

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Chester County

Honorable J. Derham Cole, Circuit Court Judge

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Nov 12 2020

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

QUINTON TYWAN MCCLINTON,

APPELLANT

APPELLATE CASE NO 2020-000243

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS
3 COUNTY OF CHESTER
4 2019-GS-12-00260
5 State of South Carolina
6 Vs.
7 Quinton McClinton
8
9 Chester, South Carolina
10 July 9, 2019
11 Before the Honorable Brian M. Gibbons
12 APPEARANCES
13 For the State: Candice Lively
14 For the Defendant: Michael Duncan
15
16 Reported by: Michael C. Watkins
17 Official Court Reporter
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1 THE COURT: Are y'all ready to proceed?

2 MS. LIVELY: Yes, sir.

3 THE COURT: All right. Solicitor, call the case.

4 MS. LIVELY: Yes, sir, Your Honor. This is the State
5 of South Carolina versus Quinton McClinton. He has two
6 pending charges against him from a shooting that occurred in
7 December of last year, it was actually on Christmas morning
8 of 2018. He is charged with attempted murder as well as
9 possession of a weapon during the commission of a violent
10 crime. Your Honor, this matter comes before you today based
11 upon a motion filed by the defense for them to raise the
12 issue of a stand your ground defense or immunity to the
13 actual charges pending against Mr. McClinton in this
14 particular case. The State is ready to proceed. We have
15 witnesses as well, however, of course, I defer to Mr. Duncan
16 since this is his motion in regards to starting the hearing.

17 THE COURT: All right. Mr. Duncan, it's your motion,
18 I'll be glad to hear from you and I'll be glad to conduct it
19 whichever way you feel it needs to be conducted. It's the
20 defense's burden, however it is done different ways
21 sometimes. It's just like a motion challenging the
22 admission of evidence where the State will call witnesses
23 prior to the defense doing anything on them. Do you want to
24 go first or do you want to have the State go first?

25 MR. DUNCAN: Your Honor, it really doesn't matter to

1 me. I have witnesses that I would call, including my
2 client, but it suits me fine to hear the State's witnesses
3 first if Your Honor is so inclined --

4 THE COURT: Not a problem.

5 MR. DUNCAN: -- if you will allow it that way.

6 THE COURT: Right. There's no burden -- I want to make
7 sure the record is clear, I'm not -- the burden is on the
8 defense to prove by a preponderance of the evidence that
9 they are entitled to immunity from prosecution under the
10 stand your ground law, so typically the defense under that
11 scenario would go first. However the way I've handled these
12 types of hearings before, I've done it where the defense has
13 gone first, presented their evidence, and then the State has
14 been allowed to rebut that. Then I've done it also where
15 the State has called its witnesses first, just like we do in
16 any typical motion hearing, I'll do it either way you would
17 like to do it. Either way it's presented both lawyers will
18 be able to fully explore all of the factual issues and make
19 whatever arguments they need to make.

20 MS. LIVELY: That's fine. I'll get started if you want
21 to so we can go ahead and get it going.

22 THE COURT: Do you have a written motion, a copy of it
23 to hand up to me?

24 MR. DUNCAN: I do, Judge.

25 THE COURT: All right. Madam Solicitor, are you ready

1 to proceed then?

2 MS. LIVELY: I am, Your Honor.

3 THE COURT: Do you want to tell me a little bit about
4 the case then, give me an idea of what we're talking about
5 before I start hearing from witnesses?

6 MS. LIVELY: Absolutely, Your Honor. What occurred on
7 December 25th of 2018, it was the very early morning hours,
8 it was about 4:00 a.m. There were several people that were
9 gathered at the club, I think it's Imagine or something of
10 that nature, it's off of J.A. Cochran Boulevard. There are
11 two sections to this club, one area is like a pool hall
12 area, and there's another area that plays music and it's
13 kind of like a dance hangout area. There were several
14 people there that night, including the defendant, Mr.
15 Quinton McClinton, and a Montrell Graham, who actually drove
16 them to this club. Kochese Gregory was there, it's my
17 understanding his brother was there, and several other just
18 individuals who were at the club. At some point in time the
19 witnesses will testify, Your Honor, that an altercation did
20 break out between the defendant, Mr. McClinton, as well as
21 the Gregory brothers. It appears that that actual fight or
22 altercation took place inside the club, and then at some
23 point in time the defendant, our position is that he along
24 with some other individuals in the club, are beating up Mr.
25 Kochese Gregory to the point where he was on the ground and

1 they were stomping him, and some other individuals stepped
2 in to try to assist the victim at that time. When they did
3 Mr. McClinton ran out of the club and our position is that's
4 whenever he did retrieve a weapon, if he didn't already have
5 one on him. There's been conflicting testimony as to
6 whether or not he already had it on him or if he got it from
7 the car that he ran to, along with Montrell Graham, who was
8 with Mr. McClinton, and at such time that's when Mr.
9 McClinton did shoot at Kochese Gregory and basically anyone
10 else who was back towards the club. Mr. Gregory did get
11 shot several times and he did have to be airlifted and
12 almost died as a result of those injuries. We do have, like
13 I said, witnesses who are going to come in who provided
14 statements to those facts, Your Honor. And that's what the
15 State is going to present today, that it was -- that at the
16 time whenever Mr. McClinton left the club and that
17 altercation had actually ended at that point, that he did
18 choose at that time to go and retrieve a gun and then shoot
19 at Mr. Gregory causing his injuries. So we believe at the
20 time -- the altercation was done by the time he then decided
21 to take it to the next level.

22 THE COURT: All right, thank you. What is the
23 defense's theory as to why the defendant should be granted
24 immunity? Just like a brief opening statement before I hear
25 from witnesses as well.

1 MR. DUNCAN: Thank you, Your Honor. Your Honor, Mr.
2 McClinton was at a family party, it was a Christmas party on
3 the dance side of the club, as Ms. Lively described it,
4 there are two sides of the club. Mr. McClinton's family was
5 on one side. Other individuals -- and it's a cast of many,
6 and I don't -- I'm not sure that we can identify all of the
7 people, but Mr. Kochese Gregory was among those individuals
8 who were on the pool hall side, and our theory is that they
9 began the altercation. Mr. McClinton responded, again along
10 with others, including his cousin, Carlton Dixon, who is
11 present here today, with a fight. They engaged in a fight.
12 Specifically Mr. McClinton grabbed a pool cue from the pool
13 hall side and began swinging that hitting various
14 individuals. Again, I'm not sure that Mr. McClinton knows
15 precisely who he hit, but there were about a dozen people
16 involved who were there coming towards him and his group,
17 and Mr. McClinton hit a number of them with the pool cue in
18 defending himself from the altercation coming from the other
19 individuals, and again, maybe -- approximately a dozen of
20 those people. I know what Ms. Lively just said, I've seen
21 some witness statements, Mr. McClinton denies having any
22 firearm period. There were gunshots taking place. As I
23 understand it, there were gunshots from Kochese Gregory
24 and/or his folks, and there were gunshots from other
25 individuals -- from at least one other individual. In other

1 words, it was an exchange of gunshots, but Mr. McClinton did
2 not have a firearm and was not engaged in that. So the
3 force that he answered with and we're seeking immunity for
4 and from is the use of a pool cue. That's our position.

5 THE COURT: All right. Thank you. Is the State ready
6 to proceed.

7 MS. LIVELY: We are Your Honor. I call Investigator
8 Wade Young to the stand.

9 The witness, WADE YOUNG, was first duly sworn and
10 Testified as follows:

11 DIRECT EXAMINATION

12 BY MS. LIVELY:

13 Q And Investigator Young, you responded to a call
14 regarding a shooting in the very early morning hours of
15 December 25, 2018; is that correct?

16 A I did.

17 Q Okay. And whenever you arrived there, were there
18 several witnesses that you had an opportunity to speak with
19 regarding what had happened?

20 A At that time I didn't get a chance to speak to any
21 witnesses at the scene.

22 Q Did you have other officers that actually responded
23 with you who were collecting statements --

24 A Yes, ma'am.

25 Q All right. Now, whenever you actually respond to the

1 shooting, what did you know at that time in regards to what
2 it was you're going to be investigating?

3 A I met with Sergeant Brian Thorpe, who was the shift
4 Sergeant. He explained to me that there had been a shooting
5 at the Club Image, it is on 2091, I think, J.A. Cochran
6 Bypass, the name of the club is Image, Image Lounge. He
7 told me that there was a shooting. Mr. Kochese Gregory had
8 got shot in the abdomen, and allegedly Mr. McClinton was the
9 allegedly one who shot him.

10 Q Okay. So once you received this information, where did
11 you actually respond to?

12 A I actually went to -- I actually went to the scene. I
13 collected a couple of swabs, blood swabs, DNA -- for DNA
14 sampling, and then I proceeded to go to the Carolina Medical
15 Hospital.

16 Q So very clearly, the victim in this case, or at the
17 time the alleged victim, had been shot; is that correct?

18 A Yes, ma'am.

19 Q All right. So when you responded to where the alleged
20 victim was at that point, what information did you have as
21 to who all had been shooting that night? Did you have that
22 information?

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

24 Q Okay.

25 A Just mainly Mr. McClinton was the one who shot Mr.

1 Gregory, because Mr. Gregory had acknowledged that while he
2 was in the emergency room.

3 Q All right. So after you actually got to respond to
4 Mr. Gregory, what was his condition whenever he was at the
5 hospital?

6 A He was in serious condition. He had coded four times
7 and they revived him every time.

8 Q All right. Did you -- so could you speak to him or get
9 a statement from him at that time?

10 A At that time, no, ma'am. The doctors were trying to
11 revive him and get him some help, just trying to get him
12 situated to preferably make it through the night.

13 Q And he obviously did survive, correct?

14 A Yes, ma'am.

15 Q All right. Now, Investigator Young, did you actually
16 have the opportunity to speak to some eye witnesses later on
17 after you actually responded to the hospital that night?

18 A Yes, ma'am. I think -- I know I spoke to Mr. Gregory
19 after that.

20 Q Okay.

21 A And I spoke to Mr. Montrell Graham and I think Mr. Tim
22 Davis, those were the statements that I got.

23 Q So you gathered those statements. And whenever you
24 gathered those statements from those individuals, did you
25 Mirandize them? Do you recall?

1 A No, ma'am. Just -- no, ma'am.

2 Q What about Montrell Graham? Whenever --

3 A Yes, ma'am.

4 Q Let me be specific. In regards to Montrell Graham, did
5 you have the opportunity to speak with him?

6 A Yes, ma'am.

7 Q Was he Mirandized?

8 A Yes, ma'am.

9 Q Did he provide a statement to you about the case?

10 A He did.

11 Q And after he provided that statement to you, was he
12 actually charged in this particular crime as well?

13 A Yes, ma'am.

14 Q All right. And why was he charged and what was he
15 charged with?

16 A He was charged with conspiracy after the fact, because
17 he actually was the one -- he stated that he actually was
18 the one that drove Mr. McClinton away from the Image Lounge
19 after the shooting occurred.

20 Q So he drove Mr. McClinton from the actual shooting, and
21 where it had taken place.

22 A Yes, ma'am.

23 Q Okay. So after you talked to Mr. Graham, had you had a
24 chance to speak with the defendant, Mr. McClinton, at any
25 point?

1 A I tried to. At that time he didn't want to speak at
2 that time. I advised him, I said, "If you want to talk to
3 you could just send in a request from the jail."

4 Q So you didn't just run out and get a warrant for him
5 immediately.

6 A No, ma'am.

7 Q All right. So what did you do at that point to
8 follow-up to determine exactly what had happened that night
9 after you had talked to Montrell Graham?

10 A Please state again, ma'am.

11 Q What else did you do after that night to get the
12 information together to where he was finally charged with
13 the attempted murder?

14 A At this time Mr. Gregory had been revived and he was
15 able to talk.

16 Q Okay. Did you record that statement?

17 A Yes, ma'am, I did.

18 Q And in that statement did you receive information that
19 assisted you with continuing to pursue charges against the
20 defendant?

21 A Yes, ma'am. Actually while they was at the emergency
22 room, Mr. Kochese before he coded, he did tell me Mr.
23 McClinton was the one who shot him, and that's video
24 recorded also.

25 Q Now, whenever you were with Mr. Gregory before he

1 actually went into surgery, was there any weapons or
2 anything taken off of his body at that time?

3 A Not by law enforcement.

4 Q All right. Okay. So do you know if a weapon was ever
5 collected in this particular case?

6 A No, ma'am.

7 Q Was there a weapon collected from Mr. McClinton or
8 Montrell Graham from this case?

9 A No, ma'am.

10 Q Have there been any weapons collected in regards to the
11 shooting at all?

12 A Not at this point.

13 Q You did collect shell casings, though; is that correct?

14 A Yes, ma'am.

15 Q All right. Now, whenever you provided your case file
16 to me, were you able to actually have several different
17 statements from individuals who provided written statements
18 on the night that this occurred?

19 A I did.

20 Q And all of those were provided to me as well as turned
21 over to the defense; is that correct?

22 A Yes, ma'am.

23 Q Are there any other individuals that you've dealt with
24 in this particular case that can provide any other
25 information regarding who was actually the initiator of the

1 shooting that night?

2 A I can't think at this time. I'm pretty sure we talked
3 to numerous people.

4 Q Okay. That's fine. Now, just one more thing.

5 Whenever you talked to Mr. Montrell Graham, did you force
6 him in to giving a statement or anything of that nature?

7 A No, ma'am.

8 Q Have you actually dealt with Mr. Graham before?

9 A Yes, ma'am. I just know him from school.

10 Q You know him from school. Okay. And whenever you
11 Mirandized him and talked to him, was he forthcoming with
12 you and tell you exactly what it is that he -- let me just
13 ask this way. You said you know him from school, correct?

14 A Yes, ma'am. I was a school resource officer.

15 Q And whenever you talked to him, did you pressure him in
16 any way into giving any kind of statement?

17 A No, ma'am.

18 Q All right. And once again, you said you did not talk
19 to the defendant?

20 A I did, but not at that time.

21 Q All right. Has he ever given or provided a statement
22 to you regarding what happened?

23 A Not in a video statement, but it's audio and video
24 recorded.

25 Q Did he provide any information as to who was shooting

1 that night or --

2 A He didn't.

3 Q Okay. Did he provide any information to you that he
4 was acting in self-defense or anything of that nature?

5 A No, ma'am.

6 MS. LIVELY: Thank you. Answer any questions that the
7 defense may have.

8 THE COURT: Mr. Duncan?

9 MR. DUNCAN: Thank you, Your Honor.

10 CROSS EXAMINATION

11 BY MR. DUNCAN:

12 Q Good morning, Investigator Young.

13 A Good morning, sir, how are you?

14 Q Investigator Young, you took a number -- on questioning
15 from the solicitor just a moment ago you indicated that on
16 Christmas morning, on the night of the incident at Club
17 Images you did not have an opportunity to get statements
18 from anyone?

19 A I think I got a statement from -- I'm trying to think,
20 it was so much going on I can't remember. But on that
21 particular night my main goal was to speak to Mr. Gregory.

22 Q To Mr. Gregory who had --

23 A At the hospital.

24 Q Was that at the emergency room?

25 A Yes, sir.

1 Q So you --

2 A But he was in surgery by the time I got there.

3 Q All right. I couldn't follow when you had talked to
4 him. Are we talking about you went to Charlotte?

5 A Yes, sir.

6 Q Okay. And you indicated that that was the information
7 that you had like that night that implicated Mr. McClinton,
8 my client; is that right?

9 A Not from Mr. Gregory that night, not that night. I got
10 the information from Sergeant Thorpe and also --

11 Q Sergeant Thorpe --

12 A Yes, sir.

13 Q Sergeant Thorpe had talked to Mr. Gregory?

14 A No, sir. I don't know if he spoke to him or not, but
15 he gave me information. And if I can be clearer to you.

16 Q Sure.

17 A Actually I got information from the first responder
18 that was actually with -- I gathered that information before
19 I went there that was not in the written statement or
20 anything, it was the first responder that came advised me,
21 "Hey, I was with Mr. Gregory and he said that Mr. McClinton
22 shot him."

23 Q But you're talking about a paramedic?

24 A He was a first responder, he was a fireman, EMS, first
25 responder.

1 Q All right. Do you recall who that was?

2 A Yes, sir.

3 Q Who was that?

4 A Mr. J.P. McNeil.

5 Q J.P. McNeil?

6 A Yes, sir.

7 Q So Mr. McNeil, the first responder, provided
8 information to you that implicated Mr. McClinton?

9 A Yes, sir.

10 Q And that's where your investigation began on that
11 night, is that fair to say?

12 A My investigation began when I first arrived on scene.

13 Q All right. The investigation that resulted in a
14 charge -- charges being brought against Mr. McClinton
15 initially came from the first responder, is that not fair to
16 say?

17 A No. I based it more on Mr. Gregory, what he saw or
18 what happened to him.

19 Q All right. And that information came some time later?

20 A Yes, sir.

21 Q Days later?

22 A I don't remember, I would have to refer to my notes.

23 Q It's fine with me either way. But within days, like
24 within like a week Mr. McClinton had been charged, does that
25 sound correct?

1 A Yes, sir, I'm sure.

2 Q All right. But you gathered -- you talked to -- and I
3 say you, your officers talked to a number of individuals and
4 I think you mentioned Sergeant Thorpe.

5 A Yes, sir.

6 Q He was one of the individuals, one of the officers on
7 the scene?

8 A Yes, sir. I think he was a Sergeant. He was the first
9 one there because that's who I talked to when I got there.

10 Q Okay. All right. But in any event, your investigation
11 included a number of witnesses, people who claimed to be
12 witnesses at least; isn't that right?

13 A Yes, sir.

14 Q And Investigator Young, in the course of your
15 investigation, did you determine how many people -- an
16 estimate of the number of people at Club Images on that
17 evening?

18 A No, sir. Just going on just numerous people who gave
19 us a chaotic event.

20 Q That a chaotic situation developed on that evening.

21 A Yes, sir.

22 Q Did you learn that Mr. McClinton's family was on one
23 side having a family party?

24 A Mr. McClinton told me that.

25 Q Mr. Quinton McClinton, my client, told you?

1 A Yes, sir, he told me that.

2 Q Did that check out? As you investigated, did it check
3 out that there was a family party?

4 A I just took the word because he was telling me. I know
5 his sisters, brothers, everybody was there so I don't really
6 know whose event it was. No, I didn't check it out.

7 Q But there were a number of family members of Mr.
8 Quinton McClinton present on that evening.

9 A That's what he told me.

10 Q Okay. Investigator Young, eventually your
11 investigation in this case resulted in getting information
12 that Kochese Gregory was firing at Quinton McClinton as
13 well; isn't that right?

14 A Well, investigators said that he was firing or shooting
15 in that direction, yes, sir, in that direction where
16 supposedly Mr. Quinton McClinton was at.

17 Q And you had statements from individuals, including the
18 club owner, telling you that, right?

19 A Yes, sir.

20 Q And Investigator Young, there was sufficient
21 information -- you had sufficient information in your
22 investigation to seek a warrant for the arrest of Kochese
23 Gregory; isn't that right?

24 A Yes, sir.

25 Q And you charged -- and I say you charged -- I'll hand

1 you the warrant, I'm not trying to be tricky.

2 A I understand.

3 Q You know --

4 MR. DUNCAN: May I approach, Your Honor?

5 THE COURT: Yes, sir.

6 Q Let me ask you to look at that. That arrest warrant
7 that I've just handed you, do you recognize that?

8 A Yes, sir.

9 Q And that's your -- you signed that.

10 A Yes, sir.

11 Q You signed the affidavit.

12 A I signed the affidavit.

13 Q And would you read the portion that says what the
14 allegations are as to Kochese Gregory?

15 A You want me to read that on about --

16 Q Yes, sir, that's what I'm talking about.

17 A That on or about December 21st of 2018 in the County of
18 Chester one Kochese (inaudible) Gregory did with malice
19 aforethought fire a loaded firearm at Quinton McClinton in a
20 willful and deliberate attempt to kill him. Kochese Gregory
21 having present ability to kill him at this time. Probable
22 cause based on investigation by law enforcement which
23 include but not necessarily limited to witness statements
24 and forensic evidence.

25 Q Investigator Young, you sought that warrant because you

1 at that time believed that Kochese Gregory had committed
2 that offense.

3 A Yes, sir, I did.

4 Q Now, ultimately that charge was dismissed by the
5 solicitor's office, correct?

6 A Yes, sir.

7 Q But once again you had sufficient evidence to seek the
8 warrant and get a charge.

9 A It was conflicting statements, but I did. A lot of
10 statements just conflicting, everything was just conflicting
11 statements.

12 Q All right. Investigator Young, did you -- you said
13 that you spoke to Quinton McClinton, he declined to give a
14 written statement, correct?

15 A Yes, sir.

16 Q Did Mr. McClinton indicate to you that he had been
17 struck by a vehicle that night?

18 A Yes, sir.

19 Q Were you able to corroborate that? Were you able to
20 confirm that he been hit by a vehicle?

21 A I did.

22 Q All right. And you were able to determine that he had
23 been struck by a vehicle?

24 A Yes, sir. I don't know how serious it was, but he had
25 been hit by a vehicle.

1 Q Do you know who the driver of that vehicle was?

2 A Ms. Tina Davis, her name is Clifton, I think. But
3 everybody was saying it was Tina Davis.

4 Q Terquila Clifton is her real name, I mean her --

5 A Yes, sir.

6 Q But she was known -- people knew her as Tina?

7 A Yes, sir.

8 Q And last name Davis?

9 A Yes, sir. I don't know if that's her maiden name or --

10 Q I got you. But Davis was either a maiden name or a
11 married name and Clifton was the other.

12 A Yes, sir.

13 Q That's your understanding. And did you -- were any
14 charges filed against Ms. Clifton?

15 A I did file affidavits for a charge on Ms. Clifton, I
16 did, but Judge Zamore denied it.

17 Q What did you try -- what did you seek a warrant for?

18 A Assault second.

19 Q Assault second for striking Mr. McClinton with a
20 vehicle.

21 A Yes, sir.

22 Q Did you have any discussion with Ms. Sabrina Isom, who
23 is Mr. McClinton's sister?

24 A I never spoke with her, not that I remember. I know
25 her but I don't remember speaking with her.

1 Q How about Carlton Dixon?

2 A No, sir. Somebody took statements from those.

3 Q Someone else did that.

4 A Yes, sir.

5 MR. DUNCAN: I think that's all the questions I have of
6 Investigator Young at this time.

7 THE COURT: All right. Any redirect?

8 MS. LIVELY: No, Your Honor.

9 THE COURT: All right. Thank you, sir, you may step
10 down. State can call its next witness.

11 MS. LIVELY: Yes, sir, Your Honor. The State would
12 call James McNeil.

13 The witness, JAMES MCNEIL, was first duly sworn and
14 Testified as follows:

15 DIRECT EXAMINATION

16 BY MS. LIVELY:

17 Q Mr. McNeil, you are the EMT that responded to the
18 shooting that we're talking about here today, correct?

19 A Yes, ma'am, I was one of them.

20 Q And did you actually have an opportunity to treat
21 Kochese Gregory that night?

22 A Yes, ma'am, I did. First and foremost I would like to
23 say at the time when Mr. Wade was saying, I was the first
24 responder, emergency medical responder. I just completed my
25 EMT approximately three months ago so I am now a certified

1 EMT nationally, so --

2 Q Congratulations.

3 A But I was at home, at my home putting my kids'

4 Christmas stuff together and whatever, and the call come out

5 and I responded in my personal vehicle. Arrived on scene.

