What were you looking for?

17 A The projectiles.

18 Q And just let me ask you for purposes for the jury to
19 know right away, did you ever during your search find any
20 weapons in the cars or in any of the parking lot or the
21 club?

22 A No, ma'am.

23 Q Did anyone turn over a weapon to you at any point that
24 was used in this particular shooting incident?

25 A No, ma'am.

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1 Q All right. So you were working off of what you had at
2 that point, correct?

3 A Yes, ma'am.

4 Q Okay. And once again, this is a -- State's Exhibit 18.
5 Was there any doubt that that was actually a bullet hole
6 that you were looking at?

7 A No, ma'am, there wasn't any doubt.

8 Q Okay. That's State's Exhibit Number 19. Once again
9 when you identified what you were taking a picture of, what
10 was that that you identified?

11 A Shattered glass of the window, a bullet hole in it.

12 Q Now, you mentioned in your statement that there was
13 also a crack to the windshield of that vehicle. Is it the
14 same white car that we're seeing?

15 A Yes, ma'am.

16 Q And is this what you're referring to in regards to the
17 windshield that had a crack in it?

18 A Yes, ma'am, right there in the bottom corner also.

19 Q And in the bottom corner, also, right. Is that State's
20 17? Go back for a second. Was that just a crack or was
21 there a bullet hole?

22 A I'm not for sure about the crack there, but the bottom
23 corner did have a projectile in it.

24 Q It had a projectile in it.

25 A Yes, ma'am.

BRIAN SANDERS - DIRECT

1 Q Okay. So here what we're seeing -- tell the jury what
2 it is that you are showing us in this particular picture.

3 A In that section where those markers are is where shell
4 casings are.

5 Q I'm going to show you -- it's a little bit different
6 angle but the same thing, State's 21. Is that what we're
7 seeing there?

8 A Yes, ma'am.

9 Q Okay. So in regards to each one of those -- each one
10 of those markers, what do those markers tell us in regards
11 to what you're identifying?

12 A There was the shell casing located there.

13 Q All right. And do you see the marker that's farther
14 off towards the left, there's an item sitting there that you
15 marked.

16 A Yes, ma'am.

17 Q Okay. And I'm going to show you State's Exhibit 22 and
18 ask you if that's a close-up of what it was that you found?

19 A Yes, ma'am.

20 Q All right. What was that?

21 A It was a white cue ball.

22 Q Did you find that out that it was in the middle of the
23 parking lot?

24 A Yes, ma'am.

25 Q Okay. Is that why you documented it?

BRIAN SANDERS - DIRECT

1 A Yes, ma'am.

2 Q Were you aware that there was a pool hall that was a
3 part of the Images Club where you were?

4 A Yes, ma'am.

5 Q Okay. And whenever you got there and you responded to
6 the call, I know you were dealing with the crime scene, but
7 did you have any information as to what you might find in
8 the parking lot based on what had happened?

9 A Other than the shell casings, no, ma'am.

10 Q All right. So you don't know anything about any fights
11 or who was using what or anything like that?

12 A Not what was being used, no, ma'am.

13 Q Okay, fair enough. So not knowing anything, the reason
14 why you documented it was that it was odd to see a cue ball
15 laying in the parking lot.

16 A Yes, ma'am.

17 Q I'm going to show you State's Exhibit Number 14, which
18 is reflected in that photo. What is in 10 and 11?

19 A Shell casings.

20 Q More shell casings. Okay. And I believe that's just a
21 close-up from some of the ones we had seen before; is that
22 correct?

23 A Yes, ma'am.

24 Q All right. Now, let me just ask you because I wanted
25 to be sure that we're clear, in regards to this vehicle,

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1 these shell casings, where are you finding them in
2 relationship to the front of the club?

3 A Those are about middle of the parking lot.

4 Q Okay. All right. So I'm going to -- let me see if I
5 can help you help us know where we are. What is back here?

6 A That is the car wash right at the J.A. Cochran Bypass.

7 Q Tell me what the State's number is that I gave you, the
8 picture so we can make sure we're clear on the record.

9 A The last one you gave me was 14.

10 Q Is this one?

11 A No, ma'am, it was markers 10 and 11.

12 Q I apologize, hold on. Here we go. Yes, State's
13 Exhibit 28. Here you go. All right. So looking at the
14 vehicle as we're looking at it here, okay?

15 A Yes, ma'am.

16 Q The back of the parking lot is on which side of this
17 vehicle?

18 A On the other side of it.

19 Q On the other side. So you have -- and what are you
20 finding in 12, 13, 14 and 15?

21 A Shell casings.

22 Q All right, shell casings. Please explain as a law
23 enforcement officer if you find shell casings in an area
24 like this, what does that tell you?

25 A Somebody was firing a weapon.

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1 Q Okay. Were they firing close to the vehicle or were
2 they firing it somewhere else?

3 A They were close to the vehicle.

4 Q They were close to the vehicle. Okay. So let me ask
5 you this, as a law enforcement officer how many times have
6 you shot weapons?

7 A Quite a few.

8 Q Are you an ex-Marine?

9 A Yes, ma'am.

10 Q All right. Let me ask you this, I'm going to show you
11 a map. Just get yourself acclimated to what this map is
12 showing you.

13 A Yes, ma'am.

14 Q All right. So where would the car wash be in regards
15 to this map?

16 A Car wash is right there at the top corner.

17 Q All right. So we're looking at the photo of the car
18 and we see the car wash in the back. So those shell casings
19 are in front of the vehicle, correct?

20 A Yes, ma'am.

21 Q All right. Do you remember approximately where that
22 vehicle was?

23 A It should have been right around in here.

24 Q So whenever you're seeing the shell casings right up in
25 here, do you know in law enforcement if someone is standing

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1 here whether shell casings would end up all of the way down
2 in the parking lot?

3 A No, ma'am.

4 Q No? Okay. How close are you typically whenever a
5 shell casing pops out of your gun?

6 A Within a couple of feet.

7 Q A couple of feet? All right, thank you. And so what
8 we have is number 12, is only probably about how many feet
9 away from the back of that vehicle, marker 12?

10 A Maybe around maybe six feet.

11 Q All right. And then, of course, 13, 14 and 15 are
12 right at the vehicle?

13 A Yes, ma'am.

14 Q Could you tell what type of shell casings those were?
15 Did you document those?

16 A Yes, ma'am. I don't want to say what it was actually
17 without looking.

18 Q That's fine.

19 A They were nine millimeter Luger shell casings.

20 Q Nine millimeter Luger shell casings. Okay. I'm going
21 to show you State's Exhibit 40, which is in evidence, and
22 what are those items?

23 A Eighteen Luger shell casings.

24 Q There were several of those casings that are located
25 that evening, is that fair to say?

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1 A Yes, ma'am.

2 Q For the record I'm opening State's Exhibit Number 40.

3 So when you packaged these, do you do so individually so you
4 can identify each one?

5 A Yes, ma'am.

6 Q So as for the nine millimeter shell casings that you
7 located, I'm seeing a total of 18.

8 A Yes, ma'am.

9 Q Okay. How many rounds does a nine millimeter hold?

10 A Depends on what type of magazine they have, if it's a
11 single or a double.

12 Q Fair enough. Just tell us, how much does a single
13 hold?

14 A I believe eight.

15 Q Eight? How much does a double hold?

16 A It can hold up to 15.

17 Q Fifteen. Is there any way that all 18 of these could
18 have come out of one gun?

19 A No, ma'am.

20 Q Okay. All right. Okay. And once again, this is a
21 close-up of your 14 and 15 that you collected, correct?

22 A Yes, ma'am.

23 Q And is it standard when you're actually doing photos to
24 go far out and then kind of come in so we can get a
25 perspective of what it is that you're collecting?

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1 A Yes, ma'am.

2 Q Okay. So what is 17 and 18? I'm going to show you
3 State's Exhibit Number 24.

4 MR. DUNCAN: Excuse me, Ms. Lively, what number was
5 that one that you were just showing him?

6 MS. LIVELY: Number 24.

7 MR. DUNCAN: 24. Thank you.

8 A What was the question? I'm sorry.

9 Q What are we seeing from markers 17 and 18?

10 A Shell casings.

11 Q And do you know what type of shell casings those were?

12 A Those were also nine millimeter Luger shell casings.

13 Q Nine millimeter Luger shell casings. And you're not a
14 ballistics expert, correct?

15 A No, ma'am.

16 Q So you don't know whether or not they were shot from
17 the same weapon.

18 A No, ma'am.

19 Q Fair enough. What are we seeing in marker 20, which is
20 State's Exhibit Number 23?

21 A It's a shell casing.

22 Q And did you document the kind of shell casing that was?

23 A Yes, ma'am.

24 Q And what was it?

25 A That would have also been a nine millimeter Luger shell

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1 casing.

2 Q Were there any other types of nine millimeter -- I
3 mean, any other kind of weapon shell casings that you
4 located that night other than the nine millimeter if you
5 recall?

6 A No, ma'am.

7 Q Okay. So did you at some point in time enter the club?

8 A Yes, ma'am.

9 Q All right. When you entered the club what, if
10 anything, was identified for you to collect?

11 A There was clothing and shoes right at the door.

12 Q And why did you determine that to be significant?

13 A They stated that the individual that was shot, that was
14 his clothing.

15 Q Okay. And were you given any information as to whether
16 or not it had been held or tampered with by anybody in that
17 area?

18 A No, ma'am.

19 Q Were you told that anyone was actually -- that someone
20 had picked it up whenever Kochese Gregory had left the scene
21 and had put their hands on it?

22 A Not that I can recall, no, ma'am.

23 Q If other people were picking up clothes and moving it
24 around, would you be concerned about possible contamination
25 of those clothing?

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1 A Yes, ma'am.

2 Q Okay. All right. So you got there about what time, do
3 you remember?

4 A It was, like I say, I don't know the exact time, it was
5 early in the morning.

6 Q But obviously by that time Kochese Gregory had been
7 long gone.

8 A Oh, yes, ma'am, he was already gone.

9 Q He was already gone. And you were there and those
10 items were just left there, and you don't know how many
11 people touched them, handled them or did whatever with them.

12 A No, ma'am, I do not.

13 Q Okay. That's the same thing, correct?

14 A Yes, ma'am.

15 Q All right. And you said that you did a search warrant
16 for the interior of the vehicle; is that right?

17 A Yes, ma'am.

18 Q I'm going to show you State's Exhibit Number 15. All
19 right, State's Exhibit Number 15. What are we seeing and
20 what's the significance of that particular photo?

21 A That is the shattered window from the inside of the
22 vehicle.

23 Q And whenever -- you showed us a picture of when it was
24 still dark, which was the day that you showed up, or the
25 evening you showed up to collect the items. So where is

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1 this vehicle at this point?

2 A It's at the Chester County Sheriff's Office impound
3 lot.

4 Q Okay. Now, I'm just going to ask you, in regards to
5 where this -- you've already said it was a bullet hole into
6 the passenger side.

7 A Yes, ma'am.

8 Q Was there a through and through from the driver's side
9 into the passenger side?

10 A Not through the driver's side, no, ma'am.

11 Q So this bullet hole shattered the passenger side
12 window.

13 A Yes, ma'am.

14 Q And that was the window facing the car wash.

15 A Yes, ma'am.

16 Q All right. So why did you get a search warrant for the
17 inside of the car?

18 A To see if we located any type of projectiles.

19 Q And did you?

20 A Yes, ma'am.

21 Q So what did you find inside of the vehicle?

22 A We found one projectile in the back right side
23 floorboard and we found another projectile in the front
24 windshield bottom corner, and we also collected DNA off the
25 front of the car, blood DNA.

BRIAN SANDERS - DIRECT

1 Q All right. Okay. So I'm going to show you State's
2 Exhibit 35 and 36. Will you tell me what those items are?

3 A These are the projectiles we located.

4 Q Okay. And I'm sorry, if you'll tell me specifically,
5 35 was found where?

6 A The back right side of the floorboard.

7 Q Of the floorboard. And then the other one was the one
8 you said front windshield, bottom left side.

9 A Yes.

10 Q All right. And did you -- I don't see here on the
11 actual form, did you actually determine what type of a
12 projectile, what kind of weapon it had come from?

13 A No, ma'am.

14 Q Can you tell from a spent projectile?

15 A I can tell it's a bullet but that's it, I couldn't tell
16 exactly what size it was.

17 Q So when you say a spent projectile, we're talking --

18 A Yes, the top part of the bullet.

19 Q The top part, okay. All right. So this was found in
20 the vehicle.

21 A Yes.

22 Q Two of those. Now, I'm also seeing in 33 and 34, if
23 you could, please tell the jury in regards to these two
24 items where you collected those items from?

25 A These two items were located back at 2981 J.A. Cochran

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1 Bypass. One was located on the ground at the front side on
2 the right side of the club at the front entrance of the door
3 on the concrete. The second one was in the lower part of
4 the wall in the same location on the right side of the front
5 entrance.

6 Q Okay. I was trying to see if I had a better photo.
7 I'm just going to show you this one, it's State's Exhibit
8 Number 25. Can you tell me where you are where you're
9 referring to? And if you need to step down to do that,
10 Investigator Sanders, that's fine. Tell me where those
11 projectiles were actually located.

12 MS. LIVELY: Your Honor, may he step down?

13 THE COURT: He may.

14 MS. LIVELY: Thank you.

15 Q If you will, point to it and I'll come over there.

16 A This is the front entrance of the club, right here is
17 the inside of the wall, right there on the inside right
18 there. We found both of them, one the ground on the
19 concrete over there and the other one was in the little part
20 of the wall.

21 MS. LIVELY: Your Honor, let the record reflect that he
22 is pointing to the right side of the double door entrance to
23 the Images Dance Club.

24 THE COURT: It shall.

25 MS. LIVELY: Thank you, Your Honor.

BRIAN SANDERS - DIRECT

1 Q Once again, Investigator Sanders, so we can be really
2 clear, when it's a spent bullet, how is that different from
3 a shell casing?

4 A That is the actual projectile, not the shell casing,
5 it's just the empty shell.

6 Q So the shell casing's empty shell. Is that an
7 indication of where a person is shooting from, or close to
8 where a person is shooting from?

9 A Yes.

10 Q Okay. You understand what I'm saying? Like if I'm
11 shooting a gun --

12 A Once it ejects.

13 Q Okay. Once it ejects out of the gun the shell casing
14 is going to be close to the shooter.

15 A Yes.

16 Q What about the projectile?

17 A It's going to be at the direction he was aiming.

18 Q The direction he was aiming. What did you notice about
19 these projectiles?

20 A This one was flattened where it had done hit something.

21 Q And that would be State's 33. What about State's 34?

22 A Same.

23 Q Same thing?

24 A Yes.

25 Q Meaning that it had actually hit something.

BRIAN SANDERS - DIRECT

1 A Yes, ma'am.

2 Q Now, you mentioned the pool cue that you found and I'm
3 seeing that there's also an item that has been marked as
4 State's Number 42 that is in evidence. Why did you collect
5 this?

6 A It was in the grass at the edge of the parking lot that
7 night.

8 Q Was that a weird place for a pool stick to be?

9 A Yes, ma'am.

10 Q Is that the reason why you identified it and collected
11 it as potential evidence?

12 A Yes, ma'am.

13 Q All right. In looking at that particular pool stick,
14 it's got some black residue on it. What's that?

15 A Fingerprint dust.

16 Q Fingerprint dust. Who did the fingerprint dusting?

17 A I did.

18 Q And were you successful in locating any fingerprints?

19 A No, ma'am.

20 Q All right. But despite that fact you did still collect
21 it as potential evidence.

22 A Yes, ma'am.

23 Q And once again, did you have any knowledge as to any
24 type of altercations other than the shooting that had
25 occurred that night?

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1 A Not until afterwards, no, ma'am.

2 Q Not until afterward. So you no personal knowledge,
3 correct?

4 A Yes, ma'am.

5 Q Now, in State's Exhibit Number 37, it says DNA sample.
6 Why was a DNA sample collected and whom was it collected
7 from?

8 A May I look at it, please?

9 Q Sure, I'm sorry.

10 A It was collected by Quinton McClinton.

11 Q You mean from Quinton McClinton.

12 A From Quinton McClinton, sorry.

13 Q What was the purpose of getting DNA swabs from the
14 defendant, Quinton McClinton?

15 A I believe it was for the -- for where they checked all
16 of the items of evidence for DNA.

17 Q What about the DNA off of the projectiles, do you know
18 what happened with that touch DNA evidence?

19 A I do not know the results.

20 Q Wouldn't you be the investigator who would get a copy
21 of that?

22 A The lead investigator for this case would have.

23 Q So that wouldn't have been you.

24 A No, ma'am.

25 Q Did you have any information as to whether that came

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1 back to anyone or if there was any DNA found?

2 A Not right offhand, no, ma'am.

3 MS. LIVELY: Thank you, Investigator Sanders. Please
4 answer any questions that the defense may have for you.

5 MR. DUNCAN: Your Honor, Mr. Frick is going to question
6 Mr. Sanders and I am not.

7 CROSS EXAMINATION

8 BY MR. FRICK:

9 Q Okay. Investigator Sanders, you were the investigator
10 that went out and took those pictures that night?

11 A Yes, sir.

12 Q Okay. And I know it was a group effort, I think
13 everybody got called there eventually; is that correct?

14 A Yes, sir.

15 Q But as far as collection of evidence, that was your
16 role in this case, correct?

17 A Yes, sir.

18 Q So everything we've talked about here you collected or
19 had a role in collecting.

20 A Yes, sir.

21 Q I'm going to show you some additional pictures that
22 were provided to defense through discovery. If you can just
23 take a look at them. Don't tell me what they are, just tell
24 me if you recognize them. And they're odd shaped, I'm
25 sorry.

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1 A Yes, sir.

2 Q Are those photographs that you took that night.

3 A Yes, sir.

4 Q Okay. As far as the pictures that were taken at the
5 club the next day, did you go out there and do those? I
6 think it is State's 33 and 34 the solicitor was talking
7 about where --

8 A Yes. I did take the pictures.

9 Q I'm going to show you these and see if you recognize
10 those.

11 A Yes, sir.

12 Q Are those the photos from the club the next day --

13 A Yes, sir.

14 Q -- where State's 33 and 34 were found?

15 A Yes, sir.

16 Q In the processing of the white vehicle that was taken
17 from the scene that night, were you involved in that?

18 A Yes, sir.

19 Q Okay. And there's photographs from that vehicle. Did
20 you take those, or are you aware of those photographs?

21 A Yes, sir.

22 Q Okay. I show you a photograph.

23 A Yes, sir.

24 Q Does that look familiar?

25 A Yes, sir.

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1 Q All right.

2 MR. FRICK: Your Honor, at this time defense would move
3 Defense 1, 2, 3, 4, 5, 6, 7, 8 and 9 into evidence.

4 MS. LIVELY: Without objection, Your Honor.

5 THE COURT: One through nine inclusive are admitted.
6 They are each photographs?

7 MR. FRICK: Yes, sir.

8 (The photos were received as Defendant's 1-9.)

9 Q Investigator Sanders, when you got out there the scene
10 was already secured?

11 A Yes, sir.

12 Q Okay. Were there folks still on the scene?

13 A Yes, sir.

14 Q But they were folks that law enforcement wanted to talk
15 to?

16 A Yes, sir.

17 Q Okay. In State's Number 24, I know the solicitor asked
18 you about it but I'll ask you a little bit about it, those
19 markers, those are shell casings?

20 A Yes, sir.

21 Q In fact, maybe two shell casings and one unfired
22 bullet?

23 A Let me check. Do we have a closer picture of them with
24 the numbers?

25 Q That's what I've got right now. I think -- I've got my

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1 glasses if you want to borrow them.

2 A We did collect one that wasn't just the bullet itself.

3 Q Okay. My question really is, though, this is located
4 just in front of the doors of the club, is it not?

5 A Yes, sir.

6 Q It's not further down where the white car is, right?

7 A No, sir, this is in front of the doors.

8 Q Okay. So it's kind of like what we've got here in
9 State's Number 23, it would be these up here, correct?

10 A Yes, sir.

11 Q Okay. And, of course, the white car is somewhere
12 down --

13 A To the right.

14 Q -- down there. Okay. And as the solicitor had you
15 state, where you find a spent shell casing is where you
16 would have expected someone to have fired a bullet, correct?

17 A Yes, sir.

18 Q Okay. And you said a shell casing goes a couple of
19 feet?

20 A Yes, sir.

21 Q And now I know we didn't qualify you as an expert but
22 you know all about guns and I see you're little tie tack
23 there, I know you've got a lot of experience with guns. How
24 do you get shell casings essentially? Don't give me the
25 whole thing. A gun has got to fire it, right?

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- 1 A Yes, sir.
- 2 Q What kind of gun fires that?
- 3 A Whichever -- if it was a nine millimeter, a nine
4 millimeter.
- 5 Q Not a revolver is what I'm getting at, right?
- 6 A No.
- 7 Q That's what ejects one, right?
- 8 A Yes, semiautomatic.
- 9 Q All right. Do they typically eject to one side or --
- 10 A Yes, sir.
- 11 Q Which side would that be?
- 12 A To the right.
- 13 Q So -- and I'm going to use my pen gun, I'm not pointing
14 at you. But if I'm standing here pointing my pen gun at you
15 and shot it and if it has an ejector on it, it's going to be
16 out this way?
- 17 A Yes, sir.
- 18 Q All right. So assuming it doesn't hit anything and
19 bounce the other way you would expect it to generally go to
20 the right of the gun.
- 21 A Yes, sir.
- 22 Q Okay. In State's Number 28, that's the white car y'all
23 processed, right?
- 24 A Yes, sir.
- 25 Q That's the one that had the bullet holes in it that we

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1 found the projectiles in the next day and all of that stuff?

2 A Yes, sir.

3 Q And these markers 12, 13, 14 and 15, those are shell
4 casings?

5 A Yes, sir.

6 Q Can you tell me what part of the car that is?

7 A The driver's side left rear.

8 Q Okay. More specifically, what would this area be
9 called, at least what we call it in America?

10 A The rear.

11 Q The trunk?

12 A The trunk.

13 Q Good job. All right. So those shell casings were
14 found to the right rear of the car near the trunk area is
15 what I'll call it.

16 A Yes, sir.

17 Q And I believe you said shell casings were scattered all
18 over the place, correct?

19 A Yes.

20 Q I mean, that's indicated here in State's Number 21. I
21 believe the majority of those are shell casings, I think one
22 is a cue ball.

23 A Yes, sir. It was the top middle of the bottom of the
24 parking lot.

25 Q And the white car is back over in this area or -- I

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- 1 don't know if you can tell.
- 2 A Yes, sir, I believe it is.
- 3 Q Okay.
- 4 A I'm not for sure about it.
- 5 Q But these are all shell casings essentially -- I'm not
- 6 going to hold you to every one of them but most of them are.
- 7 A Yeah, except for the cue ball.
- 8 Q Out in the middle of the parking lot?
- 9 A Yes, sir.
- 10 Q And the cue ball is out in the middle of the parking
- 11 lot, too, right?
- 12 A Right.
- 13 Q Okay. And the cue stick, the pool cue right there,
- 14 Defense's Number Four, that's a close-up of it at the top,
- 15 is it not?
- 16 A Yes.
- 17 Q And the bottom photo down there --
- 18 A The wider lens.
- 19 Q That is where it was located?
- 20 A Yes.
- 21 Q And you didn't measure it, but that is out away from
- 22 the club, is it not?
- 23 A Yes.
- 24 Q Out in the grass back towards the traffic light, isn't
- 25 it?

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1 A It's at the upper part of the parking lot to the back
2 towards Saluda Street where the parking lot ends.

3 Q Okay. Is it past the driveway that comes in or you
4 fall --

5 A On Saluda?

6 Q Yeah.

7 A It's above it, yes.

8 Q So it's over the --

9 A If the entrance is here, it's over there.

10 Q Okay. So it's a little far out, right? I mean, that's
11 the front door of the club, correct?

12 A Yes.

13 Q Okay. I know, I'm not helping with my questions, I
14 understand. Now, can you tell me what I've got going on
15 here in Defense Number 3?

16 A That is a wide lense picture of the cell phones that we
17 located.

18 Q Okay. All right. So y'all found a cell phone. And
19 that's over in the grass as well, correct?

20 A Yes, sir.

21 Q Obviously not right beside the pool cue but kind of in
22 that area?

23 A Yes, sir.

24 Q Okay. And I think that's the same thing I got, it
25 looks like it might be a little closer in Defense's Number

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1 1.

2 A Yes, sir, it's the same one.

3 Q What did y'all do with that cell phone?

4 A I placed it into evidence.

5 Q Any analysis of it?

6 A I'm not for sure.

7 Q Okay. You're not aware of any, though, right?

8 A Like I said, I'm not for sure, I'm not the one who done
9 it.

10 Q That would be the case agent?

11 A Yes.

12 Q I'm going to ask you about Defense's Number 2, and I'm
13 not talking about item number nine. What's the red blotchy
14 stuff on the ground?

15 A That would be blood.

16 Q Okay. Do you recall where that was located? Obviously
17 near item number nine.

18 A I'm not for sure. You said it was near item nine?

19 Q Yes, sir.

20 A That would have been the top part of the parking lot.

21 Q Okay. I'm going to show you State's Number 25. Is it
22 beside that car right there that's got the messed up front?

23 A Possibly but I can't see that marker beside that
24 vehicle.

25 Q I've got you, I know that's not a clear shot. But that

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- 1 blood was found out there, correct?
- 2 A Yes.
- 3 Q What did y'all do with that?
- 4 A I photographed it.
- 5 Q Anybody collect it?
- 6 A No, sir.
- 7 Q There was a mention of a swab taken off of the Impala.
- 8 A Yes, sir.
- 9 Q Tell me about that.
- 10 A We did collect blood off of the front end of the
- 11 Impala.
- 12 Q What did y'all do with that?
- 13 A I placed it into evidence.
- 14 Q Any idea what happened after that?
- 15 A No, sir.
- 16 Q Are you aware of any results?
- 17 A No, sir.
- 18 Q All of the shell casings that were collected out there,
- 19 right, you collect them and packaged them up --
- 20 A Yes, sir.
- 21 Q -- they were sent. What kind of testing was ordered on
- 22 them, any idea?
- 23 A No, sir.
- 24 Q I know you don't have a gun and we didn't qualify you
- 25 as an expert but we asked a whole lot about guns and we all

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1 recognize you know a lot about guns and you've been in law
2 enforcement a long time. Is there some place you could send
3 shell casings to see if they were fired by the same gun even
4 without a gun?

5 A Like I said, SLED would be able to do that possibly.

6 Q So if you wanted any kind of testing on the ballistics,
7 the forensics of the shell casings or these projectiles, you
8 would send them to SLED, correct?

9 A Yes, sir.

10 Q Okay. And you have to ask for specific testing; is
11 that correct?

12 A Yes, sir.

13 Q They ain't going to do it unless you ask, right?

14 A Yes, sir.

15 Q Do you know of any tests that got asked for?

16 A Not that I'm aware of.

17 Q Not your area, right?

18 A Yes.

19 Q I won't beat you up on that then. All right. Well,
20 let's go back out to the club the next day. This is
21 Defense's 5, 6, 7 and 8. All right. In Defense's 6, this
22 bottom part here -- in this top part here, what is that?

23 A That is that little spot that I pointed out on the
24 screen.

25 Q Okay.

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1 A That's that area to the right of the front doors.

2 Q Okay. I'm going to show you Defense's Number 8. Are
3 we getting closer to that spot?

4 A Yes.

5 Q What are you looking for the when you're walking out
6 there? Do you just like the paint job or what?

7 A There's a hole in the wall right there.

8 Q And as we get closer in Defense's 5, this is just you
9 documenting getting closer to that hole, correct?

10 A Yes, sir, until you can actually see the projectile
11 right there.

12 Q Actually see a projectile. And that's in Defense's 7,
13 that's just getting a little closer and you can --

14 A Yes, sir.

15 Q That copper looking thing in there, is that what you're
16 looking at?

17 A Yes, sir.

18 Q Did you remove that?

19 A Yes, sir.

20 Q And it was taken into evidence?

21 A Yes, sir.

22 Q Okay. Let's go back to this one. Now, on Defense's
23 Exhibit Number 6, the bottom part on it, why are you taking
24 pictures of the sidewalk?

25 A You can't see it, but right there is a projectile on

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1 the concrete.

2 Q And that is what we see here in --

3 A The up-close picture, yes, sir.

4 Q -- defense Number 8?

5 A Yes, sir.

6 Q And that was collected as well.

7 A Yes, sir.

8 Q And you said those were flattened?

9 A Well, they were pushed in.

10 Q Okay. But I mean, if -- a bullet generally has some
11 kind of cone shape on the end of it, right, generally?

12 A Yes, sir.

13 Q And when it's flattened, as the solicitor asked you
14 about, what does that indicate to you?

15 A That he hit something.

16 Q Something.

17 A Yes, sir.

18 Q We don't know what, right?

19 A Yes, sir.

20 Q Okay. But it hit something. And the bullets that we
21 see here, are those hard bullets or soft bullets or --

22 A You mean like hollow points?

23 Q No. I'm asking these particular bullets -- and I know
24 you didn't analyze the bullets, but your general knowledge
25 of firearms, are those bullets going to flatten when they

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1 hit anything or do they have to hit something really hard
2 or --

3 A You usually have to hit something hard.

4 Q Okay. All right. So like hitting this wall, would
5 that flatten it you would expect it to see?

6 A Possibly, yes.

7 Q Okay. How about a person?

8 A Depends on what this hits in them, I guess.

9 Q Okay. But it's possible it could hit somebody, go
10 through and then you would see it possibly flatten on the
11 other side?

