

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Nov 12 2020

SC Court of Appeals

Appeal from Chester County

Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

QUINTON TYWAN MCCLINTON,

APPELLANT

APPELLATE CASE NO 2020-000243

RECORD ON APPEAL

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KEITH LEWIS - DIRECT

1 indicate to you what had happened to kind of recreate the
2 scene in your mind?

3 A Yes. Because I knew several vehicles in the parking
4 lot had received bullet holes, I was kind of amazed that
5 none of the glass in the club was actually shot out, that I
6 could tell any of the glass had been shot.

7 Q Okay. All right. So you were kind of looking over the
8 whole scenario at that point.

9 A Yes, ma'am.

10 Q Did you have the chance to meet with or talk to anyone
11 else other than going to Emergency Management for this
12 blown-up map and the victim, Mr. Kochese Gregory, regarding
13 the measurements?

14 A That's all regarding the measurements.

15 Q That's all regarding that? Okay.

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

18 MR. DUNCAN: Thank you, Your Honor.

19 CROSS EXAMINATION

20 BY MR. DUNCAN:

21 Q Good afternoon, Investigator Lewis.

22 A Good evening, sir.

23 Q Investigator, when did you go out to Club Images as you
24 have just described to the jury showing the map, when did
25 that take place?

KEITH LEWIS - CROSS

1 A This is February the 6th, I believe, or 5th, today?

2 Q Yes, sir.

3 A This happened some time in January of this year,
4 probably three to four weeks ago.

5 Q Within the last 30 days is when you --

6 A Yes, sir, within the last 30 days.

7 Q All right, sir. And again, the information that you
8 had about where anything was -- where a vehicle was located
9 in the parking lot came only from Mr. Gregory; is that
10 right?

11 A Only from Mr. Gregory, and from the photographs that I
12 have seen from the crime scene.

13 Q And let me get clear, I just didn't hear it well, in
14 the building itself, did you go inside the building?

15 A No, sir, I've never been in there.

16 Q Never been in the building.

17 A No.

18 Q But in looking at the building you noted some damage
19 and it appeared to be bullet holes, did I hear that right?

20 A Yes, sir.

21 Q And there were two?

22 A Yes, sir.

23 Q And they were -- as far as on the building, were those
24 on the pool room side or the club side, or do you remember?

25 A It's my understanding if you're facing the building the

1 pool room is to the left.

2 Q Yes, sir.

3 A And that's where these bullet holes were at was right
4 at the brick at that door that went into the pool hall.

5 MR. DUNCAN: Okay. I think that's all of the questions
6 I have, thank you.

7 MR. FRICK: Very briefly.

8 CROSS EXAMINATION

9 BY MR. FRICK:

10 Q Investigator Lewis, the information you are testifying
11 about today is based on your investigation of the scene
12 about three weeks ago?

13 A That's correct.

14 Q Based on information given to you by Kochese Gregory.

15 A Kochese Gregory and the crime scene photographs.

16 MR. FRICK: Thank you, sir.

17 THE COURT: Anything else?

18 MS. LIVELY: No further questions, Your Honor.

19 THE COURT: You may step down. May we approach,
20 Your Honor?

21 (A bench conference was held.)

22 THE COURT: All right. Ladies and gentlemen, the next
23 witness is probably going to be more lengthy than we want to
24 get started with this afternoon so we'll recess for the
25 afternoon, we'll resume in the morning beginning at 10:00.

1 Keep in mind no discussions, no research, no investigation,
2 no media exposure, have a good afternoon. Please report to
3 your jury room at 10:00 in the morning.

4 (The jury left the courtroom.)

5 THE COURT: Court is in recess until 10:00 in the
6 morning.

7 (Court recessed for the evening and resumed at 10:00
8 A.m., on Thursday, February 6, 2020.)

9 THE COURT: Bring the jury in, please.

10 (The jury returned to the courtroom.)

11 THE COURT: Good morning, ladies and gentlemen. As you
12 know when we recessed yesterday the State was in the midst
13 of -- or still in the midst of their presentation so we'll
14 continue with that presentation this morning.

15 MS. LIVELY: Yes, thank you. Your Honor, the State
16 would call Investigator Wade Young to the stand.

17 The witness, WADE YOUNG, was first duly sworn and

18 Testified as follows:

19 DIRECT EXAMINATION

20 BY MS. LIVELY:

21 Q Investigator Young, where are you currently employed?

22 A Chester County Sheriff's Office.

23 Q And you're actually a lieutenant now over
24 investigations, correct?

25 A Yes, ma'am.

WADE YOUNG - DIRECT

1 Q All right. And how long have you been with the Chester
2 County Sheriff's Office?

3 A Approximately 11 years.

4 Q And how many of those years have you worked in the
5 investigative section?

6 A Five.

7 Q And whenever you get assigned to a particular case,
8 explain to the jury how that actually happens.

9 A Well, back in 2018 what we normally do -- we do it a
10 little bit different now since we're trying to change things
11 around now, back then if you were on call, if this was your
12 on call week then you handled the case, that's basically how
13 it was assigned.

14 Q Got it.

15 A And that's how I became the lead investigator over the
16 case, it was my on call week during the Christmas holidays
17 and everything.

18 Q All right. So Lieutenant Young, during the evening of
19 December 25, 2018, were there several officers who actually
20 came on scene and assisted?

21 A Yes, ma'am.

22 Q All right. Do you recall about how long it was before
23 you were able to actually make it to the scene that night?

24 A I got there around 3:25.

25 Q Do you remember what time the 911 call in?

WADE YOUNG - DIRECT

1 A I'm not sure, about 2:00. They called me about 2:00
2 and alerted me that I needed to come to Chester.

3 Q So about 2:00. And then about 3:25 you actually make
4 it to Images, the actual club area.

5 A Yes, ma'am, 2091 J.A. Cochran Bypass.

6 Q And that's in the county, correct?

7 A Yes, ma'am.

8 Q Now, Lieutenant Young, when you arrived there, tell the
9 jury what it was that you actually observed.

10 A Basically the crime scene had already been taped off.
11 When I walked out there on the scene I basically seen a
12 bunch of shell casings in the lower parking lot, and after I
13 observed everything I went to find the officer that had 911
14 to dispatch me out, which was Sergeant Bryant Thorpe.

15 Q Bryant Thorpe. And are you aware as to whether or not
16 Officer Thorpe had a body worn camera that night?

17 A Yes, ma'am.

18 Q And have you reviewed that body worn camera?

19 A Yes, ma'am.

20 Q So before you got there and after reviewing the body
21 worn camera, can you explain to the jury the difference
22 between when Officer Thorpe got there as to what you saw
23 when you got there?

24 A When Officer Thorpe got there it was very chaotic, when
25 I got there it was a little more calmer down. It was still

WADE YOUNG - DIRECT

1 chaotic judging by the body camera.

2 Q And whenever you did arrive, was it your duty at that
3 point to take any kind of statements from potential
4 witnesses?

5 A Well, normally I process the scene first. On this
6 particular instance when I got there, once I found out the
7 information from Sergeant Thorpe I was assigned to go to
8 Carolina Medical Hospital. My supervisor, who was actually,
9 the case agent, would tell me what to do. Of course, I'm
10 the lead investigator but if he say go to Carolina Medical
11 Center I've got to go to Carolina Medical Center.

12 Q So once you arrived at the Images Club then at about
13 3:25, how long do you think you were there before you left
14 to go to Charlotte?

15 A Approximately 30 minutes.

16 Q Thirty minutes?

17 A Yes, ma'am.

18 Q When you were there, did you actually get to talk to
19 any potential witnesses?

20 A Yes, ma'am, I did.

21 Q Okay.

22 A While I was out there looking at the scene my
23 supervisor then, he brought Mr. J. P. McNeil to me and he
24 said, "This young man needs to tell you something."

25 Q All right. And J. P. McNeil, where does he currently

WADE YOUNG - DIRECT

1 work?

2 A He actually is a first responder, then -- he was an EMT
3 then, he's doing another job there, but he was the first
4 responder.

5 Q And you've actually been in here through a majority of
6 the trial, correct?

7 A Mostly, yes, ma'am.

8 Q And there is a body worn camera that was put into
9 evidence from Officer Rinke who was with the Chester City?

10 A Yes, ma'am.

11 Q Did you see J. P. McNeil on that?

12 A Yes, ma'am. J. P. was in the hospital, Chester County
13 Hospital.

14 Q And basically the information that Mr. McNeil gave to
15 you is consistent with that?

16 A Yes, ma'am. Mr. McNeil actually came back to the scene
17 and told me what had happened.

18 Q All right. Because he had been at the hospital.

19 A Yes, ma'am, he said Mr. McClinton --

20 MR. DUNCAN: Your Honor, I object to --

21 A He did give --

22 MR. DUNCAN: -- what he said.

23 A He did give me a statement and I asked him, I said,

24 "Well, I want you to give this statement to him," my

25 supervisor, and he was actually going to write it down for

WADE YOUNG - DIRECT

1 me because I've had to go to Charlotte.

2 Q So you did get an actual written statement from Mr.
3 McNeil.

4 A Yes, ma'am.

5 Q But what he told you is actually on that body worn
6 camera.

7 A Exactly the same thing.

8 Q Same thing. All right, thank you. Now, was he the
9 only one that you were actually able to get a statement
10 written from that moment when you were there?

11 A At that time moment, yes, ma'am.

12 Q Okay. So any other written statements that were given
13 would have been given to other officers at that point.

14 A Yes.

15 Q All right, thank you. And who was in charge of
16 actually collecting the evidence and marking the evidence?

17 A Sergeant Brian Sanders.

18 Q And have you looked at the crime scene photos and know
19 about all of the information that was collected?

20 A Yes, ma'am.

21 Q And as a lead investigator, was it your decision as to
22 what would be sent to SLED for testing and why?

23 A Yes.

24 Q And I'll talk to you about that in just a little bit.

25 So on the night that he went to Charlotte, tell the jury

WADE YOUNG - DIRECT

1 what you actually did whenever you got there.

2 A Well, when I got there I actually was going to see
3 about the victim, Kochese Gregory. I was going to try to
4 get a GSR on him just to make sure, that's what we normally
5 do, try to get a GSR. But Mr. McClinton --

6 Q Will you please just explain for those who may not
7 know, what's a GSR?

8 A That's a gunshot residue kit. We do that on victims
9 and other people that potentially have been shooting guns
10 just to verify that they actually shoot a gun or not.

11 Q And what is the kit -- what area of the body does the
12 kit actually test?

13 A The hands.

14 Q All right. So -- I'm sorry, I just wanted to make sure
15 the jury was clear, okay? You can continue.

16 A Okay. When I got there I actually came to the surgery
17 room and knowing the condition of Mr. Gregory at the time.
18 So I actually spoke to the surgeon that was coming -- he was
19 just doing surgery on Mr. Gregory and I said, "Sir, there's
20 an opportunity for me to speak with Mr. Gregory?" He said,
21 "Sir, I don't think you'll ever get to speak to Mr. Gregory,
22 we lost him four times already." And at that time I said,
23 "Do you think he will make it through the night?" And he
24 said, "Sir, if he make it through the night it will be a
25 miracle." So I actually stood around, waited. I called my

WADE YOUNG - DIRECT

1 boss and I said, "Sir, we might have a murder on our hands."
2 That's what I -- actually the surgeon came out, you could
3 tell he had been working hard, he was sweating, his scrubs
4 was all twisted and his head was twisted. You could tell he
5 had a hard night, yes.