6 We had to wait until the sheriff's office get the scene

7 secured, but they did say shots were fired and we did have a

8 victim that was down. I arrived on scene, and Mr. Gregory

9 was inside the club area. So I went in and it was chaotic.

10 We got to looking at him and EMS arrived with me, a

11 paramedic, a couple of other EMT's arrived also, and I do

12 have their names. But when I got there I was the first one

13 to encounter Mr. Gregory.

14 Q Was he awake or conscious?

15 A He was awake. And he know me personally and I know

16 Mr. McClinton personally, I know both of them personally,

17 friends with both of them. So when I pulled in I got to

18 cutting Mr. Kochese's clothes off. I wanted to make sure

19 where the actual bullet hole was and did it penetrate or did

20 it go through.

21 Q Did you find anything on him -- I know you're not law

22 enforcement so you're not there to search, you're there to

23 save somebody?

24 A Absolutely.

25 Q Was there any -- were you concerned about or did you

1 see any weapons or anything around him that gave you any
2 kind of concern?

3 A There wasn't any weapons around Mr. Gregory, wasn't any
4 in his clothes. We had to cut all of his clothes off. When
5 we got him on the backboard and stretcher he was down to his
6 boxers, because when you have a significant injury of that
7 caliber you've got to expose. So we exposed and we got him
8 on the back board in the stretcher and we took him to the
9 ambulance where the paramedics that were working that night
10 at the EMS went to doing what they needed to do. At that
11 point I locked my vehicle up, and we work hand in hand
12 together, EMS, fire department, my fire department, Chester
13 City Station 10, was responding to the call as well. So
14 that's why I responded. Now, I do work for Chester EMS, I
15 do work there now. At the time I didn't work there but we
16 work hand in hand. So I was with Chester Fire Department
17 and we responded. I drove the ambulance to the hospital
18 because Mr. Kochese Gregory was in critical condition, he
19 was in a bad place.

20 Q Were you able to actually speak with Mr. Gregory at any
21 point in time?

22 A Absolutely. When we were down cutting his clothes off
23 he was telling me he was hurting in his abdomen area. We
24 was asking him what happened, what happened, and he
25 responded that Trill had shot him. Well, I know him, I

1 don't call him Trill, I know him -- personally I don't call
2 him that. So after he told me that --

3 Q Well, let me ask you this before you go any further so
4 we're clear, because I understand you said you know both of
5 them. Who do you know as Trill based on your knowledge and
6 knowing both of these individuals?

7 A Mr. McClinton.

8 Q So it was a nickname for Mr. McClinton?

9 A Absolutely.

10 Q All right. I'm sorry, then you can go ahead and
11 continue.

12 A All right. So at that point he told me that Trill had
13 shot him and he got back into the club because he didn't
14 want to get shot anymore. So at that point we were focusing
15 on making sure Kochese was okay, all right? So we get ready
16 to take him to the hospital and everything and get him out
17 there, and we're doing the medical things that we need to do
18 for him. So at that point when it was all over, said and
19 done, EMS brought me back to get my personal vehicle, and at
20 that time I spoke to Phillip Perry, he was one of the
21 investigators out there. Wade Young, Mr. Wade Young was the
22 lead investigator. So I told Wade, they said, "J.P., do you
23 want to give a statement?" And I said, "Sure, I'll tell you
24 what I know." Because I wasn't at the club, and I wasn't --
25 I just can tell you what was told to me.

1 Q So after all of the shooting and then what you walked
2 into, which was chaos, that's all your personal knowledge.

3 A That's my personal knowledge. When I come back I
4 told -- Wade directed me to Mr. Perry. I told Mr. Perry --
5 I wrote my statement out, and after that I went on home.
6 But I did not see Mr. McClinton shoot Kochese. I did not
7 see no -- I didn't have knowledge of the incident and all.
8 I just responded off my pager call, and that's what I did.

9 MS. LIVELY: Thank you so much. Answer any questions
10 that the defense may have.

11 THE COURT: All right. Mr. Duncan?

12 MR. DUNCAN: Thank you, sir.

13 CROSS EXAMINATION

14 BY MR. DUNCAN:

15 Q Good morning, Mr. McNeil.

16 A How are you doing?

17 Q Doing fine, sir. So Mr. McNeil, you indicated that you
18 knew that you know both Kochese Gregory and Quinton
19 McClinton?

20 A Absolutely.

21 Q I'm looking here, you are 31 years old?

22 A Two.

23 Q Thirty-two now, maybe 31 at the time you had this
24 statement.

25 A Absolutely.

1 Q So you are roughly Mr. McClinton's age. Were y'all in
2 school together?

3 A Yeah, I have encountered with him. Me and his brother
4 actually did go to school together.

5 Q In the same class?

6 A No, we weren't in the same class, but went to school
7 together.

8 Q Here in Chester High?

9 A Yes, sir.

10 Q But you have known Mr. Quinton McClinton for a long
11 time?

12 A His whole life, and Mr. Kochese too.

13 Q As well as Mr. Gregory.

14 A Absolutely.

15 Q And I think you summarized it at the end of Ms.
16 Lively's testimony (sic), you came as at that point a member
17 of the Chester Fire Department --

18 A Absolutely.

19 Q -- responding to a page.

20 A Absolutely.

21 Q And arrived at the Club Images. And the information --
22 you have no firsthand information. In other words, you
23 didn't see anything.

24 A Absolutely not, I didn't see anything. I seen that
25 Kochese was bleeding and I needed to take care of that, that

1 was my first priority. My priority is to make sure I can
2 save a life, that's my priority.

3 Q And you actually went -- you drove the ambulance, did I
4 hear that right?

5 A Yes, you did hear that right. I drove to the ambulance
6 to the hospital with Mr. Gregory in the back.

7 Q And you drove to Charlotte.

8 A No, we went to Chester. He was not stable enough to go
9 to Charlotte at the time. Most times if he was stable
10 enough he would have been flew out right there to Charlotte.

11 Q So Mr. McNeil, you went from Club Images to the Chester
12 Hospital --

13 A Yes, sir.

14 Q -- and that was the end of your encounter with
15 Mr. Gregory that night?

16 A Well, yes. Except for him -- we stayed out at the
17 hospital for like two or three hours trying -- the doctors
18 were doing their process and we assisted them with
19 everything that we could do.

20 Q And you gave a statement to Investigator Young?

21 A I gave it to Mr. Perry. I talked to Mr. Young and
22 Mr. Young directed me to Mr. Perry and he told me to tell
23 Mr. Perry. Mr. Perry is going to write it down and then he
24 will get back with me.

25 Q All right. And your testimony -- your statement at

1 that time and your testimony here today is that Mr. Gregory
2 told you that Mr. McClinton shot him.

3 A In the abdomen area.

4 Q In the abdomen area. And that he told you that while
5 he was laying inside the club bleeding?

6 A Yes, sir. He told me while he was laying down. When I
7 got there he was laying down. He had people around. And he
8 told me -- I said, "Mr. Gregory, what happened" -- I said,
9 "Kochese, what happened?" And he said, "Mr. McClinton shot
10 me in my chest area." Because that's the first thing I want
11 to know. I want to know what's going on and what I need to
12 do to fix it on the medical side of it. What happened,
13 what's going. He told me he had been shot, Mr. McClinton
14 shot him. Then we started cutting his clothes off to make
15 sure what was going on.

16 Q Mr. McNeil, is it fair to say you didn't engage in any
17 further interrogation of Mr. Gregory, you wanted to know
18 that he'd been shot.

19 A Yes, sir, I said that, and that's affirmative. I
20 wanted to know on the medical end of it what I needed to do
21 to help him, to help Mr. Gregory.

22 MR. DUNCAN: Thank you, sir.

23 THE COURT: Thank you, sir, you can step down. Call
24 your next witness.

25 MS. LIVELY: George Killian.

1 The witness, GEORGE KILLIAN, was first duly sworn and
2 Testified as follows:

3 DIRECT EXAMINATION

4 BY MS. LIVELY:

5 Q Mr. Killian, how old are you?

6 A I am 48 years old, ma'am.

7 Q All right. And are you a resident of Chester County?

8 A Yes, ma'am.

9 Q How long have you lived here?

10 A All my life.

11 Q Do you know Quinton McClinton?

12 A I really don't know him.

13 Q And how about Kochese Gregory?

14 A Yes, ma'am, I do.

15 Q And how do you know Kochese?

16 A Family friend from raising up, being together, around
17 together, around his family.

18 Q All right. But are y'all related or family friends?

19 A Just family friends through me knowing his family.

20 Q Okay. Now, on the night of -- or early morning of
21 December 25th of last year, okay, 2018, were you at the club
22 where this altercation took place?

23 A Yes, ma'am, I was.

24 Q As a matter of fact, you gave a statement at some point
25 after all of this happened to one of the officer who

1 responded; is that right?

2 A Correct, yes, ma'am.

3 Q And have you reviewed that statement?

4 A I just seen it for the first time today.

5 Q All right. But you do remember giving a statement?

6 A Yes, ma'am.

7 Q And was that statement voluntary?

8 A Yes, ma'am.

9 Q So nobody told you what to say or what to do.

10 A No, ma'am.

11 Q Well, then tell the Court and all of us if you don't

12 mind, you know, what happened that night and then when

13 things kind of went bad.

14 A I'm going to tell you. We was actually leaving the

15 club that night, a young gentleman by the name of C.C.

16 Whitlock, I guess that's his name, anyway he encountered me,

17 he said something to me speaking about my brother, what he

18 was going to do, ended up what he was going to do with my

19 brother. And I said, "Well, there he go." So that's when

20 the altercation took place on my part. He threw a drink in

21 my face going out the door.

22 Q And I might slow you down because you know these

23 people, you were there but we need to know who you're

24 talking about. So you said your brother --

25 A Kelvin Killian.

1 Q Thank you, that's what I was going to ask you. So he
2 was there, you said --

3 A He was actually being a bouncer at the door at the
4 time.

5 Q Okay.

6 A Yeah, my brother.

7 Q So you say that C.C. Whitlock said something to you
8 about your brother and then he did what to you?

9 A He threw a drink in my face.

10 Q And what happened after that?

11 A That's when the altercation first took place. But this
12 gentleman right here was also standing at the door, because
13 there was quite a few of those guys. Carlton Dixon was
14 also -- all of them standing at the door at the time we're
15 going out, and that's when this young gentleman threw the
16 drink in my face and it started from there. But it really
17 wasn't out of control until they made it out of control, it
18 wasn't no big ole scene. Then all of the sudden they had
19 eight, nine of those guys out there and that's when all of
20 it started kicking off right then, ma'am.

21 Q Okay. All right. Was there a point in time where pool
22 sticks were actually pulled out?

23 A Yes, ma'am.

24 Q Tell me about who had pool sticks.

25 A Quinton, the young gentleman right here, had a pool

1 stick. And the only thing I was trying to do is protect my
2 brother and whoever was behind us to get them back. He was
3 swinging the pool stick and he swung and he hit my brother
4 across the arm one time, we were trying to get him out of
5 the way. And at some point in time he told me -- because me
6 and him are this close, me and this young gentleman right
7 here, he told me on two different occasions that he would
8 shoot me, that's what he told me. And at some point in he
9 reached inside his coat pocket and pulled out a gun, and we
10 got back up in the club and that's when everything got kind
11 of hysterical, got out of control. And we was pushed back
12 up in the club and got the doors locked.

13 Q All right. So when all of this happened, do you
14 remember where Kochese Gregory and his friends --

15 A I haven't seen Kochese Gregory, I haven't even seen
16 him.

17 Q All right. Now, you said then, you know, it kind of
18 got chaotic. And I see in your statement and if you recall,
19 and I can show it to you if you need to, you mentioned
20 Roundtree Circle guys.

21 A As we looked out in the parking lot you can see
22 straight out in the club, we didn't see nothing but gunshots
23 coming towards the club, but it was more in the back of the
24 parking lot towards the car wash coming from that way back
25 towards the club. All of us was already locked inside of

1 the club. And then at some point they came and told us that
2 they were jumping Kochese on the outside, and that's when we
3 went to try to go and get out there to check on Kochese.

4 Q Okay. All right. And when you went out to check on
5 Kochese what -- tell the Court what you saw.

6 A We didn't see anything but guns -- the only thing I can
7 see was gunshots coming back toward us. And at some point
8 Kochese was trying to get in but he couldn't get in, and as
9 soon as he got in that's when he told us he was shot.

10 Q Okay. All right. And I'm going to show you your
11 statement. I know you said that you saw a copy of it just
12 to refresh your recollection if you don't mind.

13 MS. LIVELY: If I may approach, Your Honor?

14 THE COURT: Yeah.

15 Q So right here, just don't read that out loud. I want
16 you just to read it and I'm going to ask you a follow-up
17 question, okay?

18 A Uh-huh.

19 Q Did you see -- or who did you see shooting back --

20 A Only one person I seen actually that I can see
21 personally myself, and I gave my statement several times,
22 was Junior McClinton stooped behind a car shooting back
23 towards the club, that's the only person I seen actually
24 with a gun. I never seen this young gentleman outside.
25 What I seen in the beginning, I never seen him no more. But

1 his brother, I seen him shooting back towards the club, and
2 he wasn't no further than that young gentleman right there
3 to where I'm sitting at right now.

4 Q Okay. All right. So your statement that you provided
5 to the officer here, so you saw Junior McClinton shooting.

6 A Right.

7 Q So did you ever see Mr. Kochese Gregory shooting a
8 weapon?

9 A No, ma'am, we was inside the club.

10 Q And do you know at that point in time where Quinton
11 McClinton was?

12 A At that time when the shooting was -- I ain't seen him
13 no more. Only time I encountered him is when I first came
14 out of the club for a short period of time.

15 Q Okay. Got it, and you were very clear on that. And
16 prior to that time you had already testified that when you
17 were still in the club who threatened you and had a weapon
18 on them at that time?

19 A Well, inside the club I never seen the weapon. I just
20 told you all that C.C. Whitlock threw the drink on my face.
21 We was at the door when this young gentleman presented a
22 gun, when he told me in front of several people that he
23 would shoot me.

24 Q That's what I'm asking you.

25 A That was at the front door outside of the club.

1 Q Okay. And when you say this young man, are you
2 referring to the defendant, Quinton McClinton?

3 A Yes, ma'am.

4 Q I just want to be clear, because we don't know who
5 you're referring to so I want to be clear for the record.
6 Thank you. You said that you didn't really know Mr.
7 McClinton. So you're not related to him in any way or know
8 him in any way.

9 A No, ma'am.

10 MS. LIVELY: Thank you. Answer any questions the
11 defense has.

12 CROSS EXAMINATION

13 BY MR. DUNCAN:

14 Q Good morning. Did you have that statement still in
15 front of you or did Ms. Lively take it? I'll just give it
16 back to you so you can refer to it if need be.

17 A Uh-huh.

18 Q Mr. Killian, you described -- you indicated that your
19 brother, and I think your brother -- is it Kelvin?

20 A Killian.

21 Q Kelvin Killian. And I think I heard this right, he's a
22 bouncer or was working as a bouncer at Club Images?

23 A At that particular night, yes, sir.

24 Q Were you helping him as a bouncer?

25 A No, sir.

1 Q So help me -- let me see if I can get what started the
2 situation, or first started a situation is Mr. Whitlock,
3 C.C. Whitlock, was he arguing with your brother? What was
4 going on?

5 A At some point -- evidently. He came to me, he
6 presented what come out, my brother -- we had an encounter
7 with C.C. Whitlock before, and what had happened --

8 Q Wait a minute, before --

9 A Some other time in the past years ago.

10 Q Okay. All right. Nothing to do with this night.

11 A Not this night here, because we had all been hanging at
12 the same place, at the barbershop. We all get our hair cut
13 at the same place but this particular night.

14 Q So on this particular night Mr. Whitlock says something
15 to you.

16 A Yes, sir.

17 Q And what does he say to you?

18 A He was telling me I need to get my brother or something
19 before he get fucked up, excuse my language, that was his
20 words, before he do something to him. And I said, "There he
21 go, do it." And that's when it kicked off from there.

22 Q When you said that to Mr. Whitlock, when you said,
23 "There's my brother, you want to take something up with my
24 brother go ahead."

25 A Yes, sir.

1 Q Mr. Whitlock responded by throwing a drink at you?

2 A Correct.

3 Q Did you touch Mr. Whitlock, push him, say anything --
4 was there any physical movement between you and Mr.
5 Whitlock?

6 A No, sir. Because he was coward behind them other guys,
7 he was getting away. He wasn't that close to me in order to
8 do that.

9 Q All right. And Mr. Killian, you're a pretty big fella.

10 A Yes, sir.

11 Q I wouldn't think too many people would be like wanting
12 to fight you.

13 A Uh-huh.

14 Q Is that fair to say?

15 A Yes, sir.

16 Q What were you doing at the club?

17 A I was leaving. Well, we went there to -- it was a
18 club. It was a club, it was Christmastime and we was all
19 just hanging out.

20 Q Were you on the pool room side?

21 A No, I was on the dance side. And I was actually
22 leaving, the club was over with.

23 Q All right. So anyway, you were getting ready to
24 leave --

25 A Yes, sir.

1 Q -- and your testimony is that Mr. Whitlock threw a
2 drink at you.

3 A Yes, sir.

4 Q And then you -- the words in your statement, and you
5 can certainly look at it, but you may recall it, "He started
6 with my brother, Kelvin."

7 A Yes, sir.

8 Q What do you mean by, "He started with my brother,
9 Kelvin?"

10 A What I'm saying, what the words he said, he said
11 something that he was wanting to do something, he was going
12 to do something with my brother. And then when I told him
13 that and he had his other friends with him, that's when he
14 threw the drink on me and then the altercation started going
15 out the door from that point.

16 Q The altercation being there was a few guys, including
17 my client, Quinton McClinton, who were on the outside.

18 A Right.

19 Q Is that right?

20 A Yes, sir, at the door.

21 Q At the doorway where the bouncer -- where your brother
22 would be sitting.

23 A Would be coming out, yes, sir.

24 Q And a drink got thrown on you.

25 A Yes, sir.

1 Q And then pushing, swinging, when you say something
2 started, what started?

3 A It didn't -- it was just a bunch of commotion going on,
4 and then next thing you know with the pool stick swinging
5 and this and that, and like three or four of the guys had my
6 brother surrounded, you know.

7 Q So from your viewpoint how many people were on -- when
8 I say your side, I don't mean you part of a, you know, group
9 exactly, but you have described Whitlock and McClinton and
10 you said some other guys?

11 A Yes, sir.

12 Q You mean three or four guys?

13 A Yeah. I know three of them was right here, had my
14 brother surrounded, and then there was more behind my
15 brother also behind those guys.

16 Q So they had a few guys.

17 A Right.

18 Q And on your side how many guys?

19 A It was just me and my brother.

20 Q You and your brother at that point.

21 A Uh-huh, coming out the door leaving.

22 Q And then you described Mr. McClinton swinging a pool
23 cue.

24 A Yes, sir.

25 Q All right. And Mr. McClinton was swinging that pool

1 cue at anyone, I mean, just swinging it.

2 A No, he wasn't just actually swinging. I guess he was
3 swinging towards me and my brother, and I was trying to
4 protect my brother to get him back, that's all.

5 Q And I think you indicated that Mr. Quinton McClinton
6 hit your brother's arm with the pool cue.

7 A Yes, sir.

8 Q Is that right?

9 A Yes, sir.

10 Q Did your brother as a bouncer, did he have any weapon?

11 A No, sir.

12 Q Anything? Nothing besides his hand?

13 A That's it.

14 Q How big a fellow is your brother?

15 A He could have beat all three of them at one time, I
16 believe.

17 Q Is he big as you? Is he bigger than you?

18 A Yeah. He's my size, a little bigger -- a little
19 smaller than me.

20 Q Okay. All right. So when you said you were protecting
21 your brother --

22 A That's my job.

23 Q -- you were just helping your brother.

24 A That's right.

25 Q And you said it's your -- it's your job because he's

1 your little --

2 A That my big brother.

3 Q That's your older brother.

4 A Yeah, he older than me.

5 Q But that's what you're saying, you don't mean you were
6 employed.

7 A No, no, sir.

8 Q You just mean because he's your brother --

9 A To protect my brother and make sure he's okay.

10 Q All right. The rest of your statement you indicate
11 that there was shooting coming from who you describe as the
12 Roundtree Circle guys.

13 A Yes, sir.

14 Q And that specifically you say you saw Junior McClinton.

15 A That's the only person I seen actually shoot a gun.
16 But I seen plenty shots coming from the back parking lot,
17 but I don't know who actually those guys was.

18 Q And you call them Roundtree Circle guys that's where
19 Junior McClinton lived?

20 A No, that's where those guys hang out at. I just said
21 the Roundtree Circle, that's where they hang out. I don't
22 know what they call theirselves, but that's the area they hang
23 at.

24 Q All right. Mr. Killian, were there shots coming from
25 the other side? In other words, you said parking lot there

1 were shots coming, were shots being fired back from the
2 club?

3 A Only thing I seen was shots coming towards the club.
4 We was inside the club. We was actually at the door trying
5 to see what was going on trying to check on Mr. Gregory and
6 I just seen shots coming. At first we all wasn't inside the
7 club, we had to get back in the club when the shots started
8 ringing out.

9 Q So actually when the shots were happening other than
10 seeing Junior McClinton because he was fairly close --

11 A That's right.

12 Q -- all you know is that there were some shots coming
13 from the parking lot area.

14 A That's right.

15 Q And you don't know who was involved in that shooting.

16 A No, sir.

17 MR. DUNCAN: Okay. All right. Thank you, sir.

18 THE COURT: Any redirect?

19 REDIRECT EXAMINATION

20 BY MS. LIVELY:

21 Q Did anyone in your group, Mr. Killian, that you were
22 with as y'all are starting to head back into the club have a
23 gun out at that point?