12 A Yes, sir.

13 Q And those were collected, correct?

14 A Yes, sir.

15 Q Okay. This is Defense's Number 9. Tell me about that
16 bottom part first.

17 A That is the back seat of the vehicle.

18 Q Why are you taking a picture of the back seat? What am
19 I looking at?

20 A I took a picture of it before I took a picture of the
21 projectile that we located to show where it was.

22 Q Well where was it?

23 A It was down here in floorboard right here.

24 Q In the floorboard. Okay. And is that a close-up of it
25 right there at the top?

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1 A Yes.

2 Q Okay. And you collected that, correct?

3 A Yes.

4 Q Earlier the State, I think, talked about some possible
5 bullet holes in the side of that car.

6 A Yes.

7 Q Is that beside the door?

8 A Yes, sir.

9 Q Okay. In your experience, would you expect the bullet
10 to go through the door and just fall into the floorboard
11 right there beside it?

12 MS. LIVELY: Your Honor, I'm just going to object.
13 That sounds more like you're leaning towards an expert
14 witness question and he's not an expert --

15 THE COURT: A lot of these questions have been leaning
16 toward expert witness, I sustain the objection.

17 MS. LIVELY: Thank you.

18 Q But it was found in the floorboard, right?

19 A Yes, sir.

20 Q Right beside the door that had the bullet hole in it,
21 right?

22 A Yes, sir.

23 Q And the other projectile was found lodged --

24 A In the front windshield.

25 Q -- in the windshield.

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1 A Yes, sir.

2 Q Okay. The projectiles that were taken from the club
3 that morning and then from the car that day or when y'all
4 processed it later, they collected them, right? You
5 collected them.

6 A Yes, I collected them.

7 Q Okay. Any knowledge of any testing that was done on
8 them?

9 A I'm not aware. Like I said, I do not know, I wasn't
10 the one that done it.

11 Q Okay. But you're aware that a DNA sample was collected
12 from Quinton McClinton?

13 A Yes, sir.

14 Q Are you aware of any other DNA samples being collected?

15 A Not that I'm aware of.

16 Q Now, you're not the only agent on this case, but as you
17 indicated you're the one that's kind of in charge of the
18 evidence?

19 A Yes, sir. I collected the evidence, the DNA from Mr.
20 McClinton.

21 Q I guess what I'm kind of getting at, if DNA is going to
22 be collected from anybody else in this case, would you know
23 about it?

24 A Not necessarily.

25 Q Okay. Solicitor asked you about this, you attempted to

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1 get some fingerprint lifts off this pool cue, right?

2 A Yes, sir.

3 Q Okay. Was there an attempt to get any fingerprint
4 lifts off anything else?

5 A Not sure if I did the cue ball or not.

6 Q Okay. Did you get any?

7 A No.

8 Q You didn't get any fingerprints off of anything --

9 A No, sir.

10 Q -- if it was tested, right?

11 A I didn't do any. I didn't get any fingerprints off of
12 anything that I did.

13 Q But we know you did the cue stick, not sure about the
14 cue ball, can you think of anything else you might have
15 tested? Was that it?

16 A That was it.

17 Q Okay. And the clothes itself, there was no processing
18 on it, correct?

19 A I just collected those and that was it.

20 Q Okay. When you have a firearms case, is there some
21 testing that y'all can collect and send to SLED to
22 potentially see if somebody had been around a firearm?

23 A Yes, sir.

24 Q What is that called?

25 A Gunshot residue kit.

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- 1 Q Was one of those collected?
- 2 A I did not collect one, no.
- 3 Q Are you aware of one being collected?
- 4 A Not right off the top of my head, I'm not for sure.
- 5 Q And the solicitor asked you about the number of shell
- 6 casings we have here, right?
- 7 A Yes.
- 8 Q And although they're all nine Luger, what does Luger
- 9 mean?
- 10 A It's the name brand.
- 11 Q It's a brand, right?
- 12 A Yes, sir.
- 13 Q It's not particular to any type of gun, is it?
- 14 A Just the nine millimeter.
- 15 Q It's something that you can go buy at any store that
- 16 sells firearm equipment, right?
- 17 A Yes, sir.
- 18 Q And the fact that you see all nine millimeters, even if
- 19 there's a couple of guns out inside of a club shooting,
- 20 would that be unusual to you in your experience?
- 21 A No, sir.
- 22 Q Okay. And the solicitor asked and you said couldn't
- 23 have been fired by just one gun, correct?
- 24 A Not one magazine, no.
- 25 Q Not one magazine. All right. Which could be more than

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1 one gun.

2 A Yes.

3 MR. FRICK: Thank you, sir. That's all of the
4 questions I have.

5 MS. LIVELY: I have no further questions for this
6 witness.

7 THE COURT: Step down. We'll take a short break. I'll
8 ask the jury to please go to your jury room, don't talk
9 about the case, I'll bring you back shortly.

10 (The jury left the courtroom.)

11 THE COURT: We will be in recess for 15 minutes.

12 (A break was taken.)

13 THE COURT: All right. You may proceed.

14 MS. LIVELY: Thank you, Your Honor. The State will
15 call Investigator Keith Lewis to the stand.

16 The witness, KEITH LEWIS, was first duly sworn and
17 Testified as follows:

18 DIRECT EXAMINATION

19 BY MS. LIVELY:

20 Q Investigator Lewis, where do you currently work?

21 A I'm the chief investigator for the Sixth Circuit
22 Solicitor's Office, which covers Fairfield, Chester and
23 Lancaster Counties.

24 Q And what are your duties as the chief investigator?

25 A To assist prosecutors in preparing cases and during the

KEITH LEWIS - DIRECT

1 actual trial of the cases, assist them.

2 Q And were you in law enforcement before you came to work
3 with the Sixth Circuit?

4 A Yes, ma'am.

5 Q And where were you employed?

6 A I started with the Fairfield County Sheriff's Office in
7 1977, and I retired in January of 2015.

8 Q So how many years of law enforcement experience is
9 that?

10 A A little over 40.

11 Q All right. Now, Mr. Lewis, in regards to this
12 particular case, what type of information were you requested
13 to gather regarding the scene where the shooting took place?

14 A I ended up getting a blown-up map of the actual scene
15 location, met with the victim of the case at that location
16 to get him to show me where people was actually standing and
17 where things happened at, and got actual measurements so
18 that the jury would be able to see how far it was.

19 Q And in regards to the map that you actually are
20 referring to, is that what's in evidence as State's Exhibit
21 Number 20?

22 A That is. That's the map that I obtained.

23 Q Okay, you obtained. And how did you actually have this
24 map prepared?

25 A I have -- to get a map that big in Chester County you

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1 have to go to the Emergency Management here on York Street I
2 believe it's on, they're the only ones I know that has a
3 printer that's big enough to print a map that size.

4 Q So whenever you went to Emergency Management to get
5 this printed out, is this a picture on the date of the
6 actual shooting?

7 A No, it's not. That is a picture from Goggle Maps.

8 Q All right. Okay. So what we're seeing in this
9 particular still shot is not going to show us the cars and
10 things that were there on that night, is that fair?

11 A That is correct.

12 Q That's correct. Okay. So in regards to this, is it
13 just to provide information as to measurements which you
14 stated earlier regarding where people were at the time of
15 the shooting?

16 A It is. And it's my understanding that that reflects
17 the actual picture. Even though it's not the night this
18 happened, the parking lot is the same, has not changed, the
19 lines for the parking spaces are the same.

20 Q Okay. And how about the actual gas station across the
21 street, is that the same?

22 A That is a Conoco Station and it is still there.

23 Q It's still there. Okay.

24 MS. LIVELY: Your Honor, may the witness step down to
25 assist me?

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1 THE COURT: He may.

2 Q Okay. So Mr. Lewis, will you please tell the jury
3 where -- what you did when you were first trying to
4 determine how far things were based upon what the victim was
5 relaying to you?

6 A Well, the first thing I did when I met with the victim
7 is I was informed that there was a fight before the actual
8 shooting started. So I got him to show me where the fight
9 took place at outside of the club, and I measured from the
10 spot that he told me he was being assaulted to the front
11 door at the club.

12 Q Okay. And if there's any part of where you did a
13 measurement, if you could please just make an X where you
14 start your measurement until where you stopped.

15 A This is the -- I don't know how many are familiar with
16 the Golden Wok, the chinese restaurant, that's this
17 building. This building here is the club known as Images,
18 that's where the shooting occurred, and that's located at
19 2091 J.A. Cochran Bypass here in Chester, South Carolina.
20 This cover right here covers the sidewalk so you can't
21 actually see the sidewalk. And, of course, the victim
22 indicated to me that the actual assault happened about right
23 here on the sidewalk.

24 Q On the sidewalk. I'm going to circle that so we can be
25 sure. All right. Okay. So if the assault -- when you're

KEITH LEWIS - DIRECT

1 talking about the assault, are you talking about the fight
2 that occurred before the shooting?

3 A The fight.

4 Q Okay. And all of this is being relayed to you by
5 Kochese Gregory.

6 A It is.

7 Q All right, just wanted to be sure. So then what
8 measurement -- what did you do after he showed you where the
9 fight took place?

10 A Apparently -- I've never been inside of this club, but
11 apparently there was two doors that goes into the club. One
12 half of the club is like a pool room and the other half is,
13 I'm assuming, a dance floor. There is a door here and a
14 door here, and what I did is measured from here to that
15 first door and it was like 10 feet, and from the spot where
16 the fight happened to the second door is like 22 feet.

17 Q Okay.

18 A Then I actually got Mr. Kochese to indicate to me where
19 he saw the people shooting at him were standing.

20 Q Okay.

21 A And he indicated that there was a car in this space
22 right here and they was right on the other side of that car
23 when they shot at him.

24 Q Were you provided information -- any other information
25 other than where that shooting from that particular position

KEITH LEWIS - DIRECT

1 was, what he remembered seeing, was there any other places
2 that he pointed out to you?

3 A Well, he indicated this because there is a street light
4 right there at that and you can kind of see that street
5 light, the shadow of it. So there was a street light that
6 would have been shining right down on that car, and it was
7 actually 65 feet from there to the front door of that
8 building where he indicated he was shot at.

9 Q Okay. And I'm going to circle this. And this is where
10 he indicated the vehicle was when he said he was being shot
11 at from.

12 A Yes.

13 Q And this area to the front is how far?

14 A 65 feet.

15 Q All right. Have you measured inside the courtroom to
16 give us ideas about how far 65 feet would be?

17 A I have.

18 Q Okay. Give the jury an idea of about how far that
19 would be.

20 A The corner where Mr. Duncan is standing, from that
21 corner to that corner is 75 feet. From the front door of
22 the courthouse to the wall behind the bailiff is right at
23 60 feet.

24 Q So a little bit further than that then.

25 A Yeah.

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1 Q Okay. All right. Thank you, you can have a seat.

2 Now, Mr. Lewis, whenever you were at the club and actually
3 doing some of the measurements, were you also able to locate
4 or actually personally observe some other damage to the
5 building?

6 A Yes, ma'am. On the front of this building maybe three
7 foot up is brick, and above that is solid glass with frames
8 on it, and the top row of bricks, which I called the hatter
9 row. The very top row, you can see where the bricks had
10 been busted and I was able to pick up a few that was on the
11 ground. It looked very familiar to me to be a bullet hole
12 that caused that brick to bust.

13 Q And have you gone back through the photos to see some
14 of the places which have actually been identified by not
15 only the State but by the defense as being where shell
16 casings and projectiles were located? If you haven't that's
17 fine.

18 A I mean, of course I've looked at those photographs and
19 I do remember seeing shell casings on the ground at
20 different places but I have no knowledge of where they were
21 that night.

22 Q Okay. Or projectiles and where they were located?

23 A No.

24 Q The reason why I asked, Mr. Lewis, is because at the
25 time were you looking for other things in that area just to

KEITH LEWIS - DIRECT

1 indicate to you what had happened to kind of recreate the
2 scene in your mind?

3 A Yes. Because I knew several vehicles in the parking
4 lot had received bullet holes, I was kind of amazed that
5 none of the glass in the club was actually shot out, that I
6 could tell any of the glass had been shot.

7 Q Okay. All right. So you were kind of looking over the
8 whole scenario at that point.

9 A Yes, ma'am.

10 Q Did you have the chance to meet with or talk to anyone
11 else other than going to Emergency Management for this
12 blown-up map and the victim, Mr. Kochese Gregory, regarding
13 the measurements?

14 A That's all regarding the measurements.

15 Q That's all regarding that? Okay.

16 MS. LIVELY: Thank you so much. Answer any questions
17 that the defense may have.

18 MR. DUNCAN: Thank you, Your Honor.

19 CROSS EXAMINATION

20 BY MR. DUNCAN:

21 Q Good afternoon, Investigator Lewis.

22 A Good evening, sir.

23 Q Investigator, when did you go out to Club Images as you
24 have just described to the jury showing the map, when did
25 that take place?

KEITH LEWIS - CROSS

1 A This is February the 6th, I believe, or 5th, today?

2 Q Yes, sir.

3 A This happened some time in January of this year,
4 probably three to four weeks ago.

5 Q Within the last 30 days is when you --

6 A Yes, sir, within the last 30 days.

7 Q All right, sir. And again, the information that you
8 had about where anything was -- where a vehicle was located
9 in the parking lot came only from Mr. Gregory; is that
10 right?

11 A Only from Mr. Gregory, and from the photographs that I
12 have seen from the crime scene.

13 Q And let me get clear, I just didn't hear it well, in
14 the building itself, did you go inside the building?

15 A No, sir, I've never been in there.

16 Q Never been in the building.

17 A No.

18 Q But in looking at the building you noted some damage
19 and it appeared to be bullet holes, did I hear that right?

20 A Yes, sir.

21 Q And there were two?

22 A Yes, sir.

23 Q And they were -- as far as on the building, were those
24 on the pool room side or the club side, or do you remember?

25 A It's my understanding if you're facing the building the

1 pool room is to the left.

2 Q Yes, sir.

3 A And that's where these bullet holes were at was right
4 at the brick at that door that went into the pool hall.

5 MR. DUNCAN: Okay. I think that's all of the questions
6 I have, thank you.

7 MR. FRICK: Very briefly.

8 CROSS EXAMINATION

9 BY MR. FRICK:

10 Q Investigator Lewis, the information you are testifying
11 about today is based on your investigation of the scene
12 about three weeks ago?

13 A That's correct.

14 Q Based on information given to you by Kochese Gregory.

15 A Kochese Gregory and the crime scene photographs.

16 MR. FRICK: Thank you, sir.

17 THE COURT: Anything else?

18 MS. LIVELY: No further questions, Your Honor.

19 THE COURT: You my may step down. May we approach,
20 Your Honor?

21 (A bench conference was held.)

22 THE COURT: All right. Ladies and gentlemen, the next
23 witness is probably going to be more lengthy than we want to
24 get started with this afternoon so we'll recess for the
25 afternoon, we'll resume in the morning beginning at 10:00.

1 Keep in mind no discussions, no research, no investigation,
2 no media exposure, have a good afternoon. Please report to
3 your jury room at 10:00 in the morning.

4 (The jury left the courtroom.)

5 THE COURT: Court is in recess until 10:00 in the
6 morning.

7 (Court recessed for the evening and resumed at 10:00
8 A.m., on Thursday, February 6, 2020.)

9 THE COURT: Bring the jury in, please.

10 (The jury returned to the courtroom.)

11 THE COURT: Good morning, ladies and gentlemen. As you
12 know when we recessed yesterday the State was in the midst
13 of -- or still in the midst of their presentation so we'll
14 continue with that presentation this morning.

15 MS. LIVELY: Yes, thank you. Your Honor, the State
16 would call Investigator Wade Young to the stand.

17 The witness, WADE YOUNG, was first duly sworn and

18 Testified as follows:

19 DIRECT EXAMINATION

20 BY MS. LIVELY:

21 Q Investigator Young, where are you currently employed?

22 A Chester County Sheriff's Office.

23 Q And you're actually a lieutenant now over
24 investigations, correct?

25 A Yes, ma'am.

WADE YOUNG - DIRECT

1 Q All right. And how long have you been with the Chester
2 County Sheriff's Office?

3 A Approximately 11 years.

4 Q And how many of those years have you worked in the
5 investigative section?

6 A Five.

7 Q And whenever you get assigned to a particular case,
8 explain to the jury how that actually happens.

9 A Well, back in 2018 what we normally do -- we do it a
10 little bit different now since we're trying to change things
11 around now, back then if you were on call, if this was your
12 on call week then you handled the case, that's basically how
13 it was assigned.

14 Q Got it.

15 A And that's how I became the lead investigator over the
16 case, it was my on call week during the Christmas holidays
17 and everything.

18 Q All right. So Lieutenant Young, during the evening of
19 December 25, 2018, were there several officers who actually
20 came on scene and assisted?

21 A Yes, ma'am.

22 Q All right. Do you recall about how long it was before
23 you were able to actually make it to the scene that night?

24 A I got there around 3:25.

25 Q Do you remember what time the 911 call in?

WADE YOUNG - DIRECT

1 A I'm not sure, about 2:00. They called me about 2:00
2 and alerted me that I needed to come to Chester.

3 Q So about 2:00. And then about 3:25 you actually make
4 it to Images, the actual club area.

5 A Yes, ma'am, 2091 J.A. Cochran Bypass.

6 Q And that's in the county, correct?

7 A Yes, ma'am.

8 Q Now, Lieutenant Young, when you arrived there, tell the
9 jury what it was that you actually observed.

10 A Basically the crime scene had already been taped off.
11 When I walked out there on the scene I basically seen a
12 bunch of shell casings in the lower parking lot, and after I
13 observed everything I went to find the officer that had 911
14 to dispatch me out, which was Sergeant Bryant Thorpe.

15 Q Bryant Thorpe. And are you aware as to whether or not
16 Officer Thorpe had a body worn camera that night?

17 A Yes, ma'am.

18 Q And have you reviewed that body worn camera?

19 A Yes, ma'am.

20 Q So before you got there and after reviewing the body
21 worn camera, can you explain to the jury the difference
22 between when Officer Thorpe got there as to what you saw
23 when you got there?

24 A When Officer Thorpe got there it was very chaotic, when
25 I got there it was a little more calmer down. It was still

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1 chaotic judging by the body camera.

2 Q And whenever you did arrive, was it your duty at that
3 point to take any kind of statements from potential
4 witnesses?

5 A Well, normally I process the scene first. On this
6 particular instance when I got there, once I found out the
7 information from Sergeant Thorpe I was assigned to go to
8 Carolina Medical Hospital. My supervisor, who was actually,
9 the case agent, would tell me what to do. Of course, I'm
10 the lead investigator but if he say go to Carolina Medical
11 Center I've got to go to Carolina Medical Center.

12 Q So once you arrived at the Images Club then at about
13 3:25, how long do you think you were there before you left
14 to go to Charlotte?

15 A Approximately 30 minutes.

16 Q Thirty minutes?

17 A Yes, ma'am.

18 Q When you were there, did you actually get to talk to
19 any potential witnesses?

20 A Yes, ma'am, I did.

21 Q Okay.

22 A While I was out there looking at the scene my
23 supervisor then, he brought Mr. J. P. McNeil to me and he
24 said, "This young man needs to tell you something."

25 Q All right. And J. P. McNeil, where does he currently

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1 work?

2 A He actually is a first responder, then -- he was an EMT
3 then, he's doing another job there, but he was the first
4 responder.

5 Q And you've actually been in here through a majority of
6 the trial, correct?

7 A Mostly, yes, ma'am.

8 Q And there is a body worn camera that was put into
9 evidence from Officer Rinke who was with the Chester City?

10 A Yes, ma'am.

11 Q Did you see J. P. McNeil on that?

12 A Yes, ma'am. J. P. was in the hospital, Chester County
13 Hospital.

14 Q And basically the information that Mr. McNeil gave to
15 you is consistent with that?

16 A Yes, ma'am. Mr. McNeil actually came back to the scene
17 and told me what had happened.

18 Q All right. Because he had been at the hospital.

19 A Yes, ma'am, he said Mr. McClinton --

20 MR. DUNCAN: Your Honor, I object to --

21 A He did give --

22 MR. DUNCAN: -- what he said.

23 A He did give me a statement and I asked him, I said,

24 "Well, I want you to give this statement to him," my

25 supervisor, and he was actually going to write it down for

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1 me because I've had to go to Charlotte.

2 Q So you did get an actual written statement from Mr.

3 McNeil.

4 A Yes, ma'am.

5 Q But what he told you is actually on that body worn

6 camera.

7 A Exactly the same thing.

8 Q Same thing. All right, thank you. Now, was he the

9 only one that you were actually able to get a statement

10 written from that moment when you were there?

11 A At that time moment, yes, ma'am.

12 Q Okay. So any other written statements that were given

13 would have been given to other officers at that point.

14 A Yes.

15 Q All right, thank you. And who was in charge of

16 actually collecting the evidence and marking the evidence?

17 A Sergeant Brian Sanders.

18 Q And have you looked at the crime scene photos and know

19 about all of the information that was collected?

20 A Yes, ma'am.

21 Q And as a lead investigator, was it your decision as to

22 what would be sent to SLED for testing and why?

23 A Yes.

24 Q And I'll talk to you about that in just a little bit.

25 So on the night that he went to Charlotte, tell the jury

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1 what you actually did whenever you got there.

2 A Well, when I got there I actually was going to see
3 about the victim, Kochese Gregory. I was going to try to
4 get a GSR on him just to make sure, that's what we normally
5 do, try to get a GSR. But Mr. McClinton --

6 Q Will you please just explain for those who may not
7 know, what's a GSR?

8 A That's a gunshot residue kit. We do that on victims
9 and other people that potentially have been shooting guns
10 just to verify that they actually shoot a gun or not.

11 Q And what is the kit -- what area of the body does the
12 kit actually test?

13 A The hands.

14 Q All right. So -- I'm sorry, I just wanted to make sure
15 the jury was clear, okay? You can continue.

16 A Okay. When I got there I actually came to the surgery
17 room and knowing the condition of Mr. Gregory at the time.
18 So I actually spoke to the surgeon that was coming -- he was
19 just doing surgery on Mr. Gregory and I said, "Sir, there's
20 an opportunity for me to speak with Mr. Gregory?" He said,
21 "Sir, I don't think you'll ever get to speak to Mr. Gregory,
22 we lost him four times already." And at that time I said,
23 "Do you think he will make it through the night?" And he
24 said, "Sir, if he make it through the night it will be a
25 miracle." So I actually stood around, waited. I called my

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1 boss and I said, "Sir, we might have a murder on our hands."
2 That's what I -- actually the surgeon came out, you could
3 tell he had been working hard, he was sweating, his scrubs
4 was all twisted and his head was twisted. You could tell he
5 had a hard night, yes.

6 Q And obviously Mr. Gregory did survive.

7 A He did survive, it was a miracle.

8 Q And whenever -- so you were not able to do a GSR on his
9 hands?

10 A No, ma'am.

11 Q So after -- did -- was there a point in time during the
12 time you were there that initial early morning where you
13 were ever able to talk to Kochese Gregory yourself?

14 A No, ma'am.

15 Q Okay. Did you ever go attempt to get in contact with
16 him at a later date?

17 A On the 27th.

18 Q On the 27th.

19 A Yes, ma'am.

20 Q And how did that go?

21 A He told me he wasn't -- he told me, he said, "Sir, I"

22 --

23 MR. DUNCAN: Objection, Your Honor, hearsay.

24 THE COURT: Sustained.

25 Q You can't tell me what he said. But as a result of

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1 that conversation, were you able to -- is that one that was
2 recorded of the victim or was that --

3 A Not that one, no, ma'am.

4 Q All right. Was he under medication at that time?

5 A Highly.

6 Q So were you able to get anything of significance to
7 help with the investigation from him that day?

8 A No, ma'am.

9 Q Did you go back again to speak with him?

10 A Yes, ma'am.

11 Q When you went back the next time, when was that?

12 A On January 8th.

13 Q When you went back January the 8th, were you able to
14 have a conversation with him?

15 A Yes, ma'am.

16 Q Was that one audio recorded?

17 A Yes, ma'am.

18 Q And so you were able to get information to further your
19 investigation at that point?

20 A Yes, I did.

21 Q So after you spoke to Mr. Gregory on January the 8th,
22 were there other people that you were reaching out to to
23 speak with as well?

24 A Yes.

25 Q And did you have an opportunity to speak to the

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1 codefendant in this case, Mr. Montrell Graham?

2 A I did.

3 Q Was that -- and tell us about -- don't tell us what was
4 said yet but just tell us how he came to speak to you?

5 A Well, it was December the 28th he came in, three days
6 after the 25th, he just came in voluntarily on his own free
7 will and accord, said he wanted to speak to the
8 investigator.

9 Q He did.

10 A Yes.

11 Q And since it was your case, were you the one that ended
12 up speaking with him?

13 A Yes, ma'am. Mr. Neil brought him to me and said, "Hey,
14 Mr. Graham want to give you a statement."

15 Q All right. And, Mr. Neil, was he an officer that
16 worked with the sheriff's office at that time?

17 A Yes, ma'am. Agent Neil was an officer that worked us.
18 And normally when someone come through our agency they have
19 to be escorted back, and that's why Mr. Neil escorted him
20 back to the investigation department.

21 Q Whenever he was escorted back to you, did you actually
22 read him his Miranda rights?

23 A Yes, ma'am. I didn't have to because he wasn't being
24 arrested but I did read them to him.

25 Q And you did read them to him. And at that point, was

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1 he a person of interest or a suspect in this case?

2 A We had knowledge that he was there.

3 Q Okay. Just that he was there. But as to anything else
4 in regards just to Mr. Graham, that was it.

5 A Yes.

6 Q All right. So there was no -- was there a warrant out
7 for his arrest?

8 A No, ma'am.

9 Q I'm going to show you what's been marked as State's
10 Exhibit Number 12 and State's Exhibit Number 1. First of
11 all as to State's Exhibit Number 12 if you'll just tell me,
12 do you recognize what that document is?

13 A It's a rights form.

14 Q It's a rights form. And on those rights forms, do you
15 actually explain what all of the rights that the person
16 could be giving up if they chose to speak with you?

17 A Yes, ma'am.

18 Q And whose name is on that document?

19 A Mr. Montrell Graham.

20 Q And who witnessed that statement?

21 A Mr. Telly Crockett.

22 Q Was he another investigator with you?

23 A Yeah, he was in the room with me.

24 Q So whenever you went through that -- through the rights
25 form with Mr. Graham, did he appear to understand what he

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1 was doing?

2 A He did.

3 Q Is his initial -- are his initials beside each one of
4 the rights he's waiving?

5 A Yes.

6 MS. LIVELY: Your Honor, the State would move State's
7 Exhibit Number 12 into evidence.

8 MR. FRICK: No objection.

9 MR. DUNCAN: No objection.

10 THE COURT: It's admitted.

11 (The Miranda form was received as State's 12.)

12 Q So clearly then you stated on that day he was not under
13 arrest so he came and talked to you.

14 A Yes. He actually went home that day.

15 Q He went home that day. And during the interview, did
16 you actually tell him he would be going home?

17 A Yes, ma'am, I did.

18 Q Okay. Was the actual interview fairly cordial?

19 A Yes, it was.

20 Q And during the interview -- and we have the actual
21 interview, but was there actually -- did Mr. Graham put
22 himself there?

23 A Yes, he did.

24 Q At the club?

25 A Yes.

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1 Q Okay. Did Mr. Graham put himself with the defendant,
2 Quinton McClinton?

3 A Yes, he did.

4 Q Did Mr. Graham tell you who was the one that drove them
5 to the club that night?

6 A Yes, ma'am, he did.

7 Q Who drove them?

8 A Montrell Graham.

9 Q Did he tell you who drove them away from the club?

10 A Mr. Montrell Graham.

11 Q Montrell Graham? And did he tell you who was in the
12 vehicle with him whenever he did?

13 A Yes, ma'am, he did.

14 Q Who was that?

15 A Mr. Carlton Dixon and Mr. Quinton McClinton.

16 Q All right. I'm going to show you State's Exhibit
17 Number 1. Was the interview with Montrell Graham audio and
18 video recorded?

19 A Yes, it was.

20 Q And whenever you audio and video record a statement, do
21 you actually download it and preserve it for potential
22 evidence in a case?

23 A Yes, I do.

24 MS. LIVELY: Your Honor, at this time the State would
25 move in State's Exhibit Number 1 into evidence.

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1 MR. DUNCAN: No objection.

2 MR. FRICK: Your Honor, just renew my objection as
3 previously ruled upon in a prior hearing, Denno hearing.

4 THE COURT: It's admitted.

5 (The CD of the interview was received as State's 1.)

6 Q Was anybody detained as a result of -- I'm going back
7 to the actual night -- on the body worn camera, was there
8 anybody that you saw that had to be detained or arrested
9 from that particular night?

10 A No.

11 Q And after you gained information -- well, let me back
12 up. You went to Charlotte and you couldn't interview the
13 victim at that time?

14 A No, ma'am.

15 Q But were you aware from J. P. McNeil as well as from
16 the body worn camera who the potential suspect was in this
17 case?

18 A Yes.

19 Q Did you collect the other statements that were actually
20 gotten by other officers on the scene before you got there?