6 Q And obviously Mr. Gregory did survive.

7 A He did survive, it was a miracle.

8 Q And whenever -- so you were not able to do a GSR on his
9 hands?

10 A No, ma'am.

11 Q So after -- did -- was there a point in time during the
12 time you were there that initial early morning where you
13 were ever able to talk to Kochese Gregory yourself?

14 A No, ma'am.

15 Q Okay. Did you ever go attempt to get in contact with
16 him at a later date?

17 A On the 27th.

18 Q On the 27th.

19 A Yes, ma'am.

20 Q And how did that go?

21 A He told me he wasn't -- he told me, he said, "Sir, I"

22 --

23 MR. DUNCAN: Objection, Your Honor, hearsay.

24 THE COURT: Sustained.

25 Q You can't tell me what he said. But as a result of

WADE YOUNG - DIRECT

1 that conversation, were you able to -- is that one that was
2 recorded of the victim or was that --

3 A Not that one, no, ma'am.

4 Q All right. Was he under medication at that time?

5 A Highly.

6 Q So were you able to get anything of significance to
7 help with the investigation from him that day?

8 A No, ma'am.

9 Q Did you go back again to speak with him?

10 A Yes, ma'am.

11 Q When you went back the next time, when was that?

12 A On January 8th.

13 Q When you went back January the 8th, were you able to
14 have a conversation with him?

15 A Yes, ma'am.

16 Q Was that one audio recorded?

17 A Yes, ma'am.

18 Q And so you were able to get information to further your
19 investigation at that point?

20 A Yes, I did.

21 Q So after you spoke to Mr. Gregory on January the 8th,
22 were there other people that you were reaching out to to
23 speak with as well?

24 A Yes.

25 Q And did you have an opportunity to speak to the

WADE YOUNG - DIRECT

1 codefendant in this case, Mr. Montrell Graham?

2 A I did.

3 Q Was that -- and tell us about -- don't tell us what was
4 said yet but just tell us how he came to speak to you?

5 A Well, it was December the 28th he came in, three days
6 after the 25th, he just came in voluntarily on his own free
7 will and accord, said he wanted to speak to the
8 investigator.

9 Q He did.

10 A Yes.

11 Q And since it was your case, were you the one that ended
12 up speaking with him?

13 A Yes, ma'am. Mr. Neil brought him to me and said, "Hey,
14 Mr. Graham want to give you a statement."

15 Q All right. And, Mr. Neil, was he an officer that
16 worked with the sheriff's office at that time?

17 A Yes, ma'am. Agent Neil was an officer that worked us.
18 And normally when someone come through our agency they have
19 to be escorted back, and that's why Mr. Neil escorted him
20 back to the investigation department.

21 Q Whenever he was escorted back to you, did you actually
22 read him his Miranda rights?

23 A Yes, ma'am. I didn't have to because he wasn't being
24 arrested but I did read them to him.

25 Q And you did read them to him. And at that point, was

WADE YOUNG - DIRECT

1 he a person of interest or a suspect in this case?

2 A We had knowledge that he was there.

3 Q Okay. Just that he was there. But as to anything else
4 in regards just to Mr. Graham, that was it.

5 A Yes.

6 Q All right. So there was no -- was there a warrant out
7 for his arrest?

8 A No, ma'am.

9 Q I'm going to show you what's been marked as State's
10 Exhibit Number 12 and State's Exhibit Number 1. First of
11 all as to State's Exhibit Number 12 if you'll just tell me,
12 do you recognize what that document is?

13 A It's a rights form.

14 Q It's a rights form. And on those rights forms, do you
15 actually explain what all of the rights that the person
16 could be giving up if they chose to speak with you?

17 A Yes, ma'am.

18 Q And whose name is on that document?

19 A Mr. Montrell Graham.

20 Q And who witnessed that statement?

21 A Mr. Telly Crockett.

22 Q Was he another investigator with you?

23 A Yeah, he was in the room with me.

24 Q So whenever you went through that -- through the rights
25 form with Mr. Graham, did he appear to understand what he

WADE YOUNG - DIRECT

1 was doing?

2 A He did.

3 Q Is his initial -- are his initials beside each one of
4 the rights he's waiving?

5 A Yes.

6 MS. LIVELY: Your Honor, the State would move State's
7 Exhibit Number 12 into evidence.

8 MR. FRICK: No objection.

9 MR. DUNCAN: No objection.

10 THE COURT: It's admitted.

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

12 Q So clearly then you stated on that day he was not under
13 arrest so he came and talked to you.

14 A Yes. He actually went home that day.

15 Q He went home that day. And during the interview, did
16 you actually tell him he would be going home?

17 A Yes, ma'am, I did.

18 Q Okay. Was the actual interview fairly cordial?

19 A Yes, it was.

20 Q And during the interview -- and we have the actual
21 interview, but was there actually -- did Mr. Graham put
22 himself there?

23 A Yes, he did.

24 Q At the club?

25 A Yes.

WADE YOUNG - DIRECT

1 Q Okay. Did Mr. Graham put himself with the defendant,
2 Quinton McClinton?

3 A Yes, he did.

4 Q Did Mr. Graham tell you who was the one that drove them
5 to the club that night?

6 A Yes, ma'am, he did.

7 Q Who drove them?

8 A Montrell Graham.

9 Q Did he tell you who drove them away from the club?

10 A Mr. Montrell Graham.

11 Q Montrell Graham? And did he tell you who was in the
12 vehicle with him whenever he did?

13 A Yes, ma'am, he did.

14 Q Who was that?

15 A Mr. Carlton Dixon and Mr. Quinton McClinton.

16 Q All right. I'm going to show you State's Exhibit
17 Number 1. Was the interview with Montrell Graham audio and
18 video recorded?

19 A Yes, it was.

20 Q And whenever you audio and video record a statement, do
21 you actually download it and preserve it for potential
22 evidence in a case?

23 A Yes, I do.

24 MS. LIVELY: Your Honor, at this time the State would
25 move in State's Exhibit Number 1 into evidence.

WADE YOUNG - DIRECT

1 MR. DUNCAN: No objection.

2 MR. FRICK: Your Honor, just renew my objection as
3 previously ruled upon in a prior hearing, Denno hearing.

4 THE COURT: It's admitted.

5 (The CD of the interview was received as State's 1.)

6 Q Was anybody detained as a result of -- I'm going back
7 to the actual night -- on the body worn camera, was there
8 anybody that you saw that had to be detained or arrested
9 from that particular night?

10 A No.

11 Q And after you gained information -- well, let me back
12 up. You went to Charlotte and you couldn't interview the
13 victim at that time?

14 A No, ma'am.

15 Q But were you aware from J. P. McNeil as well as from
16 the body worn camera who the potential suspect was in this
17 case?

18 A Yes.

19 Q Did you collect the other statements that were actually
20 gotten by other officers on the scene before you got there?

21 A Before I got to the hospital?

22 Q No. After you left the hospital -- I'm sorry. After
23 you left the hospital because you weren't able to talk to
24 Mr. Gregory, were you able to gather all of the statements
25 at that point to review them for purposes of your

WADE YOUNG - DIRECT

1 investigation?

2 A Yes, ma'am.

3 Q And based upon the information that you read through
4 all of the statements that you had, did you come up with a
5 suspect at that time?

6 A Yes, ma'am, I did.

7 Q And who was that?

8 A Mr. Quinton McClinton.

9 Q Quinton McClinton. All right. And did you have some
10 other concerns about what had happened that night in regards
11 to the victim himself?

12 A I did.

13 Q All right. Well, tell the jury about that.

14 A Actually I had conflicting statements that he was
15 actually shooting also. So at that time I gathered the
16 facts, and after gathering the facts at that time what I had
17 I actually got a warrant on Mr. Gregory also.

18 Q Okay. And you were in here whenever Ms. Benika Kershaw
19 testified, correct?

20 A Right.

21 Q And was the one who called 911?

22 A Yes, ma'am.

23 Q And in that 911 call as well as from her statement, did
24 you have information that concerned you about whether or not
25 Mr. Gregory had a gun?

WADE YOUNG - DIRECT

1 A Yes, ma'am.

2 Q So in that particular situation, did you present that
3 information to a magistrate for the level of probable cause
4 to get an arrest?

5 A Yes, ma'am.

6 Q When did you actually get -- and I'm going to back you
7 up, when did you get or ask for a warrant on Mr. Quinton
8 McClinton regarding his involvement in this case?

9 A It was later on Christmas Day, the 25th, late in that
10 evening sometime.

11 Q When did you get the one on Kochese Gregory?

12 A January 31st.

13 Q January 31st. Okay. So what was the delay, or just
14 tell the jury kind of what was going on.

15 A Just basically trying to gather more information, just
16 trying to see who is credible, who had direct observation on
17 the shooting.

18 Q Okay. All right. And at that time were some of the
19 statements still conflicting?

20 A They were still conflicting.

21 Q So whenever you, as you continue to go through this
22 particular case, was Mr. McClinton actually located at some
23 point and brought in to custody?

24 A Yes, ma'am.

25 Q When was that?

WADE YOUNG - DIRECT

1 A It was February the 3rd, I'm thinking.

2 Q Here, I'm going to show you a document that might
3 refresh your recollection.

4 A January 3rd, I'm sorry.

5 Q And that's 2019?

6 A Yes, ma'am, 2019.

7 Q All right. Okay. And Lieutenant Young, is there any
8 camera surveillance outside the club?

9 A None whatsoever.

10 Q Is there any camera surveillance inside the club?

11 A None whatsoever.

12 Q Did you ever talk to a woman by the name of -- she goes
13 by Tina Davis, or her real name is Terquila Clifton?

14 A I did.

15 Q Well, where was she whenever you interviewed her?

16 A First of all I went to her house, I'm looking for Tina
17 Davis, but when I get there she tells me her name is
18 Terquila Clifton so I'm thinking I got the wrong person.

19 Q Okay. And so what did you -- did you ever actually get
20 her to come in and talk to you at the station?

21 A Yes, ma'am. She was terrified, I mean, she was
22 terrified.

23 Q And what was the issue that you needed to address with
24 her from that night?

25 A Just trying to gather some information, what did she

WADE YOUNG - DIRECT

1 see. Information about the car that she was driving, just
2 basically stuff like that. Just trying to gather more
3 evidence.

4 Q Do you remember when she actually came in and spoke
5 with you?

6 A We spoke several times, I don't remember exactly
7 remember the dates. I want to say one was right after
8 Christmas and we spoke to her another time.

9 Q Okay. At what point in time was the codefendant,
10 Montrell Graham, actually arrested as an accessory after the
11 fact?

12 A I don't exactly remember the dates because the dates
13 runs together in my head. I want to say it was actually
14 January 8th some time.