24 A No, ma'am, I didn't see one.

25 MS. LIVELY: All right. Thank you. No further

1 questions.

2 THE COURT: All right. Thank you, sir, you can step
3 down. Let me see the lawyers up here real quick.

4 (A bench conference was held.)

5 THE COURT: We'll take a break from this case. This
6 hearing is in recess until 1:30 p.m.

7 (A lunch break was taken.)

8 THE COURT: Is the State ready to call its next
9 witness?

10 MS. LIVELY: I am, Your Honor.

11 The witness, TERQUILA CLIFTON, was first duly sworn
12 And testified as follows:

13 DIRECT EXAMINATION

14 BY MS. LIVELY:

15 Q Ms. Clifton, how old are you?

16 A Fifty.

17 Q And are you a resident of Chester County?

18 A Yes.

19 Q How long have you lived here?

20 A Over 40 years.

21 Q Okay. And do you know the defendant, Mr. Quinton
22 McClinton?

23 A No.

24 Q Do you know Kochese Gregory?

25 A Yes.

1 Q How do you know Mr. Gregory?

2 A He's my family member.

3 Q All right. Pull that down just a little bit, you're
4 kind of soft spoken, we need to make sure we can hear you.

5 So you do know Mr. Gregory, he's a family member. What
6 about Montrell Graham, do you know him?

7 A Yes.

8 Q And who is he?

9 A A young guy that grew up where I used to live at.

10 Q All right. Okay. Now, on the night or the early
11 morning of December 25th, 2018, were you at the club off of
12 J.A. Cochran Boulevard, I think it's called either Image or
13 Imagine?

14 A Yes.

15 Q Why were you there?

16 A At a party.

17 Q All right. And who were you actually with at that
18 party?

19 A I was with my brother and just anybody who was in the
20 club.

21 Q Did you drive there that night?

22 A Yes.

23 Q All right. And was anybody riding with you?

24 A No.

25 Q Now, Ms. Clifton, do you recall whenever some issues

1 broke out between some of the people in the pool hall?

2 A Yes.

3 Q All right. Well, if you would, please explain exactly
4 what you saw.

5 A The club was over with. I was getting ready to come
6 out, there was two people in front me, Troy and his brother,
7 they call him Cowboy.

8 Q Cowboy?

9 A Yeah. And they was coming out of the club.

10 Q Let me ask you this, did you ever see Mr. George
11 Killian that night?

12 A That's his name.

13 Q That's what I want to be clear on. Because we just
14 don't know the nicknames like you do, so if you'll just tell
15 us -- so Mr. Killian, George Killian, was one of those two
16 gentleman that you saw?

17 A Yeah. They was in front of me leaving out the club.

18 Q And what happened?

19 A And I think it was C.C. Whitlock that was passing words
20 and he threw a drink in Troy's face, and after that
21 everything just broke out and they started fighting.

22 Q Okay. All right. What did you do whenever that
23 happened?

24 A Once they got from in front of the door they was in
25 front of my truck, the truck was parked in front of the club

1 and they was just out there fighting, everybody was trying
2 to get away running.

3 Q And while that was happening, did you have the
4 opportunity see Mr. McClinton? Did you know who he was at
5 that point in time?

6 A No.

7 Q All right. Whenever that fight actually started to
8 take place, did it actually make its way outside close to
9 where your vehicle was?

10 A Yes.

11 Q And please explain to us what you did at that point.

12 A I seen everybody running and they was fighting on top
13 of the car, so I'm trying to get to the car to move it and I
14 thought I had it in reverse but it was in drive and I went
15 forward, I slammed on brakes and everybody got up and
16 started moving around. That's when I went down a little bit
17 and jumped out and was looking for my brother.

18 Q Who is your brother?

19 A Rick Davis.

20 Q So whenever you did this, what were you witnessing or
21 seeing at that point?

22 A At this point I was just trying to get away.

23 Q Okay. All right.

24 A And that's when I stopped the truck by the time --

25 Q At any point in time, did you actually hear gunshots or

1 see a gun?

2 A I heard gunshots, I didn't see a weapon.

3 Q All right. So whenever you heard gunshots, where were
4 the gunshots coming from?

5 A There was some guys at the tail end of a car, I assume
6 they were shooting because their arms was extended.

7 Q And I'm just going to ask you to explain a little bit
8 better. So was it coming from the parking lot towards the
9 club or the club towards the parking lot?

10 A It was more like towards the car wash. It was a guy in
11 a brown jacket --

12 Q A guy in a brown jacket --

13 A -- standing at the back end of the car with his arm up
14 in the air.

15 Q Okay. So a guy in a brown jacket and had his hand in
16 the air.

17 A Yeah.

18 Q Who was with the guy in the brown jacket?

19 A Montrell.

20 Q Montrell Graham?

21 A Yes.

22 Q And are you sure it was Montrell Graham?

23 A Yes. I spoke to him in the club, I know him.

24 Q All right. So the person that was with Montrell Graham
25 in the brown jacket was shooting a weapon.

1 A I assume he was shooting.

2 Q Okay. Where did you go, or what did you do once you
3 saw that?

4 A Looking for my brother, standing there looking for my
5 brother, and once I got him they jumped in the car and we
6 left.

7 Q Okay. Where did you go?

8 A That's when I heard them say Kochese had got shot.

9 Q Did you actually see him, Mr. Kochese Gregory, get
10 shot?

11 A No.

12 Q So where did you go after that?

13 A In my sister's car.

14 Q Okay.

15 A And I jumped -- I'm sorry.

16 Q Go ahead, I want you to finish.

17 A I jumped out of the car when they said Kochese was
18 shot, that's when I tried to run back in the club and they
19 wouldn't let nobody in. When I finally got in there I laid
20 on the floor beside him. That's all I seen.

21 Q Now, Ms. Clifton, did you actually cooperate with law
22 enforcement after this happened and provide a statement
23 regarding what you personally saw that night?

24 A Yes.

25 Q All right. And I see you have some paperwork in front

1 of you, is that a copy of your two statements that you
2 provided to law enforcement?

3 A Yes.

4 Q And are those statements still based on your
5 recollection of what you personally witnessed that night?

6 A Yes, that I can remember.

7 Q And I see that you gave them on two different days, one
8 of them was more close in time to when the shooting actually
9 happened and one was December 31st of 2000 -- it says 2019,
10 but it was December 31st; is that right?

11 A December 31st.

12 Q Now, the fact that these are different, are they both
13 accurate based on what you experienced that night?

14 A The best I can remember, yes.

15 Q Okay. The reason why I'm asking that is they seem to
16 be talking about the same event but they have one is talking
17 about the car -- alleged car accident and one is talking
18 about the shooting, correct?

19 A Yes.

20 Q All right. Are they both accurate as to what you
21 experienced?

22 A Yes.

23 Q I just wanted to be sure.

24 MS. LIVELY: Thank you. Answer any questions that the
25 defense may have.

1 THE COURT: Mr. Duncan?

2 MR. DUNCAN: Thank you, Your Honor.

3 CROSS EXAMINATION

4 BY MR. DUNCAN:

5 Q Good afternoon, Ms. Clifton.

6 A Good afternoon.

7 Q Ms. Clifton, you indicated that you were at the club,
8 Club, you said, Imagine?

9 A She said Images.

10 Q Images or Imagine. But you were at the club, you were
11 getting ready to leave the club; is that right?

12 A Yes.

13 Q And as you were -- were you at the door? Had you made
14 it to the door of the club?

15 A Yes.

16 Q And that's when you knew two individuals who you called
17 Troy and his brother who you said Cowboy?

18 A Yes.

19 Q Were you still inside? In other words, were they in
20 the doorway? Where were they?

21 A They was in the doorway, I was right at the threshold,
22 we was about to come out of the door.

23 Q And at that point you saw, I think you said, C.C.
24 Whitlock, did I hear that?

25 A Yes.

1 Q And you know him?

2 A Yes.

3 Q And he's in the courtroom, right? Do you see him?

4 A Yes.

5 Q Front row?

6 A Yes.

7 Q So you know him from just growing up here in Chester
8 kind of thing?

9 A No, just seeing him.

10 Q But anyway, as you described some words were passed, or
11 did you hear any words between Mr. Whitlock and Troy
12 Killian?

13 A I assume they had words because everything just broke
14 lose after that. After the drink was thrown I didn't see
15 C.C. anymore after he threw the drink, but everybody else
16 was fighting.

17 Q Fighting with pool sticks?

18 A No, I didn't see any pool sticks.

19 Q You didn't see any pool sticks. But when you say
20 fighting, you're talking about fist fighting?

21 A Just fighting and pushing people back in the club,
22 pushing us back in the club.

23 Q Pushing back into the club.

24 A Yes.

25 Q So what you saw was happening inside the club.

1 A No. It happened on the outside as they was coming out
2 of the club, that's when the drink got throwed.

3 Q All right. So the fighting was happening just outside
4 of the club.

5 A Right at the threshold, yes.

6 Q Okay. And when the solicitor was asking you questions
7 about the vehicle you had -- at what point did you get to
8 your vehicle? I missed that. How did you get there?

9 A We had already talked about leaving, so I went and got
10 the truck and pulled it in front of the door for my brother,
11 it's right in front of the door.

12 Q And so are you the only person in your vehicle at that
13 time?

14 A Yes.

15 Q And you had pulled back to the front of the club to
16 pick up your brother, Rick Davis?

17 A Yes.

18 Q But he hadn't made it outside yet.

19 A No. Hadn't nobody made it outside when I pulled my
20 truck -- wasn't nothing going on when I pulled my truck in
21 front of the door.

22 Q But this was after the fight had started or before the
23 fight had started?

24 A Before. It wasn't nobody doing anything at this point
25 when I went to get the truck. It was cold so I pulled the

1 tuck up to the door, warmed it up and waited on him. I'm
2 standing at the door waiting on the club to end.

3 Q Got you. And your vehicle is sitting right there in
4 front of the door.

5 A Yes.

6 Q And as the fight is going on you go back to your
7 vehicle, is that what happened?

8 A No. I tried to make it out there. I had to fight my
9 way through the crowd, push people to get in the truck to
10 move it.

11 Q Okay. And eventually you make it to the truck?

12 A Yes.

13 Q All right. And that -- you were talking about that you
14 had the -- you thought the vehicle was in reverse --

15 A Yes.

16 Q -- but it was in drive.

17 A It was in drive.

18 Q And so did you hit someone?

19 A It was a lot of people out there. They just fell on
20 the truck and I slammed on brakes.

21 Q Is it your testimony you didn't intend to hit anybody?

22 A Right. I didn't intend to hit anyone.

23 Q And you said there were a lot of people --

24 A There was a lot of chaos going on, everybody in that
25 one spot running.

1 Q And people were hitting the front of your truck. Your
2 vehicle was moving slowly --

3 A Yes.

4 Q -- is that what you're saying?

5 A Yes.

6 Q And people were hitting like the front of the truck.

7 A Yes.

8 Q Can you tell me how many people there were?

9 A Yeah, somebody arms hit the car.

10 Q With their hand?

11 A Yeah. Like I might be in their way.

12 Q As you sit here today, six months later, can you tell
13 how many people were in front of your vehicle hitting the
14 vehicle or --

15 A No, I can't.

16 Q And you described hearing gunshots, I think, hearing
17 gunshots?

18 A I heard gunshots.

19 Q Just one or more than one?

20 A I heard one gunshot.

21 Q You heard one gunshot, and it came from where?

22 A Where I assumed it came from?

23 Q You don't know where it came from.

24 A Right.

25 Q All right. You don't know where it came from and it

1 was one gunshot.

2 A Yes, that I heard.

3 Q Did you go back inside the club and learn that Kochese
4 Gregory had been struck by -- had been shot?

5 A Yes. On the pool room side, yes.

6 Q Somebody told you or you just went back in the club?

7 A I heard everybody saying, "Kochese got shot, Kochese
8 got shot."

9 Q And you went back inside.

10 A I tried to, but the police stopped us and they wouldn't
11 let anybody in, finally they let me in. I told them who I
12 was and they let me check on him.

13 Q Okay. And you laid eyes on him but that's it?

14 A Yes.

15 MR. DUNCAN: I don't have any further questions. Thank
16 you.

17 THE COURT: Any redirect?

18 MS. LIVELY: Just one brief, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. LIVELY:

21 Q Defense just asked you whether you knew where the shot
22 came from. I'm going to show you your statement from --
23 your earliest statement you gave right after this happened.
24 I'm going to ask you if you'll just look from right here
25 through that, okay? And don't read it out loud, just read

1 it to yourself, okay?

2 A (Witness complies.)

3 Q Does that refresh your memory as to where the shooting
4 came from?

5 A Yes.

6 Q Okay. Was it from the club or was it from behind cars?

7 A Behind the car.

8 MS. LIVELY: Thank you. That's all of the questions I
9 have.

10 THE COURT: Any recross based upon that one question?

11 MR. DUNCAN: No, sir.

12 THE COURT: All right. Thank you, ma'am, you can step
13 down. The State can call its next witness.

14 MS. LIVELY: Yes, sir, Your Honor. May she be excused
15 from her subpoena, Your Honor?

16 THE COURT: Yes. Thank you, ma'am, you may be excused
17 from your subpoena.

18 The witness, BANIKA KERSHAW, was first duly sworn and

19 Testified as follows:

20 DIRECT EXAMINATION

21 BY MS. LIVELY:

22 Q Ms. Kershaw, how old are you?

23 A Thirty-eight.

24 Q And are you a resident of Chester County?

25 A I am currently.

1 Q How long have you lived in Chester?

2 A About three years.

3 Q And were you present at the club -- is it Images or
4 Imagine? I can't keep calling it --

5 A Images.

6 Q Thank you -- Club Images on the very early morning of
7 December 25th of 2018?

8 A Yes, ma'am.

9 Q And why were you there?

10 A I was invited to a party.

11 Q And who was the party for?

12 A A guy by the name of Chuck Sims.

13 Q And were other of your family members there?

14 A My mother.

15 Q And is she here in the courtroom today?

16 A Yes, ma'am.

17 Q What was her name?

18 A Marilyn Tucker.

19 Q Now, Ms. Kershaw, had you ever been to the Images Club
20 before?

21 A No, ma'am.

22 Q And did you know any of the other people there?

23 A No, ma'am, not personally.

24 Q So whenever you got there other than your mother, did
25 you know anybody else at the club?

1 A Like various ones that were there that I knew from
2 around.

3 Q Just from around.

4 A But not personally by name or face.

5 Q Let me just specifically ask you, did you know Mr.
6 Quinton McClinton?

7 A No, ma'am.

8 Q Do you know Kochese Gregory?

9 A No, ma'am.

10 Q So let me back up then. With you not knowing them
11 while you were there that night, did anything happen inside
12 the club that you personally experienced?

13 A No, ma'am.

14 Q Nothing? All right. So at what point in time did
15 something happen that gave you concern about your safety and
16 your mother's safety?

17 A Well, once they were calling for the club to close I
18 went to the parking lot to get the car, because my mother is
19 disabled, she can't walk good so I went and got the car and
20 pulled it to the front of the club. By the time I got out
21 to help her in the car, that's when I seen the two guys, one
22 of the guys, which was Kelvin, that was the bouncer, he was
23 standing at the door and his brother, George, and then I saw
24 someone proceed and throw a drink in George's face. But I
25 can't tell you who it was because I don't know them

1 personally.

2 Q So after you saw the drink getting thrown into the
3 bouncer's face, what did you see next?

4 A I just seen people with pool sticks fighting everything
5 and I was just trying to get my mother into the car to be
6 safe.

7 Q All right. Now, were you able to actually get your
8 mother into the car?

9 A Yeah. Once she proceeded and we got in the car, we
10 went across the street to the Texaco and we were facing, and
11 that's when I noticed everyone was still fighting. And I
12 seen that no one was calling for any kind of assistance, so
13 I called 911.

14 Q All right. Now, did you recognize Terquila Clifton who
15 was just now testifying?

16 A Yeah. I know Tina from being around my mama. Well, I
17 know her by Tina.

18 Q So in your statement you actually mention a Tina Davis.
19 Is that the same person as Terquila?

20 A Yes.

21 Q Now, did you see the incident that she was just now
22 testifying to in regards to people being in front --

23 A Yes. Because we were still sitting across the street
24 at the store and I was actually on the phone with 911 giving
25 them details.

1 Q So when you were giving those details, you actually saw
2 Tina in the vehicle trying to leave, or just in the parking
3 lot?

4 A I assume she was trying to leave.

5 Q That's fine. What did you notice in regards to what
6 was going on in front of her vehicle?

7 A I saw a couple of individuals laying and I seen where
8 someone in a brown jacket had got hit and then they
9 proceeded to get up.

10 Q Got hit by what?

11 A Her car.

12 Q Where did that person with the brown jacket go if you
13 know?

14 A They were actually just like standing in the same area
15 and then they started going down to the lower part of the
16 parking lot.

17 Q Once the person in the brown jacket was going down to
18 the lower part of the parking lot, what did you see next?

19 A That's when I started seeing gunfire, and I was
20 proceeding to tell the people at 911 that they needed to get
21 some help there.

22 Q All right. Now, did you actually see anyone physically
23 get shot?

24 A No. I just seen the guy in the green jacket as he was
25 making his way back to the club, he was holding his stomach

1 so I assume he was shot.

2 Q All right. Now, Ms. Kershaw, before you actually -- is
3 this the first time you and I have had a chance to meet --

4 A Yes, ma'am.

5 Q -- to discuss your statement in this particular case?

6 A Yes, ma'am.

7 Q Now, whenever I met with you and with others, did I
8 provide you with a copy of your statement?

9 A Yes, ma'am.

10 Q And before we left for lunch, did we have a
11 conversation regarding some of the information in your
12 statement?

13 A Yes, ma'am.

14 Q I'm going to actually hand it to you.

15 MS. LIVELY: Your Honor, if you may approach?

16 Q Will you please tell me, or tell everyone in regards to
17 your statement what you realized was either incorrect or you
18 were mistaken about?

19 A What I noticed that was incorrect where I put that
20 Kochese was hit by the vehicle, that it wasn't him because I
21 found it to be that he was wearing green and not brown. And
22 also he wasn't the one that came up from the ground
23 shooting.

24 Q So you see where this is kind of a very important piece
25 of information.

1 A Yes, ma'am.

2 Q Okay. So you brought this to my attention. Who was
3 the one that actually -- now do you know who we're referring
4 to when I say Quinton McClinton and Kochese Gregory?

5 A I still can't tell you who either one of those are
6 personally because I don't know them.

7 Q But after we started talking to you about what the
8 facts were in this case, is that when you became aware that
9 Kochese Gregory was not the person who got hit by the
10 vehicle?

11 A Yes, ma'am.

12 Q So when you brought that to my attention, the person
13 who got hit with the vehicle, what was that person wearing?

14 A A brown jacket.

15 Q The person who went into the parking lot and began to
16 shoot, what was that person wearing?

17 A A brown jacket.

18 Q Now, you provided a statement to law enforcement on the
19 morning of December 25th. Did you also assist your mother
20 with her statement?

21 A Yes, ma'am, I did.

22 Q And please tell the Court why you did that.

23 A Because she has conditions with her hands where
24 sometimes she can't write, so they allowed me to write it
25 and she just had to sign off on it.

1 Q And she's here to testify, correct?

2 A Yes, ma'am.

3 Q And in regards to the statement that she provided, that
4 is actually in your handwriting.

5 A Yes, ma'am.

6 Q Just one second. Now, whenever you assisted your
7 mother with this statement -- and she can testify to this as
8 well, but just your own personal knowledge, does she know
9 Kochese Gregory and the defendant, Mr. McClinton?

10 A No, ma'am, she doesn't.

11 Q So both of y'all were --

12 A We just learned of them by names throughout the
13 incident.

14 Q All right. And the names and information that was put
15 in that statement was based on what you believed to be
16 correct that night; is that right?

17 A Yes, ma'am.

18 MS. LIVELY: Thank you so much. Please answer any
19 questions that the defense may have for you, okay?

20 CROSS EXAMINATION

21 BY MR. DUNCAN:

22 Q Good afternoon, Ms. Kershaw.

23 A Good afternoon.

24 Q Ms. Kershaw, if I understood your answers to Ms.

25 Lively's questions you had -- before any altercation, before

1 any incident began at Club Images you and your mother were
2 across the street at the Texaco gas station.

3 A No, sir.

4 Q Okay. Tell me again.

5 A When it began I had went to get the car from the
6 parking lot and brought it in front of the club, and then as
7 I was proceeding to help her get in the car, that's when the
8 altercation started.

9 Q Okay. And when you say that, when you say the
10 altercation started, are we talking about a fist fight?

11 A That's when I seen the cup get thrown into George's
12 face and then they started fighting with pool sticks and
13 everything.

14 Q And you and your mother got out of the club and made it
15 to your vehicle?

16 A Yes. As I proceeded and brought it to the front door
17 she made it in the car and we went across the street.

18 Q And at that point, again, you saw -- you could see from
19 across the street the outside of the club?

20 A Yes.

21 Q It was like -- was the door open to the club, do you
22 know?

23 A I'm not sure was the door open because they wasn't in
24 the club.

25 Q The fight that you saw was outside of the club, not

1 inside the club.

2 A Not inside the club.

3 Q Outside the club. Near the doorway?

4 A Yeah, like right up by the front entrance.

5 Q And you said that you called 911 --

6 A Yes, sir.

7 Q -- at that point in time.

8 A Yes, sir.

9 Q And I'll kind of refer to your statement and you can
10 help me understand. I get what you're saying, you didn't
11 know -- there are places in this statement where the name
12 Kochese is used and you have learned --

13 A That it wasn't him.

14 Q -- not him based on the outfit he was wearing, based on
15 the color of the clothes he was wearing.

16 A Right.

17 Q Do you know now what Kochese Gregory was wearing that
18 night?

19 A He had on a green sweater.

20 Q So as you were at the Texaco, is that when you saw Ms.
21 Davis' vehicle hit someone twice with the car?

22 A Yes, sir.

23 Q And that -- from across the street you see that vehicle
24 hit a person.

25 A While she was proceeding to leave, or I don't know

1 what, whether she was moving the vehicle.

2 Q And you saw that person go down?

3 A Yeah.

4 Q Let me ask you to look at your statement right after it
5 says -- the sentence ending with twice with the car, the
6 individual getting hit twice with the car. The next
7 sentence says once they got him on the ground they were
8 beating and stomping and you say Kochese, but you mean the
9 person with the brown jacket.

10 A Well, actually it was the one with the green one.

11 Q All right. So it was wrong before --

12 A I just got the names mixed up.

13 Q All right. But as we stand here and as you understand
14 it, the guy you're talking about getting stomped is Kochese
15 Gregory, the man wearing green.