21 A Before I got to the hospital?

22 Q No. After you left the hospital -- I'm sorry. After
23 you left the hospital because you weren't able to talk to
24 Mr. Gregory, were you able to gather all of the statements
25 at that point to review them for purposes of your

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1 investigation?

2 A Yes, ma'am.

3 Q And based upon the information that you read through
4 all of the statements that you had, did you come up with a
5 suspect at that time?

6 A Yes, ma'am, I did.

7 Q And who was that?

8 A Mr. Quinton McClinton.

9 Q Quinton McClinton. All right. And did you have some
10 other concerns about what had happened that night in regards
11 to the victim himself?

12 A I did.

13 Q All right. Well, tell the jury about that.

14 A Actually I had conflicting statements that he was
15 actually shooting also. So at that time I gathered the
16 facts, and after gathering the facts at that time what I had
17 I actually got a warrant on Mr. Gregory also.

18 Q Okay. And you were in here whenever Ms. Benika Kershaw
19 testified, correct?

20 A Right.

21 Q And was the one who called 911?

22 A Yes, ma'am.

23 Q And in that 911 call as well as from her statement, did
24 you have information that concerned you about whether or not
25 Mr. Gregory had a gun?

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1 A Yes, ma'am.

2 Q So in that particular situation, did you present that
3 information to a magistrate for the level of probable cause
4 to get an arrest?

5 A Yes, ma'am.

6 Q When did you actually get -- and I'm going to back you
7 up, when did you get or ask for a warrant on Mr. Quinton
8 McClinton regarding his involvement in this case?

9 A It was later on Christmas Day, the 25th, late in that
10 evening sometime.

11 Q When did you get the one on Kochese Gregory?

12 A January 31st.

13 Q January 31st. Okay. So what was the delay, or just
14 tell the jury kind of what was going on.

15 A Just basically trying to gather more information, just
16 trying to see who is credible, who had direct observation on
17 the shooting.

18 Q Okay. All right. And at that time were some of the
19 statements still conflicting?

20 A They were still conflicting.

21 Q So whenever you, as you continue to go through this
22 particular case, was Mr. McClinton actually located at some
23 point and brought in to custody?

24 A Yes, ma'am.

25 Q When was that?

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1 A It was February the 3rd, I'm thinking.

2 Q Here, I'm going to show you a document that might
3 refresh your recollection.

4 A January 3rd, I'm sorry.

5 Q And that's 2019?

6 A Yes, ma'am, 2019.

7 Q All right. Okay. And Lieutenant Young, is there any
8 camera surveillance outside the club?

9 A None whatsoever.

10 Q Is there any camera surveillance inside the club?

11 A None whatsoever.

12 Q Did you ever talk to a woman by the name of -- she goes
13 by Tina Davis, or her real name is Terquila Clifton?

14 A I did.

15 Q Well, where was she whenever you interviewed her?

16 A First of all I went to her house, I'm looking for Tina
17 Davis, but when I get there she tells me her name is
18 Terquila Clifton so I'm thinking I got the wrong person.

19 Q Okay. And so what did you -- did you ever actually get
20 her to come in and talk to you at the station?

21 A Yes, ma'am. She was terrified, I mean, she was
22 terrified.

23 Q And what was the issue that you needed to address with
24 her from that night?

25 A Just trying to gather some information, what did she

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1 see. Information about the car that she was driving, just
2 basically stuff like that. Just trying to gather more
3 evidence.

4 Q Do you remember when she actually came in and spoke
5 with you?

6 A We spoke several times, I don't remember exactly
7 remember the dates. I want to say one was right after
8 Christmas and we spoke to her another time.

9 Q Okay. At what point in time was the codefendant,
10 Montrell Graham, actually arrested as an accessory after the
11 fact?

12 A I don't exactly remember the dates because the dates
13 runs together in my head. I want to say it was actually
14 January 8th some time.

15 Q So it was after Mr. McClinton was arrested?

16 A Yeah, it was after. No, excuse me. He came in on the
17 27th but he didn't get arrested then -- I mean, he came in
18 on the 28th, he didn't get arrested then, so he got arrested
19 maybe a week or two later.

20 Q Okay. And once again, this was -- were you still going
21 through the evidence and talking to people?

22 A Yes, ma'am.

23 Q I'm going to ask you a couple of more questions just to
24 clear up some stuff on the evidence if you don't mind. I'm
25 going to show you State's Exhibits 43 through 56 that's just

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1 been marked for identification. If you'll look through
2 those, Lieutenant Young, if you don't mind. And just make
3 sure that you do recognize those photos.

4 A I've looked through all of them.

5 Q So the first one that I want you to look at, I think
6 that should be the top one, yeah, that's State's -- start me
7 over again, what number.

8 A Forty-three.

9 Q State's 43. What are we seeing in this particular
10 photo whenever you --

11 THE COURT: Excuse me, are these admitted without
12 objection?

13 Q Hold on. I meant to ask you to review each one of them
14 before I can ask to put them in, I apologize, I got ahead
15 myself.

16 THE COURT: Do you object to them? Forty-three through
17 56 is what she is showing.

18 MR. FRICK: No objection.

19 MR. DUNCAN: I don't have any objection.

20 MS. LIVELY: Your Honor, the State would move --

21 THE COURT: They're admitted.

22 MS. LIVELY: Okay. Thank you.

23 (The photos were received as State's 43-56.)

24 Q Okay. So we'll try to go through these kind of
25 quickly. So in regards to this particular picture, what

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1 area of the parking lot are we looking at at this point from
2 what view?

3 A It's close to the lower end of the parking lot.

4 Q The lower end of the parking lot?

5 A Yes.

6 Q And would that be from where you're standing from the
7 club and looking out towards the parking lot?

8 A Yes. That was kind of like in the middle right here,
9 though, it's close to the middle.

10 Q And once again, is this just another angle, the next
11 one?

12 A Just a different angle.

13 Q What number is that one?

14 A Forty-four.

15 Q All right. So 45. What I wanted you to explain to the
16 jury, because it was a little confusing yesterday, when you
17 look at this photo, okay, you see where it says Images now
18 open?

19 A Yes.

20 Q Which one of the doors goes into the pool room?

21 A I want to say the double doors actually goes into
22 the -- the pool room, I'm sorry, is actually the single
23 door.

24 Q The single door.

25 A It's closer to the front end of the car.

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- 1 Q So this one right next to where the trash can is?
- 2 A Yes.
- 3 Q Okay. So that's the pool room. Where is the main
- 4 entrance to the dance club?
- 5 A The double doors to the right.
- 6 Q The double doors to that right. All right. So that's
- 7 the different doors that everybody is talking about.
- 8 A Yes.
- 9 Q And what number is that one, sir?
- 10 A Forty-five.
- 11 Q Now, this particular picture here. We saw in 43 that
- 12 brown vehicle that you had, the very first picture, is this
- 13 another angle with all the markers now?
- 14 A Yes, ma'am, it's a different angle.
- 15 Q And so all of those shell casings -- what's number
- 16 four?
- 17 A Like a pool ball.
- 18 Q The pool ball. And this again is another angle; is
- 19 that correct?
- 20 A Yes.
- 21 Q And that's number what?
- 22 A Forty-seven.
- 23 Q Okay. And here -- I'm going to back up. Is this the
- 24 same vehicle that we're seeing, the brown one at the very
- 25 end whenever I go to the next one?

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1 A Yes.

2 Q Okay. What's that number, the one that shows the
3 number nine marker and the crushed front end?

4 A Forty-eight.

5 Q Forty-eight? Okay. Was there any significance as to
6 the crushed vehicle --

7 A That was the young lady that called and said she got
8 into the wreck and she drove it to the club that night, to
9 the dance that night.

10 Q So it wasn't wrecked at the club.

11 A It didn't have anything to do with it.

12 Q I just wanted to be sure. So this number nine marker
13 here, what was that identifying?

14 A Blood.

15 Q So that would have been marker nine next to that
16 particular vehicle.

17 A Yes.

18 Q Was that blood ever sent off for testing?

19 A No, it wasn't.

20 Q And whose decision was that?

21 A Mine.

22 Q All right. Why is that?

23 A Because I got information that the blood came from a
24 young man that had got hit with a golf ball, didn't have
25 anything to do with the shooting.

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1 Q A golf ball?

2 A I'm sorry, a pool ball.

3 Q Okay.

4 A Both of them would probably do the same damage anyway,
5 it was a pool ball.

6 Q And I'm going to show you actually what's already in
7 evidence as State's Number 39. There was -- well, back up
8 here. That number four marker where you said that was the
9 cue ball?

10 A Yes.

11 Q All right. So that's in close proximity to that
12 vehicle?

13 A Yes.

14 Q All right. Where the blood was documented. Okay. All
15 right. Now, how about this vehicle here, can you tell me
16 what number is that one?

17 A Fifty.

18 Q There was some questions about this particular vehicle.
19 Was there blood on this vehicle?

20 A Yes, ma'am, the same man's blood.

21 Q Okay. And how do you know this?

22 A He told us.

23 Q He told you. Okay. And was he actually -- and I'm
24 getting ready to get to a picture, but that blood right
25 there and then that blood. So which car is it where the

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1 blood was actually found, the white car that was found on
2 the front, which one of these white cars?

3 A Let me see what picture you're looking at.

4 Q Sure. And tell me what the State number is so we can
5 be clear for the record.

6 A Forty-seven.

7 Q Okay. State's Exhibit Number 47. It should be the one
8 where you see a bunch of markers right around it.

9 A Yes.

10 Q Okay. All right. So which one then is the one that
11 you swabbed for the -- was -- or not you, I apologize, which
12 one of the vehicles had the blood on the front end that was
13 swabbed by Investigator Sanders?

14 A The white Impala.

15 Q The white Impala, got it. And so we're going to back
16 up or we're going to go forward here. Is that the white
17 Impala?

18 A Yes.

19 Q And where is the blood that was swabbed, do you
20 remember where?

21 A Actually on the front of the bumper.

22 Q Front bumper? Okay. And is that another picture of
23 the white Impala? And you don't have that one, that one is
24 already in evidence, I'm just asking you to look at this.

25 If you need me to find at this will.

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1 A Yeah, please do.

2 Q Sure. It's State's Number 13, I'm going to show it to

3 you.

4 A I can't tell if that's the Impala or not at this angle.

5 Q Do you know whose vehicle that is?

6 A I can't remember whose vehicle that is.

7 Q Is that the one that had shots in it, or can you tell?

8 A Yeah, I'm sure it does.

9 Q Well, you need to tell me. I don't want to put

10 words --

11 A Looking at the glass it looks like it's been shattered,

12 the picture is a little blurry to me.

13 Q I'm going to show you, this is State's Exhibit Number

14 14. Maybe this will kind of help you get where it is.

15 A Yes.

16 Q Yes what?

17 A That's the Impala.

18 Q Thank you, so that's the Impala. And in State's Number

19 14, which is a little bit easier to see, you can see where

20 the wrecked brown vehicle was, the white Impala that had the

21 blood on the front, okay? We're good. So these are some

22 more photos, these are already in evidence from yesterday.

23 All right. How about this particular photo that has a

24 marker 16? You should have that one in your new pile.

25 A I found it.

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1 Q You found it?

2 A Uh-huh.

3 Q What State's number is that?

4 A Fifty-two.

5 Q Fifty-two. Thank you. State's Exhibit Number 52 has
6 marker 16. Please tell us what item that is.

7 A It's an I-phone.

8 Q An I-phone. All right. What did you do with the
9 I-phone?

10 A We took it into evidence.

11 Q Okay. Was anything done with it?

12 A No, ma'am.

13 Q Why not?

14 A Well, it was an I-phone, we couldn't get in the code,
15 we didn't know the code. In order to get in an I-phone you
16 have to get in the code, and the gentleman said he was
17 coming back that it belongs to but he never came back to
18 give us the password to get into it. So we couldn't -- it's
19 still in the office, it's in evidence.

20 Q Okay. Was it any -- so the person whose phone -- is he
21 actually on the body worn camera coming to get the phone, do
22 you remember?

23 A I think so.

24 Q All right, that's fine.

25 A Do you want his name?

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1 Q If you can't remember his name, I can't tell you his
2 name.

3 A I said do you want his name?

4 Q Yeah.

5 A His name is Fabian McCullough.

6 Q Okay. So Fabian McCullough. Was he someone who had
7 been identified as being involved in anything that happened
8 that night?

9 A Not to my knowledge.

10 Q From the witness statements and everything you had, did
11 his name come up?

12 A I can't remember. I'm sure it did but I can't
13 remember.

14 Q All right. Okay. Was he a suspect in this case?

15 A No, ma'am.

16 Q All right. There's more pictures. All right. Who is
17 this young man?

18 A That's a James Woodard.

19 Q All right. I'm going to hand you State's 56. Do you
20 have the one that's been standing there, too? So 55 and 56.
21 So who is this person?

22 A He is the gentleman that got hit with the pool ball.

23 Q All right. And did you actually interview this --

24 A No, ma'am.

25 Q Do you know who he came with?

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1 A I think Ms. Isom.

2 Q And who is Ms. Isom?

3 A Mr. McClinton's sister.

4 Q Mr. McClinton's sister? And so you never interviewed
5 him?

6 A No, ma'am, I didn't.

7 Q You didn't, okay. Did anyone with your office actually
8 speak with this --

9 A They did, along with Ms. Isom, we spoke with him.
10 That's how we know he was the one that got hit with the pool
11 ball.

12 Q Got you. And actually these photos, were they taken by
13 Investigator Sanders?

14 A It was. That's why he took the picture. Because this
15 gentleman came to us and said, "Hey, I got hit with a pool
16 ball."

17 Q Well, I'm not going to ask that question. And I'm just
18 going to blow this up just a little bit. Can you tell what
19 is all over his clothing? What does it look like to you?

20 A It looks like blood to me.

21 Q All right. Okay. So you learned that the blood was
22 from another individual that was at the scene. Another
23 matter that was brought up -- and then also the phone, you
24 said -- you've already testified as to that. And as for the
25 GSR regarding the victim's hands, you couldn't get in there

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1 because you said they were trying to save his life. What
2 about any GSR on his particular clothing?

3 A No, ma'am. When we was actually -- sent them down,
4 SLED actually don't do that type of analysis anymore because
5 their analysis can't differentiate between the shooter or --
6 the victim or the person that was shooting.

7 Q Okay. From the bullet hitting the person.

8 A Yes, ma'am.

9 Q Okay. All right. So they didn't do the GSR.

10 A No, ma'am, they don't do that type of testing anymore.

11 Q All right. And let me ask you this, in regards to
12 attempting -- did you send all of the shell casings that
13 were found?

14 A Yes.

15 Q Why did you send the shell casings to SLED? What did
16 you ask for?

17 A To see if we could get a swab of some DNA off of them.

18 Q Okay. And you sent that to SLED for them to swab. Was
19 there any DNA for them to --

20 A None whatsoever.

21 Q None, okay. Is that why you got standards, which is
22 called -- from Mr. Quinton McClinton?

23 A Yes, ma'am.

24 Q Does SLED have to have that in order to get a profile?

25 A To make a comparison, yes.

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1 Q To make a comparison, okay. So what you're saying --
2 did you pull up the I-lab report from SLED?

3 A Yes.

4 Q That's their final report, correct?

5 A Yes.

6 Q And there was no DNA to compare it to.

7 A No DNA.

8 Q So in this case you have no DNA evidence, correct?

9 A That's right.

10 Q You have no GSR evidence in regards to the defendant,
11 Quinton McClinton?

12 A No, ma'am.

13 Q No blood evidence in regards to the defendant, Quinton
14 McClinton or Montrell Graham, either one.

15 A None whatsoever.

16 Q So was this case basically put together through eye
17 witness testimony?

18 A That's all we had.

19 Q That's all you had.

20 A Yes, ma'am.

21 Q And how difficult was it with getting that eye witness
22 testimony?

23 A Very difficult. We live in a small community and a lot
24 of times people just don't to get out information, people
25 just don't want to talk, they're afraid or whatever, they

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1 just don't to talk. That's my family --

2 MR. FRICK: Objection, speculation, Your Honor.

3 THE COURT: Sustained.

4 Q Thank you. Despite those issues, were you actually
5 able to have enough information to clearly have a suspect in
6 this case?

7 A Yes, I did.

8 Q In regards to Kochese Gregory, what ended up happening
9 with his charge for allegedly also shooting?

10 A It was dismissed.

11 Q It was dismissed. And were you okay with that?

12 A I'm okay with it.

13 Q And why is that?

14 A Because I believed his testimony.

15 Q Okay. All right, and --

16 MR. FRICK: Objection, bolstering, Your Honor.

17 THE COURT: Sustained.

18 MR. FRICK: Move to strike.

19 THE COURT: The jury is asked to disregard the last
20 response given by the witness. His role in this is not to
21 determine the credibility of testimony, that's your role,
22 and I think everybody knows that, so --

23 MS. LIVELY: Yes, sir, thank you.

24 Q Well, let me ask you, based on the interviews and
25 reviewing the statements by Mr. Gregory, is that -- let me

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1 just see how I can ask that to make sure -- I don't want to
2 confuse you. Based upon all of the information at the end
3 of the day, watching the body worn cameras and every bit of
4 information that you had, did you have information as to who
5 was potentially the initiator of the shooting?

6 A Yes, I did.

7 Q Was it Kochese Gregory?

8 A No, ma'am.

9 Q So if he had a weapon, was he the one who started
10 shooting?

11 A No, ma'am.

12 Q From what you gathered in your investigation.

13 A From the statements I gathered.

14 Q All right. So from everything you gathered, who was
15 the initiator of the shooting?

16 A Mr. McClinton.

17 Q Quinton McClinton. And who drove him away from that
18 scene?

19 A Mr. Graham, Montrell Graham.

20 Q Montrell Graham?

21 MS. LIVELY: Your Honor, at this time the State would
22 like to publish the statement of Montrell Graham.

23 THE COURT: All right.

24 MS. LIVELY: Your Honor, may we approach just one
25 moment?

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1 (A bench conference was held.)

2 MS. LIVELY: If the defense doesn't object I can scroll
3 past the Miranda.

4 THE COURT: You can play whatever portion, it's in
5 evidence, if they want to play more they can.

6 (The video was played.)

7 THE COURT: Let's take a break before we continue with
8 the examination. I'll ask the jury to please go to your
9 jury room, don't discuss the case, I'll bring you back after
10 that.

11 (The jury left the courtroom.)

12 THE COURT: Mr. Young, you can step down but don't
13 discuss your testimony during the break.

14 THE WITNESS: Thank you, sir.

15 THE COURT: We'll be at ease for 15 minutes.

16 (A recess was taken.)

17 THE COURT: Bring in the jury.

18 (The jury returned to the courtroom.)

19 THE COURT: All right, you may proceed.

20 MS. LIVELY: Thank you, Your Honor.

21 BY MS. LIVELY:

22 Q Just a couple more questions for you, Lieutenant Young.
23 First of all, in the video that we just watched you kept
24 mentioning knowing kids and being in the 6th grade in that.
25 What did you used to do whenever you were in Chester County?

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1 A Before I became an investigator I was a school resource
2 officer.

3 Q Okay. So a school resource officer. So do you know
4 several children and kids that are grown up here in the
5 area?

6 A Yes, ma'am, I do.

7 Q All right. I'm going to show you State's Exhibit
8 Number 2 that's been marked, it's not into evidence yet, but
9 I'm just going to ask you to flip through, one, two, three,
10 four pictures and just tell me if you recognize the people
11 that are actually reflected in those pictures. And once
12 you've looked through it, if you'll tell me the ones that
13 you do recognize.

14 A Yes.

15 Q Okay. Who do you recognize?

16 A I recognize Ms. Tina Davis, Terquila Clifton.

17 Q Terquila Clifton. Okay.

18 A Mr. Troy Killian.

19 Q Troy Killian. Is that George Killian?

20 A Yes, George Killian. Mr. Killian is on another
21 picture. And also Mr. Killian, and it looks like Mr. Young,
22 James Young.

23 Q All right.

24 MS. LIVELY: Your Honor, the State would introduce
25 State's Exhibit Number 2 into evidence at this time.

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1 MR. DUNCAN: No objection.

2 THE COURT: How many photos are in it?

3 MS. LIVELY: Four.

4 MR. FRICK: No objection.

5 THE COURT: They're admitted.

6 (The photos were received as State's 2.)

7 Q So in State's Exhibit Number 2, the second to the last
8 picture, is that who you're referring to as being Tina
9 Davis?

10 A That's Ms. Tina Davis.

11 Q And at the time you went to talk to her that day you
12 weren't sure who she was or what she looked like.

13 A No, ma'am, I didn't.

14 Q But you know that's her now.

15 A I know her now.

16 MS. LIVELY: Thank you so much, Lieutenant Young.

17 Please answer any questions that the defense has for you.

18 MR. DUNCAN: Thank you, Your Honor.

19 CROSS EXAMINATION

20 BY MR. DUNCAN:

21 Q Good afternoon, Lieutenant Young.

22 A Good afternoon, sir.

23 Q Lieutenant Young, you testified you have been with the
24 Chester County Sheriff's Office for 11 years?

25 A Yes, sir.

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1 Q Okay. And you've been in investigations for five?

2 A For five years, yes, sir.

3 Q All right, sir. And you were testifying just now that
4 you had been a school resource officer.

5 A Yes, sir.

6 Q Is that -- you do that the first six years you were
7 with Chester County?

8 A No, sir. I was a patrol officer first.

9 Q How many years did you serve as a resource officer?

10 A About four years.

11 Q And that was at what school?

12 A Chester Middle School, Chester High School.

13 Q And so you were saying on the video that we just
14 watched you've know Montrell Graham since he was in like
15 sixth grade.

16 A Yes, sir.

17 Q All right. Investigator Young, I think I also
18 understood that you happened to be -- somebody has got to be
19 the on-call investigator on Christmas week, that was you.

20 A That was me.

21 Q And so you -- this call came to you from Sergeant
22 Thorpe, did I hear that right?

23 A Dispatch, 911.

24 Q 911 dispatch, call goes to the investigator, on call
25 investigator.

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- 1 A Yes, sir.
- 2 Q And that was at approximately 2:00 on Christmas
3 morning?
- 4 A Somewhere around 2:00.
- 5 Q And you were -- I don't need to know everything you
6 were doing --
- 7 A I was asleep, sir.
- 8 Q But you were asleep at your house.
- 9 A Yes, sir.
- 10 Q And you arrived at the scene, I think you said, about
11 3:25.
- 12 A Somewhere around, about 3:25.
- 13 Q So within an hour and a half.
- 14 A Yes, sir.
- 15 Q All right, sir. And again, when you got there, we've
16 seen body camera footage that was before your arrival,
17 correct?
- 18 A Yes, sir.
- 19 Q By the time you got there I think I understood the
20 parking lot had been taped off.
- 21 A Yes, sir.
- 22 Q And you actually talked to -- the only person that you
23 talked to at the scene was James McNeil.
- 24 A And Sergeant Brian Thorpe.
- 25 Q I'm sorry. The only non-law enforcement person you

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1 talked to was James McNeil.

2 A Yes.

3 Q All right. And then you said -- who was your
4 supervisor at the time?

5 A Captain Phillip Perry and Major Burley McDaniel.

6 Q All right. And you were instructed to go to Charlotte.

7 A Yes, sir.

8 Q And that's where you went.

9 A Yes, sir.

10 Q And again, I want to understand, I understand the
11 complications of once you arrived at the hospital in
12 Charlotte that the main focus was not you, the main focus
13 was working on Mr. Gregory. But you did say you attempted
14 to get gunshot residue on his hands.

15 A That was my purpose for going there.

16 Q That's why you went.

17 A Yes, sir, that was my purpose in going. But I never
18 got a chance to get near him because he was being treated,
19 they were trying to stabilize him and everything, so I never
20 even got a chance to see him.

21 Q You did not lay eyes on Mr. Gregory at Charlotte, North
22 Carolina.

23 A No, sir.

24 Q On that day.

25 A That morning, no, sir.

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1 Q All right. When you -- so you came back to Chester on
2 the morning of Christmas morning?

3 A Yes, sir.

4 Q All right. And you had a chance -- did you have a
5 chance at that point to review the body camera footage from
6 Sergeant Thorpe?

7 A Not at that time.

8 Q All right. Here is my ultimate question, where I'm
9 getting to, you swore out an arrest warrant for my client,
10 Mr. McClinton --

11 A Yes, sir.

12 Q -- on that day as I recall.

13 A Yes, sir.

14 Q Is that correct?

15 A That's correct, that evening.

16 Q On that evening. So the afternoon/evening of
17 Christmas.

18 A Yes.

19 Q All right. At that point in time, was that warrant
20 based on the written statements that you had from other
21 officers?

22 A It was based on the written statement I had from the
23 body camera footage of the police officer, Mr. Rinke.

24 Q That's what I want to know.

25 A And also what Mr. Gregory gave to Mr. McNeil.

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1 Q Okay. All right. I asked poorly awhile ago. You
2 didn't review Sergeant Thorpe's camera, body camera footage,
3 but you did review the city police officer, Officer Rinke.

4 A Yes, sir, Rinke.

5 Q Rinke, R-i-n-k-e, I think, Officer Rinke. But you did
6 see that --

7 A Yes, sir.

8 Q -- on that day, on Christmas Day. All right. And
9 you've been here through almost all of the trial, maybe not
10 every witness, but you've been here throughout the trial.
11 You've seen that chaotic sequence on the body camera
12 footage, a lot of people yelling, a lot of noise, a lot of
13 commotion and that was all, as you understand it, taking
14 place some time between 2:00 a.m. and when you arrived at
15 approximately 3:25; is that correct?

16 A That's correct.

17 Q All right. On that -- as you watched that camera you
18 hear names, do you recall hearing the name Katril on that
19 video?

20 A That sound like one time.

21 Q At least one time a person named Katril. Do you know a
22 Katril in Chester?

23 A I've heard of a Katril. I don't know his name but I
24 heard of a Katril.

25 Q Do you know, is Katril a different person than Quinton

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1 McClinton?

2 A Yes.

3 Q Okay. So that's a completely distinct individual from
4 my client, Mr. McClinton.

5 A As far as my knowledge.

6 Q So anyway, based on what you had as of the night of
7 December 25th you sought a warrant. You went to the
8 magistrate and swore out a warrant for Mr. McClinton's
9 arrest for attempted murder.

10 A Yes, sir, I did.

11 Q All right. And then, of course, we just watched an
12 interview with Mr. Graham a couple of days -- I think the
13 28th, December 28th; is that correct?

14 A That's correct.

15 Q All right. And at that point I know on questioning
16 from the solicitor you said Mr. Graham was going to go home
17 that day, and he did go home that day, correct?

18 A Yes.

19 Q But within a few days a warrant was sworn out for Mr.
20 Graham's arrest for accessory, the charge he's sitting over
21 here for today.

22 A Yes.

23 Q All right. And a warrant was sworn out on the 25th for
24 Mr. McClinton. It was a few days, like January 3rd, I think
25 you said, but I'm not holding you to the exact date that

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1 Mr. McClinton was arrested, but some time within ten days of
2 swearing out the warrant Mr. McClinton was arrested.

3 A Yes.

4 Q All right. And then Mr. Graham was arrested within
5 like a week of that.

6 A Yes, sir.

7 Q Okay. And then, you know, the solicitor asked you
8 about this and I obviously want to know, too, on -- you had
9 interviewed -- you attempted to interview Kochese Gregory on
10 December 27th but couldn't talk to him, he was too
11 medicated, you couldn't get to him.

12 A Right.

13 Q But on January 8th you did go back to Charlotte and did
14 meet with Mr. Gregory.

15 A Yes.

16 Q And you got information from him at that time.

17 A At that time I did.

18 Q Your investigation obviously continued, and on
19 January 31st you sought -- swore out an arrest warrant for
20 attempted murder against Mr. Kochese Gregory. Correct?

21 A Yes, I did.

22 Q And Lieutenant Young, that is based on a number of
23 statements that you had gathered from various individuals at
24 that time?

25 A Conflicted statements, yes.

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1 Q And you had statements saying one group of people were
2 shooting from one end of the parking lot at the Images; is
3 that correct?

4 A Yes.

5 Q And then you had other statements saying that shots
6 were coming from near the club entrance.

7 A Yes.

8 Q And you had individuals saying that Kochese Gregory
9 the -- or a man wearing a green sweater that matched the
10 clothes that you had from Mr. Gregory was the individual
11 shooting.

12 A Yes. Some statements said that, some statements said
13 he wasn't shooting first but they said he did return fire.

14 Q In any event you felt like at that time --

15 A At that time.

16 Q -- that you had sufficient cause to seek a warrant
17 against Mr. Gregory.

18 A Yes, sir. I can't pick and choose sides, sir, I have
19 to go with the facts that I had at that time.

20 Q All right. And again, that was on January 31st of
21 2019.

22 A Yes, sir.

23 Q You indicated there are no surveillance cameras
24 anywhere on the premises of Club Images.

25 A No, sir.

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1 Q Nothing inside, nothing outside.

2 A No, sir. All I have is eye witness testimony, eye
3 witness accounts.

4 Q That's all you had then and that's all you have now.

5 A That's all I have now.

6 Q I'm going to show you this exhibit, if you would take a
7 look.

8 A Yes, sir.

9 Q I just handed you State's Exhibit Number 56, and
10 that -- can you identify -- do you recognize that
11 individual?

12 A Yes, sir, that's Mr. James Woodard.

13 Q Okay. And your investigation, I think you testified on
14 direct exam that Mr. Woodard, as shown in that photograph,
15 had an injury to his head?