15 Q So it was after Mr. McClinton was arrested?

16 A Yeah, it was after. No, excuse me. He came in on the
17 27th but he didn't get arrested then -- I mean, he came in
18 on the 28th, he didn't get arrested then, so he got arrested
19 maybe a week or two later.

20 Q Okay. And once again, this was -- were you still going
21 through the evidence and talking to people?

22 A Yes, ma'am.

23 Q I'm going to ask you a couple of more questions just to
24 clear up some stuff on the evidence if you don't mind. I'm
25 going to show you State's Exhibits 43 through 56 that's just

WADE YOUNG - DIRECT

1 been marked for identification. If you'll look through
2 those, Lieutenant Young, if you don't mind. And just make
3 sure that you do recognize those photos.

4 A I've looked through all of them.

5 Q So the first one that I want you to look at, I think
6 that should be the top one, yeah, that's State's -- start me
7 over again, what number.

8 A Forty-three.

9 Q State's 43. What are we seeing in this particular
10 photo whenever you --

11 THE COURT: Excuse me, are these admitted without
12 objection?

13 Q Hold on. I meant to ask you to review each one of them
14 before I can ask to put them in, I apologize, I got ahead
15 myself.

16 THE COURT: Do you object to them? Forty-three through
17 56 is what she is showing.

18 MR. FRICK: No objection.

19 MR. DUNCAN: I don't have any objection.

20 MS. LIVELY: Your Honor, the State would move --

21 THE COURT: They're admitted.

22 MS. LIVELY: Okay. Thank you.

23 (The photos were received as State's 43-56.)

24 Q Okay. So we'll try to go through these kind of
25 quickly. So in regards to this particular picture, what

WADE YOUNG - DIRECT

1 area of the parking lot are we looking at at this point from
2 what view?

3 A It's close to the lower end of the parking lot.

4 Q The lower end of the parking lot?

5 A Yes.

6 Q And would that be from where you're standing from the
7 club and looking out towards the parking lot?

8 A Yes. That was kind of like in the middle right here,
9 though, it's close to the middle.

10 Q And once again, is this just another angle, the next
11 one?

12 A Just a different angle.

13 Q What number is that one?

14 A Forty-four.

15 Q All right. So 45. What I wanted you to explain to the
16 jury, because it was a little confusing yesterday, when you
17 look at this photo, okay, you see where it says Images now
18 open?

19 A Yes.

20 Q Which one of the doors goes into the pool room?

21 A I want to say the double doors actually goes into
22 the -- the pool room, I'm sorry, is actually the single
23 door.

24 Q The single door.

25 A It's closer to the front end of the car.

WADE YOUNG - DIRECT

1 Q So this one right next to where the trash can is?

2 A Yes.

3 Q Okay. So that's the pool room. Where is the main
4 entrance to the dance club?

5 A The double doors to the right.

6 Q The double doors to that right. All right. So that's
7 the different doors that everybody is talking about.

8 A Yes.

9 Q And what number is that one, sir?

10 A Forty-five.

11 Q Now, this particular picture here. We saw in 43 that
12 brown vehicle that you had, the very first picture, is this
13 another angle with all the markers now?

14 A Yes, ma'am, it's a different angle.

15 Q And so all of those shell casings -- what's number
16 four?

17 A Like a pool ball.

18 Q The pool ball. And this again is another angle; is
19 that correct?

20 A Yes.

21 Q And that's number what?

22 A Forty-seven.

23 Q Okay. And here -- I'm going to back up. Is this the
24 same vehicle that we're seeing, the brown one at the very
25 end whenever I go to the next one?

WADE YOUNG - DIRECT

1 A Yes.

2 Q Okay. What's that number, the one that shows the
3 number nine marker and the crushed front end?

4 A Forty-eight.

5 Q Forty-eight? Okay. Was there any significance as to
6 the crushed vehicle --

7 A That was the young lady that called and said she got
8 into the wreck and she drove it to the club that night, to
9 the dance that night.

10 Q So it wasn't wrecked at the club.

11 A It didn't have anything to do with it.

12 Q I just wanted to be sure. So this number nine marker
13 here, what was that identifying?

14 A Blood.

15 Q So that would have been marker nine next to that
16 particular vehicle.

17 A Yes.

18 Q Was that blood ever sent off for testing?

19 A No, it wasn't.

20 Q And whose decision was that?

21 A Mine.

22 Q All right. Why is that?

23 A Because I got information that the blood came from a
24 young man that had got hit with a golf ball, didn't have
25 anything to do with the shooting.

WADE YOUNG - DIRECT

1 Q A golf ball?

2 A I'm sorry, a pool ball.

3 Q Okay.

4 A Both of them would probably do the same damage anyway,
5 it was a pool ball.

6 Q And I'm going to show you actually what's already in
7 evidence as State's Number 39. There was -- well, back up
8 here. That number four marker where you said that was the
9 cue ball?

10 A Yes.

11 Q All right. So that's in close proximity to that
12 vehicle?

13 A Yes.

14 Q All right. Where the blood was documented. Okay. All
15 right. Now, how about this vehicle here, can you tell me
16 what number is that one?

17 A Fifty.

18 Q There was some questions about this particular vehicle.
19 Was there blood on this vehicle?

20 A Yes, ma'am, the same man's blood.

21 Q Okay. And how do you know this?

22 A He told us.

23 Q He told you. Okay. And was he actually -- and I'm
24 getting ready to get to a picture, but that blood right
25 there and then that blood. So which car is it where the

WADE YOUNG - DIRECT

1 blood was actually found, the white car that was found on
2 the front, which one of these white cars?

3 A Let me see what picture you're looking at.

4 Q Sure. And tell me what the State number is so we can
5 be clear for the record.

6 A Forty-seven.

7 Q Okay. State's Exhibit Number 47. It should be the one
8 where you see a bunch of markers right around it.

9 A Yes.

10 Q Okay. All right. So which one then is the one that
11 you swabbed for the -- was -- or not you, I apologize, which
12 one of the vehicles had the blood on the front end that was
13 swabbed by Investigator Sanders?

14 A The white Impala.

15 Q The white Impala, got it. And so we're going to back
16 up or we're going to go forward here. Is that the white
17 Impala?

18 A Yes.

19 Q And where is the blood that was swabbed, do you
20 remember where?

21 A Actually on the front of the bumper.

22 Q Front bumper? Okay. And is that another picture of
23 the white Impala? And you don't have that one, that one is
24 already in evidence, I'm just asking you to look at this.

25 If you need me to find at this will.

WADE YOUNG - DIRECT

1 A Yeah, please do.

2 Q Sure. It's State's Number 13, I'm going to show it to
3 you.

4 A I can't tell if that's the Impala or not at this angle.

5 Q Do you know whose vehicle that is?

6 A I can't remember whose vehicle that is.

7 Q Is that the one that had shots in it, or can you tell?

8 A Yeah, I'm sure it does.

9 Q Well, you need to tell me. I don't want to put
10 words --

11 A Looking at the glass it looks like it's been shattered,
12 the picture is a little blurry to me.

13 Q I'm going to show you, this is State's Exhibit Number
14 14. Maybe this will kind of help you get where it is.

15 A Yes.

16 Q Yes what?

17 A That's the Impala.

18 Q Thank you, so that's the Impala. And in State's Number
19 14, which is a little bit easier to see, you can see where
20 the wrecked brown vehicle was, the white Impala that had the
21 blood on the front, okay? We're good. So these are some
22 more photos, these are already in evidence from yesterday.

23 All right. How about this particular photo that has a
24 marker 16? You should have that one in your new pile.

25 A I found it.

WADE YOUNG - DIRECT

- 1 Q You found it?
- 2 A Uh-huh.
- 3 Q What State's number is that?
- 4 A Fifty-two.
- 5 Q Fifty-two. Thank you. State's Exhibit Number 52 has
- 6 marker 16. Please tell us what item that is.
- 7 A It's an I-phone.
- 8 Q An I-phone. All right. What did you do with the
- 9 I-phone?
- 10 A We took it into evidence.
- 11 Q Okay. Was anything done with it?
- 12 A No, ma'am.
- 13 Q Why not?
- 14 A Well, it was an I-phone, we couldn't get in the code,
- 15 we didn't know the code. In order to get in an I-phone you
- 16 have to get in the code, and the gentleman said he was
- 17 coming back that it belongs to but he never came back to
- 18 give us the password to get into it. So we couldn't -- it's
- 19 still in the office, it's in evidence.
- 20 Q Okay. Was it any -- so the person whose phone -- is he
- 21 actually on the body worn camera coming to get the phone, do
- 22 you remember?
- 23 A I think so.
- 24 Q All right, that's fine.
- 25 A Do you want his name?

WADE YOUNG - DIRECT

1 Q If you can't remember his name, I can't tell you his
2 name.

3 A I said do you want his name?

4 Q Yeah.

5 A His name is Fabian McCullough.

6 Q Okay. So Fabian McCullough. Was he someone who had
7 been identified as being involved in anything that happened
8 that night?

9 A Not to my knowledge.

10 Q From the witness statements and everything you had, did
11 his name come up?

12 A I can't remember. I'm sure it did but I can't
13 remember.

14 Q All right. Okay. Was he a suspect in this case?

15 A No, ma'am.

16 Q All right. There's more pictures. All right. Who is
17 this young man?

18 A That's a James Woodard.

19 Q All right. I'm going to hand you State's 56. Do you
20 have the one that's been standing there, too? So 55 and 56.
21 So who is this person?

22 A He is the gentleman that got hit with the pool ball.

23 Q All right. And did you actually interview this --

24 A No, ma'am.

25 Q Do you know who he came with?

WADE YOUNG - DIRECT

1 A I think Ms. Isom.

2 Q And who is Ms. Isom?

3 A Mr. McClinton's sister.

4 Q Mr. McClinton's sister? And so you never interviewed
5 him?

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

7 Q You didn't, okay. Did anyone with your office actually
8 speak with this --

9 A They did, along with Ms. Isom, we spoke with him.
10 That's how we know he was the one that got hit with the pool
11 ball.

12 Q Got you. And actually these photos, were they taken by
13 Investigator Sanders?

14 A It was. That's why he took the picture. Because this
15 gentleman came to us and said, "Hey, I got hit with a pool
16 ball."

17 Q Well, I'm not going to ask that question. And I'm just
18 going to blow this up just a little bit. Can you tell what
19 is all over his clothing? What does it look like to you?

20 A It looks like blood to me.

21 Q All right. Okay. So you learned that the blood was
22 from another individual that was at the scene. Another
23 matter that was brought up -- and then also the phone, you
24 said -- you've already testified as to that. And as for the
25 GSR regarding the victim's hands, you couldn't get in there

WADE YOUNG - DIRECT

1 because you said they were trying to save his life. What
2 about any GSR on his particular clothing?

3 A No, ma'am. When we was actually -- sent them down,
4 SLED actually don't do that type of analysis anymore because
5 their analysis can't differentiate between the shooter or --
6 the victim or the person that was shooting.

7 Q Okay. From the bullet hitting the person.

8 A Yes, ma'am.

9 Q Okay. All right. So they didn't do the GSR.

10 A No, ma'am, they don't do that type of testing anymore.

11 Q All right. And let me ask you this, in regards to
12 attempting -- did you send all of the shell casings that
13 were found?