16 A Yes.

17 Q And then the next thing indicates, "Once Kochese got up
18 off the ground I noticed him with a gun in his hand
19 returning shots back at the others in the lower parking
20 lot." Is that still the green guy?

21 A No, it was a guy in the brown.

22 Q So the guy in the brown is near the club --

23 A After he was hit with the car.

24 Q And he's near the club shooting down toward the parking
25 lot.

1 A I assume. I just scene the gunfires and I was so
2 hysterical.

3 Q Okay. All right. But the individual as we look at
4 it -- and just -- not trying to be tricky, just trying to
5 get it straight as best I can, the individual being beat and
6 stomped was wearing the green.

7 A Uh-huh.

8 Q And the other individual wearing a brown jacket got off
9 the ground and started shooting down toward the lower
10 parking lot.

11 A Yeah.

12 Q And eventually you saw the man in the green holding his
13 stomach?

14 A Yeah. He was walking back toward the club like he was
15 trying to get in.

16 Q Did you see where he was coming from?

17 A I just seen he was coming from the parking lot.

18 Q Okay. And again, it's your word -- and again, I'm not
19 trying to be tricky, you use the word lower parking lot. Is
20 that where the man wearing the green was coming from?

21 A Like not the lower, lower part near the car wash, but
22 like right up in the middle. That's what I considered the
23 lower.

24 Q Okay.

25 A It wasn't exactly directly in front of the club where

1 the incident first started.

2 Q And I guess as you were at the Texaco and you're seeing
3 the man in a brown coat shooting, is that person at the --
4 near the entrance of the club?

5 A Yeah. They were all still near the entrance of the
6 club.

7 Q And again as I'm reading it, you say returning shots at
8 others in the lower parking lot.

9 A Returning shots also from by the car wash, from all way
10 at the lower end.

11 Q All right. So there were shots coming from there, you
12 can't see who those people are?

13 A I didn't see who was shooting. I couldn't see nobody
14 personally, and plus I don't know them personally.

15 Q You don't know them personally, but more than that you
16 can't tell who they are period.

17 A No.

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

19 THE COURT: Any redirect?

20 MS. LIVELY: One moment, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. LIVELY:

23 Q I'm going to show you a snapshot from Google Maps. I'm
24 just going to ask you to look at it for a minute and see if
25 it resembles the locations that you're referring to in your

1 testimony regarding the Images Club and the parking lot and
2 the car wash.

3 A Say that again.

4 Q Okay. That's fine. Look at that snapshot and tell me
5 whether or not it resembles where the club is, the car wash
6 and the parking lot involved in what you've been testifying
7 about.

8 A Yes, ma'am.

9 Q It does.

10 MS. LIVELY: Your Honor, we're just going to move this
11 in as State's Exhibit 1 for purposes of her clarifying her
12 testimony.

13 THE COURT: All right.

14 MR. DUNCAN: No objection to the picture.

15 Q Okay. Now, I'm showing this to you, and I know it's
16 small, all right? But I'm going to ask you, in regards to
17 what you're looking at, when you say lower parking lot, will
18 you please point out where you're referring to?

19 A Like in this area.

20 Q Where is the club?

21 A Up here.

22 Q Up there. All right. So right in this area lower
23 parking lot, what you're pointing to is right in front of
24 the club.

25 A Uh-huh.

1 Q Is that a yes?

2 A Yes. Because this is like more near the car wash.

3 Q All right. I just wanted to be clear in regards to
4 where you were talking about. And once again, the defense
5 did ask you in regards to the shots being fired, it says,
6 "Shots back at the others in the lower parking lot." Do you
7 still stand by that statement?

8 A Yes.

9 MS. LIVELY: Okay. All right. Thank you, that's all,
10 Your Honor.

11 MR. DUNCAN: One question.

12 THE COURT: Okay.

13 RECROSS EXAMINATION

14 BY MR. DUNCAN:

15 Q Ms. Kershaw, as you described in your statement and
16 today, there were shots from down at the car wash end of the
17 parking lot and shots from near the club?

18 A Yes, sir.

19 Q So shots being exchanged.

20 A Yes, sir.

21 MR. DUNCAN: That's all.

22 THE COURT: Madam Witness, I'm going to hand you a pen
23 and you see the photo here, I want you to put an X on where
24 the club is. I see where the car wash is, but I want you to
25 put an X where the club is based upon your memory.

1 A (Witness complies.)

2 THE COURT: All right, thank you. Lawyers, do y'all
3 want to look at where she put the X? She put the X right
4 beside the (inaudible.)

5 MR. DUNCAN: Okay.

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

7 THE COURT: Thank you, ma'am, you can step down. Call
8 your next witness.

9 The witness, MARILYN TUCKER, was first duly sworn and
10 Testified as follows:

11 DIRECT EXAMINATION

12 BY MR. JOHNSON:

13 Q Ms. Tucker, how old are you?

14 A Fifty-six.

15 Q And where are you from originally?

16 A From Union County.

17 Q Union County? How long have you been in Chester
18 County?

19 A I've lived here for seven years now.

20 Q Banika Kershaw, is that your daughter?

21 A Yes.

22 Q Do you also know Tina Davis?

23 A Yes.

24 Q Do you know Quinton McClinton?

25 A No.

1 Q Do you know Kochese Gregory?

2 A No, sir.

3 Q Ms. Tucker, do you remember being at the Club Images on
4 December 25th of 2018?

5 A Yes, sir.

6 Q What were you there for?

7 A For a birthday party.

8 Q And what time did you leave, do you remember?

9 A I'm assuming it was about like three when the club was
10 closing.

11 Q In the morning?

12 A Yes. Well, I didn't leave. I didn't get to leave
13 because they wouldn't let me leave, I had to stay there.

14 Q So tell the Judge what happened that night.

15 A As we had came out the club my daughter had went and
16 got the car for me to -- she pulled up to the door. So
17 while I was proceeding and she was helping me get in the car
18 that's when I seen this guy throw a drink in Cowboy's face.
19 And I don't know their real name, I just know them by their
20 nicknames. And Big Troy, they had throwed a drink in Big
21 Troy's face, so Cowboy's brother was behind him and they
22 started -- one swung -- he swung at the big guy that was on
23 the stand, but he ducked and he didn't get to hit him. So
24 after that they started -- one guy had pool sticks and they
25 started hitting him with the pool sticks. So I was -- my

1 daughter was like, "Mama, come on, they're fighting." So as
2 I got in the car and I -- because I drove away from the
3 club, we went across the street to the Texaco. So that's
4 when I seen a bunch of guys around this other guy with the
5 green sweater on, they was beating him with pool sticks and
6 stomping him and kicking him.

7 Q Let me stop you for just a second. The guy with the
8 green sweater on, do you know what that person's name was?

9 A At the time I didn't.

10 Q Okay.

11 A But I know his name now.

12 Q What is it?

13 A Kochese.

14 Q All right. So you saw them hitting him on the ground.

15 A Yes, sir.

16 Q And then what happened?

17 A I told my daughter, I said, "Call 911 and get some
18 help." Because nobody didn't seem like -- because
19 everybody -- it was chaos. They was outside of the club and
20 all of that was going on, and I said, "They're beating that
21 guy, they need to get him some help there." So as she was
22 on the phone with 911 the lady was asking her questions and
23 she was telling them what was happening. So then by that
24 time they started shooting, so she told them that they had
25 started shooting, that they needed to get somebody there

1 now. So as it went on the next thing I seen, I saw the guy
2 in the brown jacket shoot and I saw some more gunshots
3 coming from down at the lower end of the parking lot. So
4 there was this other girl in the car with us too but she's
5 not here, and she was telling me to leave and I said, "No.
6 We're going to have to stay here because we called the
7 police, the lady told us that we couldn't leave." So we
8 stayed over there until the police came, then we went back
9 over to the club.

10 Q Okay. Did you know who the guy was who had the brown
11 jacket on?

12 A No, sir.

13 Q Did the shooting start from where the guy in the brown
14 jacket was?

15 A Yes, sir.

16 Q Do you remember any shooting coming back the other way?

17 A What you mean? From going back towards the parking
18 lot?

19 Q Yes, ma'am.

20 A Yes, sir.

21 Q Do you know who was doing that?

22 A No, sir. More than one person was shooting.

23 Q All right. I'm going to show you a copy of -- do you
24 remember giving a voluntary statement to a police officer
25 that night?

- 1 A Yes, sir.
- 2 Q Is that a copy of that statement?
- 3 A Yes, sir.
- 4 Q Was it a voluntary statement?
- 5 A Yes, sir.
- 6 Q And if you look at the paragraph down at the bottom
- 7 kind of on the left hand side, does it say what time of the
- 8 morning it was that the statement was taken? Do you see
- 9 that?
- 10 A 4:56.
- 11 Q All right. And is it a.m. or p.m.?
- 12 A A.m.
- 13 Q Okay. And that's on what date?
- 14 A That would have been on Christmas Day.
- 15 Q Does is it say the 25th of December?
- 16 A Yes, sir.
- 17 Q Okay. There's a signature down there on the bottom on
- 18 the right hand side, is that your signature?
- 19 A Yes, sir.
- 20 Q And then there's a witness signature on the left hand
- 21 side over there, do you see that?
- 22 A Yes, sir.
- 23 Q Can you tell what that signature is?
- 24 A B.P. Perry.
- 25 Q Okay. All right. I'm just going to go through your

1 statement briefly. Did you write this out yourself?

2 A No, sir.

3 Q Who did it for you?

4 A My daughter.

5 Q And why was that?

6 A Because my left hand, sometimes I can't write with it.

7 I have a medical condition in my neck with my nerves and

8 sometimes I can't use this left hand at all.

9 Q Okay.

10 A So that night I couldn't -- I was trying to write but I
11 couldn't write it so she wrote it for me.

12 Q All right. And is this statement still accurate today?

13 A No, sir.

14 Q Why is it not accurate?

15 A Because at the time, like I said, I didn't know who the
16 people was, I was only getting names from people. I

17 couldn't put face with the names because I didn't know the

18 names. But some other people that was there was telling me

19 that was such and such name, that was their name. But it's

20 not accurate to what I saw.

21 Q Okay. So let's go through it just a little bit. It

22 says, "I, Marilyn Tucker, saw a group of people beating

23 Kochese Gregory."

24 A Now that's accurate.

25 Q Okay. Is that the man in the green sweater?

1 A That was the man that was getting beat.

2 Q Okay. Then it says, "After they beat him, Kochese,
3 they went to the lower end of the parking lot." So is that
4 Kochese accurate, Kochese Gregory?

5 A No. He didn't go to the lower end of the parking lot.
6 He proceeded -- it's like when you come out the door -- like
7 where they was fighting at, it's two parts of the club.
8 It's a pool room over here, and they was like right like
9 from the pool room door not the way you go into the club
10 part, they was like right there. And it's, you know, like a
11 little -- not right in front of the door but they was like
12 right on the side when you're like coming out of the pool
13 room and that's where they were beating him right there.

14 Q So is that Kochese, the man in the brown jacket?

15 A Huh?

16 Q Kochese. "They went to the lower end of the parking
17 lot." Is that the man in the brown jacket?

18 A The man that went towards the lower parking lot?

19 Q Yes, ma'am.

20 A Yeah. But he was right there first, the guy, then he
21 went to the -- proceeded to go towards the parking lot.

22 Q One more thing. Well, let's see.

23 MR. JOHNSON: I think that's all of the questions I
24 have for you. Please answer any questions Mr. Duncan may
25 have for you.

1 THE COURT: All right. Mr. Duncan?

2 MR. DUNCAN: Thank you.

3 CROSS EXAMINATION

4 BY MR. DUNCAN:

5 Q Good afternoon, Ms. Tucker.

6 A Good afternoon.

7 Q The statement -- you still have the statement that you
8 gave to the police on Christmas morning at basically
9 5:00 a.m.?

10 A Yes, sir.

11 Q And again, you clarified whose -- that it's in your
12 daughter's handwriting?

13 A Yes, sir.

14 Q But you read this -- or did you tell this to your
15 daughter as she's writing it, or how --

16 A No. I didn't tell her -- I didn't tell her what to
17 write, but I had already gave the police my statement.

18 Q Okay. All right. And you have clarified or you have
19 gone through this here this afternoon to try to explain the
20 differences because you didn't know -- you didn't know the
21 name. You didn't know Kochese Gregory --

22 A No, sir.

23 Q -- on that night.

24 A No, sir.

25 Q And you don't know him now; is that correct?

1 A No, sir, I met him today.

2 MR. DUNCAN: Your Honor, I would like to mark that
3 statement as Defendant's Number 1.

4 MS. LIVELY: No objection.

5 Q All right. Ms. Tucker, I tried to follow what you was
6 saying, and you say -- the first sentence of your statement
7 that you saw people beating Kochese Gregory, and you stand
8 by that.

9 A Yes.

10 Q And the individual you know now as Kochese was wearing
11 a green sweater on Christmas night, Christmas morning?

12 A Yes, sir.

13 Q And again, you have described going across the
14 street -- making it out of the club and going across the
15 street to the Texaco; is that correct?

16 A Yes, sir.

17 Q And were you driving or was your daughter driving?

18 A I drove. I was driving.

19 Q And you went across the street and your daughter called
20 911.

21 A Yes. I asked her to call 911.

22 Q All right. And while she's on the phone you're still
23 looking at the club, Club Images, across the street.

24 A Yes, sir.

25 Q And the word you use in your statement is, "They beat

1 him, Kochese. They went to the lower end of the parking lot
2 and started shooting," and I'll stop there for right now.
3 When you say they, you didn't know who the people were; is
4 that correct?

5 A No, sir, I didn't.

6 Q Can you tell me today not who they were, but how many
7 people you were talking about?

8 A No, sir, I can't because it was so many of them. It
9 was so many of them I can't give you a number.

10 Q Okay. Was it pretty well lit at that time and could
11 you see -- you could see people you just couldn't make them
12 out.

13 A Yes. I can still see but not down in the parking lot,
14 I couldn't make them out. But the ones that were still
15 right there in the front, the guy with the green sweater on,
16 I know what they looked like because I had saw them in the
17 club.

18 Q All right.

19 A I didn't know their names.

20 Q I understand. And so as you talk about, "They went to
21 the lower end of the parking lot, started shooting, Kochese
22 got back up and started shooting at them." You could see
23 the man in the green sweater shooting down toward the car
24 wash.

25 A Yes, sir.

1 Q And also say, "He staggered back to the door and
2 someone pulled him inside." You're talking about the man
3 with the green sweater at that point.

4 A Yes, sir.

5 MR. DUNCAN: That's all the questions I have.

6 THE COURT: All right. Any redirect?

7 MR. JOHNSON: No, Your Honor.

8 THE COURT: Let's take a brief recess.

9 (A break was taken.)

10 MS. LIVELY: Your Honor, the State calls Montrell
11 Graham to the stand.

12 MR. FRICK: Your Honor, as Mr. Graham's attorney I
13 would like to be heard on this matter.

14 THE COURT: Yeah.

15 MR. FRICK: Your Honor, Mr. Graham is present, he is in
16 custody, he's back in the holding cell. I don't think he's
17 under subpoena, I think he's just here because he was
18 conveniently brought over from the jail and they didn't
19 necessarily require a subpoena for him to be present.

20 THE COURT: Is he charged with something involving this
21 incident?

22 MR. FRICK: He's an accessory.

23 THE COURT: Okay.

24 MR. FRICK: And that's why I'm addressing you at this
25 point in time, he is a codefendant in this case. I have

1 spoken to him about this situation and advised him I don't
2 know that it's necessarily in his best interest to testify
3 today. We've gone over that and he would like to exercise
4 his 5th Amendment rights. As this is a pretrial matter, not
5 trial matter and he is not under subpoena I don't think it's
6 necessary to bring him into the courtroom for him to
7 exercise his rights, I believe I can do that as his attorney
8 having spoken with him this morning, spoken to him before
9 this matter began this afternoon and just before we broke,
10 or came back from breaking. He does wish to exercise his
11 5th Amendment rights and I would ask you to not allow him to
12 testify at this time.

13 THE COURT: Does the State wish to be heard on that?

14 MS. LIVELY: Yes, sir, Your Honor. The 5th Amendment
15 right is that a person is not going to be compelled to
16 actually be a witness against himself. This is a defense
17 motion regarding immunity for the events that happened on
18 that early morning of the 25th. This does not have anything
19 to do with anything against Mr. Graham in regards to the
20 particular charges that are pending against him. I'm not
21 going to ask him these questions in regards to what's
22 pending in his case, and I've even offered to provide him
23 with immunity in regards to that fact if he would cooperate
24 with the State. However, it's my understanding from talking
25 to Mr. Frick they have rejected that as an option because

1 this defendant does happen to be on probation. So under the
2 circumstances in regards to what we are asking in this
3 particular hearing is the defendant, Mr. Graham, did give a
4 statement, which was against his own interest as well as the
5 interest of Defendant McClinton. And in that statement I
6 want to be allowed to actually ask him if he does plead the
7 5th then I bring the statement in as a prior statement that
8 was written by him for purposes of at least the hearing
9 itself here today. Because if we end up going to trial,
10 what's going to end up happening is I'll probably have to
11 try them separately in regards the charges because it
12 becomes a Bruton issue. But for this particular issue in
13 regards to a pretrial and because the defense is calling and
14 trying to claim that he either had a self-defense or trying
15 to claim that he didn't have a weapon, that this really
16 bootstraps the State with being able to proceed in the case
17 if he pleads to the 5th and then we are not allowed to
18 actually put in his statement under 613.

19 THE COURT: All right. Mr. Duncan, what's your
20 position, if any? It's your motion.

21 MR. DUNCAN: Yes, sir. I don't know -- Mr. Graham's
22 statement to the police is dated January -- excuse me,
23 December 28th, 2018, so about three days after the incident
24 is damaging to Mr. McClinton. On information and belief
25 that would not be his testimony today I don't really care if

1 Mr. Graham testifies today or not, but I would strongly
2 oppose introducing his statement that I can't cross examine
3 him on that I believe is not a fair accurate statement at
4 this point in time.

5 THE COURT: All right. Mr. Frick, coming back to you.

6 MR. FRICK: Well, Your Honor, if my client gave a
7 voluntary statement previously, and of course, we're not
8 litigating that matter today, and waived his rights at that
9 period of time, that does not waive his 5th Amendment right
10 forever and always. As we're all very well aware, if
11 someone invokes their 5th Amendment right and chooses not to
12 talk to law enforcement, law enforcement can come back and
13 talk to them later if they choose to waive it, so the
14 inverse has got to be true as well. He can invoke his right
15 today not to testify, which is his wish per our
16 conversations and I am conveying as his attorney and voice
17 and advocate in this matter, so I don't think he can be
18 forced to testify today. In regard to simply limiting the
19 testimony, he is a codefendant charged with accessory after
20 the fact to attempted murder. I cannot see how anything he
21 says on the stand could not be used against him potentially
22 in a trial of his codefendant or himself in his own case, so
23 as such I think it's absolutely appropriate for him to
24 exercise his 5th Amendment rights at this time and not be
25 compelled to testify in any regard. Regarding his prior

1 statement, I would say if he does not testify, which he
2 chooses not to do, it should not be introduced under any
3 other rules because it is a Bruton issue today. I don't
4 think that's limited to just simply a trial date, I think
5 that would be at any point in time, non-testifying
6 co-defendant's statement. So --

7 THE COURT: All right. Thank you. I agree with the
8 defense, Mr. Frick, I'm not going to make this witness
9 testify in contravention of his 5th Amendment right to
10 testify. Thank you, sir. You can take him back to the
11 holding cell. All right. State call its next witness.

12 MS. LIVELY: That was all of the witnesses, Your Honor.
13 If you would just please take exception to the decision to
14 not allow me to put in his statement for the purposes of
15 pretrial motion.

16 THE COURT: Oh, I haven't got to that yet. So that's
17 it for the witnesses. Now, as far as the evidentiary, this
18 is an evidentiary hearing concerning a defense motion for
19 immunity, this is not the trial where self-defense can
20 obviously be argued. There's a difference between immunity
21 and self-defense. This is an evidentiary hearing, a nonjury
22 proceeding dealing with whether or not he should be granted
23 immunity under the law. All right. So having said that,
24 the State wishes to offer a statement given by Mr. Graham?

25 MS. LIVELY: That's correct, Your Honor.

1 THE COURT: Okay -- into evidence for the Court to
2 review. Of course, sitting as the trier of fact and the
3 judge of the law in a nonjury proceeding is kind of a unique
4 situation. And Mr. Duncan, I'm talking to you at this point
5 in time, because I know -- it's up to me to determine the
6 credibility here.

7 MR. DUNCAN: Yes, sir.

8 THE COURT: I understand that, you know. And it's up
9 to me as well to determine the admissibility, but again, I'm
10 the trier of fact here. So talk to me about whether or not
11 I should be able to look at this or whether or not this
12 statement should come into evidence for the Court to
13 consider to determine immunity.

14 MR. DUNCAN: Your Honor, Mr. Graham's written statement
15 to the police -- and let's see, it was written -- Detective
16 Crockett wrote the statement and it says on the statement
17 but Montrell Graham signed it. I have a subsequent
18 statement from Mr. Graham that says -- it is favorable to
19 Mr. McClinton.

20 THE COURT: Why not let both of them in?

21 MS. LIVELY: And I haven't seen that. I would
22 appreciate in reciprocal discovery that I would have a copy
23 of that.

24 THE COURT: Okay. But at this point in time why not
25 let both of them in?

1 MR. DUNCAN: Suits me.

2 MS. LIVELY: That's fine.

3 THE COURT: Y'all have them both marked, they'll come
4 into evidence.

5 (Break in proceedings.)

6 THE COURT: Anything else from the State at this time?

7 MS. LIVELY: That was all from the State, Your Honor.

8 THE COURT: If you want to try to recall at the end we
9 can. I'm going to let everybody put in what they want to
10 try to put in at this stage of this proceeding. Are you
11 ready to proceed with witness? Do you have any witnesses
12 you wish to call?