16 A Yes.

17 Q And there was blood -- I think it was on State's
18 Exhibit Number 9, but there's a photograph of blood in the
19 parking lot, and you indicated that no testing was done on
20 that blood because Mr. Woodard said that's his blood.

21 A Yes.

22 Q All right. And you were able to confirm that -- you
23 were satisfied that that was correct based on the
24 information that you could gather.

25 A Yes. I was satisfied with that information. Because

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1 at that area where the blood was at nobody had claimed to
2 have been hit in that area.

3 Q And the pool ball was right there.

4 A Not shot with a gun.

5 Q I understand, not a gunshot but it was a pool ball in
6 close proximity to -- found there.

7 A Yes.

8 Q And Mr. Woodard said, "I've been hit with a pool ball."

9 A That's what he told my investigator.

10 Q Right. Didn't tell you, told another law enforcement
11 officer.

12 A Yes, sir.

13 Q And I think you described Mr. Woodard as being a friend
14 of my client, Quinton McClinton's sister?

15 A I can't say for sure, but if I recollect correctly she
16 was brought -- I think Ms. Isom brought him over there to
17 talk with me.

18 Q To the sheriff's department.

19 A No. I think it might have been on the scene that
20 night.

21 Q Oh, okay. All right. You think it was the same night,
22 the night of the incident.

23 A Yes, sir.

24 Q And that makes --

25 A So we could take pictures of it.

WADE YOUNG - CROSS

1 Q Obviously he had photographs on that night, it was not
2 a later time.

3 A No, sir. Mr. Sanders photographed him that night.

4 Q Sure. You testified about an I-phone, I think it is
5 State's Exhibit number 52, but it's the only phone that's in
6 evidence and nothing was done as to that phone because you
7 found out whose phone it was. But it didn't appear --

8 A No, sir. We couldn't get the codes to open it so they
9 can't do any test on it without the codes, that's what I'm
10 told.

11 Q Okay. All right.

12 A I'm sorry, without the password.

13 Q I understand. And you -- got it.

14 MR. DUNCAN: Beg the Court's indulgence just a moment.

15 (Break in proceedings.)

16 MR. DUNCAN: I don't have anything further for
17 Lieutenant Young.

18 CROSS EXAMINATION

19 BY MR. FRICK:

20 Q Lieutenant Young, I'll try to keep this as brief as
21 possible, I know we're getting close to lunch. All right.
22 So as the on-call investigator you were the lucky one who
23 inherited this case --

24 A On Christmas Day we -- actually all of the
25 investigators came out that night.

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1 Q I know. But somebody has got to be the lead man and
2 you got to be the lead man on this one, right?

3 A Yes, sir.

4 Q So everything about this case kind of goes through you,
5 right?

6 A Yes.

7 Q And I know you've got supervisors but you're the one up
8 here testifying today.

9 A Exactly.

10 Q Because it's your case. And I believe it was testified
11 to earlier that the person who made the call as to what got
12 sent to SLED and what kind of tests, that's your call; is
13 that correct?

14 A Yes.

15 Q Okay. And your call in this case was to send the shell
16 casings for possible DNA.

17 A Yes.

18 Q Could you have requested other testing?

19 A Yes.

20 Q Give me some kind of example.

21 A I don't understand your question, sir.

22 Q What kind of testing could you have asked for on shell
23 casings?

24 A I just basically know maybe swabbing for DNA.

25 Q Right. But, I mean, there are other testing --

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1 A I'm pretty sure it is, but at that time I didn't have
2 much knowledge of what could be done with the shell at that
3 time.

4 Q All right. But you've been in law enforcement for
5 awhile, right?

6 A Yes, sir.

7 Q Are there unique features of firearms that they leave
8 on shell casings?

9 A Yes, sir.

10 Q Is SLED, to your knowledge, equipped to examine these
11 things?

12 A I'm sure they are.

13 Q You didn't request that, though, right?

14 A No, I didn't.

15 Q The only thing you requested was the DNA analysis.

16 A Yes, sir.

17 Q And there is no DNA, correct?

18 A There was no gun, either, to match it too.

19 Q Hold on, we'll get there in a second. My question is
20 there was no DNA, right?

21 A No, sir.

22 Q And you had Quinton McClinton's DNA, right?

23 A Yeah. We did get a swab of his DNA.

24 Q Did you get anybody else's DNA?

25 A Not that I can remember, no.

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1 Q We didn't get Kochese Gregory's DNA.

2 A No.

3 Q We didn't get Montrell Graham's DNA.

4 A No, I didn't.

5 Q There's a whole lot of names, I ain't going to go
6 through them right now, but we didn't get their DNA either,
7 right?

8 A No.

9 Q In fact, some of those folks were mentioned in other
10 statements as possible shooters as well, were they not?

11 A Yes.

12 Q Junior McClinton?

13 A Yeah.

14 Q Maybe other folks. That's the only one that comes to
15 my mind right now, but there were other folks, right? Okay.
16 And, in fact, you learned through your investigation that a
17 vehicle struck Mr. McClinton in front of the club, right?

18 A Yes, I did.

19 Q And you learned who this person was, right?

20 A Yes.

21 Q Tina Davis is what you --

22 A Yes.

23 Q And you tracked down a Tina Davis, correct?

24 A I did.

25 Q And when you knocked on her door she said she was who?

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- 1 A She gave me her real name, Terquila Clifton, that's her
2 real name. Tina Davis is a nickname that she uses so I
3 don't know nicknames. They told me Tina Davis so that's who
4 I went looking for, Tina Davis.
- 5 Q But that's her address, correct?
- 6 A Yes.
- 7 Q And Tina Davis and Terquila are the same person, right?
- 8 A Terquila Clifton.
- 9 Q And you identified who you were, right?
- 10 A Yes, sir.
- 11 Q And I'm sure you told her why you were there, right?
- 12 A Yes, sir.
- 13 Q And you told her you were there about the shooting at
14 the club that night, right?
- 15 A I was just trying to gather information.
- 16 Q Okay.
- 17 A Just trying to gather information and didn't know she
18 was the same one that had been accused of the Tina Davis
19 that was driving the car, at that time I didn't know.
- 20 Q Okay. But later you -- and she didn't offer that at
21 that time, did she?
- 22 A No, sir.
- 23 Q But later you determined that that was the case.
- 24 A I sure did.
- 25 Q Going back to the scene, I just want to make sure we're

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1 clear, all right? So we've talked about blood that's in
2 kind of a pool, I'll call it -- I don't know what you would
3 refer to it but I'll call it a pool, if that's wrong correct
4 me, beside the car at this marker number nine, correct?

5 A Yes, sir.

6 Q Okay. Looking at it it's blood, right?

7 A Yes.

8 Q And there was also some talk about a swab taken off of
9 the Impala, the front of the Impala?

10 A Yes.

11 Q And now these cars were parked kind of close to each
12 other, but it's two separate spots, is it not?

13 A It was close, it was close. The blood splatter on the
14 car was close.

15 Q And the cue ball that -- well, it's right here. The
16 cue ball, that was close to there, too, right?

17 A Yes.

18 Q And then Mr. Woodard, who I'm going to show you State's
19 Number 55, that's the guy who got hit.

20 A Yes.

21 Q Or that's what your investigation determined.

22 A Yes.

23 Q And first can you tell me, this is taken that night,
24 correct?

25 A Yes.

WADE YOUNG - CROSS

- 1 Q Can you tell me what he's wearing?
- 2 A He's wearing a brown coat and blue jeans.
- 3 Q So he's not there that night near those cars where
- 4 those shell casings are too, right?
- 5 A Yes.
- 6 Q But based on his word that he got hit and that's his
- 7 blood, you didn't test it.
- 8 A I didn't test it.
- 9 Q Okay.
- 10 A Can I explain why I didn't test it?
- 11 Q Sure.
- 12 A Because at that time I had direct observation on who
- 13 shot who.
- 14 Q From whom?
- 15 A From the victim.
- 16 Q From the victim.
- 17 A Victim.
- 18 Q Whom you later arrested for the same crime.
- 19 A He didn't get arrested for the crime charged but he got
- 20 charged.
- 21 Q From that night, though.
- 22 A Yes, from that night.
- 23 Q Okay. All right. But you still conducted the
- 24 investigation, correct?
- 25 A Yes, I did.

WADE YOUNG - CROSS

1 Q I mean, you got the warrant on Mr. McClinton Christmas
2 Day.

3 A I did.

4 Q And you got the warrant on Mr. Graham a couple of weeks
5 later, I think it was January 7th, correct?

6 A Somewhere around that date, sir.

7 Q Okay. And then you get the one on Mr. Gregory, I
8 think, the end of January, right?

9 A Still early in the investigation.

10 Q Right. What I'm saying, though, is you're still
11 conducting the investigation --

12 A Yes, sir.

13 Q -- you now have questioned possibly in your own mind
14 who the shooter is. Do you remember on the body cam, Thorpe
15 or Burch, and I don't know which one of them said there was
16 the potential that the shooter's blood was out there?

17 A I didn't hear that part, sir. I'm not saying it's not
18 on there, I don't remember that.

19 Q Is it not, in fact, true that law enforcement called to
20 other hospitals to see if a gunshot wound victim had shown
21 up?

22 A Yes, sir.

23 Q Called Fairfield.

24 A Yes, sir, we did.

25 Q Called Rock Hill.

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1 A We did.

2 Q Piedmont, I guess. Called Springs over in Lancaster,
3 correct?

4 A Yes, sir.

5 Q So there was a question about this shooter being
6 injured, right?

7 A There wasn't a question about the shooter, sir, it was
8 a question about the shooting. There was a lot of shooting
9 going on so we just wanted to make sure nobody else was hit.

10 Q Couldn't you determine that by testing blood?

11 A Not at that time, we couldn't test it that night. We
12 made those calls that night.

13 Q Right. But you took swabs of it.

14 A Yes, we did.

15 Q Why did you stake swabs of it?

16 A At first when we took the swabs we didn't know whose
17 blood it was, but we took them.

18 Q Well, you still don't know, do you?

19 A We took his word for it.

20 Q Took his word and Kochese Gregory's word, right?

21 A We did.

22 Q And based on that didn't send it to SLED.

23 A We didn't send that to SLED.

24 Q Did you talk to a Mr. Foster, the club owner, that
25 night?

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1 A I didn't.

2 Q And I'm going to go back and talk about the phone for a
3 second. I think you testified that it was possibly Fabian
4 McCullough's phone?

5 A Yes, I did.

6 Q And he was, in fact, out there, right?

7 A Yes.

8 Q In fact, he kind of left the scene, didn't he?

9 A Yes.

10 Q I mean, on the body camera aren't they kind of going,
11 "Hey, that guy left," didn't they?

12 A Yes, sir.

13 Q And he didn't come back, but you knew who it was, or
14 somebody knew who it was.

15 A Yes, sir.

16 Q All right. You were a SRO for a long time, have you
17 run across Mr. Fabian McCullough?

18 A I don't know Mr. Fabian, not like that.

19 Q Do you know if he's local?

20 A He's local.

21 Q He's local. Okay. Could you have found him and asked
22 him?

23 A We looked for him. He actually told us he was coming
24 to give us the code and never showed up.

25 Q He was coming but he didn't show up.

WADE YOUNG - CROSS

- 1 A He never showed up.
- 2 Q But y'all couldn't have gone out and found him?
- 3 A They did look for him, sir.
- 4 Q I mean, you found Tina Davis.
- 5 A Yes, sir.
- 6 Q One more witness, Daverican Gregory, Chocolate Pudding.
- 7 You attempted to talk to him, correct?
- 8 A Yes.
- 9 Q In fact, I believe he stayed down in Winnsboro now,
- 10 right?
- 11 A Yes, he do.
- 12 Q You offered to meet him down at the sheriff's
- 13 department in Fairfield.
- 14 A I did.
- 15 Q Set up a meeting, correct?
- 16 A I did.
- 17 Q How many times do you recall, approximately, you may
- 18 not have it in front of you, how many times did you try to
- 19 get up with him?
- 20 A Maybe two or three times.
- 21 Q Two or three times. He never showed.
- 22 A Didn't show. Each time he told me he was working and
- 23 couldn't get off of work.
- 24 Q Right. And you offered to reschedule each time, didn't
- 25 you?

WADE YOUNG - REDIRECT

1 A I did.

2 Q But he never volunteered to show up, did he?

3 A No, sir.

4 Q Now, just finally -- so the State asked you, I think
5 Mr. Duncan asked you, I feel like I would be remiss if I
6 don't ask you, so essentially this case relies on the eye
7 witness testimony for the folks who have been in this very
8 courtroom.

9 A Yes.

10 Q And that's it.

11 A That's it, sir.

12 MR. FRICK: Thank you, sir. That's all of the
13 questions I have.

14 MS. LIVELY: Just one redirect.

15 REDIRECT EXAMINATION

16 BY MS. LIVELY:

17 Q Now, Mister -- or I'm sorry, Lieutenant Young, when you
18 send a request to SLED for them to test for any kind of
19 touch DNA, do you have to have a standard or a swab from a
20 person for them to use to compare?

21 A Yes. We've got to have a known standard.

22 Q Okay. And that known standard was from Mr. Quinton
23 McClinton?

24 A Yes, it was.

25 Q So when these shell casings, which we have quite a few,

WADE YOUNG - REDIRECT

1 when those shell casing are sent down there before SLED even
2 can do anything, what do they have to actually find on those
3 shell casings in order to then compare it to --

4 A They have to find DNA.

5 Q It has to be DNA. Was there any DNA on any of those
6 shell casings?

7 A There wasn't.

8 Q So they couldn't do a test.

9 A They couldn't do a test.

10 Q No. So no matter how many swabs you would have sent
11 down there and how many different people, would it have made
12 a difference?

13 A It's wouldn't have made a difference.

14 MS. LIVELY: Okay. Thank you.

15 MR. FRICK: Just briefly, Your Honor.

16 RECROSS EXAMINATION

17 BY MR. FRICK:

18 Q But you don't need a DNA swab for tool marking, do you?

19 A No, sir. You need a gun to compare it with, though.

20 Q Do you?

21 A I feel like on a shell you do.

22 Q You feel like it.

23 A I can't say 100 percent sure, I don't do that type of
24 testing.

25 Q Right. Okay.

WADE YOUNG - RECROSS

1 A I get the experts to do that for me.

2 Q And that would be the folks in SLED, right?

3 A Yes.

4 Q And the solicitor asked you about the clothing. I
5 believe you said you tried to get them to get GSR, right?

6 A Can I explain to you what they told me?

7 Q Yes. They said they wouldn't do it, right?

8 MS. LIVELY: I'm going to object, that's outside the
9 scope of my redirect.

10 THE COURT: Sustained.

11 MS. LIVELY: Thank you.

12 THE COURT: You may step down.

13 MS. LIVELY: Your Honor, at this time the State rests
14 its case.

15 THE COURT: All right. That is all of the testimony or
16 evidence to be offered by the State, at least in their case
17 in chief. Before we go any further I've got some matters to
18 address with the lawyers and it's also a good time to break
19 for lunch so we'll do that. Keep in mind you still can't
20 talk about the case, no research, no investigation, no media
21 exposure, have a good lunch. Please report to your jury
22 room at 2:00, at 2:00 this afternoon.

23 (The jury left the courtroom.)

24 THE COURT: Mr. Duncan, do you have any other motions
25 or other matters you would like to address?

1 MR. DUNCAN: I do, Your Honor. I would move for a
2 directed verdict on behalf of Mr. McClinton as to all three
3 charges set forth in the various indictments on the grounds
4 there's a failure of competent evidence to prove the charges
5 against Mr. McClinton as set forth in the indictment. I
6 think the only testimony -- the only testimony putting a
7 gun, a firearm in Mr. McClinton's hand comes from the
8 alleged victim, Kochese Gregory. And quite -- I realize
9 it's not the Courts's province to weigh the evidence but I
10 think it's Kochese Gregory's testimony is so not credible as
11 to not rise to the level of competent evidence. I've -- the
12 body cam footage where people are yelling the names of
13 people at the scene who are alleged to have been shooting,
14 there is a name Tril that is said, there's a name Katril.
15 There is testimony of one of the Killian brothers who says
16 Junior McClinton or Carlton Isom Dixon or Quinton McClinton,
17 one of those three shot Kochese. Again, there's testimony
18 that there is shooting from the bottom of the parking lot
19 where Mr. McClinton's group, Quinton McClinton's group is
20 said to have gone. But, Your Honor, no jury could find Mr.
21 McClinton guilty beyond a reasonable doubt based on the
22 testimony that some fellows wearing brown jackets maybe who
23 went down at the bottom of the parking lot were firing shots
24 back toward the club, that is not -- in my estimation is not
25 competent evidence sufficient to withstand a directed

1 verdict, and I seek a directed verdict pursuant to Rule 19.

2 THE COURT: Ms. Lively?

3 MS. LIVELY: Your Honor, I respectfully disagree with
4 the recitation of the facts in regards to the witnesses in
5 this case. We do have eye witness testimony from several
6 people who identified on the record here in court as well as
7 during time giving statements as to Quinton McClinton being
8 the one who had a pistol inside of the club, that being Big
9 Troy, George Killian, who then said he saw Mr. McClinton
10 actually pull the weapon out and shoot at Kochese Gregory
11 and basically shoot at, you know, whoever was standing out
12 there. He clearly identifies him, clearly identified him in
13 court here this week. Then we also have Chocolate Pudding,
14 which is Daverican Gregory, who stated that he also saw Mr.
15 Quinton McClinton with a gun and he included Mr. Montrell
16 Graham in that recitation of the case as well as having a
17 gun, too, and that they had run back over to the car and
18 started shooting back over the vehicle, and he puts a gun in
19 both of their hands. Then we have Ms. Tina Davis, a.k.a.
20 Terquila Clifton, who also said, and we saw it on the body
21 worn camera, that they were shooting from the parking lot
22 towards the club, and it was the gentleman that were wearing
23 brown jackets and she saw them. And she also knows Montrell
24 Graham because that is her cousin. Then we have Bernice
25 June who stated that she knows Quinton McClinton and that

1 they were shooting like hell back towards Big Troy, which is
2 George Killian. So in the light most favorable to the State
3 I would say that that is more than substantial
4 circumstantial evidence as well as direct evidence from the
5 victim who stated that it was Quinton McClinton who shot him
6 that night.

7 THE COURT: Mr. Duncan, anything further?

8 MR. DUNCAN: No, Your Honor.

9 THE COURT: There is sufficient evidence to make it a
10 jury question so your motion for a direct verdict is denied.
11 Do you have any other grounds? I'm not suggesting that you
12 do.

13 MR. DUNCAN: I'm just studying about it, Your Honor.
14 No, Your Honor.

15 THE COURT: Mr. Frick?

16 MR. FRICK: Thank you, Your Honor. At this time on
17 behalf of Mr. Montrell Graham I would move for a directed
18 verdict on the charge of accessory after the fact. As the
19 Court well knows the three elements of accessory after the
20 fact, the felony has to have been completed. And in this
21 particular case the indictment, as drafted, says that that
22 felon -- the felony was an attempted murder and the felon
23 who committed it would have been Mr. Quinton McClinton.
24 Judge, I concede that they probably have a scintilla of
25 evidence to prove -- to get that burden across. But in

1 regard to number two, the defendant, Mr. Graham, must have
2 knowledge that the principal committed the felony. I don't
3 think they have got a sufficient evidence in that regard to
4 meet the burden at this level of directed verdict, which, of
5 course, is taking the evidence in the most favorable light
6 of the State. And then number three, which I think they
7 clearly fail on is the defendant must harbor, aid or assist
8 the principal with the intention of aiding the principal to
9 escape detention or arrest. You've got to have intention or
10 purpose of assisting or aiding the principal. And quoting
11 the Anderson charge book, mere act of charity, which relieve
12 or comfort a fellow but do not hinder his apprehension and
13 conviction nor aid his escape will not render one accessory
14 after the fact. Judge, the only evidence they've got that
15 he did anything in that regard was, in fact, my client's own
16 statement who said it was a shooting going on, I got in the
17 car and I drove away. That's what they have, Judge. I
18 don't think that reaches the level that is required at this
19 point and I would respectfully ask for a directed verdict.

20 THE COURT: Ms. Lively?

21 MS. LIVELY: Yes, sir, Your Honor. In regards to the
22 defendant, Mr. Montrell Graham, what we have is eye witness
23 testimony that puts him there with the defendant, Quinton
24 McClinton, at the time the shooting happened. We know for a
25 fact that obviously Kochese Gregory was hit from a weapon

1 that came from the area where Montrell Graham and Quinton
2 McClinton were located. It was his car that they got into
3 and left in and he was driving from the area where a
4 shooting had just taken place. Your Honor, during that time
5 he then comes back, not on the day when everybody is coming
6 back to give statements, but he comes in voluntarily and
7 does speak with Wade Young at that time. Whenever he speaks
8 to him, at that point Lieutenant Young has already spoken to
9 other witnesses and also seen the statements of other
10 witnesses that puts Mr. Graham at the club. So we've got
11 him clearly there. We've got him clearly with Quinton
12 McClinton, who was seen with a weapon inside the club as
13 well as outside the club with Montrell Graham. He was there
14 during the fight of Quinton McClinton and Kochese Gregory at
15 the time. He actually says that he sees in his statement,
16 that he sees Ryan Gregory hand a gun to Kochese Gregory and
17 as he's walking with Quinton, or running with Quinton to go
18 back to the car his statement is "I had to duck, I was
19 ducking." And then the question from Wade Young was, "Well,
20 where were the shots coming from? From the parking lot" --
21 or, "I don't know." And then they said, "Well, was it your
22 people?" And then finally where we get to is it was his
23 people, and his people that were with him that night were
24 Quinton McClinton and Carlton Dixon. And we have -- hold
25 on, where is it? I'm sorry, right here. And I mentioned

1 earlier when I was talking about Quinton McClinton that
2 Chocolate Pudding, who actually said, which is Daverican
3 Gregory, that where they were fighting that he, Mr. Graham,
4 was also where they were shooting forward towards the club,
5 which is where Kochese Gregory and Mr. Daverican Gregory
6 were, and that McClinton was also shooting. So they leave
7 from the area where shots had just been fired from the area
8 where the vehicles were out in the parking lot, which is
9 where Montrell Graham puts himself as well as Quinton
10 McClinton. We then said Kochese said that he saw Montrell
11 with Quinton and was there when Kochese was getting beat and
12 then whenever he got shot, and that's whenever he said he
13 didn't see him anymore after that. Then we also have all of
14 the shell casings in the area outside of where the actual --
15 away from the club. There were a couple that were close to
16 the club, but away from the club in the area where Montrell
17 Graham in his statement stated that he had to go out to get
18 to his vehicle in order to leave. This is where all of
19 these shell casings were where he got into that vehicle
20 where the shooting had to have been taking place, get in the
21 car and left the scene, so he had information. And he even
22 talked to Wade whenever he came in at that statement and
23 said, "Yeah, I talked to him yesterday. Quinton told me to
24 go in and give a statement to the police." So he had been
25 talking to this person that already had an arrest warrant

1 that was out for his arrest for attempted murder, and he
2 comes in there and he talks to them voluntarily, this is
3 true, and that's out there for the jury to hear. However,
4 in regards to the credibility of that statement he keeps
5 changing his story and changing his story to where he
6 finally admits, yeah, it was his people shooting back. So,
7 Your Honor, there is enough knowledge and information to
8 where the jury can find him guilty of being an accessory
9 after the fact in regards to an obvious shooting that had
10 taken place. Obviously Kochese Gregory was hit and had to
11 be taken to the hospital, and he obviously took Mr. Quinton
12 McClinton to a friend's house or wherever he took him, and
13 then they were not able to locate or get Quinton McClinton
14 until a week and a half later, so that is the reason why he
15 was charged with accessory after the fact to the attempted
16 murder charge. And I believe in the light most favorable to
17 the State that there's substantial circumstantial evidence
18 that the jury can weigh the credibility of the witnesses,
19 which is their job.

20 THE COURT: Okay. Mr. Frick?

21 MR. FRICK: Briefly, Your Honor. The State clearly has
22 enough evidence to establish my client's presence, his mere
23 presence at the scene. But what they cannot establish and
24 have not presented any evidence of is the third element,
25 that he had the intent or purpose of assisting an aiding the

1 principal in escape or detection.

2 THE COURT: Well, obviously it has to be usually
3 determined based upon circumstantial evidence. There is
4 substantial circumstantial evidence in the case from which a
5 jury could reasonably find the essential elements of the
6 crime of accessory after the fact to the commission of that
7 felony, and so that being the case it's a jury question and
8 therefore your motion for a directed verdict is denied. Any
9 other grounds?

10 MR. FRICK: No, sir.

11 THE COURT: Have y'all -- Mr. Duncan, have you talked
12 to Mr. McClinton about his right to testify as well as not?

13 MR. DUNCAN: I have, Your Honor, and -- Your Honor,
14 perhaps it would do me good to have a little more discussion
15 over the lunch break.

16 THE COURT: That's fine. Well, Mr. Frick, have you
17 talked to Mr. Graham about his right to testify as well as
18 not?

19 MR. FRICK: Yes, sir, we have.

20 THE COURT: And has he come to a decision?

21 MR. FRICK: I believe he has. I'm happy for you to
22 inquire.

23 THE COURT: Okay. And this is for both Mr. McClinton
24 and Mr. Graham. Do each of you understand that when you're
25 charged with a crime, as you are now, and during the trial

1 of the case you have an absolute right to remain silent, and
2 that simply means that nobody can make you testify during
3 the trial of this case. You don't have to take the witness
4 stand. You don't have to make any statement. You don't
5 have to answer any questions, certainly not those that might
6 tend to prove you guilty of some crime the State claims you
7 committed, so you have an absolute right to remain silent.
8 But when we come back after lunch you also have an
9 opportunity to testify or to present other evidence in the
10 case, and that will be the opportunity that you will have to
11 provide this jury with any additional information if you
12 have any additional information to provide. If you choose
13 to take the witness stand and testify you will have to
14 answer not only your lawyer's questions but you'll have to
15 answer the prosecutor's questions to the extent that they
16 are relevant even if the responses to those questions might
17 tend to prove you guilty of some crime the State claims you
18 committed. If you elect not to take the witness stand and
19 testify I'm going to instruct the jury, as I already have,
20 that they can't hold that against you, they can't consider
21 it in any fashion, they can't allow it to influence their
22 decision as to whether or not the evidence in this case has
23 established your guilt beyond a reasonable doubt. Now, you
24 and your lawyers should have discussed your right to testify
25 or not, your right to call other witnesses or not, and they

1 should have also discussed with you the advantages and the
2 disadvantages of testifying as well as not testifying and
3 then allowing you to make a determination as to whether or
4 not you wish to testify. Do each of you understand that you
5 have a right to testify, Mr. McClinton?

6 DEFENDANT MCCLINTON: Yes, sir.

7 THE COURT: Mr. Graham?

8 DEFENDANT GRAHAM: Yes, sir.

9 THE COURT: Do each of you understand you also have the
10 right to elect not to testify, Mr. McClinton?

11 DEFENDANT MCCLINTON: Yes, sir.

12 THE COURT: Mr. Graham?

13 DEFENDANT GRAHAM: Yes, sir.

14 THE COURT: Do each of you understand that it's your
15 decision and only you can make it, Mr. McClinton?

16 DEFENDANT MCCLINTON: Yes, sir.

17 THE COURT: Mr. Graham?

18 DEFENDANT GRAHAM: Yes, sir.

19 THE COURT: And have your lawyers talked to you about
20 the advantages and disadvantages of testifying as well not
21 testifying, Mr. McClinton?

22 DEFENDANT MCCLINTON: Yes, sir.

23 THE COURT: Mr. Graham?

24 DEFENDANT GRAHAM: Yes, sir.

25 THE COURT: And do you understand what those advantages

1 and disadvantages are, Mr. McClinton?

2 DEFENDANT MCCLINTON: Yes, sir.

3 THE COURT: Mr. Graham?

4 DEFENDANT GRAHAM: Yes, sir.

5 THE COURT: All right. And you've discussed your
6 testifying, whether or not you will, with your lawyers if I
7 understand it, Mr. McClinton?

8 DEFENDANT MCCLINTON: Yes, sir.

9 THE COURT: Mr. Graham?

10 DEFENDANT GRAHAM: Yes, sir.

11 THE COURT: But you have not yet reached a decision
12 about that, is that true, Mr. McClinton?

13 DEFENDANT MCCLINTON: I ain't made a decision.

14 THE COURT: You haven't decided yet. Mr. Graham?

15 DEFENDANT GRAHAM: Yes, sir.

16 THE COURT: You haven't decided or you have decided?

17 DEFENDANT GRAHAM: I decided.

18 THE COURT: You have decided?

19 DEFENDANT GRAHAM: Yeah, I'm not.

20 THE COURT: Okay. Well, do you need to talk to Mr.
21 Frick anymore about that during lunch?

22 DEFENDANT GRAHAM: No, sir.

23 THE COURT: Well, in any event when we come back after
24 lunch I'm going to ask you both whether or not you want to
25 testify or not and that will be up to you and you just tell

1 me then if you're going to testify or you're not going to
2 testify. But in the meantime talk to your lawyers and be
3 sure that you can make an informed and intelligent decision
4 in that regard. But it is your decision, nobody can make it
5 for you. Your lawyers or somebody else might have advice
6 about that, they might have an opinion but that and you can
7 take it or ignore it, but ultimately it is your decision and
8 nobody can make that decision for you, do you understand
9 that, Mr. McClinton?