14 A Yes.

15 Q Why did you send the shell casings to SLED? What did
16 you ask for?

17 A To see if we could get a swab of some DNA off of them.

18 Q Okay. And you sent that to SLED for them to swab. Was
19 there any DNA for them to --

20 A None whatsoever.

21 Q None, okay. Is that why you got standards, which is
22 called -- from Mr. Quinton McClinton?

23 A Yes, ma'am.

24 Q Does SLED have to have that in order to get a profile?

25 A To make a comparison, yes.

WADE YOUNG - DIRECT

1 Q To make a comparison, okay. So what you're saying --
2 did you pull up the I-lab report from SLED?

3 A Yes.

4 Q That's their final report, correct?

5 A Yes.

6 Q And there was no DNA to compare it to.

7 A No DNA.

8 Q So in this case you have no DNA evidence, correct?

9 A That's right.

10 Q You have no GSR evidence in regards to the defendant,
11 Quinton McClinton?

12 A No, ma'am.

13 Q No blood evidence in regards to the defendant, Quinton
14 McClinton or Montrell Graham, either one.

15 A None whatsoever.

16 Q So was this case basically put together through eye
17 witness testimony?

18 A That's all we had.

19 Q That's all you had.

20 A Yes, ma'am.

21 Q And how difficult was it with getting that eye witness
22 testimony?

23 A Very difficult. We live in a small community and a lot
24 of times people just don't to get out information, people
25 just don't want to talk, they're afraid or whatever, they

WADE YOUNG - DIRECT

1 just don't to talk. That's my family --

2 MR. FRICK: Objection, speculation, Your Honor.

3 THE COURT: Sustained.

4 Q Thank you. Despite those issues, were you actually
5 able to have enough information to clearly have a suspect in
6 this case?

7 A Yes, I did.

8 Q In regards to Kochese Gregory, what ended up happening
9 with his charge for allegedly also shooting?

10 A It was dismissed.

11 Q It was dismissed. And were you okay with that?

12 A I'm okay with it.

13 Q And why is that?

14 A Because I believed his testimony.

15 Q Okay. All right, and --

16 MR. FRICK: Objection, bolstering, Your Honor.

17 THE COURT: Sustained.

18 MR. FRICK: Move to strike.

19 THE COURT: The jury is asked to disregard the last
20 response given by the witness. His role in this is not to
21 determine the credibility of testimony, that's your role,
22 and I think everybody knows that, so --

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

24 Q Well, let me ask you, based on the interviews and
25 reviewing the statements by Mr. Gregory, is that -- let me

WADE YOUNG - DIRECT

1 just see how I can ask that to make sure -- I don't want to
2 confuse you. Based upon all of the information at the end
3 of the day, watching the body worn cameras and every bit of
4 information that you had, did you have information as to who
5 was potentially the initiator of the shooting?

6 A Yes, I did.

7 Q Was it Kochese Gregory?

8 A No, ma'am.

9 Q So if he had a weapon, was he the one who started
10 shooting?

11 A No, ma'am.

12 Q From what you gathered in your investigation.

13 A From the statements I gathered.

14 Q All right. So from everything you gathered, who was
15 the initiator of the shooting?

16 A Mr. McClinton.

17 Q Quinton McClinton. And who drove him away from that
18 scene?

19 A Mr. Graham, Montrell Graham.

20 Q Montrell Graham?

21 MS. LIVELY: Your Honor, at this time the State would
22 like to publish the statement of Montrell Graham.

23 THE COURT: All right.

24 MS. LIVELY: Your Honor, may we approach just one
25 moment?

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1 (A bench conference was held.)

2 MS. LIVELY: If the defense doesn't object I can scroll
3 past the Miranda.

4 THE COURT: You can play whatever portion, it's in
5 evidence, if they want to play more they can.

6 (The video was played.)

7 THE COURT: Let's take a break before we continue with
8 the examination. I'll ask the jury to please go to your
9 jury room, don't discuss the case, I'll bring you back after
10 that.

11 (The jury left the courtroom.)

12 THE COURT: Mr. Young, you can step down but don't
13 discuss your testimony during the break.

14 THE WITNESS: Thank you, sir.

15 THE COURT: We'll be at ease for 15 minutes.

16 (A recess was taken.)

17 THE COURT: Bring in the jury.

18 (The jury returned to the courtroom.)

19 THE COURT: All right, you may proceed.

20 MS. LIVELY: Thank you, Your Honor.

21 BY MS. LIVELY:

22 Q Just a couple more questions for you, Lieutenant Young.
23 First of all, in the video that we just watched you kept
24 mentioning knowing kids and being in the 6th grade in that.
25 What did you used to do whenever you were in Chester County?

WADE YOUNG - DIRECT

1 A Before I became an investigator I was a school resource
2 officer.

3 Q Okay. So a school resource officer. So do you know
4 several children and kids that are grown up here in the
5 area?

6 A Yes, ma'am, I do.

7 Q All right. I'm going to show you State's Exhibit
8 Number 2 that's been marked, it's not into evidence yet, but
9 I'm just going to ask you to flip through, one, two, three,
10 four pictures and just tell me if you recognize the people
11 that are actually reflected in those pictures. And once
12 you've looked through it, if you'll tell me the ones that
13 you do recognize.

14 A Yes.

15 Q Okay. Who do you recognize?

16 A I recognize Ms. Tina Davis, Terquila Clifton.

17 Q Terquila Clifton. Okay.

18 A Mr. Troy Killian.

19 Q Troy Killian. Is that George Killian?

20 A Yes, George Killian. Mr. Killian is on another
21 picture. And also Mr. Killian, and it looks like Mr. Young,
22 James Young.

23 Q All right.

24 MS. LIVELY: Your Honor, the State would introduce
25 State's Exhibit Number 2 into evidence at this time.

WADE YOUNG - DIRECT

1 MR. DUNCAN: No objection.

2 THE COURT: How many photos are in it?

3 MS. LIVELY: Four.

4 MR. FRICK: No objection.

5 THE COURT: They're admitted.

6 (The photos were received as State's 2.)

7 Q So in State's Exhibit Number 2, the second to the last
8 picture, is that who you're referring to as being Tina
9 Davis?

10 A That's Ms. Tina Davis.

11 Q And at the time you went to talk to her that day you
12 weren't sure who she was or what she looked like.

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

14 Q But you know that's her now.

15 A I know her now.

16 MS. LIVELY: Thank you so much, Lieutenant Young.
17 Please answer any questions that the defense has for you.

18 MR. DUNCAN: Thank you, Your Honor.

19 CROSS EXAMINATION

20 BY MR. DUNCAN:

21 Q Good afternoon, Lieutenant Young.

22 A Good afternoon, sir.

23 Q Lieutenant Young, you testified you have been with the
24 Chester County Sheriff's Office for 11 years?

25 A Yes, sir.

WADE YOUNG - CROSS

1 Q Okay. And you've been in investigations for five?

2 A For five years, yes, sir.

3 Q All right, sir. And you were testifying just now that
4 you had been a school resource officer.

5 A Yes, sir.

6 Q Is that -- you do that the first six years you were
7 with Chester County?

8 A No, sir. I was a patrol officer first.

9 Q How many years did you serve as a resource officer?

10 A About four years.

11 Q And that was at what school?

12 A Chester Middle School, Chester High School.

13 Q And so you were saying on the video that we just
14 watched you've know Montrell Graham since he was in like
15 sixth grade.

16 A Yes, sir.

17 Q All right. Investigator Young, I think I also
18 understood that you happened to be -- somebody has got to be
19 the on-call investigator on Christmas week, that was you.

20 A That was me.

21 Q And so you -- this call came to you from Sergeant
22 Thorpe, did I hear that right?

23 A Dispatch, 911.

24 Q 911 dispatch, call goes to the investigator, on call
25 investigator.

WADE YOUNG - CROSS

1 A Yes, sir.

2 Q And that was at approximately 2:00 on Christmas
3 morning?

4 A Somewhere around 2:00.

5 Q And you were -- I don't need to know everything you
6 were doing --

7 A I was asleep, sir.

8 Q But you were asleep at your house.

9 A Yes, sir.

10 Q And you arrived at the scene, I think you said, about
11 3:25.

12 A Somewhere around, about 3:25.

13 Q So within an hour and a half.

14 A Yes, sir.

15 Q All right, sir. And again, when you got there, we've
16 seen body camera footage that was before your arrival,
17 correct?

18 A Yes, sir.

19 Q By the time you got there I think I understood the
20 parking lot had been taped off.

21 A Yes, sir.

22 Q And you actually talked to -- the only person that you
23 talked to at the scene was James McNeil.

24 A And Sergeant Brian Thorpe.

25 Q I'm sorry. The only non-law enforcement person you

WADE YOUNG - CROSS

1 talked to was James McNeil.

2 A Yes.

3 Q All right. And then you said -- who was your
4 supervisor at the time?

5 A Captain Phillip Perry and Major Burley McDaniel.

6 Q All right. And you were instructed to go to Charlotte.

7 A Yes, sir.

8 Q And that's where you went.

9 A Yes, sir.

10 Q And again, I want to understand, I understand the
11 complications of once you arrived at the hospital in
12 Charlotte that the main focus was not you, the main focus
13 was working on Mr. Gregory. But you did say you attempted
14 to get gunshot residue on his hands.

15 A That was my purpose for going there.

16 Q That's why you went.

17 A Yes, sir, that was my purpose in going. But I never
18 got a chance to get near him because he was being treated,
19 they were trying to stabilize him and everything, so I never
20 even got a chance to see him.

21 Q You did not lay eyes on Mr. Gregory at Charlotte, North
22 Carolina.

23 A No, sir.

24 Q On that day.

25 A That morning, no, sir.

WADE YOUNG - CROSS

1 Q All right. When you -- so you came back to Chester on
2 the morning of Christmas morning?

3 A Yes, sir.

4 Q All right. And you had a chance -- did you have a
5 chance at that point to review the body camera footage from
6 Sergeant Thorpe?

7 A Not at that time.

8 Q All right. Here is my ultimate question, where I'm
9 getting to, you swore out an arrest warrant for my client,
10 Mr. McClinton --

11 A Yes, sir.

12 Q -- on that day as I recall.

13 A Yes, sir.

14 Q Is that correct?

15 A That's correct, that evening.

16 Q On that evening. So the afternoon/evening of
17 Christmas.

18 A Yes.

19 Q All right. At that point in time, was that warrant
20 based on the written statements that you had from other
21 officers?

22 A It was based on the written statement I had from the
23 body camera footage of the police officer, Mr. Rinke.

24 Q That's what I want to know.

25 A And also what Mr. Gregory gave to Mr. McNeil.

WADE YOUNG - CROSS

1 Q Okay. All right. I asked poorly awhile ago. You
2 didn't review Sergeant Thorpe's camera, body camera footage,
3 but you did review the city police officer, Officer Rinke.

4 A Yes, sir, Rinke.

5 Q Rinke, R-i-n-k-e, I think, Officer Rinke. But you did
6 see that --

7 A Yes, sir.

8 Q -- on that day, on Christmas Day. All right. And
9 you've been here through almost all of the trial, maybe not
10 every witness, but you've been here throughout the trial.
11 You've seen that chaotic sequence on the body camera
12 footage, a lot of people yelling, a lot of noise, a lot of
13 commotion and that was all, as you understand it, taking
14 place some time between 2:00 a.m. and when you arrived at
15 approximately 3:25; is that correct?