13 MR. DUNCAN: I do, and I am. I call Charles Whitlock.
14 The witness, CHARLES WHITLOCK, was first duly sworn
15 And testified as follows:

16 DIRECT EXAMINATION

17 BY MR. DUNCAN:

18 Q Good afternoon, Mr. Whitlock. I'm going to --

19 MR. DUNCAN: If I can approach, Your Honor?

20 Q I'm going to hand you a statement.

21 THE COURT: Yes, sir, go ahead.

22 Q If you would read over that statement right quick.
23 Having looked at that, is that your statement?

24 A Right.

25 Q Did you write that?

1 A Uh-huh.

2 Q And if you would, the court reporter has got to take it
3 down, so yes and no.

4 A Yes, sir.

5 Q And Mr. Whitlock, that statement is dated, I think it's
6 at the bottom, is it December 26th?

7 A Yes, sir.

8 Q And in what time of day?

9 A 11:35 a.m.

10 Q All right, sir. And that's taken at the Chester County
11 Sheriff's Department?

12 A Yes, sir.

13 MR. DUNCAN: Your Honor, I would like to mark that
14 statement.

15 THE COURT: All right.

16 MR. DUNCAN: And that's Defendant's Exhibit 2, Your
17 Honor.

18 Q And Mr. Whitlock, I don't need you to read -- you have
19 read over your statement. If you would please tell the
20 Court what happened at Club Images on the early hours of
21 Christmas morning -- late hours Christmas Eve, early hours
22 Christmas morning involving you and Troy and Kelvin Killian.
23 If you could just tell the Court what took place.

24 A Well, actually it had started -- me and those guys
25 actually had an incident I want to say a year before that.

1 But we had been shooting pool earlier that day on the other
2 side, it's two sides to the club, but we had been shooting
3 pool and that side of the club is 21 and up. Then they've
4 got the other side of the club which around 12:00 they --
5 you know, it's a DJ and then the music side, the Images
6 side, and they've got the pool hall side.

7 Q On the pool hall side you have to be 21 years old to go
8 in?

9 A Yeah.

10 Q How about on the other side?

11 A You've got to be 30.

12 Q Thirty years old. So there's a 30 and up side.

13 A Right.

14 Q And a 21 and up side.

15 A Yes, sir.

16 Q Okay.

17 A So like I said, we had been shooting pool for a few
18 hours, so I decided to go -- because I'm 30, so I decided to
19 go through the other side, which Cowboy was the bouncer.
20 And you remember me telling you we had an incident like a
21 year before that, so I get ready to pay my money and he
22 proceeds to tell me a few words and he ain't going to let me
23 inside the club, you know what I mean? It's not his club,
24 so I'm asking him about why can't I come in. And then so
25 somebody went to get the club owner, and the club owner told

1 him to let me in. So he ended up not searching me and I
2 went in the club or whatever, somebody else had to search
3 me. So we're in the club and we're just chilling, we're
4 drinking, we're just having a good time.

5 Q And you say we, who are you talking about?

6 A Me and a couple of friends that I had went to the club
7 with.

8 Q Okay.

9 A So the club ended, we're leaving out of the club. And,
10 you know, mind you I had me and Cowboy's brother, Big Troy,
11 we get our hair cut at the same barber shop. Throughout
12 this year period we've been seeing each other numerous of
13 times at the barber shop and we never had words. I guess
14 when we get to the club he get beside his brother and he
15 want to get, I guess, rowdy about the situation again
16 because his brother feeling some type of way. So we're
17 walking out of the club or whatever, we had a few words back
18 and forth, he pushed me in the back, so yeah, I threw the
19 drink.

20 Q He pushed you. Who do you mean?

21 A Troy.

22 Q Troy Killian?

23 A Yeah, pushed me in the back. So I did, I threw the
24 drink. And after that it wasn't no fight or nothing, it was
25 just a big commotion. Everybody was just running around and

1 getting back and forth like that, you know what I mean? And
2 then after that, I proceeded to go to the -- up there by the
3 car wash, and then after that I heard gunshots and they was
4 coming from the front of the club. So then I got picked up
5 by a friend that was pulling in back by the car wash and
6 then I left. That's it.

7 Q So as you were going out of the club when the
8 altercation came with Troy where you -- he pushed you and
9 you threw a drink in his face --

10 A Yes, sir.

11 Q And then you described commotion like -- you mean --
12 different witnesses have said like a fight. What happened
13 with you? What did you see?

14 A After I threw the drink it was just a lot of commotion,
15 a lot of pushing around and stuff, that's it. There wasn't
16 no licks thrown or none of that.

17 Q Did you hit anyone?

18 A After I threw the drink?

19 Q Yes, sir.

20 A No.

21 Q Did anyone hit you?

22 A No, sir.

23 Q Did you have any pool sticks involved?

24 A No, sir.

25 Q You basically left the club at that point?

1 A Yeah.

2 Q And you know my client, Mr. McClinton?

3 A Yes, sir.

4 Q When you left the club, was Quinton McClinton still at
5 the club?

6 A No, I didn't see him.

7 Q You didn't see him.

8 A No, sir.

9 Q You don't know.

10 A No, sir.

11 Q And you got a ride out of the parking lot.

12 A Parking lot.

13 Q What were you saying about shots? Shots were coming
14 from like the front of the club?

15 A Yeah. You know where the car wash at, right?

16 Q I'm sorry, let me get this picture. Let me give you
17 State's Exhibit Number 1 and let you take a look at it. See
18 if you can get kind of situated with that. Is that aerial
19 photo, can you tell what that is? Can you tell what you're
20 looking at?

21 A Uh-huh.

22 Q All right. And the X marks where the club is. So
23 you're saying -- what are you saying about where the shots
24 are coming from and where you are?

25 A Right there at the X, like right there at the X. And I

1 was back there.

2 Q You were down -- you're pointing to the right on the
3 photograph --

4 A Of the car wash.

5 Q -- down to the car wash.

6 A Right.

7 Q Mr. Whitlock, did you see who was shooting?

8 A No, sir.

9 Q Were there multiple gunshots?

10 A Yes, sir.

11 Q From where you were down at the car wash area, were
12 there gunshots coming from that end at the time you left?

13 A No, sir. That's how I was able to tell they was coming
14 from the front of the club.

15 Q All right. And Mr. Whitlock, the statement you gave
16 that we have marked as Defense Exhibit Number 2 on the
17 morning of December 26th, that was a voluntary statement?

18 A What you mean like --

19 Q Anybody force you to give that statement?

20 A No, sir.

21 Q And that's an accurate statement of what happened?

22 A Yes, sir.

23 Q As far as you know?

24 A As far as what I had a part in, you know, so --

25 MR. DUNCAN: I understand. That's all of the questions

1 I have.

2 THE COURT: All right. Solicitor?

3 CROSS EXAMINATION

4 BY MS. LIVELY:

5 Q Mr. Whitlock, would you agree with me that Mr. Kochese
6 Gregory got shot that night?

7 A I mean, I didn't see it but that's what everybody is
8 saying.

9 Q That's what everybody is saying?

10 A Yeah.

11 Q Okay. So along with that what you're saying is you're
12 not even sure if he got shot, it's just what people told
13 you, right?

14 A Yes, ma'am.

15 Q And then according to your statement you don't know who
16 was shooting but you did hear gunshots, right? Is that a
17 yes?

18 A Yes, ma'am.

19 Q And you ain't seen nobody with a gun, right?

20 A No, ma'am.

21 Q So really the only thing you can confirm is that you
22 did throw a drink at the bouncer at the club that night,
23 right? And that some type of an altercation -- maybe not an
24 altercation, a pushing around or moving around happened; is
25 that right?

1 A Yes, ma'am.

2 Q So you really can't give us any kind of personal
3 knowledge or information as to who was shooting in that
4 parking lot and how Kochese Gregory got shot, correct?

5 A No, ma'am.

6 MS. LIVELY: All right. No further questions.

7 THE COURT: Thank you sir, you can step down. Call
8 your next witness.

9 The witness, SABRINA ISOM, was first duly sworn and
10 Testified as follows:

11 DIRECT EXAMINATION

12 BY MR. DUNCAN:

13 Q Good afternoon, Ms. Isom.

14 A Hey, how are you doing?

15 Q Ms. Isom, if you could, please tell the Court how you
16 know my client, Quinton McClinton?

17 A That's my baby brother.

18 Q Okay. Ms. Isom, on Christmas Eve at the Images Club,
19 Club Images, what was taking place? Why were you there?

20 A It was a birthday party for my cousin.

21 Q Whose birthday?

22 A Chuck Sims.

23 Q And Ms. Isom, if you would, where were y'all -- where
24 was the party taking place?

25 A On the club side.

1 Q On the club side. And this was in the -- what time of
2 night on Christmas Eve? When did the party start about?

3 A I'm not sure. I got there about 12.

4 Q Midnight?

5 A About 11:30 or 12:00.

6 Q Okay. And Ms. Isom, again, approximately, estimated
7 number of people at the party for your cousin, Chuck Sims?

8 A I'm not sure exactly how many people was there for him,
9 who all they invited, but it might have been 200 people
10 there maybe.

11 Q In the whole club?

12 A Yeah.

13 Q And you're talking about on the club side?

14 A On the club side and between the pool hall both about
15 200 people.

16 Q So as Mr. Whitlock testified a minute ago, the pool
17 hall side was like --

18 A A separate side. When you walk in you take a left,
19 that's the pool hall side, and when you walk in the entrance
20 at the foyer you keep straight, that's the club side.

21 Q And you're saying --

22 A Between both.

23 Q Between both of them maybe about 200 people.

24 A 200 people.

25 Q Okay. So to kind of cut to the chase here, what did

1 you see of an altercation, what did you see that led to
2 commotion at the club?

3 A I seen where Marcel Gregory kept walking around the
4 club telling people he would spray them with mace.

5 Q And Marcel Gregory is a name that I can't remember
6 hearing today. Who --

7 A Chocolate Pudding, Marcel Gregory.

8 Q Is he related to Kochese Gregory?

9 A First cousin. He started the altercation.

10 Q All right. You say he was threatening --

11 A Threatening to spray people with mace.

12 Q Do you know him? You know --

13 A I know him.

14 Q Did you have any specific words with him?

15 A I did because he said something to me too. He was
16 picking -- just picking. Because I was on the side at the
17 club -- I mean on the pool hall and he walked up to my
18 brother and another guy that was standing beside him telling
19 him that he would spray them with mace or whatever, and
20 that's when my brother proceeded to tell them that he needed
21 to go on ahead, that he didn't want no trouble. He didn't
22 come down here for that, he come down here for a party so he
23 needed to go on ahead. So at that time that's when they
24 went and got Derrick Pendergrass.

25 Q And when you say your brother, you mean Quinton.

1 A Quinton. So they went and got Derrick. Because the
2 guy that he told he was going to spray with the mace, he had
3 picked up a pool stick, he was going to hit him with it but
4 they eased it. My brother told him, no, don't do that or
5 whatever. So they ended up going to get Derrick
6 Pendergrass, and he came over there and asked Chocolate what
7 was he doing and he acted like he wasn't doing anything.
8 That's when Derrick was like, "Okay. You keep doing that
9 and I'm going to let these boys get on your ass," that's
10 what he said. So by that time that's when Ray, Kochese, and
11 Sara came.

12 Q I'm sorry, the third person was?

13 A Sara.

14 Q Sailor?

15 A Sara Davis.

16 Q Sara Davis, a woman.

17 A A woman.

18 Q Sara.

19 A Her and her husband walked to the pool hall side, I
20 guess they came to see what the commotion was about or maybe
21 somebody went to the club side and told them something was
22 going on on that side, but they end up coming to the pool
23 hall side. And shortly after they came over there
24 Chocolate, he left, they left, and everything got back to I
25 guess -- I don't know. Kochese came too. So they left from

1 over there. So Chocolate kept walking around telling people
2 he was going to spray them or whatever. So Ryan and Kochese
3 left shortly after that happened.

4 Q Ryan, that's another name that --

5 A Ryan Gregory, another cousin of Kochese.

6 Q And you say they left?

7 A They left. My oldest brother and me was standing
8 outside, he was kind of like outside, I was kind of like in
9 the door, so that's when we seen Ryan and Kochese pull up.

10 Q Pull up in a vehicle?

11 A In like a silver Mercedes or something.

12 Q And they pulled up where?

13 A Back to the club.

14 Q To the door of the club?

15 A Right. Well, in the parking lot in the front. And we
16 heard -- they was talking amongst they self and I heard
17 Kochese tell Ryan whatever conversation, because I heard him
18 ask him, do you need -- I want to say Kochese said that he
19 was going to leave his gun in the car, or Ryan said he was
20 going to leave his gun in the car and he was going to carry
21 his in. And then that's when I heard Kochese say that they
22 ain't bothering us tonight because if they do we're going to
23 yellow tape this bitch tonight.

24 Q You heard Kochese say that?

25 A Right.

1 Q After that what took place?

2 A We kind of like went back in and I kind of like told my
3 brother -- told my family what I heard or whatever and we
4 just continued with our night. Chocolate was still doing
5 the same thing. So right before the club was ending they
6 played the last song or whatever, like the second to the
7 last song, Chocolate tried to come talk to my brother.

8 Q Do you have any idea -- you then or now have any idea
9 why Chocolate was threatening to spray people with mace?

10 A I think he was just drunk and high.

11 Q You hadn't had any words with him, and had you seen
12 anyone have words with him to get him upset?

13 A No.

14 Q All right. Well, go ahead, I interrupted you.

15 A And then he came, he kept walking up to my brother
16 wanting to talk to him and my brother kept telling him he
17 didn't want to talk. So when the second to the last song
18 came on and they said they was about to end the club or
19 whatever, we proceed out the door, that's when all the
20 commotion. Right before then, that's when Chocolate tried
21 to stop him telling him he wanted to talk to him, and
22 Quinton was like, "I don't want to talk, there's nothing to
23 be said. It ain't no beef, it ain't nothing, I just don't
24 want to talk with you. Don't mess with me or my family, we
25 ain't got no problem." On the way out the door -- because I

1 really feel like something had done took place on the
2 outside and I feel like Chocolate was trying to stall my
3 brother to keep him from going outside. I actually thought
4 that they was going to try to jump on him in the club, that
5 was my theory.

6 Q And this is -- at what time of day is this about?

7 A 2:30 or 2:15.

8 Q All right. But the club is shutting down.

9 A It's ending, everybody is proceeding outside.

10 Q All right.

11 A So as we walk through door -- me and my brother is
12 right beside each other.

13 Q You and Quinton are beside each other.

14 A It was me, him, my cousin Tamish, my cousin Mont.

15 Q Mont?

16 A Montrell Dixon. He was a little ways in front of us,
17 all of us right there together, and Carlton, all of them was
18 like a midways. It was like a few people in between us, the
19 separation. So by that time I see a whole bunch of
20 commotion in the front, and I seen where Cowboy was talking
21 and I seen where Troy was talking, and I seen where Cowboy
22 pushed C.C. in the back and C.C. snatched a drink out of
23 Carlton's hand and threw it in his face, and it just went
24 from there.

25 Q And you say it went from there, what did you see?

1 A Well, I actually seen Troy and my brother squaring up
2 because I think -- I seen Troy squaring up with my
3 brother --

4 Q Squaring up is what you said. Okay.

5 A Squaring up with him.

6 THE COURT: I know what that means. Go ahead.

7 A And I seen Cowboy squaring up with my cousin, Carlton,
8 they was out there in the midst of the commotion. So that's
9 when Montrell grabbed Cowboy, pulled him on his shirt and
10 told him, "I know you're not fixin' to do this," and that's
11 when Cowboy was like, "No, man, I don't want no trouble."
12 So then some kind of way the fight started with Quinton and
13 Kochese.

14 Q A fist fight?

15 A A fist fight. Because before then my brother snatched
16 a pool stick out of the -- his name is Edward Stratford's
17 hand and tried to hit him with it.

18 Q Quinton tried to hit --

19 A Edward Stratford with a pool stick.

20 Q Okay.

21 A But I'm thinking he might have hit Cowboy on the arm.
22 So him and Kochese get into it, so him and Kochese is
23 fighting. Then that's when I seen Rick Davis, which is
24 Tina's brother, proceeded towards the fight like he's trying
25 to take something to do with it, because Kochese is on the

1 ground by that time.

2 Q All right.

3 A So that's when I grabbed him by his jacket and told
4 him --

5 Q You grabbed Rick?

6 A -- Grabbed Rick and told him he better not hit my
7 brother. So then that's when Carlton came, he hit Rick, and
8 then him and Quinton was fighting Kochese.

9 Q Carlton and Quinton were fighting Kochese.

10 A Kochese.

11 Q Okay.

12 A So after they was fighting Kochese, Tina, she proceeded
13 to leave, at least that's what she say. So she pulled the
14 car up. The first time she was trying to take off she
15 accidentally had the door open and she hit my cousin, Tamisha,
16 with the door in the first attempt.

17 Q This is at the edge of the club door.

18 A Edge of the sidewalk directly. This the sidewalk, this
19 the car, she hit her with the door trying to take off, and
20 at the same time she bumped Quinton. The second time she
21 did it she pulled off --

22 Q The front of the vehicle hit Quinton?

23 A The second time she hit him and it knocked him off the
24 top of Kochese, so he kind of like ended up on top of the
25 car. And by that time a shot rung out.

1 Q Could you tell where the shot came from?

2 A I seen where it came from, Ryan Gregory shot. He shot
3 the first shot and threw the gun to Kochese and Kochese shot
4 the remainder. I heard gunshots coming from everywhere. So
5 that's when me, Carlton, Quinton, my brother, Robert, all of
6 us proceeded to run towards the parking lot and then I just
7 hear a bunch of shots. I'm like at the second car that's
8 like in the parking lot, I'm like in the middle, I hear a
9 whole bunch of gunshots and I'm like in the middle of the
10 gun fight not really just -- I was in a shock basically.

11 Q Are you still -- is Quinton still with you?

12 A No, he hollering. He's on the ground hollering,
13 telling me, "Sis, get down," by that time. He's on the
14 ground, him and my other brother yelling telling me to get
15 down. I'm looking around seeing what was going on. So
16 that's when I run like trying to get to my car, but all of
17 the cars start speeding off, I hear multiple shots. And
18 then by that time that's when I walked back towards the top
19 of the club, as I'm walking I see Kochese shooting in a
20 green sweater standing from up under the light.

21 Q At the club -- near the front of the club?

22 A He's shooting towards the parking lot.

23 Q But I'm saying where is he standing?

24 A Stand in front of the club.

25 Q And shooting down toward the parking lot towards the

1 car wash?

2 A Towards the car wash. And then I hear everybody said
3 that he had got shot, but I seen a male fall and I seen that
4 the people came on the pool hall side came out the door and
5 dragged him back into the club. Once I went back in
6 there -- because I went in there to get a jacket that I had
7 left on the pool hall side, so I went in there to get the
8 coat and he was on the ground foaming from the mouth, that's
9 when I knew he had got shot.

10 Q Kochese was.

11 A Kochese was. By this time I don't know where nobody
12 else is at.

13 Q You don't know who any of the people you were with --

14 A I don't know where they at. Everybody gone, I don't
15 know where they was.

16 Q Okay.

17 A The only person that I seen that was still there was
18 James Woodard, the guy that came with me. He came and he
19 walked up to me holding his head because Chocolate Pudding
20 done busted him up side the head with a pool ball telling
21 him that that's for the company that he keep.

22 Q What was James wearing that night?

23 A He had on a pair of blue jeans and I want to say with
24 like a turquoise, about like the color of that box shirt,
25 button up and a brown jacket. And he had blood everywhere,

1 everywhere, he was leaking. I had blood everywhere in my
2 car.

3 Q You and James Woodard left at that time?

4 A Together. And then we also came back to the parking
5 lot to give a statement. They took pictures of James and
6 the knot that was on his head, him bleeding. He gave a
7 statement, he told them Chocolate Pudding.

8 Q He told them that Chocolate Pudding hit him in the
9 head.

10 A He didn't know his real name because he didn't really
11 know him, he just knows that's what they call him.

12 Q And you gave a statement that night that someone else,
13 one of the detectives wrote; is that right?

14 A Well, James actually gave a statement that night to --
15 I forgot the man's name, I'm not really sure. I have it at
16 home written down but I don't know what his name was. But
17 he took pictures and he took a statement. He gave me one of
18 his cards but I misplaced it, I don't know where it's at
19 right off. But I know him when I see him. He was one of
20 the responding officers besides Burley McDaniel to the
21 scene.

22 MS. LIVELY: Answer any questions that Ms. Lively has,
23 please.

24 THE COURT: All right. Madam Solicitor?

25 MS. LIVELY: Thank you.

1 CROSS EXAMINATION

2 BY MS. LIVELY:

3 Q Ms. Isom, you said that James Woodard gave a statement
4 that night?

5 A He did and he took pictures. You don't have them?

6 Q No, I don't, but we'll figure that out another day.

7 Let's talk about your statement. At the time this happened
8 you were 39 years old, right?

9 A Yes, ma'am.

10 Q Okay. And you lived at 103 Cushmon (phonetically)
11 Drive, right?

12 A Yes, ma'am.

13 Q All right. Now, you've already stated that the
14 defendant is your brother, correct?

15 A Correct.

16 Q Now, Ms. Isom, on the night whenever this happened or
17 the early morning whenever this happened and you gave a
18 statement to law enforcement, would you agree that you put a
19 lot of peoples' names in the statement and gave as much
20 information as you could give to try to help with the
21 investigation?

22 A Yeah. I mean, like I told him, there was some stuff
23 that I possibly could have left out, but yes.

24 Q But the important stuff like who was shooting and who
25 was fighting, and the fact that someone was being threatened

1 to be sprayed with mace, that was put in there, correct?

2 A Right.

3 Q Okay. And so the fact that Kochese Gregory and his
4 brother pulled up in a silver Mercedes --

5 A His cousin.

6 Q -- and were talking about leaving a gun in the car,
7 wouldn't you agree that's a pretty important fact?

8 A Yes.

9 Q Well, I want to show you your statement. Tell me where
10 that is written in your statement.

11 A I mean, I told him.

12 Q I'm just asking, look at your statement that you gave
13 that morning and tell me where it is in that statement about
14 them having a gun before all of this happened.

15 A I mean, I don't see where.

16 Q Okay. Thank you. And you have already told us that
17 Quinton and Carlton were fighting Kochese, very clearly they
18 had -- the two of them ganged up on Kochese Gregory,
19 correct?

20 A Correct.

21 Q Then you also confirm the fact that Tina Davis, who is
22 actually Terquila Clifton, I'm just trying to keep up with
23 names, did bump Quinton whenever she was trying to get out
24 of there when all of this chaos started happening, right?

25 A I think she hit him on purpose.

1 Q Well, I'm not asking you that, I'm asking you are you
2 confirming that he was bumped --

3 A She hit him twice, yes, ma'am, I am.

4 Q All right. And after that occurred at that point in
5 time where were you standing?

6 A Right beside him.

7 Q Right beside --

8 A Like he was on the ground and I was a little bit on the
9 other side of the jeep, and she almost hit all of us.

10 Q I'm going to ask you again, because it sounds like an
11 important fact that your brother was hit with a vehicle by
12 Ms. Davis. Will you please --

13 A Because I was trying to pull him. Me and Robert was
14 trying to pull him from getting hit.

15 Q I understand that. Will you please tell me in your
16 statement where you put that your brother was hit by this
17 vehicle you believe intentionally twice by Ms. Tina Davis?