10 DEFENDANT MCCLINTON: Yes, sir.

11 THE COURT: Mr. Graham?

12 DEFENDANT GRAHAM: Yes, sir.

13 THE COURT: All right. Court is in recess until 2:00.

14 (A lunch break was taken.)

15 THE COURT: Mr. Duncan, what did Mr. McClinton decide
16 about whether he would testify or not?

17 MR. DUNCAN: Your Honor, Mr. McClinton has indicated to
18 me that he does not wish to testify.

19 THE COURT: All right. Mr. McClinton, you heard what
20 Mr. Duncan told me, he says that you've made the decision
21 you do not wish to testify; is that true?

22 DEFENDANT MCCLINTON: Yes, sir.

23 THE COURT: And you understand that this is the only
24 chance that you're going to have to do that if you want to
25 provide them with -- the jury with any additional

1 information.

2 DEFENDANT MCCLINTON: Yes, sir.

3 THE COURT: But you've had time to think about it?

4 DEFENDANT MCCLINTON: Yes, sir.

5 THE COURT: And you're satisfied with your decision not
6 no testify?

7 DEFENDANT MCCLINTON: Yes, sir.

8 THE COURT: And is that a decision that you made with
9 your own free will and accord?

10 DEFENDANT MCCLINTON: Yes, sir.

11 THE COURT: Nobody suggested it, nobody talked you into
12 it, you made that on your own?

13 DEFENDANT MCCLINTON: Yes, sir.

14 THE COURT: And you're satisfied with that decision.

15 DEFENDANT MCCLINTON: Yes, sir.

16 THE COURT: Okay. Do you have any other witnesses you
17 want Mr. Duncan to call on your behalf?

18 MR. DUNCAN: I do plan to call one witness, Your Honor.

19 THE COURT: Okay. All right. Thank you, be seated.

20 Mr. Graham, what about you? Mr. Frick, what did he tell
21 you?

22 MR. FRICK: Your Honor, he has indicated he does not
23 wish to testify.

24 THE COURT: All right. And Mr. Graham, that's what you
25 told me before lunch but you had more time to think about

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1 it, so you're still sticking by that decision?

2 DEFENDANT GRAHAM: I do not.

3 THE COURT: You do not wish to testify?

4 DEFENDANT GRAHAM: No, sir.

5 THE COURT: And that's a decision that you made of your
6 own free will and accord?

7 DEFENDANT GRAHAM: Yes, sir.

8 THE COURT: And you're satisfied with it?

9 DEFENDANT GRAHAM: Yes, sir.

10 THE COURT: Do you have any other additional witnesses
11 you want Mr. Frick to call on your behalf?

12 DEFENDANT GRAHAM: No, sir.

13 THE COURT: Okay. Thank you, be seated. You have got
14 one witness?

15 MR. DUNCAN: I have one witness, he has just arrived,
16 he's in the courtroom.

17 THE COURT: Okay. Well, here is what I propose to do,
18 we'll take that witness and then because the weather is
19 probably going to get worse before it gets better, we'll
20 take that witness, then we'll recess and argue and charge in
21 the morning.

22 MS. LIVELY: That's fine with the State, Your Honor.

23 MR. DUNCAN: That's fine, Your Honor, I understand it.

24 MR. FRICK: No problem, yes, sir.

25 THE COURT: And y'all can provide me with any

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1 instructions or requests that you have if you do. All
2 right. Bring the jury back in, please.

3 (The jury returned to the courtroom.)

4 THE COURT: As you know, the State has rested in their
5 presentation so we'll now proceed with evidence to be
6 offered by either of the defendants. Mr. Duncan?

7 MR. DUNCAN: Thank you, Your Honor. Defendant
8 McClinton would call Joseph Foster to the stand.

9 The witness, JOSEPH FOSTER, was first duly sworn and
10 Testified as follows:

11 DIRECT EXAMINATION

12 BY MR. DUNCAN:

13 Q Good afternoon, Mr. Foster.

14 A Evening.

15 Q Mr. Foster, I represent the defendant, Quinton
16 McClinton, who's sitting here in the orange sweater over
17 here at the table I came from. Do you know Mr. McClinton as
18 you sit here today?

19 A No.

20 Q Mr. Foster, do you live here in Chester?

21 A Yes.

22 Q And are you the owner of a club called Images?

23 A Yes.

24 Q And you were the owner of that club on Christmas
25 evening 2018 as well?

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1 A Yes.

2 Q Do you recall an incident, a disruption at your club on
3 the evening of Christmas Eve into the early morning of
4 Christmas Day; is that correct?

5 A Yes.

6 Q And Mr. Foster, if you could, tell the jury how you
7 became aware of the situation. Where were you in your club?

8 A I was in the office.

9 Q You were in the office. Is that in the back of the
10 club?

11 A All the way in the back.

12 Q All right, sir. And what happened?

13 A My nephew came and knocked on the door and said
14 somebody is fighting outside. So we were closed at the
15 time, the club closed, and I came to the front to lock the
16 door, because I didn't want the disturbance inside the
17 building and that's what I seen what was going on.

18 Q All right. So the club was locked up, or you got it
19 locked up at that point in time.

20 A I locked the front door at the time.

21 Q Yes, sir. All right, sir. And so you were then at the
22 front of the club looking through the window, looking
23 through the glass?

24 A Yes.

25 Q And what did you see when you came to the front of your

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1 club?

2 A There was a guy coming across in front of the club and
3 had on a green sweater and he was shooting up toward the
4 parking lot.

5 Q All right, sir.

6 A And I could see people shooting back toward him.

7 Q You say people --

8 A Well, it was more than one gun shooting, maybe three to
9 four people shooting back toward the club. I could see the
10 blasts from the guns.

11 Q I see. But you recall, specifically recall seeing a
12 man in a green sweater from the club kind of in front of the
13 club shooting?

14 A Yeah. He was probably seven or eight feet from me.

15 Q At the time did you know who that individual was?

16 A No.

17 Q Did you later learn that man's name?

18 A Yes.

19 Q What is that man's name?

20 A They said his name was Kochese or something like that,
21 Kochese.

22 Q All right, sir. And did you later see the man that
23 you've identified as Kochese --

24 A Yeah. He came in the side door and he pulled his
25 sweater up and he had been shot in the chest.

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1 Q And at that point in time the ambulance and all of
2 these people were called and arrived.

3 A Yeah, later.

4 Q Okay.

5 MR. DUNCAN: Mr. Foster, I think that's all of the
6 questions I have at this time.

7 THE COURT: Mr. Frick?

8 MR. FRICK: No questions for Mr. Foster.

9 THE COURT: Ms. Lively?

10 MS. LIVELY: Yes, thank you, Your Honor.

11 CROSS EXAMINATION

12 BY MS. LIVELY:

13 Q Hi, Mr. Foster.

14 A Hi.

15 Q Do you recall me calling you, my name is Candice
16 Lively, to talk to you about your statement you had given
17 from this particular evening?

18 A Yes.

19 Q And whenever we talked about your statement, we also
20 discussed whether or not you could have been in your office
21 whenever a lot of this started happening before you were
22 actually able to give any information to the police later
23 on.

24 A Yeah.

25 Q All right. You remember that? Okay. And so what I'm

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1 asking you is that when this initially happened and the
2 police showed up, did you provide a statement to law
3 enforcement when they asked you whether or not you saw what
4 happened?

5 A Yes.

6 Q And what did you tell them?

7 A I told them exactly what I said. I was in the office
8 and my nephew told me somebody was fighting, so I came and I
9 said, "Let's lock the doors because we don't want the
10 disturbance inside the building.

11 Q Okay. Now, I'm not talking about this statement, I'm
12 talking about when the officer first got there and he was
13 going around asking people if they were there and saw what
14 happened, do you remember what you told him?

15 A I told him I saw what happened.

16 Q Okay. Did you know that the officer was wearing a body
17 worn camera at that time?

18 A I don't know whether he was wearing one or not. I
19 think he should have been wearing one.

20 Q If I showed you the statement you gave to law
21 enforcement right after this happened, would that help to
22 refresh your memory?

23 A Show it to me.

24 Q Okay. You might need to step down so you can see it.

25 THE COURT: And while you're over there you can't

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1 provide any testimony, just step down and watch the video if
2 you need to.

3 Q Just stand right there, all right?

4 (The video was played.)

5 Q So, Mr. Foster, when you were first asked if you were
6 out there and you saw what happened you said that you were
7 in your office, that y'all were getting ready to close, and
8 then you did not say anything about seeing any shooters that
9 night.

10 A I told him I was in my office when it started, I didn't
11 see it when it started. When the incident happened --
12 started happening I was in the office, I didn't see it when
13 it started. When they came and told me that there was
14 fighting out there then I came to the front, that's when I
15 seen them shooting.

16 Q Okay. And that's what you actually wrote in your
17 statement it looks like three hours and 40 minutes after the
18 time of the 911 call; is that correct? If you want --

19 A I don't know what time it was.

20 Q It's actually written on the bottom of your statement
21 what time that was. Is that correct?

22 A Do what? If that's what he wrote down then that's --
23 this was 5:40 in the morning. The incident happened around
24 2:30 or a quarter 'til 3:00, by the time the officers got
25 there. Matter of fact, when they first answered the call

JOSEPH FOSTER - CROSS/REDIRECT

1 they didn't come to the club, we seen the cops go by. They
2 went by the club and headed toward town, then they came
3 back, then that's when the ambulance and everything came.
4 Matter of fact, I left the club that morning with daylight,
5 it was after 6:00 or about 7:00, they kept us there all
6 night.

7 Q Okay. And would it surprise you if I told that
8 actually the 911 call came in at 2:00 and they arrived
9 within minutes?

10 A Whatever time it was. I know we were closed, we close
11 at 2:00.

12 Q I understand. But is it fair to say, Mr. Foster, that
13 you're unsure about some of the issues that happened that
14 night?

15 A I'm unsure about what time it was, I'm not unsure about
16 what I seen.

17 Q All right. But when the officer asked you clearly with
18 Kochese Gregory laying on the floor, he asked you what you
19 saw, you said "I was back in my office, we were getting
20 ready to close." That was the statement you gave him at
21 that time; is that correct?

22 A If that's on that that's when I came up front, that's
23 when the cops came. I saw what I saw.

24 Q Okay. Fair enough. And in this statement that you do
25 give almost four hours later you did say you saw about five

1 to six people actually shooting from the top of the parking
2 lot towards the club; is that right?

3 A That's right.

4 Q So you do actually put that in there as well.

5 A Yeah.

6 MS. LIVELY: One moment.

7 (Break in proceedings.)

8 MS. LIVELY: Thank you so much, Mr. Foster.

9 MR. DUNCAN: One question.

10 REDIRECT EXAMINATION

11 BY MR. DUNCAN:

12 Q Mr. Foster, is there any question in your mind that the
13 gentleman wearing the green sweater was shooting from the
14 front of your club on Christmas Eve/Christmas Day 2018?

15 A He was shooting.

16 MR. DUNCAN: Thank you, sir.

17 MS. LIVELY: Nothing else from the State, Your Honor,
18 thank you.

19 THE COURT: You may step down.

20 MR. DUNCAN: Defendant McClinton rests, Your Honor.

21 THE COURT: Mr. Frick?

22 MR. FRICK: Your Honor, on behalf of Mr. Graham the
23 defendant rests.

24 THE COURT: Any reply?

25 MS. LIVELY: Not from the State, Your Honor, we're done

1 with our case.

2 THE COURT: All right. Ladies and gentlemen, that is
3 all of the testimony and the other evidence to be offered in
4 the trial of the case. What remains to be done are the
5 lawyers' final summations, after which I'll instruct you on
6 the law and then you'll begin deliberations. Now, from what
7 I understand the weather is going to get worse before it
8 gets better and so what we're going to do is recess now,
9 we'll conclude in the morning beginning at 10:00. So keep
10 in mind during the overnight recess no discussions and no
11 investigation, no research, no media exposure. Do have a
12 good evening, please report to your jury room in the morning
13 at 10:00, 10:00 in the morning.

14 (The jury left the courtroom.)

15 THE COURT: All right. Mr. Duncan, do you need to
16 renew your motions on the same grounds as initially stated?

17 MR. DUNCAN: I do, Your Honor.

18 THE COURT: Any additional grounds?

19 MR. DUNCAN: No, sir.

20 THE COURT: All right, that motion is denied. Mr.
21 Frick?

22 MR. FRICK: Yes, sir, same, I renew my motion.

23 THE COURT: That motion is denied. Do y'all have
24 instruction requests?

25 MS. LIVELY: Yes, Your Honor. The State was going to

1 request hand of one is hand of all based upon testimony
2 that's been provided during this trial as to multiple
3 shooters, and because there was no weapon actually found as
4 a result of this particular investigation that a hand of
5 one, hand of all seems to be appropriate regarding the
6 shooters in this case.

7 THE COURT: Mr. Duncan?

8 MR. DUNCAN: Your Honor, Mr. McClinton is charged with
9 the crime. I mean, there can't be a multiple -- there's
10 not -- there are multiple shooters but they can't prove that
11 Mr. McClinton had a gun. Putting a gun in his brother's
12 hand or Mr. Carlton Isom's -- Carlton Dixon's hand is not
13 sufficient and I don't think that the hand of one is the
14 hand of all instruction would be appropriate given what I've
15 heard in the courtroom this week.

16 THE COURT: All right. Mr. Frick?

17 MR. FRICK: Your Honor, in regards to Mr. Graham, the
18 State had an opportunity to charge him as a principal if
19 they wanted to, they didn't do that, they charged him as an
20 accessory, I don't think hand of one, hand of all applies in
21 that circumstance.

22 THE COURT: Okay. Ms. Lively?

23 MS. LIVELY: Yes, Your Honor. I'm reviewing the
24 analysis of a couple of cases here, and I apologize because
25 I was going to actually get this more appropriately in front

1 of you --

2 THE COURT: I'll think about it. We'll talk about it
3 again in the morning. What other requests do you have?

4 MS. LIVELY: Well, that was pretty much it. I was
5 going to look at your standard ones anyway once you got them
6 done, but just the usual charges are fine.

7 THE COURT: Okay. Mr. Duncan?

8 MR. DUNCAN: I would obviously like to look at the.
9 Court's instruction, but as I stand here I don't think of any
10 special instructions that I'm looking for.

11 THE COURT: Okay. Mr. Frick?

12 MR. FRICK: Your Honor, I would ask for the
13 circumstantial charge that's in the Logan case, I think
14 you're familiar with what I'm talking about.

15 THE COURT: All right. Anything else?

16 MS. LIVELY: Nothing from the State.

17 THE COURT: All right.

18 MR. DUNCAN: Not tonight.

19 THE COURT: Court is in recess until 10:00 in the
20 morning.

21 (Court recessed for the day and resumed at 10:00 a.m.,
22 On Friday, February 7th, 2020.)

23 THE COURT: Are there any matters that need to be
24 addressed prior to the jury being brought in?

25 MS. LIVELY: Not from the State, Your Honor.

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1 MR. DUNCAN: Not from Defendant McClinton.

2 MR. FRICK: Nothing from Mr. Graham.

3 THE COURT: All right. Now, for the benefit of the
4 audience, we're getting ready to -- the lawyers are going to
5 be addressing the jury, and after they get through I'm going
6 to be instructing the jury on the law. During this process
7 from now until the jury goes out there will be no coming and
8 going in the courtroom, so if you don't think you can sit
9 for the next hour and a half or so, whether you need to use
10 the facilities or whatever it might be, you're not going to
11 be able to leave and you're not going to be able to come in.
12 So if you don't think you can sit that long you need to
13 leave now because you will not be permitted to leave once we
14 get started and the jury comes in. Anybody need to leave?
15 Okay. Bring the jury in.

16 (The jury returned to the courtroom.)

17 THE COURT: Good morning. As you know when we recessed
18 yesterday all of the evidence had been received, and
19 therefore what needs to be done are the lawyers final
20 summations after which I'll instruct you on the law and
21 you'll begin with your deliberations. Now, the way that
22 process occurs is that the State, of course they've got the
23 burden of proof so they will go forward first in their final
24 summation. After they conclude each of the defendants'
25 lawyers will be able to address you, and then once they

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1 conclude the State gets to make a brief reply argument to
2 the statements of the defense counsel. So please give the
3 lawyers your attention, now, as they gave you their final
4 summations.

5 MS. LIVELY: Thank you, Your Honor. Good morning,
6 everyone, happy Friday. And, you know, these cases, they
7 deal with such important issues not only in our community
8 but in regards to the fairness of the justice system to make
9 sure that everybody gets the opportunity to be in front of
10 12 people who are going to make a very important decision.
11 Now, that decision doesn't necessarily mean that we want you
12 to use your emotion. We want you to use, you know,
13 supposition, "Well, maybe this was going on behind the
14 scenes," or, "Maybe this is why somebody said something,
15 maybe this is why we're here." You're here for the choice
16 of all of us attorneys to put you on this jury to be fair,
17 not to be thinking about what's going on behind the scenes,
18 but to think about what happened that night. And remember
19 when I first started, and I always write down what I do when
20 I first start talking to a jury -- here is the thing, I
21 wrote it down, justice is knowing what is right and doing
22 it, okay? Knowing what's right. And we have laws in
23 society, because if we didn't have laws we would have chaos.
24 We don't want to have chaos, because when we have chaos what
25 do we have? We have what happened on the night of

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1 December 25, 2018. We have people who have the nerve to go
2 into a public place, who has walked through this club all
3 night long looking people in the eye, not trying to hide who
4 he is, and then he goes -- after getting in a fight,
5 grabbing pool sticks, he goes and shoots a weapon in front
6 of everyone who knows who he is. This is a small community,
7 ladies and gentlemen. Remember, I wrote this down too,
8 because we've had a lot of information and I don't remember
9 everything as well, this was not an unknown suspect,
10 everyone knew who he was. Okay. So here is one of the
11 things, let me tell you when DNA is a great tool. I love
12 DNA. I love DNA, because I've learned that I'm half
13 Italian, I'm 20 percent Greek and then I've got a lot of
14 other stuff going on, okay? That's fun, that's fun DNA, but
15 I normally don't get to do that kind of DNA. Because the
16 DNA I look for is going to be something where I can say we
17 don't know for sure who did this crime so we'd better do
18 everything we can to figure it out, so we're going to swab
19 for DNA anywhere and everywhere we can, because we don't
20 know who this person is. That happens in rape cases, that
21 happens in burglaries where you show up and your house has
22 been ransacked and they try to find out who it is. They
23 swab for DNA, we send it to SLED, guess what? They get a
24 profile. Now, that doesn't necessarily mean that they know
25 who it is. We still have to find suspects, swab their

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1 mouth, send it to SLED and compare this profile to see if it
2 matches. I know all of y'all have watched CSI, and if you
3 haven't watched it your parents have and they know about it.
4 So here is the thing, when I started this case I said the
5 beauty of this case for simplicity that Quinton "Tril"
6 McClinton, known by the community, known by most of those
7 people in the club, and if they didn't know his real name
8 they knew it was Tril, every single one of them said he shot
9 him. So let's talk about that. All right. He's charged
10 with attempted murder, possession of a weapon, and that's
11 just during the commission of a violent crime, and that's
12 because attempted murder is a violent crime. Kochese
13 Gregory died three times that night, he is a miracle to be
14 alive. And then assault first degree. "A person with
15 intent to kill attempts to kill that person with malice
16 aforethought, express or implied, that person is guilty of
17 attempted murder." So let me tell you what malice is,
18 that's evil, ill-will. It's not an accident. You're not
19 going to be told here that this was some type of
20 self-defense, that's not evidence before you in this case.
21 The fact of whether or not Kochese Gregory had a gun or
22 didn't have a gun is completely irrelevant because he didn't
23 shoot himself. He did not shoot himself. Someone shot him.
24 And even the people who said that he may have had a gun said
25 he was returning fire if that was the case, so self-defense

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1 is not even an issue before you at all. The issue is was
2 Kochese Gregory shot, and is that the man who shot him.
3 Then he was beat with pool sticks to the point where you
4 heard him say the beating was brutal, the beating was
5 brutal. He says he still suffers from what that beating did
6 to him as much as the shooting. He asked all of y'all from
7 that stand, "Don't forget how bad the beating was," that's
8 assault and battery first degree. Now, Montrell Graham,
9 he's the codefendant. Accessory after the fact means that
10 he did with knowledge harbor a person who has committed a
11 violent crime and take him away from the scene of that
12 crime. He drove -- and QM is just Quinton McClinton -- and
13 Carlton Dixon to the club that night, he tells you that
14 himself. He was with Quinton McClinton outside when he was
15 leaving the club. He saw the fight between Quinton
16 McClinton and Kochese, he saw the chaos that was going on.
17 He then said Quinton McClinton got hit by Tina Davis' car
18 and he's limping. As he is headed to the car and started to
19 leave he started ducking because there was gun fire. We all
20 know from every bit of testimony that we have that's been
21 brought to this case and in this courtroom was that gunfire
22 was coming from everywhere. 18 shell casings in the parking
23 lot were found, 18, which means there were either two guns
24 going off or that someone reloaded and started shooting
25 again. Either way that's a lot of shooting. Then he

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1 finally, if you notice in his statement -- I know it's
2 really hard to hear, but here is the thing in his statement,
3 he starts out, "I don't know what you're talking about. I
4 didn't know anybody had a gun. I just got in the car and
5 left. I heard shooting and I left." Then he goes a little
6 bit further, "Well, okay. So I ran out to the car while the
7 fight was going on and I got my phone and then I ran back to
8 where Quinton was." Did any of y'all find that strange? A
9 20 something year old young man was in the club all night
10 without his phone? What do you think he went to the car to
11 get? Because we have Chocolate Pudding, Daverican Gregory,
12 and others who said he was shooting, too, but he's not
13 charged with the crime of attempted murder, but he had
14 knowledge. He was there when people were shooting. He
15 finally at the end of his interview says, when Wade Young
16 puts him on the spot, "So you were ducking, so the shooting
17 was coming from your people, coming from your people? Yeah,
18 yeah. But I don't know who had a gun. I don't know who had
19 a gun." And then everyone gets in the car and leaves? In
20 his statement he says, after not talking to the police three
21 until days later, when does he say that he decides to come
22 in and talk to them? After Quinton McClinton, who is in
23 charge of everything this man does, tells him, "It's okay,
24 you go talk to them now, Carlton," the other guy in the car,
25 "has gone and talked to them, this is going to be our

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1 story." And that's what he did. He went in there and told
2 that same story. He never would put that gun in the
3 statement that you heard in Quinton's hands because he's
4 doing what he's told. Look at the people who had to be drug
5 in here to tell y'all what really happened. Witnesses at
6 Images when it happened, George Killian, Big Troy. I hope
7 y'all know who I'm talking about whenever I interchange
8 names. I'm just going to call him Big Troy because that's
9 what everybody referred to him. As soon as the police get
10 there, before EMS can even get there to save Kochese
11 Gregory's life he's there. He had the drink thrown in his
12 face, the fight broke out, "Quinton McClinton swung a pool
13 stick at me," he said. "Tril reached in his coat pocket and
14 pulled out a gun and said he would shoot me." Pool sticks,
15 punching, kicking, fighting, guy with the pistol in his
16 pocket was swinging the pool stick. And here is the thing,
17 even though unfortunately not everybody knows people's legal
18 names, they do clearly know and describe who they're
19 referring to. That's what George Killian does throughout
20 the entire night. I think he probably -- when I went and I
21 watched the body worn camera, he probably gave four
22 different statements confirming who it was that had the gun,
23 and then who it was who was beating Kochese Gregory and him
24 with pool sticks. So they locked the doors, because at that
25 point that's whenever Mr. Foster, who testified yesterday,

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1 who I think was trying to do the right thing, comes out and
2 he's locking the doors. And what ends up happening? "Tril
3 was shooting, the boys from Roundtree Circle. Quinton and
4 McClinton and his brother all had guns and were shooting
5 towards the club." This is exactly what George Killian, Big
6 Troy, tells the police not once, not twice, but three times,
7 and then puts it in his statement, and he was outside to
8 witness it for himself. "Kochese was shot." He had to be
9 subpoenaed to come to court, he didn't want to be here, but
10 he did give that statement that night. He identified
11 Quinton McClinton as the one who was shooting and shot
12 Kochese Gregory.

13 (Audio was played.)

14 MS. LIVELY: "I don't know his name. I know it's
15 Tril." And in the background you can hear him say, "You
16 know Tril, it's Quinton." A person who was there, saw it
17 for himself. Now, we have got Kelvin Killian, Antonio
18 Killian, Cowboy or was it Kalbo, that's why I put the
19 pictures up here because I want you to know who it is I'm
20 referring to. He was working as a bouncer and security that
21 night, he's at the fight outside, he was there. Remember,
22 they were all trying to get people out of the club at that
23 point because it was getting ready to be closed down, and
24 his brother obviously is Big Troy, and he said Quinton
25 McClinton hit him with a pool stick. Now, as for the

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1 shooting, outside, remember, the testimony has been, even in
2 Montrell Graham's statement he said there were ten to 15
3 people, I mean, give or take. It was chaos. They were all
4 out there. So when the shooting starts, do you think
5 everybody is going to stop and say, "Let me see who is doing
6 this shooting?" No. What they're going to do is exactly
7 what Montrell said, he's ducking allegedly, or he's a part
8 of the shooting, and they're trying to get the heck out of
9 there. So what he remembers and what he told you was, and
10 what he wrote in his statement was there was a shooting
11 outside. "I saw Carlton or Quinton McClinton shoot
12 Kochese." And that's because all of those people were out
13 in the parking lot, who was together that night? Carlton
14 Dixon, Montrell Graham and Quinton McClinton, all three of
15 them were together. There's also been testimony that
16 Quinton's older brother, Robert Junior McClinton, was there,
17 too, so possibly a fourth. So what we have is confirmation
18 through another witness that it was Carlton or Quinton
19 McClinton that he personally saw shooting Kochese. There is
20 no way if you've got a bunch of shots coming towards you and
21 guns are pointing at you that you're necessarily going to
22 know or pay attention to who actually their bullet hits the
23 person who gets injured except for the person who gets shot,
24 and here is -- that's what you end up hearing. Then we have
25 Tina Davis. Cousins with Montrell Graham and Kochese

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1 Gregory. So she is in a pretty bad bind. She is subpoenaed
2 to come to court, and I don't know if you remember, she was
3 very boisterous on the video from the body worn camera, but
4 if you remember when she was in here she was comatose, she
5 was petrified to be here. And even Lieutenant Young told
6 you when he talked to her she was terrified. She lives in
7 this small community as well. She's cousins and family with
8 these people, and that's a hard place to be. But the truth
9 is the truth and that's what we have to focus on here. They
10 were all jumping on Big Troy. Guy in a brown jacket
11 shooting a gun, she saw his arms extended. Montrell Graham
12 in a gray sweatshirt shooting in the air. She had to be
13 subpoenaed to court as well.

14 (Audio was played.)

15 MS. LIVELY: The reason why this is so important for me
16 to remind y'all, and I know you probably remember hearing
17 the body worn camera, remember me asking each one of the
18 witnesses did you realize you were being recorded that night
19 and they were like no? I promise you that these body worn
20 cameras have made such a difference in how these cases are
21 able to be brought to court. Because unfortunately it's
22 just the reality of the world that people either have, you
23 know, amnesia from fear from being talked to, being
24 convinced that it's better to just let things go, and it's
25 sad. These people were doing the right thing that night.