16 A That's correct.

17 Q All right. On that -- as you watched that camera you
18 hear names, do you recall hearing the name Katril on that
19 video?

20 A That sound like one time.

21 Q At least one time a person named Katril. Do you know a
22 Katril in Chester?

23 A I've heard of a Katril. I don't know his name but I
24 heard of a Katril.

25 Q Do you know, is Katril a different person than Quinton

WADE YOUNG - CROSS

1 McClinton?

2 A Yes.

3 Q Okay. So that's a completely distinct individual from
4 my client, Mr. McClinton.

5 A As far as my knowledge.

6 Q So anyway, based on what you had as of the night of
7 December 25th you sought a warrant. You went to the
8 magistrate and swore out a warrant for Mr. McClinton's
9 arrest for attempted murder.

10 A Yes, sir, I did.

11 Q All right. And then, of course, we just watched an
12 interview with Mr. Graham a couple of days -- I think the
13 28th, December 28th; is that correct?

14 A That's correct.

15 Q All right. And at that point I know on questioning
16 from the solicitor you said Mr. Graham was going to go home
17 that day, and he did go home that day, correct?

18 A Yes.

19 Q But within a few days a warrant was sworn out for Mr.
20 Graham's arrest for accessory, the charge he's sitting over
21 here for today.

22 A Yes.

23 Q All right. And a warrant was sworn out on the 25th for
24 Mr. McClinton. It was a few days, like January 3rd, I think
25 you said, but I'm not holding you to the exact date that

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1 Mr. McClinton was arrested, but some time within ten days of
2 swearing out the warrant Mr. McClinton was arrested.

3 A Yes.

4 Q All right. And then Mr. Graham was arrested within
5 like a week of that.

6 A Yes, sir.

7 Q Okay. And then, you know, the solicitor asked you
8 about this and I obviously want to know, too, on -- you had
9 interviewed -- you attempted to interview Kochese Gregory on
10 December 27th but couldn't talk to him, he was too
11 medicated, you couldn't get to him.

12 A Right.

13 Q But on January 8th you did go back to Charlotte and did
14 meet with Mr. Gregory.

15 A Yes.

16 Q And you got information from him at that time.

17 A At that time I did.

18 Q Your investigation obviously continued, and on
19 January 31st you sought -- swore out an arrest warrant for
20 attempted murder against Mr. Kochese Gregory. Correct?

21 A Yes, I did.

22 Q And Lieutenant Young, that is based on a number of
23 statements that you had gathered from various individuals at
24 that time?

25 A Conflicted statements, yes.

WADE YOUNG - CROSS

1 Q And you had statements saying one group of people were
2 shooting from one end of the parking lot at the Images; is
3 that correct?

4 A Yes.

5 Q And then you had other statements saying that shots
6 were coming from near the club entrance.

7 A Yes.

8 Q And you had individuals saying that Kochese Gregory
9 the -- or a man wearing a green sweater that matched the
10 clothes that you had from Mr. Gregory was the individual
11 shooting.

12 A Yes. Some statements said that, some statements said
13 he wasn't shooting first but they said he did return fire.

14 Q In any event you felt like at that time --

15 A At that time.

16 Q -- that you had sufficient cause to seek a warrant
17 against Mr. Gregory.

18 A Yes, sir. I can't pick and choose sides, sir, I have
19 to go with the facts that I had at that time.

20 Q All right. And again, that was on January 31st of
21 2019.

22 A Yes, sir.

23 Q You indicated there are no surveillance cameras
24 anywhere on the premises of Club Images.

25 A No, sir.

WADE YOUNG - CROSS

1 Q Nothing inside, nothing outside.

2 A No, sir. All I have is eye witness testimony, eye
3 witness accounts.

4 Q That's all you had then and that's all you have now.

5 A That's all I have now.

6 Q I'm going to show you this exhibit, if you would take a
7 look.

8 A Yes, sir.

9 Q I just handed you State's Exhibit Number 56, and
10 that -- can you identify -- do you recognize that
11 individual?

12 A Yes, sir, that's Mr. James Woodard.

13 Q Okay. And your investigation, I think you testified on
14 direct exam that Mr. Woodard, as shown in that photograph,
15 had an injury to his head?

16 A Yes.

17 Q And there was blood -- I think it was on State's
18 Exhibit Number 9, but there's a photograph of blood in the
19 parking lot, and you indicated that no testing was done on
20 that blood because Mr. Woodard said that's his blood.

21 A Yes.

22 Q All right. And you were able to confirm that -- you
23 were satisfied that that was correct based on the
24 information that you could gather.

25 A Yes. I was satisfied with that information. Because

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1 at that area where the blood was at nobody had claimed to
2 have been hit in that area.

3 Q And the pool ball was right there.

4 A Not shot with a gun.

5 Q I understand, not a gunshot but it was a pool ball in
6 close proximity to -- found there.

7 A Yes.

8 Q And Mr. Woodard said, "I've been hit with a pool ball."

9 A That's what he told my investigator.

10 Q Right. Didn't tell you, told another law enforcement
11 officer.

12 A Yes, sir.

13 Q And I think you described Mr. Woodard as being a friend
14 of my client, Quinton McClinton's sister?

15 A I can't say for sure, but if I recollect correctly she
16 was brought -- I think Ms. Isom brought him over there to
17 talk with me.

18 Q To the sheriff's department.

19 A No. I think it might have been on the scene that
20 night.

21 Q Oh, okay. All right. You think it was the same night,
22 the night of the incident.

23 A Yes, sir.

24 Q And that makes --

25 A So we could take pictures of it.

WADE YOUNG - CROSS

1 Q Obviously he had photographs on that night, it was not
2 a later time.

3 A No, sir. Mr. Sanders photographed him that night.

4 Q Sure. You testified about an I-phone, I think it is
5 State's Exhibit number 52, but it's the only phone that's in
6 evidence and nothing was done as to that phone because you
7 found out whose phone it was. But it didn't appear --

8 A No, sir. We couldn't get the codes to open it so they
9 can't do any test on it without the codes, that's what I'm
10 told.

11 Q Okay. All right.

12 A I'm sorry, without the password.

13 Q I understand. And you -- got it.

14 MR. DUNCAN: Beg the Court's indulgence just a moment.

15 (Break in proceedings.)

16 MR. DUNCAN: I don't have anything further for
17 Lieutenant Young.

18 CROSS EXAMINATION

19 BY MR. FRICK:

20 Q Lieutenant Young, I'll try to keep this as brief as
21 possible, I know we're getting close to lunch. All right.
22 So as the on-call investigator you were the lucky one who
23 inherited this case --

24 A On Christmas Day we -- actually all of the
25 investigators came out that night.

WADE YOUNG - CROSS

1 Q I know. But somebody has got to be the lead man and
2 you got to be the lead man on this one, right?

3 A Yes, sir.

4 Q So everything about this case kind of goes through you,
5 right?

6 A Yes.

7 Q And I know you've got supervisors but you're the one up
8 here testifying today.

9 A Exactly.

10 Q Because it's your case. And I believe it was testified
11 to earlier that the person who made the call as to what got
12 sent to SLED and what kind of tests, that's your call; is
13 that correct?

14 A Yes.

15 Q Okay. And your call in this case was to send the shell
16 casings for possible DNA.

17 A Yes.

18 Q Could you have requested other testing?

19 A Yes.

20 Q Give me some kind of example.

21 A I don't understand your question, sir.

22 Q What kind of testing could you have asked for on shell
23 casings?

24 A I just basically know maybe swabbing for DNA.

25 Q Right. But, I mean, there are other testing --

WADE YOUNG - CROSS

1 A I'm pretty sure it is, but at that time I didn't have
2 much knowledge of what could be done with the shell at that
3 time.

4 Q All right. But you've been in law enforcement for
5 awhile, right?

6 A Yes, sir.

7 Q Are there unique features of firearms that they leave
8 on shell casings?

9 A Yes, sir.

10 Q Is SLED, to your knowledge, equipped to examine these
11 things?

12 A I'm sure they are.

13 Q You didn't request that, though, right?

14 A No, I didn't.

15 Q The only thing you requested was the DNA analysis.

16 A Yes, sir.

17 Q And there is no DNA, correct?

18 A There was no gun, either, to match it too.

19 Q Hold on, we'll get there in a second. My question is
20 there was no DNA, right?

21 A No, sir.

22 Q And you had Quinton McClinton's DNA, right?

23 A Yeah. We did get a swab of his DNA.

24 Q Did you get anybody else's DNA?

25 A Not that I can remember, no.

WADE YOUNG - CROSS

1 Q We didn't get Kochese Gregory's DNA.

2 A No.

3 Q We didn't get Montrell Graham's DNA.

4 A No, I didn't.

5 Q There's a whole lot of names, I ain't going to go
6 through them right now, but we didn't get their DNA either,
7 right?

8 A No.

9 Q In fact, some of those folks were mentioned in other
10 statements as possible shooters as well, were they not?

11 A Yes.

12 Q Junior McClinton?

13 A Yeah.

14 Q Maybe other folks. That's the only one that comes to
15 my mind right now, but there were other folks, right? Okay.
16 And, in fact, you learned through your investigation that a
17 vehicle struck Mr. McClinton in front of the club, right?

18 A Yes, I did.

19 Q And you learned who this person was, right?

20 A Yes.

21 Q Tina Davis is what you --

22 A Yes.

23 Q And you tracked down a Tina Davis, correct?

24 A I did.

25 Q And when you knocked on her door she said she was who?

WADE YOUNG - CROSS

- 1 A She gave me her real name, Terquila Clifton, that's her
2 real name. Tina Davis is a nickname that she uses so I
3 don't know nicknames. They told me Tina Davis so that's who
4 I went looking for, Tina Davis.
- 5 Q But that's her address, correct?
- 6 A Yes.
- 7 Q And Tina Davis and Terquila are the same person, right?
- 8 A Terquila Clifton.
- 9 Q And you identified who you were, right?
- 10 A Yes, sir.
- 11 Q And I'm sure you told her why you were there, right?
- 12 A Yes, sir.
- 13 Q And you told her you were there about the shooting at
14 the club that night, right?
- 15 A I was just trying to gather information.
- 16 Q Okay.
- 17 A Just trying to gather information and didn't know she
18 was the same one that had been accused of the Tina Davis
19 that was driving the car, at that time I didn't know.
- 20 Q Okay. But later you -- and she didn't offer that at
21 that time, did she?
- 22 A No, sir.
- 23 Q But later you determined that that was the case.
- 24 A I sure did.
- 25 Q Going back to the scene, I just want to make sure we're

WADE YOUNG - CROSS

1 clear, all right? So we've talked about blood that's in
2 kind of a pool, I'll call it -- I don't know what you would
3 refer to it but I'll call it a pool, if that's wrong correct
4 me, beside the car at this marker number nine, correct?