18 A It's not in the statement intentionally, but I told the
19 officer that wrote my statement.

20 Q Okay. But you signed it, right?

21 A I did.

22 Q And you sound like you know exactly what you were
23 talking about and you would not make up something that
24 didn't happen.

25 A And I'm still not making anything up, I told him.

1 Q All right. So then --

2 A Thing happen, right?

3 Q I'm sorry?

4 A Mistakes happen. Just like you don't have the pictures
5 of James' head, you don't have his statement either, so
6 things can happen, right?

7 Q Sure they can. Like people being shot and almost
8 dying.

9 A Right.

10 Q Exactly.

11 A And people just being accused.

12 Q Yeah.

13 A For the wrong reason.

14 Q Can we agree that Kochese Gregory was shot and almost
15 died that night?

16 A I don't know.

17 Q You don't know. Okay. Well, how about this, you said
18 in this statement that Kochese had a gun and that he was
19 shooting.

20 A I seen Kochese shooting.

21 Q Where were you whenever you said you see him shooting?

22 A In front of the club.

23 Q In front of the club. All right. Where?

24 A Like in the middle of the parking lot.

25 Q So you're in the middle of the parking lot at the club.

1 How close were you to Kochese?

2 A Kochese might have been where I'm at and I might have
3 been about right here.

4 Q So he was basically within arms length of you?

5 A No really arms, it was a little further than that.

6 Q Little bit further than that?

7 A Because he was on the sidewalk, then you have the curve
8 (sic) and then you have the parking lot where the cars are
9 parked.

10 Q Okay.

11 A So I was like at the first car.

12 Q And where was Quinton when he told you to get down?

13 A On the ground ducking.

14 Q On the ground ducking?

15 A Right.

16 Q And how far away from you as he?

17 A He might have been right here and I might have been
18 right here.

19 Q Okay. So you're telling us that within a 6-foot
20 span --

21 A I mean, that's just me. It might have been a little
22 closer than that, but that's just --

23 Q I'm just going to ask you a question, then you can
24 answer, okay? You're telling me that you were feet away
25 from Kochese Gregory and that's how you saw him shooting the

1 gun, is that what you were just now showing me? You said
2 from here to here. I'm just trying to repeat what you said.
3 And then you say Quinton was on the ground from here to
4 here.

5 A Because you have a parking lot, right, I'm in the
6 middle of the parking lot. You have cars parked right here
7 and you have cars parked right here so I'm in the middle.
8 Kochese is towards the front of the club, Quinton is on the
9 ground this way.

10 Q All right. So we're not talking arms length, we're
11 talking several feet.

12 A Maybe.

13 Q And once again he is your brother and you're here to
14 testify on his behalf today, correct?

15 A Correct.

16 Q Did you see Montrell Graham and Carlton Dixon with your
17 brother that night?

18 A I seen them together in the club. All of us was
19 together.

20 Q I understand. Did you ride with them together to the
21 club?

22 A I did not.

23 Q Did you leave with them?

24 A I did not.

25 Q You did not? So the people that --

1 A I stated that I was with James Woodard.

2 Q I understand that.

3 A We came together and we left together.

4 Q Okay. And at any point in time did you see Montrell
5 Graham with a gun?

6 A I did not.

7 Q And I know the obvious answer to this question, I know
8 what you're going to say, did you see your brother with a
9 gun?

10 A I did not.

11 MS. LIVELY: That's all I have.

12 THE COURT: Any redirect?

13 REDIRECT EXAMINATION

14 BY MR. DUNCAN:

15 Q Ms. Isom, did the statement -- you saw your statement
16 Ms. Lively showed it to you just now.

17 A I kind of skimmed through it.

18 Q You did not write that statement; is that correct?

19 A I did not.

20 Q You did sign it.

21 A I signed it. And that was the bald headed guy, I
22 forgot his name, he drive the blue car. She know him. He
23 came to Lancaster with her, kind of tall, he's about my age
24 he is.

25 Q Saint Claire; is that right?

1 A I'm not sure, I don't know his name. I just know that
2 he had a bald head. And he was supposed to have been the
3 investigator like, he was in the mix with all of it. I
4 don't know. He's the one who did the mouth swab for Quinton
5 in Lancaster if that helps.

6 Q All right. Again, your testimony today and on
7 Christmas day, you left the club with James Woodward.

8 A Right.

9 Q And that's who you came with and who you departed with.

10 A That's who I left with.

11 MR. DUNCAN: Thank you.

12 THE COURT: All right. Thank you, ma'am, you may step
13 down. Mr. Duncan, you may call your next witness.

14 The witness, CARLTON DIXON, was first duly sworn and
15 Testified as follows:

16 DIRECT EXAMINATION

17 BY MR. DUNCAN:

18 Q Good afternoon, Mr. Dixon.

19 A Good afternoon.

20 Q Tell me, how do you know my client, Quinton McClinton?

21 A That's my first cousin.

22 Q Okay. And again, we have -- have you been here
23 throughout this hearing today?

24 A Yes, sir.

25 Q So you've heard every witness that has testified thus

1 far.

2 A Yes, sir.

3 Q All right. So I'm going to try to speed this process
4 up a little bit and cut to what were you were doing at Club
5 Images on Christmas Eve/Christmas Day last year? What was
6 your purpose of being at Club Images?

7 A My purpose was to go my cousin's party, his name is
8 John Chuck Sims.

9 Q Okay. And that party was on the dance side?

10 A It was on the disco ball side. You've got two sides.
11 One side is for the pool room and the other side is for the
12 club, but both sides have got two doors. Like it's -- it's
13 a door on the outside for the pool room section and it's a
14 door on the outside for the club section, and it's also a
15 door in the middle in the inside to where you can go from
16 both sides.

17 Q Mr. Dixon, do you recall talking to the Chester County
18 Sheriff's Department about this incident?

19 A Yes, sir.

20 Q And you recall giving a statement?

21 A Yes, sir.

22 Q Do you need to see your statement?

23 A Not really.

24 Q You have reviewed it?

25 A No.

1 Q But you stand by what you said to the sheriff's
2 department that night?

3 A Yes, sir.

4 Q But for purposes of this, please tell the Court what
5 happened that caused some commotion at the end of the -- at
6 the time the club was closing on Christmas day.

7 A Okay. The commotion started with C.C. and Troy, that's
8 how it started. But in the beginning of that day the --
9 Marcel had come on the pool room side and he threatened
10 somebody I know with mace, and my cousin, Quinton McClinton,
11 stopped it. He was like telling Marcel Gregory that ain't
12 none of that going on out here today, my cousin having a --
13 he's responsible for this building, ain't nobody going to be
14 fighting or nothing. So he was standing there in front of
15 somebody and he was holding a pool stick back and he was
16 telling Marcel Gregory go ahead with it.

17 Q You're saying Quinton was standing with the pool
18 stick --

19 A No. Quinton wasn't the one standing with the pool
20 stick. The guy, Marcel Gregory, threatened with the mace.
21 He was shooting pool and he stood up, he still had the pool
22 stick in his hand, he cocked it back like he was about to
23 hit Marcel Gregory with the pool stick and Quinton McClinton
24 put his hand in the way to stop.

25 Q Okay. At that point in time did Marcel Gregory step

1 back? Did he leave the pool room? What happened?

2 A He was standing right there. He had a couple of -- I
3 guess something happened before then, like before that night
4 even came because he was saying something -- I couldn't
5 quite understand what he was saying, but that's when the
6 security guard and everybody had came in there and they kind
7 of like ironed out the commotion or whatever. And he went
8 back on the disco ball side, Marcel Gregory did.

9 Q Marcel went back on the disco ball side.

10 A Yeah. And Quinton McClinton was trying to talk to
11 everybody on the pool room side trying to calm down the
12 situation and they did.

13 Q And Mr. Dixon, this was about -- when was this? I
14 mean, was this --

15 A This was like earlier that -- this -- I'm going to say
16 that it had to be around when that took place, it had to be
17 about around 12 about, at least about 12:55, something like
18 at that.

19 Q That's good. You can be as precise as that, but
20 1:00 a.m.? About 1:00 in the morning?

21 A Yes, sir.

22 Q And what we've been hearing about today with C.C.
23 Whitlock throwing a drink in Troy Killian's face --

24 A Yes, sir, he snatched it out of my hand. Because we
25 was on our way on out, the club was closing.

1 Q There you go.

2 A The DJ had just came across the microphone and said
3 that the club is coming to a close but he was going to play
4 one last record, so everyone started to proceed out the
5 club. I was in the front of everybody because I was calling
6 my cousin telling him to come on, let's go. And my cousin,
7 Sabrina, was with him and we was on our way out, and Marcel
8 Gregory started calling my cousin, he kept on calling
9 "Quinton," and Quinton kept on telling him, "Go ahead, man,
10 everything good. Ain't nobody got no trouble with you." It
11 was almost like that whatever was going on on the outside of
12 the club he was trying to buy time.

13 Q That's how you perceived it anyway, that's how it
14 seemed to you.

15 A Yes, sir. But I was in the front. So when I got to
16 the door that's when C.C. stepped in the door, and that's
17 when Troy and Cowboy was already right there. C.C. is my
18 friend or whatever, so when I turned around and they was
19 like -- it was kind of like animosity in the air or whatever
20 or not, and I seen -- I don't know which one arm had pushed
21 him or touched him. Because when we turned back around to
22 go back out the door one of them shoved him, that's when he
23 turned around, and by that time he snatched the drink out of
24 my hand. I'm the one that had the drink in my hand, he
25 snatched the drink out of my hand and throwed it in Troy's

1 face. Both of them is big guys and they bust out the door,
2 when they bust out the door they was trying to attack C.C.
3 and that's when me, C.C. and Troy and Cowboy started
4 fighting.

5 Q Okay. So you and C.C. are fighting the Killian
6 brothers, Troy and Cowboy.

7 A Yes, sir.

8 Q And we're talking about a fist fight?

9 A Yeah. But it ain't take off like how people say it
10 took off. It was almost like a couple of licks had been
11 passed and a lot of people had got in the middle of it
12 like -- I want you to know that in front of this club right
13 here there was a lot of individuals. It's a lot of
14 individuals that was in the parking lot that wasn't old
15 enough to come in the club, they were just chilling in the
16 parking lot every which way, so it was a whole lot of people
17 out there. And then on the front of the club, like as soon
18 as it happened, as soon they bust out the door, the doors
19 hit the side of the wall and that's what made everybody from
20 the pool room area come out. But they didn't come out the
21 front of the club area where we was at, they came out the
22 pool room area, and they had pool sticks and everything else
23 trying to see what was going on. That's how the pool balls
24 and the pool sticks and everything got involved.

25 Q And so you who were you fighting? Who were you --

1 A I was hitting a lot of people, I ain't going to tell
2 you no lie, sir. There was a lot of people. And like
3 people was hitting each other or whatever, and people were
4 fighting like. I done got hit in the back of my head a
5 couple of times, I don't know who all hit me. I know I was
6 just protecting myself, but at the same time trying to watch
7 over my cousin and them, too. Because my cousin got this
8 event out here, I got my cousin, Tamisha, out here, my
9 sister out here, my cousin Sabrina out here. We had a lot
10 of female cousins out here, so I'm really trying to make
11 sure that they make it to their cars safe and get away from
12 the situation. Because it was a whole lot of shooting going
13 on. But I'm going to tell you that later on in this right
14 here where the shooting right here and first started.

15 Q All right. Well, let me ask you this, you named
16 several of your cousins, your female cousins. Did you --
17 when this began with you and C.C. Whitlock --

18 A That's what split me and Quinton up, that's because
19 they was behind me. So when the situation happened with me
20 and C.C. it was like everybody trying to crowd around -- you
21 know how people try to see a fight or whatever or try to
22 sneak and jump in and all type of stuff, that's what pulled
23 the crowd tight.

24 Q All right. So what happened next? I mean, you're in a
25 scuffle with several people it sounds like.

1 A Yeah. And me and Cowboy, we're locked up with each
2 other or whatever or not. He looked at me and I looked at
3 him. I've been knowing him or whatever, now he looked at me
4 and said, "Carlton, what's up?" And I was like, "What's
5 up?" Then he was like, "What's up?" I said, "I feel the
6 same way you feel. I ain't fixin' to let y'all jump on my
7 cousin. Just the same way you ain't going to let nobody
8 jump on your brother I ain't going to let nobody jump on my
9 cousin." That's what I told him. So we kind of let each
10 other go because me and him ain't really got nothing against
11 each other. Him and his brother backed up in the club.
12 When him and his brother backed up in the club, that's when
13 I seen -- I didn't know his name before but now I do, I seen
14 Rick Davis and Kochese and all of them, they was like to the
15 side and they was jumping on my cousin, so I went over
16 there. As soon as I went over there I hit Rick and he fell,
17 so when he fell somebody grabbed him, and Kochese and my
18 cousin was locked up.

19 Q Kochese -- when you say your cousin you mean Quinton.

20 A Quinton, they was locked up like they was trying to
21 slam each other like wrestling because both of them was
22 locked up. His hands was locked on him and my cousin's
23 hands was locked on him, so I hit Kochese. I hit him and he
24 fell, and I hit him again and I kicked him in his face,
25 yeah. I just kept on doing it to him. But everybody was

1 fighting, everybody was -- they was jumping on my cousin so
2 I helped my cousin jump on him.

3 Q So your testimony is Kochese and Rick Davis were
4 jumping on Quinton?

5 A Jumping on my cousin, yeah.

6 Q And so you joined in making it two on two.

7 A Two on two, yeah. And I can't help that I knocked Rick
8 out, I can't help I knocked him out. You know, what I'm
9 saying? They was over there -- because I was looking at
10 the -- y'all was over there jumping on my cousin first so it
11 was two against one then. So when I hit Rick and knocked
12 him out and they was trying to help him out I went over
13 there and I hit Kochese, too, and I knocked him down, that's
14 how my cousin got on top of him. So when my cousin got on
15 top of him I kicked him in his face, and when I kicked him
16 in his face that kind of knocked him out. But my cousin
17 kept on like hitting him because he didn't realize he was
18 knocked out, he hit him and that's when he woke back up and
19 he grabbed my cousin again, so him and my cousin was
20 tussling in front of the truck. Tina, she came with the
21 truck. She said that she was trying to get away or she was
22 trying to leave, but that wasn't true. She was yelling for
23 us to get off Kochese. She said, "Get off of him, y'all get
24 off of him." So when I put my foot on Kochese's stomach and
25 was pulling my cousin off of him, that's when somebody

1 grabbed Kochese and pulled him out of the way. That's when
2 she hit the gas. It wasn't no bump, she -- because I tried
3 to grab my cousin and pull him. Because you have his sister
4 and his brother on the other side, they was -- as soon as
5 they tried to grab him, I had already had my hands like
6 wrapped up in him in his jacket. The jacket he had on is
7 the same kind of jacket I had on. Me and him had the same
8 kind of jacket on, we had the same kind of clothes on. Like
9 he had a red shirt on, I had a red shirt on, he had a brown
10 jacket on. It was one of them big ole bin jackets. It was
11 a brown jacket, I had one, he had one. Me and him got the
12 same -- matter of fact, I still got my jacket at home that I
13 will bring to you. It was a bin jacket, me and him had one,
14 both of us had one, you know. So when he got hit by the --
15 because I tried to pull him, and when he got hit by the
16 truck or whatever or not, like the power from the truck and
17 me pulling him kind of swung him around, that's what made
18 both of us fall. So when the truck had cleared the way, I
19 seen Ryan Gregory give Kochese the gun. That's when I tried
20 to get my cousin up, but I couldn't run fast enough. Like
21 the club door right here, and you know, it's a little ways
22 from the first row of cars right here in the parking lot.
23 So we was right here at the back of the first car and he was
24 limping because he had just got hit. When I looked up I
25 heard somebody say, "Kochese got a gun. Kochese got a gun."

1 So when I looked up I seen the dude standing right in front
2 of the club up under the light and was pointing a gun
3 like -- he ain't had all the way pointing and presented, he
4 was raising it up when I looked up, that's when I grabbed my
5 cousin. And that's when I jumped in between the car but I
6 used my body weight to sling the weight, and that's when I
7 heard the first shot go off. I heard -- and he hit one of
8 the cars where we was by, I heard it, "ding," you know what
9 I'm saying? That's what I heard, a whole bunch of gunshots.
10 But they weren't coming from just one direction, they was
11 coming from all over, you know what I'm saying?

12 Q So they were coming from the club and from the parking
13 lot.

14 A They was coming from the club, they was coming from the
15 side, you know what I'm saying?

16 Q But Mr. Dixon --

17 A I didn't hear nothing come from the back of the parking
18 lot because we was on our way to the back of the parking lot
19 in between the cars. You've got the row of cars going this
20 way and the row of cars going that way, and both of them got
21 sections where they can back and get out and leave when they
22 want to. We was in the middle of the cars with like where
23 the front bumpers at ducking down trying to get back to the
24 back to the car.

25 Q Your car, the vehicle you were --

1 A No, I was with them. It was me, Quinton and -- I don't
2 even know him, Montrell or whatever.

3 Q The young man who came out here awhile ago?

4 A Yeah, I was with them. We was together the whole
5 night, like all three of us was together. Like I was there
6 with them going and I was with them leaving.

7 Q Mr. Dixon, when the gunshots were going off, were you
8 right beside your cousin, Quinton?

9 A Yeah.

10 Q Did Quinton have a gun?

11 A Nope, he ain't have no gun at all, period. And when I
12 said that to -- you had like -- I don't know, about three or
13 four detectives or narcotics or whatever when I was writing
14 my statement over there or what not and I was telling them
15 that they started laughing like, "Whatever."

16 Q Okay. But --

17 A I told them that I was going to make a statement and I
18 was going to incriminate myself just to tell the truth. I
19 did not deny anything dealing with the situation as far as
20 me incriminating myself letting you know that I put my hands
21 on this person, that person and that person. Yeah, I
22 assaulted that person. Yeah, I did this and I did that, so
23 I ain't got no reason to lie about nothing. And I told Tina
24 that if I did have a gun when she hit my cousin with that
25 car I would have shot up in that car. If my cousin would

1 have had a gun I was going to take that gun from him and I
2 was going to shoot up in that car because I didn't know who
3 was driving that car. I didn't know it was a female, only
4 thing I know is she had the intention of hitting us or
5 whatever or not. So if he would have had a gun or I would
6 have had a gun, once she hit us with that car I would have
7 shot that car up. And I am quite sure he would have shot in
8 there too if he would have had a gun.

9 Q All right. Mr. Dixon, did you see Kochese Gregory get
10 shot? Did you see him --

11 A I didn't see him get shot. I see him standing in front
12 of the club with a gun, because I was too busy trying to get
13 away from him. Because when I looked up and seen him with
14 the gun and he was about to point it, that's when I snatched
15 my cousin and we was too busy trying to get away from him,
16 especially when that shot had hit the car right beside of
17 him. I was too busy, I wasn't trying to look and see who
18 did what, I was just trying to make sure me and my cousin
19 got to safety.

20 Q You did get to safety eventually.

21 A Yes, sir. We got in the car. Like once we went
22 through all the cars or whatever and -- as soon as we got in
23 the car I was telling him to pull off, because it was so
24 many people trying to pull off and get out of there or
25 whatever or not, you know what I'm saying? So I was just

1 telling him to pull off. When we got onto J.A. Cochran
2 Bypass, that's when I knew everything was good so there
3 wasn't nothing to worry about then.

4 Q Were you in the front seat or the back seat of that
5 car?

6 A I was in the back seat.

7 Q And Quinton was in the front passenger side?

8 A Yeah. Quinton was in the front passenger side and he
9 was driving.

10 Q He being Montrell Graham --

11 A Yeah.

12 Q -- you said you don't know his name, but the man who is
13 in lockup today.

14 A Yes. The man that's in lockup today, he was driving a
15 little black car with tinted windows.

16 MR. DUNCAN: Okay. Mr. Dixon, please answer any
17 questions Ms. Lively has.

18 THE COURT: All right. Madam Solicitor.

19 CROSS EXAMINATION

20 BY MS. LIVELY:

21 Q All right. So you said that if Quinton had a gun on
22 him you would have gotten it and shot the person that was
23 running into you with a car.

24 A No. I said that if Quinton McClinton would have had a
25 gun, Tina hitting him with the car that damn near hit me

1 with it, I would have shot the car up, that's what I said.

2 Q Her car that she's driving.

3 A Yeah, the car that she was driving. If she would have
4 hit me or my cousin with that car I would have shot it up if
5 he would have had a gun. I wish he did had one.

6 Q Does he normally have a gun?

7 A No.

8 Q How about you?

9 A No. I used to have guns.

10 Q Why don't you have one anymore?

11 A Because I can't have a gun no more.

12 Q Why can't you?

13 A Because I went to jail with assault and battery with
14 intent to kill.

15 Q Oh, yeah, that will do it. All right. Well, let's
16 talk about this, you also mentioned the fact that if she
17 would have been a woman you wouldn't have shot up her car.
18 But didn't she tell you to get off Kochese and let him get
19 up whenever y'all were pounding him and kicking him --

20 A No. I said --

21 Q -- let me finish -- when you were kicking him in the
22 head?

23 A I said she was screaming get off of him.

24 Q Right.

25 A Okay. But her vehicle got tinted windows on it, so

1 when she hit us with a car or whatever or what not, I was
2 letting her know that I didn't care who was in the car I was
3 going to shoot it up if I had a gun, that's what I said. It
4 didn't matter if she was a man or a woman, it didn't matter
5 to me.

6 Q Because that's just what you would do.

7 A No. That's what I would have did if I would have had a
8 gun because she hit with us her vehicle.

9 Q Well, let me ask you this, you put in your statement --
10 and actually the statement was not written by you, it was
11 written by Quinton's sister, Sabrina, right?

12 A Yeah, but I was talking.

13 Q I understand that, that wasn't my question. I'm saying
14 that the sister wrote it for you.

15 A Yeah, she wrote it for me.

16 Q All right. Now, one of the things in here is you said
17 whenever you saw Ryan Gregory, that's when you informed the
18 rest of them that he had a gun.

19 A Oh, yeah. All right. My cousin, Andrew Isom, he came
20 in the back of the club and he told me and my cousin,
21 Quinton, he said, "Don't go outside." And I said, "Why?"
22 He said, "Because I heard them boys talking like they were
23 going to get y'all," or whatever or not. And that's when I
24 was like, "All right. If they gone get us or whatever or
25 not, they might as well get us because I'm going outside to

1 smoke a cigarette."