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1 They were being honest, they were talking to the police,
2 they were helpful. They were helpful. But when you've had
3 a chance to get away from that traumatic event, rest and
4 think about what does it mean? Does this mean I have to go
5 into a courtroom and testify? Does this mean everyone is
6 going to know I put down in words what happened and what I
7 saw? So think about that. But because we have these body
8 worn cameras, because we have the ability to bring people in
9 here and talk to 12 folks like you, we can bring out what
10 really happened and get someone like Quinton McClinton off
11 the street. James Young. It was his brother's birthday
12 party. He was outside smoking a cigarette, everything was
13 going great, and guess what? He just happens to put himself
14 in a position as to where the fight starts. So he says the
15 guys fighting Big Troy were wearing brown jackets. And that
16 keeps coming up over and over again because that is the
17 identifying factor that tells us who it is that was hanging
18 out in the club together and then left from the club
19 together, got into the fight together and then ended up
20 being the ones shooting back at the club, okay? So that is
21 the reason why I keep putting it in there. He never saw
22 Kochese with a gun, he testified to that. He said that
23 Kochese did get shot and they drug him back into the club.
24 And remember, Kochese said he was trying to get into the
25 club but they had actually locked it to try to keep people

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1 from coming back in, especially whenever the shots started?
2 He said before the shots even started, he being Kochese, he
3 had tried to get back in after he had been beaten with the
4 pool sticks but it was locked, and when he turned to go the
5 other way is whenever he said he saw Quinton McClinton lean
6 over the white vehicle, point the gun at him and pull the
7 trigger. When he was shot is when he stumbled back, and he
8 was at the door, "I've been shot, I've been shot," only then
9 do they unlock the doors to let him in. So he helped apply
10 pressure to Kochese's wound. He didn't give a written
11 statement that night. We found out who these people were by
12 actually going back to the body worn camera and identifying
13 who they were to bring them here so they could testify in
14 front of you this week. All right. Now, here is our
15 favorite, Chocolate Pudding. Here is the reason why I say
16 our favorite. Because if you remember, Lieutenant Young
17 said, "I kept trying to get him to come in, he wouldn't come
18 in, he wouldn't come in." And on the body worn camera you
19 can hear Thorpe is on the phone saying or -- it was Braylin
20 Brown or Thorpe, one of the officers saying, "Where are you?
21 I need you to come back and give us a statement. I need you
22 to come back and give us a statement. I'm coming, I'm
23 coming," and he never comes in. And here is the thing, when
24 he is up there he tells you, "I know Quinton McClinton, I
25 know Montrell Graham." So here we have someone who knows,

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1 he's now on the stand testifying about what he saw. And if
2 you remember, the reason why I pulled this one out, here is
3 Chocolate Pudding right here and there is Big Troy when the
4 officer gets there, and he -- and this is when the chaos is
5 still going on, EMS isn't even there yet. He's coming out
6 of the other door, the club side door and he's out here,
7 he's was like police, "Oh, police, police, you're here," and
8 then he starts this whole thing, "I know who shot. I know
9 who was shooting. I know who was shooting." And he right
10 away, right away says it was Tril. No hesitation
11 whatsoever. Now, he may have never intended to give a
12 written statement but that's what I'm talking about with the
13 body worn camera, we captured that at the moment when it
14 happened. That's credibility, ladies and gentlemen. That's
15 your job is to determine the credibility of these witnesses.
16 During the commotion, during the excitement of what had just
17 happened, do you think that he's sitting here thinking,
18 "This is a good way for me to pin something on Quinton
19 McClinton and Montrell Graham?" If he was thinking that
20 then he has Big Troy, Kalbo, Bernice June, Tina Davis, and
21 they had to know that, "Oh, and we hope Kochese throws out
22 Quinton's name while he's dying on the ER table" in order
23 for them to all point the finger at Quinton McClinton. That
24 would be one heck of a conspiracy on December 25th when
25 everybody wants to get home to their family and this

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1 happens. It's not reasonable. Remember, I said use your
2 common sense. This case is so clear. He said, "Officer, I
3 know who was shooting, it was Tril."

4 (Audio was played.)

5 MS. LIVELY: "Tril, Tril, I seen him." Now, how about
6 Bernice June? Her brother is Chocolate Pudding, and she
7 also did not give a written statement but she was there.
8 She also knows Quinton McClinton, saw him wearing a
9 tanish/brown jacket. She's the one who knows his nickname
10 is Tril. As a matter of fact, if you continue to watch
11 through the body worn camera she continuously goes in, and
12 when anybody is saying "I don't know. His name is Tril, I
13 don't know what his real name is, I don't know what his real
14 name is." Because you've got to remember, Big Troy and that
15 crowd, they're older. There were a lot of older people
16 because it was the guy, Chuck Sims' birthday, he's an older
17 guy. So it was kind of one of these parties where the
18 community was coming together, it was supposed to be
19 something really fun, and then these young guys, Big Troy
20 says that a couple of times, then these young guys come in
21 here. So these are people who know who he is but they don't
22 necessarily hang out with him. She knows his name is Tril,
23 and she actually tells the officer later on after Kochese
24 has actually been taken to be treated, she tells him Tril's
25 real name is Quinton McClinton. So it's very clear at that

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1 point and that's when George Killian writes his statement
2 and he's asking, "So who's the Tril boy? What's the Tril
3 boy's name? It's Quinton McClinton. Oh yeah, that's it."
4 And she describes what he was wearing, so they're all
5 talking about the same person.

6 (Audio was played.)

7 MS. LIVELY: So that's Bernice when she's talking to
8 Officer Thorpe and she's telling him that they were out
9 there, that they were shooting like hell. And then you hear
10 Troy talking in the background, "Yeah, the Tril boy. Not
11 Junior but the Tril boy, but Junior also had a gun." So
12 here we have these people that within an hour or less, once
13 the officer is there, they're giving these statements very
14 clearly as to what they say happened. Then we've got Benika
15 Kershaw. And here is the thing that Benika that I want
16 y'all to think about. She just happened to show up for the
17 party with her mother who has a disability, and they were
18 just going to hang out and then leave. Well, then she sees
19 all of this chaos. Imagine that. You're there with your
20 mother who is older that you're trying to take care of,
21 they're leaving and this fight breaks out. So she said they
22 left. But here is the thing, what a wonderful citizen she
23 is. Because what she did was -- I don't know, I might have
24 hauled butt and gotten out of there, but what she did was
25 she went across the street, across the street here at this

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1 gas station and what does she say? "No one was helping the
2 guy being beat on the ground so I called 911." That's when
3 the police knew what was going on. Not when everybody there
4 at the club started calling, but Benika, who is not related
5 to any single person there, she interjects herself into
6 doing the right thing as a member of this community and she
7 called 911. She calls 911. And then what ends up
8 happening? She says -- and she puts it on here, she starts
9 to see and hear gunfire. Where is the gunfire coming from?
10 From the top of the parking lot, the lower parking lot back
11 away from the club. The guys wearing brown have run away
12 from the club, guys in the brown jacket. She did say that
13 she saw Kochese return shots back at the others, but she is
14 seeing it from across the street. And the credibility of
15 these witnesses are completely up to you, ladies and
16 gentlemen, but remember, no one is claiming any type of
17 self-defense here. So whether or not he was defending
18 himself or someone else was defending themselves, he's the
19 one that got completely beat to a pulp with a pool stick,
20 he's the one that got shot in the abdomen and he told you it
21 was Quinton McClinton that shot him. So whether or not he
22 had a weapon or shot a gun has nothing to do with the fact
23 that he got shot that night, because no one is claiming they
24 had a right or a legal right to shoot him. She did stay and
25 give a written statement, she did cooperate. Now, Dr.

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1 Duncan Holaday. He knows nothing about anything, he's there
2 to save people's lives. The unique thing about what
3 happened with him is that he didn't realize he was going to
4 be that level of a witness, because he just happened to be
5 there working on Kochese Gregory before he was completely
6 put under and stabilized in order for them to fly him to
7 Charlotte for surgery. So as Kochese was laying there,
8 Officer Rinke was there and J. P. McNeil, one of the EMT's,
9 was there, and that body worn camera once again was on
10 recording everything that happened. They continued asking
11 Kochese. I mean, he's got a bullet hole through his body,
12 damaged his liver, he's been beat with a pool stick, he's
13 laying there, they're trying to get him stabilized, and the
14 officers saying, "Before you put him under let me try to get
15 him to answer our question." They asked him over and over
16 again, "Do you know who it was that shot you? Do you know
17 who shot you?"

18 (Audio was played.)

19 MS. LIVELY: Quinton. Dr. David Jacobs, CMC Charlotte,
20 he came in here. And the purpose of him coming in here was
21 for you to understand the level of damage that he suffered,
22 Kochese Gregory suffered from that gunshot wound. This
23 wasn't a superficial wound. This was a wound that was meant
24 to kill, no question, and he did kill him. But for those
25 surgeons, those brilliant hardworking surgeons bringing him

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1 back to life three times, this would be a murder trial. And
2 that is what Lieutenant Young told you, he thought this was
3 going to be a murder case. He couldn't get to Kochese to do
4 any type of gunshot residue on his hands because he was in
5 surgery. But here is the thing, that's the reason why in
6 the information that came out Lieutenant Young was trying to
7 do the right thing. He said at first I wasn't 100 percent
8 who was doing what because I had Benika telling me that he
9 may have been returning shots, may have had a gun. Got Pop
10 Foster, the older gentleman that testified yesterday, who
11 said, "I saw the guy in the green sweater shooting, too."
12 So what you have is you may have two people who were
13 shooting each other, and if we don't know who started it,
14 why it happened, then what you might have is some type of a,
15 you know, situation where they're both trying to kill each
16 other. It's still attempted murder, it's still people who
17 have an intent with malice to kill one another. But as the
18 evidence continued to come through, as more information
19 continued to come through and decisions were made, it was
20 determined this was not a self-defense case for the purposes
21 of Mr. McClinton, that evidence is not in front of you. And
22 Mr. Kochese Gregory, once he was healed and he's better, he
23 came in here and testified to you that he did not have a
24 gun. Whether you believe that or not is up to you, but I
25 will tell you this, it has absolutely nothing to do with the

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1 fact that Quinton McClinton shot Kochese Gregory and almost
2 killed him, and that's the issue you have to resolve. So
3 here is the victim, Kochese, in his own words. He said he
4 went to Images that night because his dad checked out of the
5 hospital and his dad was there. He saw his family members.
6 He had a Bud Light. He knows Quinton McClinton. He said
7 actually his son is tighter or has some dealings with him
8 more so than he does, he said, because of their difference
9 in age. Kochese is 44. He also knows Montrell Graham. He
10 did not actually see the fight outside with Big Troy and
11 CiCi Whitlock. He was walking outside, he was on the phone.
12 He said at that time Quinton McClinton attacks him from the
13 side and just basically sucker punches him. He said he
14 could see him from his peripheral, he knew it was him. The
15 next thing he knows, everybody just jumped on him, pool
16 sticks, kicking, punching. He's on the ground while being
17 beat. He says he had severe bodily injury and pain. He
18 said it had lasting effects even until this day the beating
19 was so brutal. He had to pull himself up and then try to --
20 he was trying to get away. He wasn't trying to stay and
21 fight, he wanted to get away but he couldn't get back in the
22 club. So when he's standing there with that bright green
23 sweater on he is a standing target, a target that Quinton
24 McClinton chose to hit. He says he gets off the ground,
25 says he never had a gun. I asked him, "Are you 100 percent

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1 sure it was Quinton? Absolutely." And you've seen the
2 pictures, and there's a ton of pictures from the scene from
3 that night and snapshots. You've seen the body worn camera.
4 That place is lit up like a Christmas tree ironically enough
5 because there's so many lights on the sidewalk around the
6 club. There's no cameras unfortunately, but there are
7 lights everywhere, and there's street lights in the parking
8 lot. There was a street light right beside the car where
9 Kochese said he saw Quinton McClinton lean over the white
10 car, point a gun at him and fire. He knew who he was, saw
11 him earlier in the club that night, knew what he was
12 wearing, 100 percent Quinton McClinton shot him. Saw him
13 when he pulled the trigger and then he felt the pressure
14 from being hit. So the law enforcement witnesses, just to
15 remind you. Barbara Cameron. She's the one who brought in
16 all of the evidence. Brian Sanders did the crime scene,
17 took pictures. He's the one that actually took the pictures
18 of one of the witnesses that came up later who didn't give a
19 written statement, it ended up being James Woodard who had
20 blood all over him. He had knots on his head and he was
21 like, "Yeah, I'm the one that's bleeding." There's blood on
22 the edge of the car and there's blood in the parking lot.
23 Now, one thing that Lieutenant Young did say, which I
24 thought was very important and I wanted to just bring this
25 up, is that they are concerned whether or not there could

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1 have been other victims. That's the reason why they called,
2 as he said, other hospitals in the area to say, "Hey, be on
3 the lookout for a gunshot wound, people coming into the ER,
4 because they know if that did happen then hospitals are
5 required under the law to actually notify them, okay?
6 Because someone who has a gunshot wound, that's something
7 that needs an investigation, even if it's an accident, a
8 hunting accident or whatever law enforcement has to be
9 notified. No one called, no other gunshot wounds from that
10 night. So where did the blood come from? The blood came
11 from James Woodard. Issue addressed. And then Braylin
12 Brown was the one who took a lot of statements that night as
13 well and helped Officer Thorpe. So Lieutenant Wade Young.
14 He actually -- the thing that I want you to know that the
15 Court is going to tell you in regards to the evidence,
16 direct evidence is eye witness testimony, a person telling
17 you that is who I saw, that is who did it, that is direct
18 evidence. It's not circumstantial. That is someone telling
19 you. And unless you have a reason to doubt their
20 credibility then that is strong convincing evidence. So he
21 said, "Quinton shot him. Tril did the shooting. Quinton or
22 Carlton were shooting guns. Tina saw Quinton fighting," All
23 of this stuff. I've said it over and over again. Now, why
24 certain things weren't done, I explained that when I first
25 started talking to you. No DNA was found on the shell

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1 casings. In order for them to have a comparison they've got
2 to have something off of whatever item they want to get to
3 say we've got some DNA off of it. You know, sometimes you
4 hear, "We swabbed it, there was no DNA so there's nothing we
5 could compare it to." That's what happened in this case.
6 No GSR kits. No GSR testing of the victim's clothing
7 because he was shot, which means he would have residue on
8 him because he actually got hit by a bullet. And then no
9 DNA tests, which I just now explained to you on that. But
10 remember, I never promised y'all that at the beginning of
11 this case. I told you this is a common sense case, it's eye
12 witness testimony. These are people who knew who was
13 shooting. So here is the questions I want to answer for
14 you, which I believe after all of the evidence has been
15 brought in this case is going to get you where you need to
16 be to be firmly convinced of the guilt of Quinton McClinton
17 and Montrell Graham. Was Kochese Gregory at the Club Images
18 on that day? Absolutely. Was Quinton McClinton there?
19 Clearly he was there. Was Montrell Graham there? Yes, he
20 was. Was there a fight outside the club and Quinton
21 McClinton attacked Kochese Gregory? Yes. Even Montrell
22 Graham in his statement tells you they were all fighting and
23 that Quinton was fighting Kochese. At the time Kochese was
24 shot, were Quinton McClinton and Montrell Graham in the
25 parking lot? Yes. Did the person who shot Kochese shoot

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1 from the parking lot back towards Kochese? Yes. Did
2 Kochese shoot himself? Absolutely not. How many eye
3 witnesses saw Quinton McClinton shooting a gun in the
4 parking lot towards the club when Kochese was shot? Six.
5 But the most important one is the one who got shot himself,
6 that's Kochese Gregory. He told you when he was dying on
7 the ER table that it was Quinton. He told you when he came
8 into this courtroom that it was Quinton. There's no
9 question it was Quinton McClinton. And then Montrell Graham
10 puts himself there with Quinton. Some eye witnesses
11 actually put a gun in his hand as well. But remember the
12 chaos. They knew that there's a bunch of shots coming from
13 the parking lot and they know he's out there with his other
14 people in the parking lot. He admits he was ducking while
15 shots were being fired around him. He then admits finally
16 that it was his people who were shooting. He then takes
17 Quinton away from the scene, doesn't go to the police for
18 three days. Leaves the scene, drops Quinton off, doesn't do
19 anything at all to assist the police in finding Quinton
20 McClinton because he's been told not to. He was told by
21 Quinton McClinton only after they got all of their stories
22 straight, Carlton Dixon and Montrell Graham, only then he
23 had to be given permission to go and talk to the police. He
24 knew exactly what he was doing, who was doing it and what he
25 was doing when he drove him away from that scene. So

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1 attempted murder. A person with intent to kill attempts to
2 kill another person with malice aforethought expressed or
3 implied. So what does that mean? That sounds pretty fancy.
4 Hatred, ill-will, hostility towards another person. Do you
5 think Quinton had hostility that night when he was beating
6 Kochese Gregory with a pool stick? The intentional doing of
7 a wrongful act without just cause. We do have laws in South
8 Carolina that say you can protect yourself, but he's the one
9 with the pool stick and he's the one that all of those
10 witnesses put a gun in his hand. He had intent to inflict
11 injury to the level of killing someone that night. It
12 didn't matter who it was, but it was Kochese Gregory. It
13 was Kochese Gregory. And Montrell Graham knowing what
14 happened got him in that car and got the heck out of there.
15 So we have Quinton McClinton. Brutally beat Kochese Gregory
16 with the pool stick, guilty, assault and battery first
17 degree. He shot to kill Kochese Gregory. Malice, ill-will,
18 hatred, intent. There's no self-defense in this case, he
19 shot him. Looked him in the face and pulled the trigger.
20 He possessed a weapon, which was the firearm that we've been
21 talking about, which was never recovered for us to do
22 ballistics testing on. No firearms were recovered from
23 Kochese or anybody on the scene. But he, from all of those
24 eye witness testimony, did possess a weapon, a firearm in
25 his coat pocket according to Big Troy, threatening to shoot

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1 somebody, threatening to shoot him, and then what? He was
2 ready. He was ready that night to shoot somebody. He's
3 already threatening people in the club and then he shot him.
4 All of the evidence points to Quinton McClinton. The only
5 reasonable common sense conclusion is that he's guilty,
6 every single offense, ladies and gentlemen, that's common
7 sense. But you have to be firmly convinced, and I believe
8 if you look at all of this evidence, you use your common
9 sense, you consider everything that you've heard from that
10 witness stand, the only conclusion you will come to is
11 guilty. I really appreciate your time. I know this has
12 been a long week for everybody but this is an extremely
13 important case for Kochese Gregory, for the defendants, and
14 for these community people who came in here and testified
15 truthfully about what they saw. Now, yes, you can decide
16 whether or not their credibility is that they were truthful
17 or not, whether they were truthful or not, why they may have
18 changed their stories. But remember, the body worn camera
19 doesn't lie, and what was going on those first few minutes
20 of that chaos is a reflection of what terror that man
21 brought to this community that night. Find him guilty,
22 ladies and gentlemen. Thank you very much.

23 THE COURT: Mr. Duncan?

24 MR. DUNCAN: Thank you, Your Honor. Ladies and
25 gentlemen, good morning. This will be my last chance to

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1 talk to y'all. Ms. Lively gets to come back at the end
2 because the burden is on them, the burden is on the State
3 and it's a heavy burden. The Judge will give you the law on
4 what beyond a reasonable doubt means. I would submit to you
5 that in this case there is plenty of reasonable doubt to go
6 around. Here is the thing, Ms. Lively says it's a simple
7 case. Investigator Young says, you know, what we've got --
8 I think he said it about three times -- all we have in this
9 case is eye witness testimony, that is all we have. Well,
10 here is the truth of the matter. You know, we hear about
11 the evidence, all of the evidence that's mounted and -- any
12 of y'all -- I'm a lot older -- I hate to be this way as I
13 look through the group I realize I have reached the age of
14 beyond the age of most of y'all, I guess I'm in the older
15 generation now. And remembering not all of it, not all of
16 it, but television shows we've been spoiled by we've got to
17 do this and you've got to have -- you know, what kind of
18 evidence is there building your investigating? You know
19 when the warrant was issued for Quinton McClinton's arrest?
20 He said it yesterday on the stand, Investigator Young, this
21 case was solved in like 18 hours. Eighteen hours after the
22 incident on Christmas Day they had a warrant, he had wrapped
23 up the case. Now, he talks about, you know, it was early in
24 the investigation when he swore out a warrant against Mr.
25 Gregory, that was January 31st. Was it early in the

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1 investigation? I don't know, that's how he characterized
2 it. But here is the thing about that, he hadn't decided by
3 January 31st whether Mr. Gregory was guilty of attempted
4 murder or not. He thought, you know, maybe he should be
5 charged too. He should be charged. He told you the facts
6 showed that Mr. Gregory was shooting a gun, but he had
7 wrapped up the case against Quinton McClinton before people
8 ate Christmas dinner. They found blood. Look, I can --
9 they found blood in the parking lot. They found blood in
10 the parking lot. Got this gentleman here. There was a
11 bigger picture of him with the blood on his head, but this
12 is Mr. Woodard, James Woodard, it's State's Exhibit -- this
13 one is 55, wearing, I believe, a brown jacket. We've heard
14 about the brown jacket guys, those -- was Mr. Woodard one of
15 the guys shooting? The guys wearing brown jackets were
16 shooting. But Investigator Young said Mr. Woodard had been
17 hit in the head with a pool ball. I think Chocolate
18 Pudding -- I think that's right, don't hold me to that,
19 somebody had hit him in the head with a pool ball and he
20 said, "Yeah, they hit me in the head. I was bleeding,
21 that's my blood." So Investigator Young said, "Well, that
22 suits me. I don't want to do any -- I don't want to look
23 into that," where perhaps a person had been shot, had been
24 the shooter. I don't know, there was blood in the parking
25 lot. It seems to me that it's a reasonable thing to do to

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1 test that blood and make sure it belonged to the guy who
2 said, "Well, I claim it. I took his word for it. It didn't
3 seem like it had nothing to do with the investigation into
4 this incident in which Mr. Gregory was shot." Again,
5 y'all -- we don't have to have a CSI investigation, Law and
6 Order investigation into every case, I understand that. But
7 when you've got 18 shell casings across the parking lot,
8 you've got testimony that somewhere between four and six
9 individuals are shooting from out in the parking lot. There
10 is testimony about people shooting from -- one person,
11 Kochese Gregory, shooting into the parking lot from the
12 club. And Mr. Foster is the club owner, he don't know
13 anybody. Here is what Mr. Foster knows, he knows he owns
14 the club and a bad thing happened at that club at night and
15 he hated it because it cost him business. He didn't want
16 that going down in his club. He's trying to lock up the
17 club, get it secure, and all -- you know, when he comes in
18 and says, "I saw a guy with the green sweater shooting out
19 toward the parking lot and I saw fire coming back. I don't
20 know who -- I don't know who started what but there was
21 shots coming both directions." And Ms. Lively says to you
22 it doesn't matter if Kochese Gregory is shooting the gun or
23 not, whether you believe he is shooting a gun or not. Well,
24 I submit to you that it's right significant whether you
25 believe Kochese Gregory is shooting a gun or not, because

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1 Kochese Gregory is the only human being, is the only eye
2 witness who says that my client shot him. Everybody else --
3 and we hear on the camera like Tril, Tril, Katril, who is
4 another person, Tril, Katril. Junior McClinton, who's
5 Quinton's older brother. Carlton Dixon. Montrell Graham.
6 Not picking on Montrell, but at least five individuals are
7 mentioned. Mr. Foster said in a statement that Ms. Lively
8 asked him about, it was five or six. So there's six people,
9 five or six people shooting from that end of the parking
10 lot. You don't know who those five or six are exactly,
11 we've got different -- those names that I just gave you.
12 But the only one when they came to court and testified, and
13 not -- I'm not trying to be like me and William Frick were
14 so skilled cross examiners, I think that on direct exam when
15 Ms. Lively asked them, "Did you see Kochese get shot?" To a
16 man or to a woman they all said no, I didn't see that. So
17 here is what we're left with, we're left with Kochese
18 Gregory's word that Quinton McClinton shot him, that's what
19 we're left with. Now, Kochese Gregory told several people,
20 but if I go to McDonald's today and walk in and say,
21 "William Frick shot me," and I tell 15 people, it doesn't
22 make it more true that 15 people heard me say it. This case
23 rises and falls on the credibility of Kochese Gregory. Do
24 you believe what that man said from the witness stand? Do
25 you believe what he said? I submit to you that there are

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1 lots of holes in his testimony, significant things that
2 don't make any sense at all, such as he's in the club, comes
3 outside the club, I think he gave the number of 15 people,
4 15 people jumping on him. Nobody helped him. He's got
5 family in there, friends in there, he's a life long -- he
6 has lived in Chester 44 years. He wasn't invited to the
7 party so it wasn't his people's party, but his people were
8 there. He had -- Chocolate Pudding was his cousin, the
9 Killian boys knew him, they were his age range. I mean,
10 he's the mid-40's guy, those guys were his age. They were
11 his people, his friends. And I remember him, you know, Mr.
12 Frick asked the questions and said, "So nobody came?" And
13 he said, "Sad to say," said it about three times, "Sad to
14 say," nobody helped him. And then the people that were
15 beating him stopped beating him, walked away, dispersed, no
16 one came to help. They got tired of kicking him? I'm not
17 trying to be funny. What happened there that made them
18 disperse? Just a right significant point I think for y'all
19 to consider. Again, y'all decide the facts so y'all decide
20 what's important and what's not, I don't -- I'm just the
21 lawyer. I don't get to tell you what's important, y'all
22 decide what's important. But it seems right significant to
23 me that if a man had been beating you and wanted to shoot
24 you and you're there, if he wanted to shoot you, why
25 wouldn't he shoot you? What do you reckon made him walk off

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1 65 feet away according to Mr. Gregory and then take aim and
2 shoot at you? I mean, does that make sense? Does that make
3 sense to you? Again, Mr. Gregory, if he would have had a
4 gun, if he has a gun he could tell you that, "People were
5 shooting at me, I shot back." He said, "I didn't have a
6 gun. I never had a gun. Never had a gun. Couldn't
7 possibly have shot a gun." Montrell Graham's statement that
8 y'all watched, his video, he says, "I saw Ryan Gregory hand
9 Kochese a gun." Yeah. You don't have to believe that, you
10 don't have to believe that, but there is evidence that
11 Kochese had the gun. Again, the lady that Ms. Lively -- you
12 know, me and Ms. Lively agree on something, that's good.
13 We probably don't agree on much in this case. But the lady
14 who went across the street, Ms. Kershaw, she is the closest
15 thing to, you know, a good samaritan in this case as there
16 is. She was like -- I don't mean to be rude about you folks
17 from Chester County, y'all are from more of the city than I
18 am, I'm from way back in the country in Chesterfield County.
19 But this lady wasn't a Chester lady, she was from Union.
20 She'd only been here about three years, she didn't really
21 know anybody. Her mother was the one invited to the party.
22 And again, I was a little bit offended that I think Ms.
23 Lively referred to her as an older lady, I think she's like
24 mid-50's or something like that -- but sorry. In any event,
25 Ms. Kershaw says she went across the street, she's seeing

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1 this incident going on, she calls 911, she sees the guy get
2 off the ground -- well, wait a minute. I think another
3 significant point here and one that again bears on Kochese
4 Gregory's credibility is this sort of mysterious disbursing
5 of the crowd who is hitting on him. I think as you consider
6 it it would make more sense what Ms. Kershaw sees from
7 across the road where a black Jeep Cherokee that she later
8 learns is driven by Ms. Tina Davis, also known as Terquila
9 Clifton, is pulling back and forth and looked like it was
10 hitting somebody and causes the crowd to disperse around
11 there. And again, Ms. Kershaw is watching from across the
12 street and she doesn't really -- she doesn't really know
13 anybody. She doesn't know -- who people are and she
14 explains that. She has got it mixed up in her statement
15 about who might have got hit and I think she said Kochese
16 Gregory got hit by the vehicle, and I don't think that -- I
17 don't think there's any other testimony to that effect.
18 Again, significant to me, and I would ask that you consider
19 it, is that Mr. Kochese says, "Nobody helped me, I didn't
20 have a gun." Ms. Kershaw is watching from across the street
21 and says, "I see this guy shooting. The man in the green
22 sweater is shooting." And I'm not going to dig out the
23 green sweater but it's in the evidence and y'all saw it
24 yesterday or the day before, it's a pretty bright sweater.
25 I mean, it's something you could see even from across the

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1 road with the lighting out there. I'm not really
2 challenging the lighting in the thing, I'm challenging -- I
3 mean, we'll put it where it is, I'm challenging Kochese
4 Gregory's testimony, absolutely 100 percent. He ain't
5 telling you the truth. He ain't telling you the truth. I
6 don't know why he's not, really, I don't know why he is not.
7 He got shot. That bothers -- I mean, I'm sure he's upset
8 about that, I'm sorry about that. But the State hat not met
9 their burden of proving that Quinton McClinton is
10 responsible for that shooting. All they can show you is
11 that five or six people probably wearing a brown jacket like
12 this one were shooting from down in the parking lot and one
13 bullet hit Kochese Gregory, so one of five or six people
14 shot Kochese Gregory from somewhere in the parking lot over
15 at Club Images on Christmas morning. Here in America, here
16 in South Carolina, in Chester County, South Carolina, we
17 deserve better than that. That's -- if I'm -- I'm a
18 citizen, if I'm charged, I happened to be at the club on
19 that night and I walked -- I was there and somebody said, "I
20 saw Duncan shooting," and then other folks started calling
21 my name along with several others, but the police obviously
22 is locked in on my client. Again, they solved the crime in
23 18 hours. They had a warrant in hand on Christmas Day
24 afternoon or evening is what Lieutenant Young said. So they
25 had -- Investigator Young in the Chester County Sheriff's

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1 Office had what he wanted, what he needed to bring this case
2 on December the 25th, 2018, he had it, they locked in on
3 Quinton McClinton. It's interesting -- I think it's
4 interesting as you consider evidence and consider how
5 people's minds work, I mean, mine, yours, everybody. The
6 doctor, Dr. Holaday, Duncan Holaday, works down at Chester
7 Hospital, said, "You know, they said a name and I" -- in his
8 statement -- and he testified about it. He reviewed it,
9 looked at his statement and talked about that he knew it
10 wasn't like Billy and Ray, and the officers, officers asked
11 him, "Well, was it" -- and he wrote Trio in his statement
12 and he said, "Yeah, that was it." And then he watched it on
13 video and was like, "Well, that wasn't it at all." It's
14 like human nature is that, you know, when somebody is asking
15 you and you go well that person is looking for that, I want
16 to help them. You know, most of us do want to help, we want
17 to be like well, yeah, what was that? Whose name was that?
18 And then it turns into sort of a mob mentality and everybody
19 is going, "Yeah, Tril, shooting like hell." That woman said
20 shooting like hell. And then Bernice June -- and then Ms.
21 June, when questioned here in court, said, well -- I think
22 the word Ms. Lively used was copycatting, "Everybody else
23 was saying it so I said it, too. I was drinking that night,
24 I don't really know." Well, y'all, surely to goodness,
25 surely to goodness in this county, in this state, in this

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1 country we deserve better as a citizen, if I'm charged with
2 a crime, if I'm charged with attempted murder for crying out
3 loud, not charged with shoplifting, I'm charged with
4 attempted murder, they ought to have to do more than come in
5 and say some folks were calling out your name there at the
6 club in the one hour right after an incident in which 18
7 shell casings were found. So 18 gunshots out there, I don't
8 know who all was shooting. A number of people shooting.
9 But Kochese Gregory said it was Quinton McClinton, no need
10 to look any further. I ask y'all to consider all of that as
11 you consider the charge of attempted murder. The charge of
12 assault and battery. Judge Cole is going to give you
13 instructions about first degree, second degree. Again, I
14 don't think the State has presented evidence sufficient to
15 establish that Quinton McClinton is responsible for any --
16 for the injuries suffered by Mr. Gregory, Kochese.
17 Kochese's own testimony was there was this group of people
18 beating on him. The best I could tell, the best I could
19 tell when he said sucker punched or something to that
20 affect, he did say Quinton McClinton punched him. I don't
21 think -- I think that was with a fist, I think there was a
22 fight. I listened to Montrell Graham's statement on the
23 recorded interview and Montrell talked about -- and you'll
24 recall, it's in evidence, you can look at -- you can move to
25 the spot and see it, but I don't think it was Lieutenant

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1 Young, I think it was the other officer, Detective Crockett
2 who said something about, "Well, how come -- did Quinton
3 need help? Quinton is a pretty good sized guy, couldn't he
4 handle Kochese?" And Montrell says, "No. Chocolate Pudding
5 and Kochese were both on Quinton and so Quinton had to
6 get -- Carlton jumped in there. Carlton had to get in
7 there, it was two, so it was two on two." Again, it sounded
8 like a fight, it sounds like a fight. And if y'all believe
9 punishment is due, there will be instructions about assault
10 and battery second degree, which is essentially what would
11 happen in a fight not with Mohammed Ali or Mike Tyson but
12 with a regular person having a fight, misdemeanor charge.
13 Again, I don't think they've established it. I don't think
14 that testimony has established that Quinton McClinton is
15 responsible for injuries suffered by Mr. Kochese Gregory.
16 Again, I ask you to examine, please carefully think about
17 the testimony of Kochese Gregory offered from that stand,
18 see if it makes sense to you. I submit to you it does not,
19 and that a man should not be convicted of anything based on
20 that testimony. I do know that this wasn't where y'all
21 wanted to spend this week but I appreciate your attention,
22 y'all have been very attentive. Y'all have been here on
23 time. It means -- the system doesn't work without you, will
24 not work without you. It is very scary for lawyers but
25 particularly for young men like Mr. McClinton and Mr. Graham

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1 putting their hands, putting their lives, putting their
2 fates in the hands of the 12 of y'all, but we trust the
3 system and respectfully ask you to return a verdict of not
4 guilty. Thank you very much.