5 A Yes, sir.

6 Q Okay. Looking at it it's blood, right?

7 A Yes.

8 Q And there was also some talk about a swab taken off of
9 the Impala, the front of the Impala?

10 A Yes.

11 Q And now these cars were parked kind of close to each
12 other, but it's two separate spots, is it not?

13 A It was close, it was close. The blood splatter on the
14 car was close.

15 Q And the cue ball that -- well, it's right here. The
16 cue ball, that was close to there, too, right?

17 A Yes.

18 Q And then Mr. Woodard, who I'm going to show you State's
19 Number 55, that's the guy who got hit.

20 A Yes.

21 Q Or that's what your investigation determined.

22 A Yes.

23 Q And first can you tell me, this is taken that night,
24 correct?

25 A Yes.

WADE YOUNG - CROSS

- 1 Q Can you tell me what he's wearing?
- 2 A He's wearing a brown coat and blue jeans.
- 3 Q So he's not there that night near those cars where
- 4 those shell casings are too, right?
- 5 A Yes.
- 6 Q But based on his word that he got hit and that's his
- 7 blood, you didn't test it.
- 8 A I didn't test it.
- 9 Q Okay.
- 10 A Can I explain why I didn't test it?
- 11 Q Sure.
- 12 A Because at that time I had direct observation on who
- 13 shot who.
- 14 Q From whom?
- 15 A From the victim.
- 16 Q From the victim.
- 17 A Victim.
- 18 Q Whom you later arrested for the same crime.
- 19 A He didn't get arrested for the crime charged but he got
- 20 charged.
- 21 Q From that night, though.
- 22 A Yes, from that night.
- 23 Q Okay. All right. But you still conducted the
- 24 investigation, correct?
- 25 A Yes, I did.

WADE YOUNG - CROSS

1 Q I mean, you got the warrant on Mr. McClinton Christmas
2 Day.

3 A I did.

4 Q And you got the warrant on Mr. Graham a couple of weeks
5 later, I think it was January 7th, correct?

6 A Somewhere around that date, sir.

7 Q Okay. And then you get the one on Mr. Gregory, I
8 think, the end of January, right?

9 A Still early in the investigation.

10 Q Right. What I'm saying, though, is you're still
11 conducting the investigation --

12 A Yes, sir.

13 Q -- you now have questioned possibly in your own mind
14 who the shooter is. Do you remember on the body cam, Thorpe
15 or Burch, and I don't know which one of them said there was
16 the potential that the shooter's blood was out there?

17 A I didn't hear that part, sir. I'm not saying it's not
18 on there, I don't remember that.

19 Q Is it not, in fact, true that law enforcement called to
20 other hospitals to see if a gunshot wound victim had shown
21 up?

22 A Yes, sir.

23 Q Called Fairfield.

24 A Yes, sir, we did.

25 Q Called Rock Hill.

WADE YOUNG - CROSS

1 A We did.

2 Q Piedmont, I guess. Called Springs over in Lancaster,
3 correct?

4 A Yes, sir.

5 Q So there was a question about this shooter being
6 injured, right?

7 A There wasn't a question about the shooter, sir, it was
8 a question about the shooting. There was a lot of shooting
9 going on so we just wanted to make sure nobody else was hit.

10 Q Couldn't you determine that by testing blood?

11 A Not at that time, we couldn't test it that night. We
12 made those calls that night.

13 Q Right. But you took swabs of it.

14 A Yes, we did.

15 Q Why did you stake swabs of it?

16 A At first when we took the swabs we didn't know whose
17 blood it was, but we took them.

18 Q Well, you still don't know, do you?

19 A We took his word for it.

20 Q Took his word and Kochese Gregory's word, right?

21 A We did.

22 Q And based on that didn't send it to SLED.

23 A We didn't send that to SLED.

24 Q Did you talk to a Mr. Foster, the club owner, that
25 night?

WADE YOUNG - CROSS

1 A I didn't.

2 Q And I'm going to go back and talk about the phone for a
3 second. I think you testified that it was possibly Fabian
4 McCullough's phone?

5 A Yes, I did.

6 Q And he was, in fact, out there, right?

7 A Yes.

8 Q In fact, he kind of left the scene, didn't he?

9 A Yes.

10 Q I mean, on the body camera aren't they kind of going,
11 "Hey, that guy left," didn't they?

12 A Yes, sir.

13 Q And he didn't come back, but you knew who it was, or
14 somebody knew who it was.

15 A Yes, sir.

16 Q All right. You were a SRO for a long time, have you
17 run across Mr. Fabian McCullough?

18 A I don't know Mr. Fabian, not like that.

19 Q Do you know if he's local?

20 A He's local.

21 Q He's local. Okay. Could you have found him and asked
22 him?

23 A We looked for him. He actually told us he was coming
24 to give us the code and never showed up.

25 Q He was coming but he didn't show up.

WADE YOUNG - CROSS

- 1 A He never showed up.
- 2 Q But y'all couldn't have gone out and found him?
- 3 A They did look for him, sir.
- 4 Q I mean, you found Tina Davis.
- 5 A Yes, sir.
- 6 Q One more witness, Daverican Gregory, Chocolate Pudding.
- 7 You attempted to talk to him, correct?
- 8 A Yes.
- 9 Q In fact, I believe he stayed down in Winnsboro now,
- 10 right?
- 11 A Yes, he do.
- 12 Q You offered to meet him down at the sheriff's
- 13 department in Fairfield.
- 14 A I did.
- 15 Q Set up a meeting, correct?
- 16 A I did.
- 17 Q How many times do you recall, approximately, you may
- 18 not have it in front of you, how many times did you try to
- 19 get up with him?
- 20 A Maybe two or three times.
- 21 Q Two or three times. He never showed.
- 22 A Didn't show. Each time he told me he was working and
- 23 couldn't get off of work.
- 24 Q Right. And you offered to reschedule each time, didn't
- 25 you?

WADE YOUNG - REDIRECT

1 A I did.

2 Q But he never volunteered to show up, did he?

3 A No, sir.

4 Q Now, just finally -- so the State asked you, I think
5 Mr. Duncan asked you, I feel like I would be remiss if I
6 don't ask you, so essentially this case relies on the eye
7 witness testimony for the folks who have been in this very
8 courtroom.

9 A Yes.

10 Q And that's it.

11 A That's it, sir.

12 MR. FRICK: Thank you, sir. That's all of the
13 questions I have.

14 MS. LIVELY: Just one redirect.

15 REDIRECT EXAMINATION

16 BY MS. LIVELY:

17 Q Now, Mister -- or I'm sorry, Lieutenant Young, when you
18 send a request to SLED for them to test for any kind of
19 touch DNA, do you have to have a standard or a swab from a
20 person for them to use to compare?

21 A Yes. We've got to have a known standard.

22 Q Okay. And that known standard was from Mr. Quinton
23 McClinton?

24 A Yes, it was.

25 Q So when these shell casings, which we have quite a few,

WADE YOUNG - REDIRECT

1 when those shell casing are sent down there before SLED even
2 can do anything, what do they have to actually find on those
3 shell casings in order to then compare it to --

4 A They have to find DNA.

5 Q It has to be DNA. Was there any DNA on any of those
6 shell casings?

7 A There wasn't.

8 Q So they couldn't do a test.

9 A They couldn't do a test.

10 Q No. So no matter how many swabs you would have sent
11 down there and how many different people, would it have made
12 a difference?

13 A It's wouldn't have made a difference.

14 MS. LIVELY: Okay. Thank you.

15 MR. FRICK: Just briefly, Your Honor.

16 RECROSS EXAMINATION

17 BY MR. FRICK:

18 Q But you don't need a DNA swab for tool marking, do you?

19 A No, sir. You need a gun to compare it with, though.

20 Q Do you?

21 A I feel like on a shell you do.

22 Q You feel like it.

23 A I can't say 100 percent sure, I don't do that type of
24 testing.

25 Q Right. Okay.

WADE YOUNG - RECROSS

1 A I get the experts to do that for me.

2 Q And that would be the folks in SLED, right?

3 A Yes.

4 Q And the solicitor asked you about the clothing. I
5 believe you said you tried to get them to get GSR, right?

6 A Can I explain to you what they told me?

7 Q Yes. They said they wouldn't do it, right?

8 MS. LIVELY: I'm going to object, that's outside the
9 scope of my redirect.

10 THE COURT: Sustained.

11 MS. LIVELY: Thank you.

12 THE COURT: You may step down.

13 MS. LIVELY: Your Honor, at this time the State rests
14 its case.

15 THE COURT: All right. That is all of the testimony or
16 evidence to be offered by the State, at least in their case
17 in chief. Before we go any further I've got some matters to
18 address with the lawyers and it's also a good time to break
19 for lunch so we'll do that. Keep in mind you still can't
20 talk about the case, no research, no investigation, no media
21 exposure, have a good lunch. Please report to your jury
22 room at 2:00, at 2:00 this afternoon.

23 (The jury left the courtroom.)

24 THE COURT: Mr. Duncan, do you have any other motions
25 or other matters you would like to address?

1 MR. DUNCAN: I do, Your Honor. I would move for a
2 directed verdict on behalf of Mr. McClinton as to all three
3 charges set forth in the various indictments on the grounds
4 there's a failure of competent evidence to prove the charges
5 against Mr. McClinton as set forth in the indictment. I
6 think the only testimony -- the only testimony putting a
7 gun, a firearm in Mr. McClinton's hand comes from the
8 alleged victim, Kochese Gregory. And quite -- I realize
9 it's not the Courts's province to weigh the evidence but I
10 think it's Kochese Gregory's testimony is so not credible as
11 to not rise to the level of competent evidence. I've -- the
12 body cam footage where people are yelling the names of
13 people at the scene who are alleged to have been shooting,
14 there is a name Tril that is said, there's a name Katril.
15 There is testimony of one of the Killian brothers who says
16 Junior McClinton or Carlton Isom Dixon or Quinton McClinton,
17 one of those three shot Kochese. Again, there's testimony
18 that there is shooting from the bottom of the parking lot
19 where Mr. McClinton's group, Quinton McClinton's group is
20 said to have gone. But, Your Honor, no jury could find Mr.
21 McClinton guilty beyond a reasonable doubt based on the
22 testimony that some fellows wearing brown jackets maybe who
23 went down at the bottom of the parking lot were firing shots
24 back toward the club, that is not -- in my estimation is not
25 competent evidence sufficient to withstand a directed

1 verdict, and I seek a directed verdict pursuant to Rule 19.