2 Q Okay. All right. Because whenever you in your
3 statement, you said, "I asked Quinton who was that with
4 Kochese because he had on all red, and when you went to see
5 who it was it was Ryan Gregory and that's when I informed
6 the rest of them that he had a gun."

7 A Yeah.

8 Q Now, isn't it my understanding that whenever y'all go
9 into this club that you get searched?

10 A Yes.

11 Q So obviously they do not want people with guns in the
12 club; is that correct?

13 A Excuse me, can I say something?

14 Q That's --

15 A If you was listening to this whole trial you would know
16 that Troy and Cowboy, the one that was bouncer in front of
17 the club, I mean, Troy just now told you that that's his
18 friend and they grew up together, so wouldn't you have just
19 gone ahead and grabbed a conversation and been like they let
20 him in with a gun.

21 Q Okay. But that wasn't going to be my question but
22 thank you for that. My question was since you were going to
23 tell all of your friends and cousins and everything --

24 A Yes, sir. I was going to warn them that they had a
25 gun.

1 Q That's what I was going to say. You were going to warn
2 them that they had a gun. So you already knew at that point
3 in --

4 A At the time all of this happened in the --

5 Q Let me finish my question.

6 MS. LIVELY: Your Honor, may I finish my question?

7 THE COURT: Hang on. Question/answer, answer/question,
8 y'all quit talking over each other.

9 MS. LIVELY: Thank you. I'll be glad to.

10 THE COURT: State your question.

11 Q In your statement you informed the people that you were
12 with that Ryan Gregory had a gun, is that a fair statement?

13 A Not everybody.

14 Q Okay. The people you were with.

15 A Yeah, the people who I was with.

16 Q Thank you. All right. So at that point in time you
17 know that this person has a gun and you did not actually
18 inform anyone else except for the people that were with you.

19 A Yes.

20 Q Okay. Thank you. Now, whenever the altercation
21 outside started to happen where you admit to hitting Kochese
22 and kicking him in the head and punching Rick and all of
23 that, when all of that happened, where was Ryan Gregory?

24 A He was standing in the back.

25 Q He was standing in the back. In the back of what?

1 A He was standing in the back of the crowd like right
2 there where the door was at, like he was -- he had the gun
3 but he was scared to use it. It was almost like that he was
4 coming -- like he was out the door. Because Troy and them,
5 whenever the situation -- when they was holding the door or
6 what not, but I know that he was right there by the door or
7 whatever, you know what I'm saying, whenever they got
8 Kochese out the way he like tossed the gun to him.

9 Q So how far was Ryan Gregory from Kochese from when he
10 tosses him the gun?

11 A I would say about --

12 Q I'll start walking towards you and you just tell me
13 when to stop.

14 A Yeah, Kochese was right here.

15 Q Kochese is right here, and you're Ryan?

16 A Yeah.

17 Q And he throws the gun that far.

18 A Yeah.

19 Q Isn't there a lot of chaos and commotion going on right
20 here at this point?

21 A No.

22 Q You said that Ryan was standing back here.

23 A Listen to what I'm saying. The chaos and commotion
24 happened when big Troy and -- when big Troy and Cowboy was
25 out there, that's when all the commotion and everything

1 started or whatever. When they went back in, it's almost
2 like this front right here kind of cleared out, so when I
3 looked to the side it was still going on right here -- right
4 over here to the side. That's when I noticed my cousin was
5 getting jumped so that's what made me run over there and
6 assist him.

7 Q And I understand that, and you said that you kicked
8 Kochese in the head and y'all were all --

9 A No. I punched him in the face first.

10 Q Okay. Well, whatever, face punch, kick, all of that
11 happened. And Ryan is standing back like he's kind of
12 scared to use the gun but he's got the gun out.

13 A I mean at first -- all right. Before I left the door
14 area he wasn't right there, I don't know even know where he
15 even came from. But just like I was telling you in the
16 beginning, the pool room got a door in the front and the
17 club got a door in the front.

18 Q I understand that, thank you. So I'm not really
19 talking about the chaos inside the club so I'm sorry --

20 A No. I'm talking about the chaos on the outside of the
21 club.

22 Q So whenever the fight was going on then Ryan tossed the
23 gun to Kochese, was he standing up at that point or was he
24 still down from you punching and kicking him?

25 A He was standing up.

1 Q He was standing up. Okay. So whenever he -- and you
2 told me it is about from here to here, so it was probably --

3 THE COURT: 12 feet.

4 MS. LIVELY: Thank you, Judge.

5 Q 12 feet. He throws the gun to Kochese, correct?

6 A Tosses the gun.

7 Q Okay. Tosses the gun to Kochese. And then what did
8 you do at that moment?

9 A What did I do? When he started raising the gun up I
10 grabbed my cousin and snatched him in between the cars.

11 Q Okay.

12 A And then I heard the first gun shot, then it hit the
13 car like -- not the car that we was leaning up against but
14 the car that was in front of it.

15 Q Okay. Now, whenever you left with your cousin you said
16 that Montrell was with the two of you; is that right?

17 A Yeah.

18 Q The guy that had to come out from lock up.

19 A Excuse me, do I have to answer any questions about when
20 we left? I'm just talking about the situation what happened
21 in the inside of the club parking lot, do I got to answer --
22 do I got to answer any questions about when we left?

23 THE COURT: Yes, sir.

24 A When we left -- ask your question. Because when I left
25 I went straight home, I don't know nothing about nothing

1 else.

2 Q That wasn't my question. Was Montrell Graham with you
3 and Quinton McClinton whenever y'all were in the vehicle and
4 drove off from where the shooting took place?

5 A Yes, ma'am.

6 Q Did you see Montrell Graham shooting a weapon before
7 y'all left?

8 A No, ma'am.

9 Q Did anyone in that vehicle have a gun?

10 A No, ma'am. I didn't see a gun. If somebody did have a
11 gun I didn't see it.

12 Q So what you're telling us is if someone did have a gun
13 you didn't see it so you cannot for sure say there was not a
14 gun in that vehicle.

15 A I can't say what a person got on him. Just like I
16 can't tell you what you got in your pockets right here.

17 Q And you also confirmed for us that the defendant was
18 wearing a brown jacket that night, correct?

19 A Yeah, me too.

20 Q And would you agree with me that Kochese Gregory got
21 shot or not?

22 A I don't know if he got shot or not. I know what people
23 say.

24 MS. LIVELY: Thank you. That's all I have, Your Honor.

25 THE COURT: Any redirect?

1 MR. DUNCAN: No, sir.

2 THE COURT: All right. Thank you, sir, you can step
3 down. Call your next witness.

4 MR. DUNCAN: Your Honor, if you can give me one minute.

5 THE COURT: Let's take a brief comfort recess, then we
6 will reconvene.

7 (A recess was taken.)

8 THE COURT: Mr. Duncan, you can call your next witness.

9 MR. DUNCAN: Your Honor, the defense is going to rest.

10 THE COURT: Anything in reply from the State from an
11 evidentiary standpoint?

12 MS. LIVELY: No, Your Honor.

13 THE COURT: Let me briefly hear -- I think I've heard
14 all the facts I need to hear. Let me hear a legal argument
15 from y'all as to whether or not this falls under 16-11-440
16 and 450. You're the movant, let me hear from you first.

17 MR. DUNCAN: Your Honor, I would submit on behalf of
18 Mr. McClinton that 16-11-440C is the applicable section,
19 that he has a right to be at this club. Obviously not a
20 residence, not his place of business, but he has a right to
21 be in this location.

22 THE COURT: He wasn't engaged in an unlawful -- I'm
23 looking it the statue -- he wasn't engaged in an unlawful
24 activity.

25 MR. DUNCAN: Was not.

1 THE COURT: Okay.

2 MR. DUNCAN: Was not engaged in an unlawful activity.
3 And the testimony was such that -- from Mr. Dixon
4 specifically that Kochese Gregory had a gun, pointed it at
5 the direction of Mr. McClinton and firing at him. We're
6 really talking about prior to that when Mr. McClinton was
7 engaged in any activity defending himself and we are here
8 today with Mr. Dixon's testimony, Mr. Whitlock's testimony,
9 Ms. Isom's testimony about the altercation being started by
10 the Gregory group. I think Ryan Gregory is specifically
11 noted as having a firearm, and Marcellus Gregory is
12 threatening to spray folks with mace, and Mr. McClinton
13 trying to calm that situation ultimately getting involved in
14 a fight with Kochese Gregory and carrying that out, being
15 involved in a fist fight, swinging a pool cue, at least
16 there's testimony about him swinging a pool cue, striking
17 either Troy or Cowboy Killian. Again, no duty to retreat,
18 gunshots being fired around him, but I don't think there's
19 any testimony today indicating that Mr. McClinton had a
20 firearm or was engaged in the shooting of a firearm. And,
21 Your Honor, I would further submit that the investigation,
22 which led to Kochese Gregory being charged with attempted
23 murder specifically as to Quinton McClinton certainly is a
24 pretty good indication of how the State felt about it, and I
25 understand that the solicitor --

1 THE COURT: I said something about that at the second
2 bond hearing. All right. I agree with you on that.

3 MR. DUNCAN: Yes, sir.

4 THE COURT: It certainly does go towards possible
5 reasonable doubt in the minds of a jury but I'm not a jury.
6 Go ahead, I'm listening.

7 MR. DUNCAN: Well, Your Honor, in any event, I believe
8 that at this point in time we have made our defense for
9 immunity under the act, and that the attempted murder case
10 should be dismissed. I think there's an assault case, which
11 gives me more pause. I mean, I don't know how to -- I'm
12 having trouble parsing that out. But I don't think that the
13 State's charge for attempted murder against Mr. McClinton
14 can't stand in light of the evidence presented and our
15 motion under 16-11-450 in the case law.

16 THE COURT: All right. Thank you, sir. All right.
17 Madam Solicitor?

18 MS. LIVELY: Yes, Your Honor. As you know from the
19 different statements by all of the different witnesses the
20 State was not even 100 percent sure until those statements
21 are actually brought before the Court and someone is sworn
22 to tell the truth exactly how things are going to unfold. I
23 understand from talking to Mr. Duncan that we felt probably
24 a stand your ground hearing was appropriate. But at that
25 time, Your Honor, one of the things that I was not clear on

1 is whether or not the defense was that he was acting in some
2 form of self-defense and therefore did retaliate by shooting
3 at Mr. Kochese Gregory because Mr. Gregory shot at him
4 first, which was what my understanding or belief was that
5 the possible defense was going to be, therefore that would
6 trigger his request under the C section to ask for immunity.
7 Because he would be asking for -- you know, to show that he
8 actually was justified from imminent fear that he could be
9 killed and in responding by shooting at Mr. Gregory. But
10 that's not what we have here. Now it just sounds like it
11 wasn't me, and when it's a not me, it's not that he's asking
12 for immunity from the shooting that occurred to Kochese
13 Gregory because this is the attempted murder, it's based on
14 the pool sticks and the kicking in the head and all of that
15 stuff, that fight had ended at that point. And then what we
16 have is the shooting events that led to Mr. Gregory almost
17 dying, which whether they knew that happened or not, clearly
18 that's what happened. I mean, we know, Mr. Gregory was
19 shot. So then the question comes down to is this even an
20 immunity stand your ground position, what was he standing
21 his ground from? He was leaving at that point. And so if
22 he was running away from the situation and shot back then
23 that would be a stand your ground situation, but that is not
24 what we have here because he's denying that he ever had a
25 gun and he's --

1 THE COURT: So the State's position is that the statute
2 is not even applicable.

3 MS. LIVELY: I've been trying to place it together in
4 my mind how it is even applicable based on the stance taken
5 at this point by the defense, since he's not charged with
6 ABHAN, he's not charged with the actual fighting that
7 occurred in the club. The charge is for the attempted
8 murder for the shooting that resulted in Kochese Gregory
9 actually almost dying. And I think the case law is very
10 clear on that. When you look at all of the other cases it's
11 people that either killed somebody and they were trying to
12 say why it was justified or that they could stand their
13 ground or the Castle Doctrine. I haven't seen a set of
14 facts that would lead to this so I would just say it doesn't
15 apply.

16 THE COURT: All right. Counsel, I'm going to take this
17 matter under advisement, you've given me a lot to think
18 about and I will be in touch with my decision just as soon
19 as I make it. That concludes this hearing, than you very
20 much.

21 (End of the hearing.)

22

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1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS
3 COUNTY OF CHESTER
4 2019-GS-12-00258, 00262
5 2020-GS-12-00128

6 State of South Carolina

7 Vs.

8 Quinton Tywan McClinton

9
10 Chester, South Carolina

11 February 3-7, 2020

12 Before the Honorable J. Derham Cole

13 APPEARANCES

14 For the State: Candice Lively

15 For the Defendant: William Frick

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17 Reported by: Michael C. Watkins

18 Official Court Reporter

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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

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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

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1 introduced if you have any connection, whether it be by
2 blood or by marriage or because you attend church with any
3 of these people or you attended school with any of these
4 people or you are employed at the same place that these
5 people might be employed or have previously been employed in
6 those places, or you might know some member of their
7 respective families. If that's the case, in other words, if
8 you have any connection or knowledge of anybody whatsoever
9 I'll ask that you please stand so that we can determine what
10 connection that you have, and whether or not it would have
11 any bearing upon your ability to be fair and impartial if
12 you were called upon to serve as a juror in these particular
13 cases. Now, first of all as I told you, the two defendants
14 are Quinton McClinton and Montrell Graham. I'll first ask
15 Mr. McClinton to please stand and face the jury panel so
16 that they may see who you are. This is Quinton McClinton.
17 Thank you, be seated. Mr. McClinton is represented by Mike
18 Duncan seated next to him at the defense table, you may
19 stand, he will be assisting Mr. McClinton during the trial
20 of the case. The other person charged in an indictment is
21 Montrell Graham. Mr. Graham, if you will please stand and
22 face the jury panel. Mr. Graham is represented by William
23 Frick, he will be assisting him during the trial of the
24 case. Presenting the case on behalf of the solicitor's
25 office are Candice Lively and Kaitlin Easler, they are

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1 assistant circuit solicitors for the Sixth Judicial Circuit.
2 The person who is alleged to have been the victim of the
3 attempted murder and the assault and battery in the first
4 degree is Kochese Gregory. Where is Mr. Gregory?

5 MS. LIVELY: Your Honor, he is coming after the jury
6 selection.

7 THE COURT: Okay. Well, I hope they'll know who he is
8 then. If you know anybody by the name of Kochese Gregory, I
9 can't have him stand up right now because he's not in here,
10 but if you know anybody named Kochese Gregory, that's the
11 person who is alleged to be the victim, so if you know him
12 or any members of his family please let me know. All right.
13 I've got several standing, or three. All right. Tell me --
14 well, is everybody standing that needs to respond by the
15 question about having some knowledge of Kochese Gregory or
16 any member of his family? Is everybody standing that needs
17 to respond to that question? All right, sir, I'll start
18 with you. Give me your name and number, please, sir.

19 THE JUROR: Juror 128, Collin Stringfellow.

20 THE COURT: 128?

21 THE JUROR: Yeah.

22 THE COURT: And you know Mr. Gregory?

23 THE JUROR: Yes.

24 THE COURT: How is it that you know? I mean, are you
25 related or just know him in the community or what?

VOIR DIRE

1 THE JUROR: I just know him, went to school with him.

2 THE COURT: Is there anything about that connection
3 that would have any bearing in your decision in this case or
4 in any way affect your ability to be fair and impartial if
5 you were selected?

6 THE JUROR: No.

7 THE COURT: All right. Thank you, be seated. Yes,
8 ma'am?

9 THE JUROR: I actually know both parties.

10 THE COURT: You know Mr. Gregory and --

11 THE JUROR: Quinton McClinton.

12 THE COURT: And Mr. McClinton?

13 THE JUROR: Uh-huh.

14 THE COURT: How do you know Mr. Gregory?

15 THE JUROR: His sister does my hair.

16 THE COURT: How do you know Mr. McClinton?

17 THE JUROR: I dated his brother several years.

18 THE COURT: How do you know Mr. Gregory?

19 THE JUROR: His sister does my hair.

20 THE COURT: And your number is what?

21 THE JUROR: 20.

22 THE COURT: Is there anything about either of those
23 connections that would have any bearing upon your decision
24 in this case if you were selected to serve in it?

25 THE JUROR: Yes, sir.

VOIR DIRE

1 THE COURT: Ma'am? All right, we'll excuse from
2 service in the trial of this case. Front row, your name and
3 number?

4 THE JUROR: My juror number is 163, my name is Sandra
5 Feaster. I know Kochese because I know his mother.

6 THE COURT: You're juror number was 163?

7 THE JUROR: Yes.

8 THE COURT: Okay. All right. So you know Mr. Gregory.

9 THE JUROR: Yes.

10 THE COURT: Do you know anybody else?

11 THE JUROR: I know his mom. I know Mr. McClinton, too.

12 THE COURT: You know Mr. McClinton?

13 THE JUROR: Yes.

14 THE COURT: How do you know Mr. McClinton.

15 THE JUROR: My niece goes with him, she has a child by
16 him.

17 THE COURT: Okay. Is there anything about either of
18 those connections that would have any bearing in your
19 decision in this case if you were selected to participate as
20 a juror in it?

21 THE JUROR: I really don't know, I'm thinking so.

22 THE COURT: Okay. Well, let me ask you this way, do
23 you think there's any reasonable probability that your
24 connections would have a bearing in your decision?

25 THE JUROR: I think so.

VOIR DIRE

1 THE COURT: All right. We'll excuse juror 163 from
2 service in the case but don't leave yet. All right, next?

3 THE JUROR: Number 86.

4 THE COURT: 86?

5 THE JUROR: Uh-huh.

6 THE COURT: Okay. You are Ms. Kirkpatrick?

7 THE JUROR: Yes.

8 THE COURT: And how does that question relate to you?

9 THE JUROR: Family relations to McClinton.

10 THE COURT: All right. So you know Mr. McClinton or
11 just some members of his family?

12 THE JUROR: Related to some members of his family.

13 THE COURT: And who are you related to that's connected
14 to him?

15 THE JUROR: His sister and his brother.

16 THE COURT: His sister and brother?

17 THE JUROR: Uh-huh.

18 THE COURT: And how are you connected with them?

19 THE JUROR: On the Davis side we're related cousins,
20 we're actually second cousins.

21 THE COURT: So you're a cousin of Mr. McClinton?

22 THE JUROR: Well, to his siblings, not him.

23 THE COURT: Ma'am?

24 THE JUROR: To his siblings but not him, so I'm related
25 to his family.

VOIR DIRE

1 THE COURT: Okay. Well, would that have any bearing in
2 your decision in this case if you were selected?

3 THE JUROR: Yes.

4 THE COURT: All right. We'll excuse juror 86 from
5 service in the case. You, ma'am, your name and number?

6 THE JUROR: Number 34, Doris.

7 THE COURT: Did you say 34? Okay. Ms. Crank?

8 THE JUROR: Yes. I used to work with Montrell Graham.

9 THE COURT: You worked with Mr. Graham?

10 THE JUROR: Uh-huh.

11 THE COURT: And where was that?

12 THE JUROR: In York, South Carolina.

13 THE COURT: Would that have any bearing in your
14 decision if you were selected as a juror in the case?

15 THE JUROR: No.

16 THE COURT: Thank you, ma'am, you may be seated. Yes,
17 ma'am?

18 THE JUROR: 151.

19 THE COURT: 151?

20 THE JUROR: Uh-huh.

21 THE COURT: Tell me what connection you might have.

22 THE JUROR: I know Mr. Gregory, and Mr. McClinton, I
23 know his mother, and with Kochese I know his family. I used
24 to live with his family, some of the family members.

25 THE COURT: All right. Is there anything about any of

VOIR DIRE

1 those connections that would affect your ability to be fair
2 and impartial if you were selected to serve as a juror in
3 the case?

4 THE JUROR: No.

5 THE COURT: All right. Thank you, be seated. Yes,
6 sir?

7 THE JUROR: Juror 49, Devonta Foster.

8 THE COURT: How does that question relate to you?

9 THE JUROR: I know Montrell Graham growing up around
10 the same people. I'm cool with Kochese Gregory's son.

11 THE COURT: Would either of those connections have any
12 bearing in your decision in the case?

13 THE JUROR: Yes, sir.

14 THE COURT: Do you think it would affect your judgment?

15 THE JUROR: Yeah.

16 THE COURT: We'll excuse juror 49 from service in the
17 case. Yes, ma'am?

18 THE JUROR: I am juror 182. I don't know any of the
19 defendants but I know their mothers.

20 THE COURT: All right. You're Ms. Peay?

21 THE JUROR: Yes.

22 THE COURT: All right. And would the fact that you
23 know their mothers have any bearing upon your decision in
24 this?

25 THE JUROR: No, none whatsoever.

VOIR DIRE

1 THE COURT: Ma'am?

2 THE JUROR: No, sir.

3 THE COURT: Okay. Thank you, be seated. Anyone else
4 need to respond to that question? Does any member of the
5 panel know any of the lawyers involved in this case by any
6 chance, or anybody in the Sixth Judicial Circuit Solicitor's
7 Office or Public Defender's Office? If so, please stand.
8 I'm going to recite a list of potential witnesses so I need
9 the same information about whether you have any connection
10 with these. George Troy Killian. Marilyn Tucker. Benika
11 Kershaw. Terquita Clifton. Tina Davis. Carlton Dixon.
12 Daverican Gregory. James Young. Ryan Gregory. Charles
13 "CiCi" Whitlock. Kelvin Killian. Sabrina Isom. Joseph
14 Foster. Jonathan Roddy, he's employed with Chester 911.
15 James McNeil, employed with Chester EMS. Jeffrey Rinke,
16 employed with the Chester Police Department. Duncan
17 Holaday, medical doctor at the medical center. David
18 Jacobs, medical doctor at the medical center. Tyanne Perry,
19 Chester EMS. The next few witnesses I'm going to call out
20 are all employed we Chester County Sheriff's Office, they
21 include Wade Young. Telly Crockett. Brian Sanders.
22 Barbara Cameron. Bryant Thorpe. Braylin Brown. Rikki
23 Burch and Curt Wynn. Also have Keith Lewis employed in the
24 Sixth Judicial Circuit Solicitor's Office. Are there any
25 other potential witnesses to be called on behalf of the

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1 State?

2 MS. LIVELY: Those were all of the State's witnesses,
3 Your Honor, thank you.

4 THE COURT: Okay. Any other potential witnesses to be
5 called by Defendant McClinton?

6 MR. DUNCAN: Your Honor, there are a couple of names
7 that -- possibly that aren't on the State's list that I'll
8 be glad to share with you or with the panel.