5 THE COURT: Mr. Frick?

6 MR. FRICK: Thank you, Your Honor, solicitor, ladies
7 and gentlemen of the jury. I told you you were lucky, you
8 got to hear three lawyers tell you about this case all week
9 long and a third one is up here again. I don't have a fancy
10 Powerpoint presentation. I don't have any card tricks for
11 you today, but I do have a story I want to tell you about,
12 and I think it ties into the oath that you took on Monday
13 when you came in here. Many of you were probably not aware,
14 but about 105 years ago just down the road from our
15 neighbors in Fairfield County, there was a guy who was
16 charged with assaulting the wife of a very prominent person
17 in the community. This case caused such outrage that the
18 person who got charged had to be housed in Columbia until
19 his trial came up on June 14th of 1915. That day he was
20 brought up by train to Winnsboro and they were walking up
21 the steps to the Fairfield County Courthouse, he was
22 accompanied by the sheriff, Sheriff Adam Hood, and the
23 sheriff's deputy. You think law enforcement had small
24 departments now, that was the entire sheriff's department in
25 Fairfield County at the time so he had to enlist other

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1 deputies. Deputy Boulware was with him, and as they walked
2 up the steps of the Fairfield County Courthouse at the top
3 of the steps was the man whose wife -- the husband whose
4 wife is the victim in the case and his family, and they had
5 guns and the sheriff knew it and the deputy knew it but they
6 were armed, too. As they went up the steps it was described
7 as a hail of bullets, the sheriff didn't stop. Now,
8 understand, ladies and gentlemen, he's an elected official,
9 the guy at the top of the stairs and the family are
10 important folks in the community that elects him. The easy
11 thing to do is say, "Hoss, you're on your own this time,"
12 but he didn't do that. He took an oath to uphold the rule
13 of law and that's what this whole thing is about. It is not
14 about whether you like Quinton McClinton or not, whether you
15 like Montrell Graham or not. It is about whether the State
16 has proven to you beyond a reasonable doubt that a crime
17 occurred, and more specifically the crime that they allege
18 occurred. You took that same oath essentially to uphold
19 that rule of law. That's why we don't have mob justice in
20 this country, that's why we don't handle matters on our own.
21 Things happen. We call the authorities, they investigate
22 hopefully, and then the person has their day in court, and
23 until y'all come back and the foreman hands that piece of
24 paper to the clerk and it goes over here to be read, the
25 people sitting at that table are presumed innocent, innocent

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1 only until y'all are satisfied by competent evidence that
2 the State proves their case, otherwise they're still not
3 guilty. Now, ladies and gentlemen, let's go into this one a
4 little bit. There are no forensics in this case. I'll be
5 honest, folks, I've been doing this for awhile and I am
6 absolutely baffled that in a shooting case you were told,
7 "Don't worry about the fact that we didn't test any of the
8 shell casings. It doesn't matter whether the victim had a
9 gun or not, that's not important." That is ridiculous,
10 absolutely ridiculous. We have 18 shells casings. Okay.
11 That's a heck of a lot of shell casings, I'll give you that.
12 They're scattered here and they're over here, and you hear
13 testimony there's shooting back and forth, so we're trying
14 to figure out who is shooting what and where so we collect
15 all of these shell casings. By the way, and I'm not going
16 it drag all of these picture -- I really love playing with
17 all of the evidence but I'm not going to do that to y'all
18 today. But right here in front of the sidewalk of the club
19 where this fight takes place, where Kochese Gregory says he
20 stayed the whole time, where people said they saw him with a
21 gun, there are two fired shell casings and one unfired
22 bullet right there. Ain't a single witness got on this
23 stand and said they saw anybody at that table shooting in
24 front of the club. What they did say is they saw the man in
25 the green sweater with a gun right there. He had a gun,

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1 make no mistake about it, and he fired that gun. The
2 solicitor blows that off by basically saying, "Well, we sent
3 it for DNA testing." Okay, great, you didn't find any DNA.
4 However, if only we had this magical place that had
5 scientists who could examine shell casings to determine
6 whether or not they had been fired and possibly whether they
7 had been fired by the same gun. Oh wait, we do. It's on
8 Broad River Road, it's called the State Law Enforcement
9 Division commonly referred to as SLED. That's their sole
10 purpose, but unless you tell them to do it they don't do it.
11 So if you send it down there and say, "Hey, look for DNA,"
12 which they're highly likely to find on these things, but
13 that's what we look for. Okay, we don't find it. But wait,
14 the only person we try to examine it against is Quinton
15 McClinton. There were several names bandied about that
16 night; Tril, Katril, CiCi, Junior, even Montrell's because
17 he's sitting at the table, even Montrell was out there. "I
18 ain't worried about that, we'll get Quinton's DNA, let's
19 test it against that." We don't find anything. We don't
20 examine them any further, we just send those right on back.
21 We don't know. We're still investigating the case. We
22 don't know what happened. We don't know who the shooter is.
23 You'll see it on the body cam, and Investigator Young talked
24 about it, there was some question as to whether the shooter
25 had gotten injured. Because one, there's blood out in the

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1 parking lot, there's a picture of a pool of blood. There's
2 blood on the front of the Impala where allegedly the shooter
3 is leaning across, we don't test it. We don't test it. Oh,
4 that's right, there was a guy who was out there who said he
5 got hit with a pool ball and he said that's his blood.
6 Folks, I don't know if he stuck in his finger and tasted it
7 and said that's his blood, I don't know how exactly he knows
8 that's his blood but he said that's his blood. That's good
9 enough, we don't need to go any further. That part of this
10 investigation is closed, whew, glad we solved that. That's
11 ridiculous, ladies and gentlemen. You're still trying to
12 figure out who all is out there. You might not find DNA on
13 a shell casing or a pool cue or a cue ball, but you dang
14 sure are going to find it in the blood. So now you've got a
15 person on the scene. Don't worry about that, it's not
16 important. By the way, that dude was out there wearing a
17 brown jacket, too. So no blood. No testing of the shell
18 casings. We -- and I'll be honest, folks, you know, they
19 tried to get fingerprints off this. I would submit to you a
20 pool cue in a pool hall where a lot of people were touching
21 it wouldn't probably show you a whole lot off of it anyway,
22 but we don't get a fingerprint off of this. So as was
23 stated, it all comes down to statements and who you're going
24 to believe. And as I told you on Monday and I'll tell you
25 again right now, you, y'all collectively are the ones who

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1 get to determine who you want to believe, what you want to
2 believe, if you want to believe it, and you ain't got to
3 believe all of it and you ain't got to believe none of it,
4 and you can believe just some of it. And I submit to you
5 anybody who can stand in front of you with a straight face
6 and say Dafrican Gregory is credible deserves an Emmy on
7 Oscar night, and also I have some ocean front property in
8 Richburg I would really like to talk to you about. He is
9 absolutely incredible. You can't believe the words out of
10 his mouth. He stands up here first of all and says that all
11 of the people that were in the club on Kochese's side, all
12 of his family, and he watches out for his family. Well, how
13 incredible that law and behold when he gets on the stand the
14 two guys on trial are the two guys that did it. Amazing.
15 That's the first time he's ever told anybody that. You see
16 him on the camera. He's out there that night, comes here
17 and testifies how distraught he was, how upset he was about
18 this horrible situation. Didn't tell a soul. I mean, he's
19 standing there and he doesn't know the cops are talking to
20 him so he says something, but he don't say a whole lot. He
21 sure don't want to put his name on the statement. When Wade
22 Young offers to meet him down in Winnsboro where he stays he
23 says, "Oh yeah, I'll be there." Doesn't show up, doesn't
24 show up again, doesn't show up again. He doesn't want to
25 talk about it. But when he is subpoenaed, while he's on

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1 probation, subpoenaed to come to court by the State, "Them
2 two must be the guys that did it. Oh yeah, they did it."
3 Ladies and gentlemen, you can't believe a thing. And by the
4 way, his story don't even make any sense. He says Quinton
5 is shooting up in the air and Montrell is the one that is
6 aiming. Nobody says that. He can't even come up with a
7 good story that's consistent with everybody else. Next I'll
8 go ahead and go on in to Kochese. Ladies and gentlemen, the
9 State is in a very difficult situation on this one, because
10 you either believe Kochese -- and again, it's your decision,
11 I'll just tell you what I think, you're either going to
12 believe Kochese or you've got to believe Ms. Kershaw.
13 Because Kochese says, "I didn't have no gun." Ms. Kershaw
14 says, "I saw the guy in the green sweater with a gun." Mr.
15 Foster said, "I saw the guy in the green sweater with a
16 gun." Kochese maintains -- oh yeah, shell casings and
17 bullet right there where he was. I asked him very
18 specifically, "Did you ever leave that spot? After you were
19 beat down and you stand back up and you get shot, did you go
20 any further than that spot? No, I didn't go any further."
21 Okay, great, we've solved that one. Where did the shells
22 come from? There's only one place. He had a gun. Ladies
23 and gentlemen, if he's maintaining that lie with all of this
24 other evidence, how can you believe anything else he says
25 with just that? That's reasonable doubt in and of itself.

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1 I submit to you another dude in a brown jacket is reasonable
2 doubt, but let's stay on Kochese. So he says, and I like
3 this a whole lot, he just went to the club on Christmas Eve,
4 didn't know there was a party. Nobody invited him. He knew
5 everybody on the inside, that's why they let him in. Okay.
6 They were all his friends and family. All of his friends
7 and family are in the club. And then as he walks out
8 Quinton McClinton just starts beating on him with a pool cue
9 and all of his friends and family let him get beat. He
10 doesn't even maintain that Tina Davis or Tequila Clifton or
11 whatever deal she wants to be called, gets in her car and
12 starts trying to run over Quinton McClinton. "Nobody helped
13 me. I all alone bear this burden. And after this horrible
14 beating I get up and then I am shot and I stagger back into
15 the club." Folks, that story is ridiculous, that is
16 absolutely ridiculous. And let's talk about his statement
17 to the good doctor. Now, the doctor, I ain't going to fault
18 him, okay? But, I mean, he writes a statement that says,
19 "Yeah, yeah, yeah, sure, that sounds good, it was Trio or
20 Tril or -- you know what? I want to be a medical doctor,
21 that's fine, that sounds right." Or whether it was Quinton
22 after I'm shown the video and that's what he says on the
23 video. I'm not faulting him, he's trying to help a man.
24 His job isn't to come in here and testify, his job is to
25 help save people's lives and he did a good job that night

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1 quite frankly. So Quinton -- I mean, so Kochese is laying
2 there and says Quinton. What happened to him after he gets
3 shot? He goes back into the pool hall with all of them
4 folks in there, with all that commotion going on where
5 everybody is yelling out names, maybe he don't know it is
6 Quinton, maybe it's the only name he hears. He's on the
7 operating table under medication, I would presume, and being
8 questioned by law enforcement and he says Quinton, and this
9 is the reliable evidence you have? Because you don't have
10 to go back and look, but you've got the video if you want to
11 see it, in the pool hall you hear all of this commotion, all
12 of those folks are still in there and they're all his folks
13 and they're all yelling, "It was Tril. It was Katril. I
14 saw CiCi." And by the way, where did CiCi go in all of
15 this? CiCi is the one that started the whole dang fight.
16 He throws a drink in somebody's face and then that's when
17 all of this ruckus ensues, but we're not worried about CiCi.
18 All right, fine. All of these names are being bandied
19 about, okay? Even the bouncer himself, who keeps saying
20 Tril and he also says Katril a couple of times in there, so
21 he ain't sure exactly even what the nickname is. But he
22 dang sure ain't sure of what the person's government name is
23 because -- and it's on the video -- I'm glad for body
24 cameras, too -- it's on the video that's he's writing out
25 the statement he yells out, "Hey, how do you spell the

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1 shooter's name?" And the cop says, "Q-u-i-n-t-o-n." Ladies
2 and gentlemen, they're right, it's all about these
3 statements. But can you put any credibility, can you trust
4 in any of these statements? Let's get to Ms. Kershaw. And
5 I will agree with everybody else, I think she's probably the
6 most credible witness that you saw up here, really. I mean,
7 she's the absolutely most believable one. And this is why I
8 think so, she wanted to be sure when she wrote her
9 statement. She admitted, "Yes. I heard the name Kochese
10 and that's why I put the name in there. I didn't know who
11 that dude was but I wrote Kochese." She was right, because
12 she knew the guy in the green jacket was the guy that got
13 shot and she saw him with a gun and shooting. She wrote
14 that name in, came in here, admitted, "Yeah, I heard it, I
15 heard it," like all of these other people who heard things,
16 okay? And she wrote that in there, and she said, "Yeah, I
17 did see some shooting from down there near the car wash but
18 I didn't know who it was so I did not write those names."
19 Even with all of these names being bandied about she wanted
20 to be certain so she said, yeah, I saw it but I ain't
21 writing those names in it. I submit to you, ladies and
22 gentlemen, Kochese Gregory finds her to be the most credible
23 witness, too, because when she said it was 15 people whaling
24 on him on this very stand he said, "Yep, that's how many it
25 was. Why did you say that? Because that's what she said."

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1 That's what he testified to. So ladies and gentlemen,
2 Kochese had a gun, Kochese fired a gun. There's no credible
3 evidence that Quinton McClinton fired a gun, nothing. You
4 don't have any forensics, you don't have any credible
5 statements that do that. So it's not beyond a reasonable
6 doubt, ladies and gentlemen, that a crime of attempted
7 murder was committed by anybody sitting at that table over
8 there or any other crime for that matter. What you do have
9 is a whole lot of speculation and that's not the way it
10 works. They've got to prove it to you beyond a reasonable
11 doubt. Is there any other reasonable explanation? Yeah,
12 and I'm going to show you one, but there's plenty of others.
13 And taking the word of somebody ignoring blood, don't test
14 the shell casings, don't even try. See this is -- and I've
15 tried enough cases with Ms. Lively, I know she's going to
16 come up here in just a second and beat up what I'm telling
17 you, but this is what I'm telling you on this, okay? We
18 sent the shell casings to see if we could get DNA off of it,
19 we didn't even try to see if they can get any other
20 forensics off of it. They tried to get GSR off of the
21 clothing. They sent it up there, that's what Wade Young
22 testified to and SLED said, "We don't test that." That's
23 not what we have on the other stuff, they didn't ask for
24 anything. So you have nothing to support any of these
25 statements, it all comes down to the credibility. Now, I

CLOSING ARGUMENTS

1 promise I'm about to finish up. Now, as I told you at the
2 beginning and I maintain again, this is two separate trials.
3 Again, they ain't going to give you two paychecks but you're
4 working double this week because you've got two trials
5 you're hearing at the same time. They have charged Montrell
6 Graham with accessory after the fact to this attempted
7 murder. What the State has alleged is that, one, a violent
8 felony occurred. In this case they're alleging the
9 attempted murder and the person who committed it was Quinton
10 McClinton. That's what they're alleging first, they've got
11 to prove that first. Second, that Montrell Graham knew he
12 did it, okay? I suggest to you, I don't know that anybody
13 knew what was going on in that parking lot that night. And
14 then third and finally, and I think the most important, even
15 if you believe they've met the first two, which I submit
16 they have not, even if you think they have satisfied the
17 burden on those first two, the third element is he has to
18 have had the intent and purpose of taking Quinton McClinton
19 away from that scene to evade law enforcement, essentially
20 to get out of there, to hide him. Not, "Oh crap, there's
21 some shooting, let me get out of here," which I found
22 interesting because that's exactly what the solicitor said
23 she probably would have done and I think I would have done
24 if I'm in a parking lot and there's bullets going back and
25 forth. I think I would do exactly what Montrell said he

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1 did, I would be ducking down trying to get to that car. And
2 if some dude jumped in that car I'm not going to say,
3 "Excuse me, sir. Per chance, did you take part in
4 committing a felonious act before you got in my vehicle?
5 Because I do not want to take you away from this scene if
6 you did." Nobody is going to do that, come on. If somebody
7 is shooting you're going to get the devil out of there, and
8 that's all Montrell Graham did. Why do I believe that?
9 Because a couple of days later he walks into the sheriff's
10 department and told them what he did. He didn't have to.
11 They didn't have a warrant, he was free to go that day. He
12 could have looked down and said, "I'm ready to go. Okay.
13 Been good to see you, Wade. You always looked out for me
14 since sixth grade, take care." But he didn't do that, he
15 sat down and they talked. Ladies and gentlemen, this is not
16 a popularity contest. It's not about whether you like the
17 folks or not, it's about whether or not the State has proven
18 their burden. And you took an oath, and ain't nobody going
19 to be shooting at you like Sheriff Hood and Deputy Boulware,
20 but it's a serious oath and I ask you to uphold the rule of
21 law, weigh the evidence. You've listened carefully, you've
22 done an excellent job on that through a long trial, and when
23 you come to that final conclusion I believe you will find
24 Montrell Graham not guilty. Thank you very much for your
25 time, attention and service.

JURY CHARGE

1 THE COURT: Ms. Lively?

2 MS. LIVELY: Yes, thank you, Your Honor. I'll just
3 keep this brief. I know y'all have heard probably more than
4 you want to ever hear about this case but there are a couple
5 things that I do want to point out. The fact that the State
6 didn't care that Kochese Gregory might have had a gun is
7 laughable. And I know that at the defense table a lot of
8 what's happening in this case may be funny to them, this is
9 no joke, and I'm asking you to take this as seriously as the
10 State has. Kochese Gregory was charged with attempted
11 murder, too. These investigations are ongoing until we step
12 in a courtroom and we know that we have witnesses who are
13 willing, or subpoenaed, which is the right that we have to
14 bring people in here and testify under oath in front of all
15 of you and that's the rule of law. Nothing funny about
16 that. His charges were dismissed, because as these things
17 are ongoing, things are happening and evolving until we walk
18 in here with the evidence that we have had the opportunity
19 to gather since 2018 to present evidence to you to convince
20 you of their guilt. There was not evidence sufficient to
21 bring a case against Kochese Gregory for attempted murder,
22 but there was volumes of eye witness testimony that Quinton
23 McClinton was, and we have a gunshot victim who almost died.
24 That's evidence, ladies and gentlemen. The other thing is
25 to get a warrant you just need probable cause, that's more

JURY CHARGE

1 likely than not. If that's all we needed to convict people
2 we would sure be able to clean out our jailhouses because
3 that's just tipping the scales, more likely than not this
4 person was probably, possibly involved in this crime. But
5 guess what, until I can come in here beyond a reasonable
6 doubt and prove you of someone's guilt leaving you firmly
7 convinced of their guilt, that's what the constitution puts
8 on me and I'm fine with that, and that's the case we brought
9 to you this week. And yeah, I called Benika Kershaw to the
10 stand. I knew she was going to say Kochese Gregory had a
11 gun, I'm not hiding that from y'all because I knew you could
12 see through what was going on that night and you would cut
13 through all of the smoking mirrors, the jokes by the defense
14 and see what's really going on. Yeah, Chocolate Pudding
15 didn't want to be here, we had to chase him down. Fine.
16 Yeah. Big Troy had to ask how do you spell that Tril boy's
17 name because he didn't know, Quinton. I probably misspelled
18 it three or four times, q-u-e, q-u-i. Does that mean he
19 doesn't know who it was that shot Kochese? And here is the
20 thing that I want you to use your common sense when you go
21 back in that jury room, hands down, there's a thing that
22 allows attorneys, whether it's the defense or myself, to get
23 in what we call an excited utterance of individuals who are
24 still in the shock and trauma of an event happening, that
25 what our courts have said those statements come in even if

JURY CHARGE

1 they are hearsay. And the reason why is because these
2 people are still under the shock of what happened. They
3 haven't had a chance to have two or three days to get their
4 story straight, they haven't had two weeks to get their
5 story straight. It is happening at the moment whenever they
6 are still under the excitement of what happened, the terror
7 of what happened. Those statements are the statements that
8 are coming out of your mouth right after you see something
9 happen. That's the reason why I kept bringing up the body
10 worn camera and kept reminding people, "Don't you remember
11 what you said when it happened?" Because people start to
12 convince themselves once they decide they don't want to be
13 involved anymore it's easier for them to forget than to have
14 to relive it. So ladies and gentlemen, I'm just asking you,
15 once again, use your common sense. I'm not going to beat up
16 on, you know, a lot of what the different people who came in
17 here and said because they were scared to death. They hate
18 me right now. This isn't a popularity contest. I'm not
19 going to try to throw out any jokes to try to get y'all to
20 like me, that's not my job. I just want y'all to use your
21 common sense, apply the law to the facts, and then once you
22 do there's only one result, they're guilty. Or either
23 Kochese had this elaborate plan to get all of his family on
24 Christmas to say, "Hey, here is a good chance for us to
25 frame somebody for attempted murder and I'll take the

JURY CHARGE

1 bullet, and when I'm on the ER table I'm going to say it's
2 Quinton, okay, right before they put me under." That's what
3 you have to believe, what is reasonable. Just be
4 reasonable. Thank you.

5 THE COURT: Does any juror need to take a break before
6 I instruct you on the law? Okay. Let me ask you to please
7 go to your jury room, don't talk about the case, I'll bring
8 you back after that short break.

9 The jury left the courtroom.

10 THE COURT: We'll be at ease for ten minutes.

11 (A break was taken.)

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

13 (The jury returned to the courtroom.)

14 THE COURT: All right. Ladies and gentlemen, as you
15 know you have heard and seen all of the evidence in the
16 case. You've now heard the final summations of the lawyers
17 and therefore it now becomes my duty and obligation to
18 instruct you on the law that's applicable in the case, and
19 then you are tasked to go back and to begin with your
20 deliberations and through that process you will examine the
21 evidence. You'll determine the material facts relating to
22 the allegations. You will apply the law and you will
23 determine whether or not a defendant has been found guilty
24 of any crime that has been alleged against that particular
25 defendant. It is your exclusive prerogative to determine

JURY CHARGE

1 what the facts are, and you do that through your own common
2 sense examination and evaluation of all of the testimony and
3 the other evidence received during the course of this trial,
4 and you 12 jurors alone will decide what weight, value and
5 effect to give to any particular witness testimony or other
6 evidence in the case. But your sole objective is to simply
7 render a fair and impartial decision based upon the evidence
8 presented during the course of this trial and the law that's
9 applicable as I will have provided it to you. Now, in this
10 case, as you know, there are four separate indictments.
11 Each of those are going to require for you to come to a
12 decision and render a verdict, so you'll be rendering four
13 separate and distinct verdicts, one for each of the
14 indictments. Three of those indictments are alleged against
15 Quinton Tywan McClinton, one of those indictments is alleged
16 against Montrell Graham. Indictment 2019-258 charges Mr.
17 McClinton with the crime of attempted murder. The State
18 alleges in this indictment that he did on or about
19 December the 25th of 2018, with intent to kill did attempt
20 to kill Kochese Gregory with malice aforethought by shooting
21 him with a firearm. The second indictment charges Quinton
22 McClinton with the crime of assault and battery in the first
23 degree. The State alleging that again on or about
24 October -- excuse me, December the 25th of 2018, that Mr.
25 McClinton did unlawfully injure Kochese Gregory or attempt

JURY CHARGE

1 or offer to injure Mr. Gregory with the present ability to
2 do so, and that the act was accomplished by means likely to
3 produce death or great bodily injury. The third indictment
4 is against also Mr. Quinton McClinton, and that indictment
5 charges him with the possession or display of a firearm
6 during the commission of a violent crime. The State
7 alleging in this indictment that Mr. McClinton did on
8 December 25th, or on or about December 25th, 2018, did
9 possess or visibly display a firearm during his commission
10 of the crime of attempted murder. And the remaining
11 indictment is an indictment against Montrell Graham. That
12 indictment charges him with having committed the crime of
13 accessory after the fact to the commission of a felony. The
14 indictment alleging that Montrell Graham did here in Chester
15 County on or about December the 25th of 2018, harbor or
16 assist Quinton McClinton, with the intention of enabling him
17 to escape detention, arrest or punishment for his commission
18 of the crime of attempted murder, which is a felony under
19 the law, with knowledge that Mr. McClinton had committed
20 that offense. Now, as to all of those allegations and as to
21 each of the charges set forth in each of those indictments
22 each of the defendants in this case have entered a plea of
23 not guilty. The plea of not guilty places upon the State
24 the burden of proving the allegations made by way of each of
25 those indictments, the burden of proving each of the

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1 essential elements of the crimes that have been alleged
2 against each of the separate defendants, and therefore the
3 burden is upon the State to establish each defendant's guilt
4 to the satisfaction of you 12 jurors beyond a reasonable
5 doubt before any verdict of guilty could be returned as to
6 any indictment against any defendant. The indictments
7 themselves are not evidence of anything, they're not proof
8 of anything, they don't establish anything. They will be in
9 the jury room but that's not because they're evidence
10 because they're not, they'll be in the jury room simply to
11 serve as the verdict forms. Mr. Foreman, on the back of
12 each indictment you're going to see the word verdict and
13 it's going to be beneath that word that you're going to be
14 indicating the jury's unanimous decision as it relates to
15 that specific indictment, and in a couple of those
16 indictments you will be able to consider lesser-included
17 offenses. I'm going to explain all of that to you shortly.
18 I will also have a verdict form guide that will assist you
19 in the various verdict forms that you'll be able to consider
20 depending upon your determination of fact based upon the
21 evidence that you will consider that was received during the
22 course of the trial. Now, each of these indictments are
23 being tried together and there are two defendants that are
24 being tried together, but you are to consider each of those
25 indictments against each of the separate defendants

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1 separately with regard to the evidence that relates to that
2 particular indictment and the allegations contained therein,
3 and, of course, separately as to each of the separate
4 defendants. And therefore depending on your determination
5 of fact and in your application of the law your verdicts in
6 this case may all be the same or they may be different.
7 That, of course, will depend upon your decision as to the
8 facts relating to the allegations contained in an
9 indictment, and then your application of the law to those
10 facts as I have -- will have provided them to you. Now,
11 because you are the judges of the facts you are therefore
12 necessarily the sole judges of the credibility, that is the
13 believability of each witness that has testified during the
14 course of this trial, and therefore you may believe
15 everything that a witness testified to, you may chose to
16 believe none of it, you may believe some portion of it and
17 reject some other portion of it. But there are a number of
18 factors which you should take into account in assessing the
19 credibility of a witness and the testimony they provide and
20 I'm going to list those factors for you. You should
21 consider the demeanor of the witness, that is how the
22 witness appeared to you while the witness was on that
23 witness stand testifying and providing information to you.
24 In other words, was that witness straight forward in
25 responding to the questions that were posed of the witness