2 THE COURT: Ms. Lively?

3 MS. LIVELY: Your Honor, I respectfully disagree with
4 the recitation of the facts in regards to the witnesses in
5 this case. We do have eye witness testimony from several
6 people who identified on the record here in court as well as
7 during time giving statements as to Quinton McClinton being
8 the one who had a pistol inside of the club, that being Big
9 Troy, George Killian, who then said he saw Mr. McClinton
10 actually pull the weapon out and shoot at Kochese Gregory
11 and basically shoot at, you know, whoever was standing out
12 there. He clearly identifies him, clearly identified him in
13 court here this week. Then we also have Chocolate Pudding,
14 which is Daverican Gregory, who stated that he also saw Mr.
15 Quinton McClinton with a gun and he included Mr. Montrell
16 Graham in that recitation of the case as well as having a
17 gun, too, and that they had run back over to the car and
18 started shooting back over the vehicle, and he puts a gun in
19 both of their hands. Then we have Ms. Tina Davis, a.k.a.
20 Terquila Clifton, who also said, and we saw it on the body
21 worn camera, that they were shooting from the parking lot
22 towards the club, and it was the gentleman that were wearing
23 brown jackets and she saw them. And she also knows Montrell
24 Graham because that is her cousin. Then we have Bernice
25 June who stated that she knows Quinton McClinton and that

1 they were shooting like hell back towards Big Troy, which is
2 George Killian. So in the light most favorable to the State
3 I would say that that is more than substantial
4 circumstantial evidence as well as direct evidence from the
5 victim who stated that it was Quinton McClinton who shot him
6 that night.

7 THE COURT: Mr. Duncan, anything further?

8 MR. DUNCAN: No, Your Honor.

9 THE COURT: There is sufficient evidence to make it a
10 jury question so your motion for a direct verdict is denied.
11 Do you have any other grounds? I'm not suggesting that you
12 do.

13 MR. DUNCAN: I'm just studying about it, Your Honor.
14 No, Your Honor.

15 THE COURT: Mr. Frick?

16 MR. FRICK: Thank you, Your Honor. At this time on
17 behalf of Mr. Montrell Graham I would move for a directed
18 verdict on the charge of accessory after the fact. As the
19 Court well knows the three elements of accessory after the
20 fact, the felony has to have been completed. And in this
21 particular case the indictment, as drafted, says that that
22 felon -- the felony was an attempted murder and the felon
23 who committed it would have been Mr. Quinton McClinton.
24 Judge, I concede that they probably have a scintilla of
25 evidence to prove -- to get that burden across. But in

1 regard to number two, the defendant, Mr. Graham, must have
2 knowledge that the principal committed the felony. I don't
3 think they have got a sufficient evidence in that regard to
4 meet the burden at this level of directed verdict, which, of
5 course, is taking the evidence in the most favorable light
6 of the State. And then number three, which I think they
7 clearly fail on is the defendant must harbor, aid or assist
8 the principal with the intention of aiding the principal to
9 escape detention or arrest. You've got to have intention or
10 purpose of assisting or aiding the principal. And quoting
11 the Anderson charge book, mere act of charity, which relieve
12 or comfort a fellow but do not hinder his apprehension and
13 conviction nor aid his escape will not render one accessory
14 after the fact. Judge, the only evidence they've got that
15 he did anything in that regard was, in fact, my client's own
16 statement who said it was a shooting going on, I got in the
17 car and I drove away. That's what they have, Judge. I
18 don't think that reaches the level that is required at this
19 point and I would respectfully ask for a directed verdict.

20 THE COURT: Ms. Lively?

21 MS. LIVELY: Yes, sir, Your Honor. In regards to the
22 defendant, Mr. Montrell Graham, what we have is eye witness
23 testimony that puts him there with the defendant, Quinton
24 McClinton, at the time the shooting happened. We know for a
25 fact that obviously Kochese Gregory was hit from a weapon

1 that came from the area where Montrell Graham and Quinton
2 McClinton were located. It was his car that they got into
3 and left in and he was driving from the area where a
4 shooting had just taken place. Your Honor, during that time
5 he then comes back, not on the day when everybody is coming
6 back to give statements, but he comes in voluntarily and
7 does speak with Wade Young at that time. Whenever he speaks
8 to him, at that point Lieutenant Young has already spoken to
9 other witnesses and also seen the statements of other
10 witnesses that puts Mr. Graham at the club. So we've got
11 him clearly there. We've got him clearly with Quinton
12 McClinton, who was seen with a weapon inside the club as
13 well as outside the club with Montrell Graham. He was there
14 during the fight of Quinton McClinton and Kochese Gregory at
15 the time. He actually says that he sees in his statement,
16 that he sees Ryan Gregory hand a gun to Kochese Gregory and
17 as he's walking with Quinton, or running with Quinton to go
18 back to the car his statement is "I had to duck, I was
19 ducking." And then the question from Wade Young was, "Well,
20 where were the shots coming from? From the parking lot" --
21 or, "I don't know." And then they said, "Well, was it your
22 people?" And then finally where we get to is it was his
23 people, and his people that were with him that night were
24 Quinton McClinton and Carlton Dixon. And we have -- hold
25 on, where is it? I'm sorry, right here. And I mentioned

1 earlier when I was talking about Quinton McClinton that
2 Chocolate Pudding, who actually said, which is Daverican
3 Gregory, that where they were fighting that he, Mr. Graham,
4 was also where they were shooting forward towards the club,
5 which is where Kochese Gregory and Mr. Daverican Gregory
6 were, and that McClinton was also shooting. So they leave
7 from the area where shots had just been fired from the area
8 where the vehicles were out in the parking lot, which is
9 where Montrell Graham puts himself as well as Quinton
10 McClinton. We then said Kochese said that he saw Montrell
11 with Quinton and was there when Kochese was getting beat and
12 then whenever he got shot, and that's whenever he said he
13 didn't see him anymore after that. Then we also have all of
14 the shell casings in the area outside of where the actual --
15 away from the club. There were a couple that were close to
16 the club, but away from the club in the area where Montrell
17 Graham in his statement stated that he had to go out to get
18 to his vehicle in order to leave. This is where all of
19 these shell casings were where he got into that vehicle
20 where the shooting had to have been taking place, get in the
21 car and left the scene, so he had information. And he even
22 talked to Wade whenever he came in at that statement and
23 said, "Yeah, I talked to him yesterday. Quinton told me to
24 go in and give a statement to the police." So he had been
25 talking to this person that already had an arrest warrant

1 that was out for his arrest for attempted murder, and he
2 comes in there and he talks to them voluntarily, this is
3 true, and that's out there for the jury to hear. However,
4 in regards to the credibility of that statement he keeps
5 changing his story and changing his story to where he
6 finally admits, yeah, it was his people shooting back. So,
7 Your Honor, there is enough knowledge and information to
8 where the jury can find him guilty of being an accessory
9 after the fact in regards to an obvious shooting that had
10 taken place. Obviously Kochese Gregory was hit and had to
11 be taken to the hospital, and he obviously took Mr. Quinton
12 McClinton to a friend's house or wherever he took him, and
13 then they were not able to locate or get Quinton McClinton
14 until a week and a half later, so that is the reason why he
15 was charged with accessory after the fact to the attempted
16 murder charge. And I believe in the light most favorable to
17 the State that there's substantial circumstantial evidence
18 that the jury can weigh the credibility of the witnesses,
19 which is their job.

20 THE COURT: Okay. Mr. Frick?

21 MR. FRICK: Briefly, Your Honor. The State clearly has
22 enough evidence to establish my client's presence, his mere
23 presence at the scene. But what they cannot establish and
24 have not presented any evidence of is the third element,
25 that he had the intent or purpose of assisting an aiding the

1 principal in escape or detection.

2 THE COURT: Well, obviously it has to be usually
3 determined based upon circumstantial evidence. There is
4 substantial circumstantial evidence in the case from which a
5 jury could reasonably find the essential elements of the
6 crime of accessory after the fact to the commission of that
7 felony, and so that being the case it's a jury question and
8 therefore your motion for a directed verdict is denied. Any
9 other grounds?

10 MR. FRICK: No, sir.

11 THE COURT: Have y'all -- Mr. Duncan, have you talked
12 to Mr. McClinton about his right to testify as well as not?

13 MR. DUNCAN: I have, Your Honor, and -- Your Honor,
14 perhaps it would do me good to have a little more discussion
15 over the lunch break.

16 THE COURT: That's fine. Well, Mr. Frick, have you
17 talked to Mr. Graham about his right to testify as well as
18 not?

19 MR. FRICK: Yes, sir, we have.

20 THE COURT: And has he come to a decision?

21 MR. FRICK: I believe he has. I'm happy for you to
22 inquire.

23 THE COURT: Okay. And this is for both Mr. McClinton
24 and Mr. Graham. Do each of you understand that when you're
25 charged with a crime, as you are now, and during the trial

1 of the case you have an absolute right to remain silent, and
2 that simply means that nobody can make you testify during
3 the trial of this case. You don't have to take the witness
4 stand. You don't have to make any statement. You don't
5 have to answer any questions, certainly not those that might
6 tend to prove you guilty of some crime the State claims you
7 committed, so you have an absolute right to remain silent.
8 But when we come back after lunch you also have an
9 opportunity to testify or to present other evidence in the
10 case, and that will be the opportunity that you will have to
11 provide this jury with any additional information if you
12 have any additional information to provide. If you choose
13 to take the witness stand and testify you will have to
14 answer not only your lawyer's questions but you'll have to
15 answer the prosecutor's questions to the extent that they
16 are relevant even if the responses to those questions might
17 tend to prove you guilty of some crime the State claims you
18 committed. If you elect not to take the witness stand and
19 testify I'm going to instruct the jury, as I already have,
20 that they can't hold that against you, they can't consider
21 it in any fashion, they can't allow it to influence their
22 decision as to whether or not the evidence in this case has
23 established your guilt beyond a reasonable doubt. Now, you
24 and your lawyers should have discussed your right to testify
25 or not, your right to call other witnesses or not, and they

1 should have also discussed with you the advantages and the
2 disadvantages of testifying as well as not testifying and
3 then allowing you to make a determination as to whether or
4 not you wish to testify. Do each of you understand that you
5 have a right to testify, Mr. McClinton?

6 DEFENDANT MCCLINTON: Yes, sir.

7 THE COURT: Mr. Graham?

8 DEFENDANT GRAHAM: Yes, sir.

9 THE COURT: Do each of you understand you also have the
10 right to elect not to testify, Mr. McClinton?

11 DEFENDANT MCCLINTON: Yes, sir.

12 THE COURT: Mr. Graham?

13 DEFENDANT GRAHAM: Yes, sir.

14 THE COURT: Do each of you understand that it's your
15 decision and only you can make it, Mr. McClinton?

16 DEFENDANT MCCLINTON: Yes, sir.

17 THE COURT: Mr. Graham?

18 DEFENDANT GRAHAM: Yes, sir.

19 THE COURT: And have your lawyers talked to you about
20 the advantages and disadvantages of testifying as well not
21 testifying, Mr. McClinton?

22 DEFENDANT MCCLINTON: Yes, sir.

23 THE COURT: Mr. Graham?

24 DEFENDANT GRAHAM: Yes, sir.

25 THE COURT: And do you understand what those advantages

1 and disadvantages are, Mr. McClinton?

2 DEFENDANT MCCLINTON: Yes, sir.

3 THE COURT: Mr. Graham?

4 DEFENDANT GRAHAM: Yes, sir.

5 THE COURT: All right. And you've discussed your
6 testifying, whether or not you will, with your lawyers if I
7 understand it, Mr. McClinton?