9 THE COURT: Okay. Who are they?

10 MR. DUNCAN: James Woodard, W-o-o-d-a-r-d.

11 THE COURT: Okay, James Woodard.

12 MR. DUNCAN: And Derrick Pendergrass.

13 THE COURT: Any jurors know either of these
14 individuals? All right. Mr. Frick, do you have any
15 additional witnesses?

16 MR. FRICK: None additional than already stated.

17 THE COURT: All right. Has any member of the jury
18 panel or any members of your -- family members ever lived in
19 the Roundtree Circle neighborhood in the city of Chester?
20 If so, please stand. Does any member of the jury panel have
21 any connection with or have made any visits to the business
22 establishment known as the Images Club formerly known as the
23 Peoples Choice located in the City of Chester? If so,
24 please stand. All right. Yes, sir? Have you -- what's
25 your number?

VOIR DIRE

1 THE JUROR: 128.

2 THE COURT: Okay.

3 THE JUROR: You actually read off a lot of stuff, it's
4 like some of it I'm not sure of, but Wade Young, a former
5 neighbor of mine. And this night club, I was in there. And
6 Sabrina Isom, I went to school with her.

7 THE COURT: Is there anything about your connections
8 with Ms. Isom or Mr. Young that would have any impact on
9 your decision?

10 THE JUROR: No.

11 THE COURT: Now, is this club, is this where this event
12 is alleged to have occurred?

13 MS. LIVELY: Yes, Your Honor.

14 THE COURT: All right. As I say I mentioned the -- you
15 can have a seat, thank you. I've mentioned the club, which
16 is the Images Club formerly known as the Peoples Choice in
17 the City of Chester, and that's the location where this
18 event is alleged to have occurred. Does any juror think
19 that you might have heard something about this case from any
20 person or any other source? In other words, have you been
21 exposed to any type of information that relates to this
22 particular event from any person or any other source? If
23 so, let me know. All right, Mr. Stringfellow. All right.
24 Don't tell me what you think you know but tell me from what
25 source you might have heard something?

VOIR DIRE

1 THE JUROR: From what source?

2 THE COURT: Television, radio, newspaper, people
3 talking at work, people talking at church.

4 THE JUROR: People talking.

5 THE COURT: Just people talking about it?

6 THE JUROR: Yeah.

7 THE COURT: And are these people that claim to have
8 personal knowledge or are they just talking about it, too?

9 THE JUROR: Just talking about it, too.

10 THE COURT: Is there anything about what you heard from
11 these folks that would impact your decision in the case?

12 THE JUROR: No.

13 THE COURT: In other words, could you put it aside and
14 not allow it to influence your judgment?

15 THE JUROR: Yeah.

16 THE COURT: All right. Thank you, be seated. As you
17 know Defendant McClinton is charged with attempted murder
18 and assault and battery in the first degree and possession
19 of a firearm. Is there anything about the nature of the
20 charges themselves that would prevent any juror from being
21 able to be fair and impartial if you were selected as a
22 juror in the case? If so, please stand. And as you know
23 Mr. Graham is charged with assisting Mr. McClinton after the
24 commission of the crimes that he's alleged to have
25 committed. Is there anything about the nature of that

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1 charge that would prevent any juror from being able to be
2 fair and impartial to Mr. Graham if you were called upon to
3 serve in the case? If so, please stand. Has any member of
4 the jury panel or any members of your immediate family, and
5 let me define an immediate family member as a parent or a
6 spouse or a child or a sibling, a parent or a spouse or a
7 child or a sibling, have you or any members of your
8 immediate family ever been the victim of any type of crime
9 that might be characterized or classified as a violent
10 crime? And that would include murder, manslaughter, armed
11 robbery, burglary, criminal sexual conduct, domestic
12 violence of a high and aggravated nature also in the first
13 degree, or any other similar type of a crime that would be
14 characterized as a violent crime, I need to know if you or a
15 family member has been the victim of such. I also need to
16 know whether or not you or a family member as described has
17 ever been accused of having committed such an offense. So
18 have you or that family member ever been the victim of such
19 or ever been accused of having committed such? If so,
20 please stand. All right. I'll start with Mr. Stringfellow,
21 juror 128. All right. And was it you or a family member?

22 THE JUROR: A family member.

23 THE COURT: And were they alleged to be a victim or an
24 accused?

25 THE JUROR: Victim and accused.

VOIR DIRE

1 THE COURT: All right. And what was that family
2 member's relationship to you?

3 THE JUROR: Cousin.

4 THE COURT: All right. Would either of those factors
5 have any bearing on your decision in this case?

6 THE JUROR: No.

7 THE COURT: Thank you, be seated, juror 128. Yes,
8 ma'am?

9 THE JUROR: I am juror 198.

10 THE COURT: 198. All right. Was it you or a family
11 member?

12 THE JUROR: My daughter.

13 THE COURT: And was she the victim or had she been
14 accused?

15 THE JUROR: She was a victim.

16 THE COURT: And is there anything about that
17 circumstance that would affect your judgment in this
18 particular case?

19 THE JUROR: I believe so.

20 THE COURT: You believe it would?

21 THE JUROR: Yeah.

22 THE COURT: And your number was what again?

23 THE JUROR: 198.

24 THE COURT: You're Ms. Wilmore?

25 THE JUROR: Yes.

VOIR DIRE

1 THE COURT: Ms. Wilmore, you're going to be excused
2 from serving in the trial of this case but don't leave yet.
3 Yes, ma'am?

4 THE JUROR: Juror number 83.

5 THE COURT: Ms. Johnson?

6 THE JUROR: Yes.

7 THE COURT: All right. And was it you or a family
8 member?

9 THE JUROR: Family member.

10 THE COURT: Were they a victim or an accused?

11 THE JUROR: Victim.

12 THE COURT: And what was their connection with you?

13 THE JUROR: Brother.

14 THE COURT: Would that have any bearing in your
15 decision in this case?

16 THE JUROR: No.

17 THE COURT: Thank you, be seated. Yes, ma'am?

18 THE JUROR: 102, Jennifer McClain.

19 THE COURT: 102. All right. And was it you or a
20 family member?

21 THE JUROR: My dad.

22 THE COURT: And was he the victim or accused?

23 THE JUROR: Accused.

24 THE COURT: And would that have any bearing on your
25 decision in this particular case?

VOIR DIRE

1 THE JUROR: No, sir, we don't have a relationship.

2 THE COURT: Okay. Thank you, ma'am, you may be seated.
3 Anyone else need to respond to that question? Does any
4 member of the jury panel belong to any type of organization
5 or do you contribute any time and money to any type of
6 organization that might be characterized or described as law
7 enforcement support or victims advocacy groups? Some of
8 those might include Mothers Against Drunk Drivers, Citizens
9 Against Violent Crime, the South Carolina Law Enforcement
10 Association, the Crime Victims Assistance Network, the
11 Fraternal Order of Police, or any other similar type of
12 organization including advocacy groups such as Palmetto
13 Citizens Against Sexual Assault, Sister Care, or any other
14 similar type of organization? Do you belong to any or do
15 you contribute time or money to any such organization? If
16 so, please stand. Has any member of the jury panel ever
17 been called to testify as a witness in a criminal case,
18 whether that be by the prosecution or by the defense, have
19 you ever been called to testify as a witness in a criminal
20 case? If so, please stand. Has any member of the jury
21 panel or any members of your immediate family as I already
22 defined it ever been employed as any type of law enforcement
23 officer with any type of law enforcement agency? If so,
24 please stand. Your number and number, please, sir?

25 THE JUROR: Drew Williams.

VOIR DIRE

1 THE COURT: 144?

2 THE JUROR: Yes, sir.

3 THE COURT: How does that question relate to you?

4 THE JUROR: My brother a is cop in York.

5 THE COURT: Would that have any bearing on your
6 decision?

7 THE JUROR: I don't think so.

8 THE COURT: Well, are you pretty sure it wouldn't or
9 you think it might?

10 THE JUROR: It won't.

11 THE COURT: Okay. Thank you, be seated. Yes, ma'am?

12 THE JUROR: I have a first cousin that's a police
13 officer in Florida.

14 THE COURT: Give me your number again.

15 THE JUROR: 182.

16 THE COURT: Would that have any bearing on your
17 decision?

18 THE JUROR: No, sir.

19 THE COURT: Thank you, be seated. Yes, ma'am, over
20 here to my right?

21 THE JUROR: 148, Kayla Yarborough. My uncle was a cop
22 for Chester County.

23 THE COURT: But no longer?

24 THE JUROR: No longer.

25 THE COURT: Would that have any bearing on your

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1 decision?

2 THE JUROR: No, sir.

3 THE COURT: Thank you, be seated. Yes, ma'am?

4 THE JUROR: 75, Cheryl Hudson. My husband is a retired
5 trooper and currently a bailiff in the Lancaster Court
6 system.

7 THE COURT: Would that have any bearing on your
8 decision?

9 THE JUROR: No, sir.

10 THE COURT: Thank you, be seated. Yes, ma'am?

11 THE JUROR: Number 17.

12 THE COURT: Seventeen?

13 THE JUROR: Yes, sir.

14 THE COURT: Okay.

15 THE JUROR: I work at Chester County 911, I work there.

16 THE COURT: At Chester County what?

17 THE JUROR: 911.

18 THE COURT: Would that have any bearing on your
19 decision?

20 THE JUROR: Yes, sir.

21 THE COURT: It would? Okay. We'll excuse juror number
22 17 from service. Yes, ma'am?

23 THE JUROR: Juror number 17, Becca Hinson. My
24 brother-in-law is a police officer in (inaudible.)

25 THE COURT: Did you say 70?

VOIR DIRE

1 THE JUROR: Yes, sir.

2 THE COURT: Would that connection have any bearing on
3 your decision?

4 THE JUROR: No, sir.

5 THE COURT: Thank you, be seated. Yes, ma'am?

6 THE JUROR: Number 60.

7 THE COURT: 6-0?

8 THE JUROR: Yes, sir, Priscilla Gregory. My husband is
9 retired SLED currently working as a Lancaster bailiff at the
10 courthouse.

11 THE COURT: Would that have any bearing on your
12 decision?

13 THE JUROR: Yes.

14 THE COURT: Okay. We'll excuse juror 60, thank you.
15 Yes, ma'am?

16 THE JUROR: Forty.

17 THE COURT: All right. How does that relate to you?

18 THE JUROR: My brother is a federal officer.

19 THE COURT: Would that have any bearing on your
20 decision?

21 THE JUROR: Yes, sir.

22 THE COURT: Juror 40 is excused. Anybody else need to
23 respond to that question? Has any member of the jury panel
24 ever had an experience with the criminal justice system
25 whether it be through the court, through the solicitor's

VOIR DIRE

1 office, through a law enforcement agency, through the public
2 defender's office or any agency involved in the criminal
3 justice system, have you ever had such an experience in the
4 system that it would impair your ability to be fair and
5 impartial if selected as a juror in this particular case?
6 If so, please stand. All right. I have introduced each of
7 the defendants to you as well as the person alleged to be
8 the victim, I've introduced the lawyers to you and all of
9 the potential witnesses, I've told you basically what the
10 case is about, has any member of the panel already formed an
11 opinion as to what you think the ultimate decision ought to
12 be in this case based upon what you've heard up to this
13 point or based upon any other consideration? Have you
14 already made up your mind as to the result? If so, please
15 stand. Does any juror know of any reason whatsoever why you
16 think you could not be fair and impartial if you were called
17 upon to serve as a juror in this particular case? If so,
18 please stand. None responding. Any other questions
19 requested by the State?

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

21 THE COURT: By the defendant McClinton?

22 MR. DUNCAN: Not from Mr. McClinton, Your Honor.

23 THE COURT: By the defendant Graham?

24 MR. FRICK: No, sir.

25 THE COURT: All right.

VOIR DIRE

1 (Break in proceedings.)

2 THE COURT: Lawyers approach.

3 (A bench conference was held.)

4 THE COURT: As I said, as your name is called just
5 stand where you are and you will be instructed if you're to
6 be seated or excused.

7 THE CLERK: Juror number 124, Joshua Q. Simpson. What
8 saith the State?

9 MS. LIVELY: Present the juror.

10 THE CLERK: What saith the defendant?

11 MR. DUNCAN: Please seat this juror.

12 THE CLERK: Juror number 32, Della Connor. What saith
13 the State?

14 MS. LIVELY: Present the juror.

15 THE CLERK: What saith the defendant?

16 MR. DUNCAN: Please excuse this juror.

17 THE CLERK: Juror number 80, Amandan S. Johnson. What
18 saith the State?

19 MS. LIVELY: Present the juror.

20 THE CLERK: What saith the defendant?

21 MR. DUNCAN: Please seat this juror.

22 THE CLERK: Juror number four, Terry N. Ash. What
23 saith the State?

24 MS. LIVELY: Present the juror.

25 THE CLERK: What saith the defendant?

VOIR DIRE

1 MR. DUNCAN: Please excuse this juror.

2 THE CLERK: Juror number 72, Brandon L. Horn. What
3 saith the State?

4 MS. LIVELY: Present the juror.

5 THE CLERK: What saith the defendant?

6 MR. DUNCAN: Please seat this juror.

7 THE CLERK: Juror number 13, Willie J. Brace. What
8 saith the State?

9 MS. LIVELY: Present this juror.

10 THE CLERK: What saith the defendant?

11 MR. DUNCAN: Please excuse this juror.

12 THE CLERK: Juror number 167, Teresa A. Hall. What
13 saith the State?

14 MS. LIVELY: Present this juror.

15 THE JUROR: What saith the defendant?

16 MR. DUNCAN: Please excuse this juror.

17 THE CLERK: Juror number 151, Esther Agbogbe. What
18 saith the State?

19 MS. LIVELY: Can we approach, Your Honor?

20 (A bench conference was held.)

21 THE COURT: Ma'am, let me ask you to step up here
22 please.

23 (A bench conference was held with the juror.)

24 MS. LIVELY: Present this juror.

25 THE CLERK: What saith the defendant?

VOIR DIRE

1 MR. DUNCAN: Please excuse this juror.

2 THE CLERK: Juror number 115, Joseph S. Raines. What
3 saith the State?

4 MS. LIVELY: Present the juror.

5 THE CLERK: What saith the defendant?

6 MR. DUNCAN: Please seat this juror.

7 THE CLERK: Juror number 161, Mary A. Dye. What saith
8 the State?

9 MS. LIVELY: Please excuse this juror.

10 THE CLERK: Juror number 125, Zachary L. Smith. What
11 saith the State?

12 MS. LIVELY: Present the juror.

13 THE CLERK: What saith the defendant?

14 MR. DUNCAN: Please seat this juror.

15 THE CLERK: Juror number 16, Adora N. Brown. What
16 saith the State?

17 MS. LIVELY: Present this juror.

18 THE CLERK: What saith the defendant?

19 MR. DUNCAN: Please seat her.

20 THE CLERK: Juror number 128, Collin A. Stringfellow.
21 What saith the State?

22 MS. LIVELY: Please excuse this juror from the trial of
23 this case.

24 THE CLERK: Juror number 121, Karen Shaffer. What
25 saith the State?

VOIR DIRE

1 MS. LIVELY: Present the juror.

2 THE CLERK: What saith the defendant?

3 MR. DUNCAN: We're going to excuse this juror.

4 THE CLERK: Juror number 75, Cheryl W. Hudson. What
5 saith the State?

6 MS. LIVELY: Present the juror.

7 THE CLERK: What saith the defendant?

8 MR. DUNCAN: Excuse this juror.

9 THE CLERK: Juror number 25, Jamie A. Casey. What
10 saith the State?

11 MS. LIVELY: Present the juror.

12 THE CLERK: What saith the defendant?

13 MR. DUNCAN: Please seat this juror.

14 THE CLERK: Juror number 191, Gloria G. Smith. What
15 saith the State?

16 MS. LIVELY: Present the juror.

17 THE CLERK: What saith the defendant?

18 MR. DUNCAN: Please excuse this juror.

19 THE CLERK: Juror number 182, Estelle Peay. What saith
20 the State?

21 MS. LIVELY: Present this juror.

22 THE CLERK: What saith the defendant?

23 MR. DUNCAN: Please seat this juror.

24 THE CLERK: Juror number 15, David W. Broughton. What
25 saith the State?

VOIR DIRE

1 MS. LIVELY: Present this juror.

2 THE CLERK: What saith the defendant?

3 MR. DUNCAN: Please seat this juror.

4 THE CLERK: Juror number 69, Reba Herndon. What saith
5 the State?

6 MS. LIVELY: Present this juror.

7 THE CLERK: What saith the defendant?

8 MR. DUNCAN: Please excuse this juror.

9 THE CLERK: Juror number 8, Dorothy M. Neely. What
10 saith the State?

11 MS. LIVELY: Present the juror.

12 THE CLERK: What saith the defendant?

13 MR. DUNCAN: Please seat this juror.

14 THE CLERK: Juror number 73, Michael A. Horne. What
15 saith the State?

16 MS. LIVELY: Present this juror.

17 THE CLERK: What saith the defendant?

18 MR. DUNCAN: Please seat this juror.

19 THE CLERK: Juror number 193, Meredith M. Talford.
20 What saith the State?

21 MS. LIVELY: Please excuse this juror.

22 THE CLERK: Juror number 93, Crystal Y. Liggins. What
23 saith the State?

24 MS. LIVELY: Please excuse this juror.

25 THE CLERK: Juror number 112, Mary E. Perry. What

VOIR DIRE

1 saith the State?

2 MS. LIVELY: Please excuse this juror.

3 THE CLERK: Juror number 9, Thomas W. Berryhill, Jr.

4 What saith the State?

5 MS. LIVELY: Present this juror.

6 THE CLERK: What saith the defendant?

7 MR. DUNCAN: Please seat this juror.

8 THE COURT: This will be for the first alternate.

9 THE CLERK: Juror number 12, Tacita E. Bost. What
10 saith the State?

11 MS. LIVELY: Present the juror.

12 THE CLERK: What saith the defendant?

13 MR. DUNCAN: Please seat this juror.

14 THE COURT: This will be for the second alternate.

15 THE CLERK: Number 34, Doris A. Crank. What saith the
16 State?

17 MS. LIVELY: Please excuse this juror.

18 THE CLERK: Juror number 185, Nicholas B. Price. What
19 saith the State?

20 MS. LIVELY: Present this juror.

21 THE CLERK: What saith the defendant?

22 MR. DUNCAN: Please seat this juror.

23 THE COURT: All right. Those who have been selected I
24 will ask you to please go with the bailiff to the jury room
25 and I will bring you back in a few minutes.

1 (The trial jury left the courtroom.)

2 THE COURT: Any matters that need to be addressed
3 regarding jury selection by the State?

4 MS. LIVELY: Your Honor, may we approach?

5 THE COURT: Okay.

6 (A bench conference was held.)

7 THE COURT: I'm going to need to take about five
8 minutes so be patient with me and we will have the balance
9 of you released.

10 (A break was taken.)

11 THE COURT: All right. Any matters to be addressed
12 regarding jury selection by the State?

13 MS. LIVELY: That was all, Your Honor, thank you.

14 THE COURT: By the defense?

15 MR. DUNCAN: No, Your Honor.

16 MR. FRICK: No, sir.

17 THE COURT: Okay.

18 (The remaining panel was excused.)

19 (The trial jury returned to the courtroom.)

20 THE COURT: All right. Ladies and gentlemen, because
21 of the time we're going to recess for the afternoon, we'll
22 start with the trial beginning at 10:00 in the morning. Let
23 me caution you that now that you have been selected and as
24 you leave you're not permitted to talk about the case with
25 anybody whatsoever in any fashion whatsoever. You can't

1 discuss the case even among your fellow jurors or with your
2 fellow jurors until the time comes for jury deliberations,
3 and that won't be until the end after all of the evidence
4 has been received and I have instructed you on the law and
5 you've been told to begin with your jury deliberations.
6 Also, any decision that any jury makes has to always be
7 based upon the evidence presented during the trial of the
8 case. You can't supplement your wealth of knowledge by
9 conducting any outside research or doing your own
10 investigation into any issues. You can't go on the
11 internet, you can't talk to other people, you can't go to
12 Facebook, can't go to Instagram, you can't go to --
13 anywhere, you have to base your decision upon what you see
14 and hear during the trial of this case, and that's because
15 outside sources are more often wrong than right, even
16 newspapers get it wrong even when they're sitting in the
17 courtroom. So no discussions with anybody, no research, no
18 investigation, no internet searches, no television, no
19 radio, no newspaper, or don't expose yourself to any items
20 that might appear that relate to the case because your
21 decision has to be based upon what you see and hear during
22 the trial. All right. With that caution in mind do have a
23 good evening, please report to your jury room at 10:00 in
24 the morning, 10:00 in the morning. Have a good evening.

25 (The jury left the courtroom.)

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.

JAMES YOUNG - DIRECT

- 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

JAMES YOUNG - DIRECT

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.

JAMES YOUNG - DIRECT

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

JAMES YOUNG - DIRECT

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.

JAMES YOUNG - CROSS

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.

JAMES YOUNG - CROSS

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.

BERNICE JUNE - DIRECT

- 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.

BERNICE JUNE - DIRECT

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

BERNICE JUNE - DIRECT

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.

BERNICE JUNE - DIRECT

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

BERNICE JUNE - CROSS

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.

BERNICE JUNE - CROSS

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.

BERNICE JUNE - CROSS

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.

BERNICE JUNE - REDIRECT

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

BERNICE JUNE - REDIRECT

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

BERNICE JUNE - REDIRECT

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?

DAVERICAN GREGORY - DIRECT

- 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

DAVERICAN GREGORY - DIRECT

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

DAVERICAN GREGORY - DIRECT

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

DAVERICAN GREGORY - DIRECT

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

DAVERICAN GREGORY - DIRECT

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

DAVERICAN GREGORY - DIRECT

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.

DAVERICAN GREGORY - CROSS

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.

DAVERICAN GREGORY - CROSS

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.

DAVERICAN GREGORY - CROSS

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.

DAVERICAN GREGORY - CROSS

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.

DAVERICAN GREGORY - CROSS

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 --

DAVERICAN GREGORY - CROSS

- 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.

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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.

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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

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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

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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 --

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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

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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?

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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.

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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.

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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.

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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

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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

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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.

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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

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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?

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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.

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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

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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

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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

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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.

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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?

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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.

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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 Friday.

8 Q Friday. 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

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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

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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.

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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?

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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

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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?

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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

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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.

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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.

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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

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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?

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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?

BRIAN SANDERS - DIRECT

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.

BRIAN SANDERS - DIRECT

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?

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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.

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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.

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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.

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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

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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

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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

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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