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1 or was the witness hesitant or evasive in responding to
2 questions that were asked of the witness. Simply put, do
3 you find that that witness appeared to be telling the truth
4 and that witness had knowledge of the facts to which that
5 witness has testified. You should also consider whether or
6 not the testimony of the witness is consistent or is it
7 inconsistent with that witness' own testimony provided here
8 during the course of the trial as well as whether it was
9 consistent or inconsistent with other statements made by
10 that same witness, whether those statements were made in
11 court or outside of court. You should also consider whether
12 or not the testimony of a witness is consistent or is it
13 inconsistent with other testimony and other evidence
14 received during the course of this trial. You should also
15 consider how the witness came to know the facts to which
16 that witness has testified. In other words, what was that
17 witness' opportunity and ability to perceive the existence
18 of those facts to which that witness has testified by having
19 previously used his or her senses. And then what is that
20 witness' ability to be able to come into court and to
21 accurately recollect to you as to what they have previously
22 perceived. You should also consider any bias or prejudice
23 or interest that you find the witness might have with
24 respect to the case. In other words, do you find some
25 reason that a particular witness would come into court and

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1 would testify one way or another to help or hurt one side or
2 the other. And you may consider any interest that a witness
3 might have in the outcome if you determine that a witness
4 does have such an interest, and you further find that that
5 interest would bear upon that particular witness'
6 credibility. You should also consider whether or not the
7 testimony of a witness is strengthened or is it weakened by
8 other testimony or other evidence received during the course
9 of the trial. Now, as I've said, you are the judges of the
10 facts and you are the judge of the credibility of each
11 witness, and therefore you may believe everything that they
12 say, you may believe none of it, you may believe some
13 portion of a witness' testimony and reject some other
14 portion of that same witness' testimony. You could believe
15 one witness as opposed to several or several as opposed to
16 one. But whatever your good judgment and common sense tells
17 you is the most believable and credible testimony is the
18 testimony you should accept, and you should reject any
19 testimony or other evidence that you find not to be credible
20 or believable. Again, as I've stated, your sole objective
21 is to render a fair and impartial decision based upon the
22 evidence and testimony received during the trial and the law
23 that I will have provided to you. Now, the same law that
24 provides that you are the judges of the facts also provides
25 that I am the judge of the law, and that simply means that

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1 nobody is going to tell you how to arrive at your
2 determination of fact in this case. You do that, as I've
3 already stated, through the exercise of good judgment and
4 common sense conscientiously applied to the testimony and
5 evidence received during the course of the trial. You must,
6 however, under your oath as a juror accept the law as I
7 provide it to you as being the law that you are to apply in
8 the case. In other words, you're never to concern yourself
9 of what you thought the law was before you came to serve as
10 a juror this week or what you think the law ought to be.
11 Under your oath as a juror you must accept the law as I
12 provide it to you as being the law that you are to apply in
13 the case, and then you simply take that law and you apply it
14 to the facts as you 12 jurors determine those facts to be
15 based upon your common sense examination of the evidence in
16 the case. Now, as you know the State has the burden of
17 proving a particular defendant's guilt as to a particular
18 criminal offense beyond a reasonable doubt. That doesn't
19 mean that the State has to prove a defendant's guilt beyond
20 all doubt or beyond any possible doubt, but it does require
21 the State to prove a defendant's guilt beyond a reasonable
22 doubt. And the term reasonable doubt should be given its
23 plain ordinary meaning. A reasonable doubt is the kind of
24 doubt that would cause a reasonable person to hesitate to
25 act upon the information that is being provided. Now, a

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1 defendant in a criminal trial is entitled to any reasonable
2 doubt that arises from the evidence or lack of evidence in
3 the case, and if upon any factual issue essential to a
4 finding of a verdict of guilty you have some reasonable
5 doubt as to how that issue should be resolved, it would be
6 your duty to resolve that reasonable doubt in favor of the
7 defendant. Now, while there are various forms of evidence,
8 such as testimony, photographs, documents, charts and other
9 types of physical exhibits, there are really only two types
10 of evidence and either or both of those types of evidence
11 may be used independently or in combination to prove a fact
12 at issue, but the two types of evidence are direct evidence
13 and circumstantial evidence. Direct evidence is the
14 testimony of a person who testifies from actual knowledge of
15 that fact. It is the testimony of a person who has
16 perceived the existence of some fact by means of his other
17 her senses, and then they come into court and they testify
18 as to what they have previously perceived. Direct evidence
19 proves the existence of a fact directly and it does not
20 require any deduction or inference in order to establish
21 that fact. Circumstantial evidence, on the other hand, is
22 the proof of some other fact or a set of facts which taken
23 either singly or collectively may prove the existence of a
24 fact in question as a necessary consequence, that is through
25 an inference. And an inference is simply a deduction of

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1 fact that may logically and reasonably be drawn from proof
2 of some other fact or a set of facts. In other words, it's
3 not a fact proven by the direct testimony of a witness based
4 upon that witness' perception, but it is a conclusion which
5 might reasonably be drawn from the proof of other facts. In
6 other words, you may infer that a particular event occurred
7 or that a particular fact exists based upon the proof of
8 sufficient factual circumstances which would reasonably
9 warrant your arriving at a particular conclusion. The
10 commission of a crime and any particular element necessary
11 to prove a crime may be proven by direct evidence or by
12 circumstantial evidence or by a combination of both direct
13 and circumstantial evidence. The law makes no distinction
14 between the weight or value to be given to direct evidence
15 or circumstantial evidence, however to the extent that the
16 State relies upon circumstantial evidence in order to
17 establish the commission of a crime, all of the
18 circumstances proven must be consistent with each other, and
19 when taken together point conclusively to the guilt of the
20 defendant beyond a reasonable doubt. If these circumstances
21 which are established merely portray the defendant's
22 behavior as suspicious the proof is insufficient and it
23 fails. The burden rests with the State regardless of
24 whether the State relies upon direct evidence or
25 circumstantial evidence or some combination of both types of

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1 evidence to prove a defendant guilty beyond a reasonable
2 doubt. Proof beyond a reasonable doubt is proof that leaves
3 you firmly convinced of a defendant's guilt. There are very
4 few things in the world that we know with absolute
5 certainty, and in criminal cases the law does not require
6 proof that overcomes every possible doubt. If based on your
7 consideration of the evidence in this case you are firmly
8 convinced that a defendant is guilty of a crime with which
9 he has stood trial, you must find that defendant guilty of
10 that crime. Now, if on the other hand you think there is a
11 real possibility that the defendant is not guilty of a crime
12 with which he has been charged then you must give that
13 defendant the benefit of that doubt and find him not guilty.
14 Now, as you know the Defendant McClinton is charged with
15 three crimes; attempted murder, assault and battery in the
16 first degree, separate events, separate charges, and
17 possession of a firearm during the commission of the crime
18 of attempted murder. So I'm going to instruct you on each
19 of those crimes and the law that relates to it and what's
20 necessary to establish each of those separate offenses.
21 These are all statutory offenses, and that just means
22 they're set forth in those blue volumes. The legislature
23 meets every year from January until June. During the course
24 of that legislative session they pass a number of laws and
25 rules and regulations that govern or conduct our conduct in

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1 a variety of ways. Some of those statutes are penal
2 statutes, or criminal penalty statutes, and that just means
3 that the legislature prohibits us from engaging in certain
4 types of conduct, and where we engage in that conduct in
5 violation of the law it subjects us to some type of
6 punishment or penalty as a result of violating the statute
7 or committing that crime. Please understand, however, that
8 you are never to concern yourself with any punishment or
9 penalty that might result from any decision that you make,
10 that's not something that you are to be concerned about,
11 that's not something that you decide. Your sole obligation
12 and duty in this case is to determine whether or not a
13 defendant has been proven guilty of a particular crime
14 beyond a reasonable doubt, and you must make that
15 determination without any consideration being given to any
16 consequence of any decision that you make. Attempted murder
17 is a statutory offense that's set forth in section 16-3-29
18 of the Code of Laws of South Carolina, and that statute
19 provides that a person who with intent to kill attempts to
20 kill another person with malice aforethought, either
21 expressed or implied, commits the offense of attempted
22 murder. So again, the person who with intent to kill
23 attempts to kill another person with malice aforethought,
24 either expressed or implied, commits the offense of
25 attempted murder. In order for you to find the Defendant

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1 McClinton guilty of the crime of attempted murder it would
2 be necessary that the elements in this case has established
3 to your satisfaction beyond a reasonable doubt that Mr.
4 McClinton did with malice aforethought and a specific intent
5 to kill commit some overt act or acts in an attempt to kill
6 Kochese Gregory. An attempt is the commission of an overt
7 act or acts done in furtherance of the intent to do a
8 specific thing which tends towards the accomplishment of the
9 intended goal, but which falls short of completion. An
10 attempt to commit a crime means making an effort towards or
11 the doing of an act or acts which directly move toward the
12 completion of the commission of the crime which is intended,
13 in this case that is alleged to be the crime of murder. The
14 crime of attempted murder does require the element of malice
15 aforethought. Malice aforethought is an essential element
16 of the crime of attempted murder, and it is a technical term
17 importing wickedness and excluding just cause or legal
18 excuse. It is something which springs from depravity from a
19 heart devoid of social duty and fatally bent on mischief.
20 It is a state of mind indicating an extreme disregard for or
21 an extreme indifference to human life. It may also be
22 described as a state of mind which indicates a formed
23 purpose and design to do a wrongful act under circumstances
24 that exclude any legal right to do it. As in the case of
25 murder the law does not require that malice must exist for

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1 any appreciable length of time before the commission of an
2 act or acts constituting the offense of attempted murder.
3 Indeed, it may be conceived at the very moment that any
4 wrongful act is committed. It is sufficient in the law so
5 long as the State does prove beyond a reasonable doubt
6 malice accompanying acts constituting the attempt to commit
7 the crime of murder. You are further instructed that a
8 specific intent to kill must also be proven as an essential
9 element of the crime of attempted murder. A specific intent
10 to kill means that the defendant consciously intended the
11 commission of the acts that constitute the attempt to commit
12 the crime of murder. Specific intent refers to the state of
13 a person's mind which directs his actions towards a specific
14 object or a goal or result, and in this case that would be
15 to kill. The element of intent to kill may be inferred from
16 acts, declarations and conduct, as well as from any other
17 circumstances established by the evidence in this case from
18 which you might reasonably infer such intent, as often a
19 person's intent or state of mind may only be established by
20 circumstantial evidence. Therefore, in order to establish
21 the crime of attempted murder it is necessary that the
22 evidence in this case establishes that the defendant,
23 Quinton McClinton, did with malice aforethought and a
24 specific intent to kill, commit some overt act or acts in
25 the attempt to kill Kochese Gregory without any legal

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1 justification or excuse. Now, often when a person is
2 charged with an offense such as attempted murder, depending
3 upon how the jury decides the facts and applies the law, it
4 might be that the jury would be able to consider some lesser
5 included offense because some element of the greater crime
6 might not be proven beyond a reasonable doubt. So in this
7 particular case I'm going to instruct you on the lesser
8 included offense of assault and battery of a high and
9 aggravated nature. A person charged with the crime of
10 attempted murder may be found guilty of only the lesser
11 included offense of assault and battery of a high and
12 aggravated nature even though that particular crime is not
13 actually or specifically set forth in the indictment, but
14 that depends upon your determination of the fact and then
15 your application of the law. If you find that that finding
16 is warranted then you may find the Defendant McClinton
17 guilty of only the lesser offense of assault and battery of
18 a high and aggravated nature. So that you can understand
19 that offense I'm going to define for you the terms assault
20 and the term battery, and then I'll define for you the
21 criminal offense known as assault and battery of a high and
22 aggravated nature, which is also a statutory offense. An
23 assault is the unlawful attempt to do violence or injury to
24 the person of another where there is the present ability to
25 complete that attempt by way of a battery. And the battery

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1 is the unlawful and intentional touching or striking of the
2 person of another or by some object put in motion by
3 another. It is the completion of an act doing violence or
4 injury to the person of another. Battery may be further
5 defined as the carrying into affect an assault by using or
6 applying force to the person of another no matter how slight
7 in a rude, angry or resentful matter, and without a legal
8 justification or excuse. While an assault and battery does
9 not require a specific intent to cause a particular harm, it
10 does require that at least a criminal intent be shown.
11 Criminal intent is a state of mind that operates jointly
12 with some act in the commission of acts constituting a
13 crime. A criminal intent is a mental state of conscious
14 wrongdoing in contrast to the commission of an act which is
15 the result of accident, mistake or inadvertence. A criminal
16 intent may be proven by the acts and declarations and
17 conduct of the defendant charged as well as from any other
18 circumstances which are established by the evidence in this
19 case from which you might naturally and reasonably infer
20 such an intent because, as I've stated, often the state of a
21 person's mind can only be proven by attendance of
22 circumstances. Assault and battery of a high and aggravated
23 nature is a statutory offense set forth in 16-3-600,
24 Subsection B. And that particular statute provides that a
25 person is guilty of the crime of assault and battery of a

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1 high and aggravated nature if a person unlawfully injures
2 another person, and great bodily injury to that other person
3 results, or the injurious act is accomplished by means
4 likely to produce death or great bodily injury. So again,
5 aggravated assault and battery is defined or committed when
6 a person unlawfully injures another person and great bodily
7 injury to that person results, or the act is accomplished by
8 means likely to produce death or great bodily injury, and of
9 course, everybody knows what death means. But under the
10 statute great bodily injury means an injury which causes a
11 substantial risk of death or which causes serious permanent
12 disfigurement, or which causes a protracted loss or
13 impairment of the function of a bodily member or organ. As
14 has been stated, Mr. McClinton is charged in a separate
15 indictment with the crime of assault and battery in the
16 first degree which the State alleges was a separate event
17 from that which resulted in the charge of attempted murder,
18 but it is alleged to have occurred during a course of events
19 which the State alleges occurred back on December 24th and
20 25th of 2018. But the indictment charging assault and
21 battery in the first degree is a separate and distinct
22 criminal offense, and that offense is set forth in Section
23 16-3-600 in a separate subsection. And that statute
24 provides that a person commits the offense of assault and
25 battery in the first degree if the person unlawfully injures

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1 or offers or attempts to injure another person with the
2 present ability to do so, and the act is accomplished by
3 means likely to produce death or great bodily injury. As I
4 have said previously, a jury may consider a lesser included
5 offense from that alleged in that particular indictment
6 where the law and the evidence permit you to do so. And
7 regarding the indictment, which alleges Mr. McClinton
8 committed the crime of assault and battery in the first
9 degree you are going to be permitted to consider the lesser
10 included offense of assault and battery in the second
11 degree. Assault and battery in the second degree is a
12 statutory offense set forth in 16-3-600 Subsection D. And
13 that statute provides that a person is guilty of the crime
14 of assault and battery in the second degree if a person
15 unlawfully injures another person or offers or attempts to
16 injure another person with the present ability to do so, and
17 moderate bodily injury to another person results, or
18 moderate bodily injury to that other person could have
19 resulted. Moderate bodily injury is defined as physical
20 injury that involves a prolonged loss of consciousness or
21 that causes temporary or moderate disfigurement, or
22 temporary loss of a bodily member or organ, or an injury
23 that requires medical treatment and the treatment requires
24 the use of a regional or general anesthesia, or the injury
25 results in a fracture or dislocation. Moderate bodily

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1 injury does not include one time treatment and subsequent
2 observation of scratches, cuts, abrasions, bruises, burns,
3 splinters or any other minor injury that does not require
4 extensive medical care. And the remaining indictment
5 against Mr. McClinton charges him with possession of a
6 firearm during the commission a violent crime, that's also a
7 statutory offense set forth in 16-23-490. That statute
8 provides that a person shall be guilty of an additional
9 criminal offense if a person is in possession of a firearm
10 or visibly displays what appears to be a firearm during the
11 commission of a violent crime and is convicted of committing
12 or attempting to commit a violent crime as defined in
13 section 16-1-60. 16-1-60, that defines what violent crimes
14 are, states that the crimes of attempted murder and assault
15 and battery of a high and aggravated nature are classified
16 as violent crimes under the law. Before the defendant can
17 be found guilty of a violation of this particular provision
18 of law, it would be necessary that you have found the
19 defendant to be guilty of attempted murder or assault and
20 battery of a high and aggravated nature on the indictment
21 charging Mr. McClinton with attempted murder, and that you
22 find beyond a reasonable doubt that he possessed or visibly
23 displayed a firearm during the commission of that violent
24 crime. Now, the defendant, Montrell Graham, is charged in a
25 separate indictment. That indictment charges him with the

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1 crime of accessory after the fact to the commission of a
2 felony, in this case that would be the crime of attempted
3 murder. An accessory after the fact to a felony is a person
4 who knows that the principal felon has committed and
5 completed a felony, and assists that principal felon with
6 the intention of facilitating his escape from arrest,
7 conviction or punishment. In order for the defendant,
8 Montrell Graham, to be found guilty as an accessory after
9 the fact to the commission of a felony in this case it must
10 be proven that a felony has been committed by a perpetrator.
11 In this case that perpetrator must be proven to have been
12 Quinton McClinton, and it must be further proven that
13 Quinton McClinton did commit the felony of attempted murder
14 or assault and battery of a high and aggravated nature.
15 Secondly, in order for Mr. Graham to be found guilty for the
16 offense of which he's charged, it must be shown that he had
17 knowledge that Quinton McClinton had committed the crime of
18 attempted murder or assault and battery of a high and
19 aggravated nature. And thirdly, that Montrell Graham did
20 harbor, aid, help or assist Quinton McClinton for the
21 purpose of assisting him in escaping from and avoiding
22 detection, arrest, apprehension or conviction. Now, Mr.
23 Foreman and ladies and gentlemen of the jury, I am not in
24 any way concerned with what your decisions are, but as I
25 told you, any decision that you render must be unanimous,

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1 that is all 12 of you must be in agreement. And Mr.
2 Foreman, as you have been previously told, you will be
3 presiding over jury deliberations simply to ensure that
4 those deliberations are carried out in some orderly fashion.
5 But all jurors are expected to participate in those
6 deliberations because, as I say, any verdict is the
7 unanimous and consensus opinion of all 12 jurors and so all
8 12 must be in agreement before any decision may be returned.
9 Now, Mr. Foreman, you're going to have these indictments in
10 the jury room as I told you, they will serve as the verdict
11 forms. On the back of the indictment the title is on the
12 lower left-hand corner you'll see the word verdict, and it's
13 beneath that word that you're going to indicate the jury's
14 unanimous decision as it relates to that particular
15 indictment. You will sign your name as the foreperson, you
16 will see where that is being inserted, and you're the only
17 juror that signs the verdict form. And there's also a space
18 for you to place the appropriate date, today is the 7th of
19 February. Now, as I told you, you've got a number of
20 different verdict forms to consider depending upon your
21 decision as to the facts. I've prepared those two sheets,
22 one for Mr. McClinton and one for Mr. Graham, these reflect
23 what the potential verdict forms are as they relate to each
24 of the separate indictments that you are to consider. On
25 the verdict -- on this document it has each of the

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1 indictments alleged against the defendant set forth
2 separately. As to Mr. McClinton, the first indictment
3 reflected on the verdict form guidance sheet is attempted
4 murder. The three potential verdict forms that you have are
5 guilty, which means guilty of attempted murder, or guilty of
6 assault and battery of a high and aggravated nature if the
7 jury determines that he's only guilty of that lesser
8 included offense, or not guilty if the jury finds he has not
9 been proven to have committed any crime as it relates to
10 that indictment beyond a reasonable doubt. The second
11 indictment that's reflected on the verdict form is for
12 possession of a firearm during the commission of a violent
13 crime. And the reason that comes right below the indictment
14 for attempted murder is because that criminal offense only
15 relates to the attempted murder indictment, it does not
16 relate to a separate indictment charging Mr. McClinton with
17 assault and battery in the first degree. As to that
18 particular indictment you have two potential verdict forms,
19 those are guilty and not guilty. However, you are
20 instructed that you may not find Mr. McClinton guilty of
21 possession of a firearm during the commission of a violent
22 crime unless you have found him to have been guilty of a
23 crime being attempted murder or guilty of assault and
24 battery of a high and aggravated nature, which are those two
25 offenses that you are to consider on the attempted murder

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1 indictment. So again, in order to be guilty of possession
2 of a firearm during the commission of a violent crime, Mr.
3 McClinton would have to have been found guilty of a violent
4 crime, and that would either be attempted murder or assault
5 and battery of a high and aggravated nature. And then the
6 remaining indictment for Mr. McClinton is the indictment for
7 assault and battery in the first degree. And as to that
8 indictment you're going to have three potential verdict
9 forms, those are guilty, which means guilty of assault and
10 battery in the first degree, or guilty of assault and
11 battery in the second degree, which is the lesser included
12 offense that you're permitted to consider with respect to
13 that indictment, or not guilty if the State has failed to
14 prove either of those criminal offenses to your satisfaction
15 beyond a reasonable doubt. With respect to Mr. Graham
16 you've got one indictment that charges accessory after the
17 fact to the commission of a felony, you have two potential
18 verdict forms, those are guilty or not guilty. Understand
19 that under no circumstances may Mr. Graham be found guilty
20 unless you find that Mr. McClinton has been found guilty of
21 a felony, and that's either attempted murder or assault and
22 battery of a high and aggravated nature. If you find that
23 Mr. McClinton is not guilty of either of those felonies,
24 then Mr. Graham could not be found guilty of accessory after
25 the fact to the commission of a felony, because no felony

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1 would have been proven to have been committed. Also, even
2 if you find Mr. McClinton has been proven guilty of either
3 attempted murder or assault and battery of a high and
4 aggravated nature, you still could not find Mr. Graham
5 guilty of accessory after the fact to the commission of that
6 crime unless you further find that he knew Mr. McClinton had
7 committed that crime, and with that knowledge he assisted
8 Mr. McClinton in escaping or avoiding detection, arrest or
9 apprehension. During deliberations there may come a time
10 where you have some question about the evidence in the case,
11 in fact, you might even want something else. You might
12 think, well, if we had something else that would help us so
13 can we get it. Understand that all of the evidence that's
14 going to be introduced in this case has been introduced.
15 Now that the case is closed no additional evidence can be
16 received or permitted to be introduced, and so if you think
17 something else is going to help you but it's not in the jury
18 room with you and it has not been introduced during the
19 trial of this case, it can't be received now. So don't ask
20 me about something that you don't have or was not introduced
21 in the trial, because even if it would help you and even if
22 I wanted to give it to you I couldn't. Now, there have been
23 a number of exhibits which were introduced during the trial
24 and we're going to have the court reporter and the lawyers
25 and myself are going to verify all of the exhibits before

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1 they go back, so everything that was introduced should be
2 back there with you in the jury room. So if we make a
3 mistake and you think, well, we're sure something was
4 introduced but we don't have it here, then you let me know
5 and we'll determine if that was actually omitted, but
6 everything should be there. If at anytime during
7 deliberations you have a question about testimony and that
8 question can be answered by having a witness' testimony
9 replayed in whole or in part if that's all you need, you can
10 request to have testimony replayed or reheard. Now, I don't
11 have transcripts so I'm not going to send transcripts back
12 to the jury room with you, but if you want to hear a
13 particular witness' testimony replayed to help you, we can
14 bring you back into the courtroom and the court reporter
15 will provide that testimony by way of audiotape so you can
16 rehear the testimony should you need to. If at anytime
17 during deliberations you have a question about the law
18 that's applicable, I am always permitted to answer those
19 questions, and so if you need a complete re-instruction I
20 can provide you with that. If you simply need a particular
21 explanation or clarification of some point of law that I
22 have given you, I can provide you with that. So Mr.
23 Foreman, if at anytime you have any question about anything
24 and you need to bring something to my attention or you need
25 assistance or clarification on the law, you write it on a

JURY CHARGE

1 piece of paper, give it to the bailiff, he will provide it
2 to me and I will respond to any question or issue that the
3 jury might have. Don't know if we have smokers on the jury,
4 if we do have smokers you can smoke during deliberations but
5 you cannot smoke in the courthouse, you would have to go
6 outside to accomplish that purpose. But if you need to
7 smoke, let the bailiff know, they'll take those outside to
8 accomplish that purpose and then you'll be brought back when
9 you're finished. However, please understand, that
10 deliberations may not be engaged in unless all 12 jurors are
11 present in the jury room so that all may participate in
12 those deliberations. So if at anytime a juror is absent for
13 any authorized purpose the deliberations must stop and they
14 may only resume when all 12 jurors are present so that all
15 may participate. Now, your lunches have been ordered, and
16 I'm not sure whether they're here yet or not, but as soon as
17 they arrive they'll be provided to you. You can begin
18 deliberations and eat while you deliberate, you can stop
19 your deliberations and eat your lunch and then resume, I'll
20 leave that up to you. That is in your discretion as to how
21 you wish to accomplish that. But, Mr. Foreman, as I say,
22 once you and your fellow jurors have reached a unanimous
23 decision on each of the indictments, indicate that decision
24 as instructed and knock on the door, tell the bailiff you've
25 reached decisions and we'll bring you back to receive those

JURY CHARGE

1 verdicts. Let me just address one thing. I've got these
2 four indictments, these are official court documents, I
3 don't have copies of them, I don't have duplicates of them.
4 You are going to be indicating the jury's decision on the
5 back so don't mess it up, okay? Be certain that it's
6 correct when you're writing it. And that's another reason
7 why I'm giving you these two sheets, because I could print
8 these all day long. If you need more of these I can print
9 them all day long, so this will help you understand what it
10 is. You'll also be reflecting the jury's decision on these
11 two documents and signing your name, but if you mess this up
12 just keep it but tell the bailiff that you need another copy
13 and I'll bring you another copy, okay? The indictments I
14 have no more copies of, that's all I have. So as you decide
15 it and reflect on here, I suggest doing that first and then
16 you can write it on these, whatever that decision is, these
17 are the indictments. Now, I've got some matters I need to
18 address with the lawyers because I might have forgotten to
19 give you some information as I should have, and if I did,
20 and I agree that what I should have done I didn't do, I'll
21 bring you back to provide you with that additional
22 information. If I don't need to bring you back for any
23 reason, then I'll simply send word by way of the bailiff
24 that you may begin deliberations, and in that event he will
25 bring to the jury room all of the exhibits which have been

JURY CHARGE

1 admitted, and to you, Mr. Foreman, he will also provide the
2 guidance for the verdict form document and the indictments
3 themselves. Now, right now I'm going to ask the two
4 alternate jurors to stay in the courtroom with me, and I'll
5 ask the 12 primary jurors to please retire to your jury room
6 but do not begin deliberations until I send you word to do
7 so.

8 (The 12 jurors left the courtroom.)

9 THE COURT: As you know, you are alternate jurors and
10 you can't participate in the jury deliberations because the
11 original 12 appear to be able to perform their functions so
12 that's going to conclude your service right now. However,
13 during deliberations something might happen, there might be
14 an emergency or some issue arise that cause one of these 12
15 jurors to be unable to continue but the deliberations have
16 not ended. In that event one or both of you will be called
17 upon to take that juror's place. So while you can't
18 participate in deliberations right now it might be that
19 there will come a time where you might be needed so you'll
20 stay with us. You will be located in a separate room apart
21 from the original 12 jurors. You are both still instructed
22 that you can't talk about the case, you can't discuss it
23 with each other. Your lunches also will be brought to you
24 wherever they take you.

25 (The alternate jurors left the courtroom.)

JURY VERDICT

1 THE COURT: Are there any exceptions taken to the
2 instruction or requests or additions to the instructions by
3 the State?

4 MS. LIVELY: Not from the State.

5 THE COURT: By the Defendant McClinton?

6 MR. DUNCAN: No, sir.

7 THE COURT: By the Defendant Graham?

8 MR. FRICK: No, sir.

9 (Break in proceedings.)

10 THE COURT: Are all of the exhibits accounted for?

11 MS. LIVELY: Yes, Your Honor.

12 MR. DUNCAN: Yes, sir.

13 THE COURT: All right. Send them back. Tell the jury
14 to begin deliberations and notify us when they've concluded.
15 We'll be at ease while they are deliberating.

16 (The jury began deliberations.)

17 THE COURT: I understand that the jury has reached a
18 decision. Are we ready to receive it? Them in?

19 MS. LIVELY: The State is ready, Your Honor.

20 MR. DUNCAN: Defendant McClinton is ready.

21 MR. FRICK: Ready.

22 THE COURT: Bring in the jury.

23 (The jury returned to the courtroom.)

24 THE COURT: Mr. Foreman, have you and your fellow
25 jurors reached a unanimous decision as to each of the

JURY VERDICT

1 separate indictments that you were considering?

2 THE JUROR: Yes, Your Honor.

3 THE COURT: Have you reflected those decisions on the
4 back of the indictments as requested?

5 THE JUROR: Yes, Your Honor.

6 THE COURT: Did you also complete that verdict form
7 sheet that I provided separately?

8 THE JUROR: Yes, Your Honor.

9 THE COURT: Have you signed your name to each?

10 THE JUROR: Yes.

11 THE COURT: And put the appropriate date, the 7th?

12 THE JUROR: Yes, Your Honor.

13 THE COURT: If you will please hand the documents up by
14 way of the bailiff.

15 (Break in proceedings.)

16 THE COURT: All right. On indictment 2019-00258, the

17 State versus Quinton Tywan McClinton, an indictment for the

18 crime of attempted murder, the decision of the jury is

19 guilty. Signed by Joseph Raines, dated today's date.

20 Indictment 2020-00128, State versus Quinton McClinton,

21 indictment for assault and battery in the first degree, the

22 decision of the jury is guilty. Signed Joseph Raines, dated

23 today's date. Indictment 2019-00262, State versus Quinton

24 Tywan McClinton, indictment for possession of a firearm

25 during the commission of a violent crime, the decision of