8 DEFENDANT MCCLINTON: Yes, sir.

9 THE COURT: Mr. Graham?

10 DEFENDANT GRAHAM: Yes, sir.

11 THE COURT: But you have not yet reached a decision
12 about that, is that true, Mr. McClinton?

13 DEFENDANT MCCLINTON: I ain't made a decision.

14 THE COURT: You haven't decided yet. Mr. Graham?

15 DEFENDANT GRAHAM: Yes, sir.

16 THE COURT: You haven't decided or you have decided?

17 DEFENDANT GRAHAM: I decided.

18 THE COURT: You have decided?

19 DEFENDANT GRAHAM: Yeah, I'm not.

20 THE COURT: Okay. Well, do you need to talk to Mr.
21 Frick anymore about that during lunch?

22 DEFENDANT GRAHAM: No, sir.

23 THE COURT: Well, in any event when we come back after
24 lunch I'm going to ask you both whether or not you want to
25 testify or not and that will be up to you and you just tell

1 me then if you're going to testify or you're not going to
2 testify. But in the meantime talk to your lawyers and be
3 sure that you can make an informed and intelligent decision
4 in that regard. But it is your decision, nobody can make it
5 for you. Your lawyers or somebody else might have advice
6 about that, they might have an opinion but that and you can
7 take it or ignore it, but ultimately it is your decision and
8 nobody can make that decision for you, do you understand
9 that, Mr. McClinton?

10 DEFENDANT MCCLINTON: Yes, sir.

11 THE COURT: Mr. Graham?

12 DEFENDANT GRAHAM: Yes, sir.

13 THE COURT: All right. Court is in recess until 2:00.

14 (A lunch break was taken.)

15 THE COURT: Mr. Duncan, what did Mr. McClinton decide
16 about whether he would testify or not?

17 MR. DUNCAN: Your Honor, Mr. McClinton has indicated to
18 me that he does not wish to testify.

19 THE COURT: All right. Mr. McClinton, you heard what
20 Mr. Duncan told me, he says that you've made the decision
21 you do not wish to testify; is that true?

22 DEFENDANT MCCLINTON: Yes, sir.

23 THE COURT: And you understand that this is the only
24 chance that you're going to have to do that if you want to
25 provide them with -- the jury with any additional

1 information.

2 DEFENDANT MCCLINTON: Yes, sir.

3 THE COURT: But you've had time to think about it?

4 DEFENDANT MCCLINTON: Yes, sir.

5 THE COURT: And you're satisfied with your decision not
6 no testify?

7 DEFENDANT MCCLINTON: Yes, sir.

8 THE COURT: And is that a decision that you made with
9 your own free will and accord?

10 DEFENDANT MCCLINTON: Yes, sir.

11 THE COURT: Nobody suggested it, nobody talked you into
12 it, you made that on your own?

13 DEFENDANT MCCLINTON: Yes, sir.

14 THE COURT: And you're satisfied with that decision.

15 DEFENDANT MCCLINTON: Yes, sir.

16 THE COURT: Okay. Do you have any other witnesses you
17 want Mr. Duncan to call on your behalf?

18 MR. DUNCAN: I do plan to call one witness, Your Honor.

19 THE COURT: Okay. All right. Thank you, be seated.
20 Mr. Graham, what about you? Mr. Frick, what did he tell
21 you?

22 MR. FRICK: Your Honor, he has indicated he does not
23 wish to testify.

24 THE COURT: All right. And Mr. Graham, that's what you
25 told me before lunch but you had more time to think about

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1 it, so you're still sticking by that decision?

2 DEFENDANT GRAHAM: I do not.

3 THE COURT: You do not wish to testify?

4 DEFENDANT GRAHAM: No, sir.

5 THE COURT: And that's a decision that you made of your
6 own free will and accord?

7 DEFENDANT GRAHAM: Yes, sir.

8 THE COURT: And you're satisfied with it?

9 DEFENDANT GRAHAM: Yes, sir.

10 THE COURT: Do you have any other additional witnesses
11 you want Mr. Frick to call on your behalf?

12 DEFENDANT GRAHAM: No, sir.

13 THE COURT: Okay. Thank you, be seated. You have got
14 one witness?

15 MR. DUNCAN: I have one witness, he has just arrived,
16 he's in the courtroom.

17 THE COURT: Okay. Well, here is what I propose to do,
18 we'll take that witness and then because the weather is
19 probably going to get worse before it gets better, we'll
20 take that witness, then we'll recess and argue and charge in
21 the morning.

22 MS. LIVELY: That's fine with the State, Your Honor.

23 MR. DUNCAN: That's fine, Your Honor, I understand it.

24 MR. FRICK: No problem, yes, sir.

25 THE COURT: And y'all can provide me with any

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1 instructions or requests that you have if you do. All
2 right. Bring the jury back in, please.

3 (The jury returned to the courtroom.)

4 THE COURT: As you know, the State has rested in their
5 presentation so we'll now proceed with evidence to be
6 offered by either of the defendants. Mr. Duncan?

7 MR. DUNCAN: Thank you, Your Honor. Defendant
8 McClinton would call Joseph Foster to the stand.

9 The witness, JOSEPH FOSTER, was first duly sworn and
10 Testified as follows:

11 DIRECT EXAMINATION

12 BY MR. DUNCAN:

13 Q Good afternoon, Mr. Foster.

14 A Evening.

15 Q Mr. Foster, I represent the defendant, Quinton
16 McClinton, who's sitting here in the orange sweater over
17 here at the table I came from. Do you know Mr. McClinton as
18 you sit here today?

19 A No.

20 Q Mr. Foster, do you live here in Chester?

21 A Yes.

22 Q And are you the owner of a club called Images?

23 A Yes.

24 Q And you were the owner of that club on Christmas
25 evening 2018 as well?

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1 A Yes.

2 Q Do you recall an incident, a disruption at your club on
3 the evening of Christmas Eve into the early morning of
4 Christmas Day; is that correct?

5 A Yes.

6 Q And Mr. Foster, if you could, tell the jury how you
7 became aware of the situation. Where were you in your club?

8 A I was in the office.

9 Q You were in the office. Is that in the back of the
10 club?

11 A All the way in the back.

12 Q All right, sir. And what happened?

13 A My nephew came and knocked on the door and said
14 somebody is fighting outside. So we were closed at the
15 time, the club closed, and I came to the front to lock the
16 door, because I didn't want the disturbance inside the
17 building and that's what I seen what was going on.

18 Q All right. So the club was locked up, or you got it
19 locked up at that point in time.

20 A I locked the front door at the time.

21 Q Yes, sir. All right, sir. And so you were then at the
22 front of the club looking through the window, looking
23 through the glass?

24 A Yes.

25 Q And what did you see when you came to the front of your

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1 club?

2 A There was a guy coming across in front of the club and
3 had on a green sweater and he was shooting up toward the
4 parking lot.

5 Q All right, sir.

6 A And I could see people shooting back toward him.

7 Q You say people --

8 A Well, it was more than one gun shooting, maybe three to
9 four people shooting back toward the club. I could see the
10 blasts from the guns.

11 Q I see. But you recall, specifically recall seeing a
12 man in a green sweater from the club kind of in front of the
13 club shooting?

14 A Yeah. He was probably seven or eight feet from me.

15 Q At the time did you know who that individual was?

16 A No.

17 Q Did you later learn that man's name?

18 A Yes.

19 Q What is that man's name?

20 A They said his name was Kochese or something like that,
21 Kochese.

22 Q All right, sir. And did you later see the man that
23 you've identified as Kochese --

24 A Yeah. He came in the side door and he pulled his
25 sweater up and he had been shot in the chest.

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1 Q And at that point in time the ambulance and all of
2 these people were called and arrived.

3 A Yeah, later.

4 Q Okay.

5 MR. DUNCAN: Mr. Foster, I think that's all of the
6 questions I have at this time.

7 THE COURT: Mr. Frick?

8 MR. FRICK: No questions for Mr. Foster.

9 THE COURT: Ms. Lively?

10 MS. LIVELY: Yes, thank you, Your Honor.

11 CROSS EXAMINATION

12 BY MS. LIVELY:

13 Q Hi, Mr. Foster.

14 A Hi.

15 Q Do you recall me calling you, my name is Candice
16 Lively, to talk to you about your statement you had given
17 from this particular evening?

18 A Yes.

19 Q And whenever we talked about your statement, we also
20 discussed whether or not you could have been in your office
21 whenever a lot of this started happening before you were
22 actually able to give any information to the police later
23 on.

24 A Yeah.

25 Q All right. You remember that? Okay. And so what I'm

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1 asking you is that when this initially happened and the
2 police showed up, did you provide a statement to law
3 enforcement when they asked you whether or not you saw what
4 happened?

5 A Yes.

6 Q And what did you tell them?

7 A I told them exactly what I said. I was in the office
8 and my nephew told me somebody was fighting, so I came and I
9 said, "Let's lock the doors because we don't want the
10 disturbance inside the building.

11 Q Okay. Now, I'm not talking about this statement, I'm
12 talking about when the officer first got there and he was
13 going around asking people if they were there and saw what
14 happened, do you remember what you told him?

15 A I told him I saw what happened.

16 Q Okay. Did you know that the officer was wearing a body
17 worn camera at that time?

18 A I don't know whether he was wearing one or not. I
19 think he should have been wearing one.

20 Q If I showed you the statement you gave to law
21 enforcement right after this happened, would that help to
22 refresh your memory?

23 A Show it to me.

24 Q Okay. You might need to step down so you can see it.

25 THE COURT: And while you're over there you can't

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1 provide any testimony, just step down and watch the video if
2 you need to.

3 Q Just stand right there, all right?

4 (The video was played.)

5 Q So, Mr. Foster, when you were first asked if you were
6 out there and you saw what happened you said that you were
7 in your office, that y'all were getting ready to close, and
8 then you did not say anything about seeing any shooters that
9 night.

10 A I told him I was in my office when it started, I didn't
11 see it when it started. When the incident happened --
12 started happening I was in the office, I didn't see it when
13 it started. When they came and told me that there was
14 fighting out there then I came to the front, that's when I
15 seen them shooting.

16 Q Okay. And that's what you actually wrote in your
17 statement it looks like three hours and 40 minutes after the
18 time of the 911 call; is that correct? If you want --

19 A I don't know what time it was.

20 Q It's actually written on the bottom of your statement
21 what time that was. Is that correct?

22 A Do what? If that's what he wrote down then that's --
23 this was 5:40 in the morning. The incident happened around
24 2:30 or a quarter 'til 3:00, by the time the officers got
25 there. Matter of fact, when they first answered the call

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1 they didn't come to the club, we seen the cops go by. They
2 went by the club and headed toward town, then they came
3 back, then that's when the ambulance and everything came.
4 Matter of fact, I left the club that morning with daylight,
5 it was after 6:00 or about 7:00, they kept us there all
6 night.

7 Q Okay. And would it surprise you if I told that
8 actually the 911 call came in at 2:00 and they arrived
9 within minutes?

10 A Whatever time it was. I know we were closed, we close
11 at 2:00.

12 Q I understand. But is it fair to say, Mr. Foster, that
13 you're unsure about some of the issues that happened that
14 night?

15 A I'm unsure about what time it was, I'm not unsure about
16 what I seen.

17 Q All right. But when the officer asked you clearly with
18 Kochese Gregory laying on the floor, he asked you what you
19 saw, you said "I was back in my office, we were getting
20 ready to close." That was the statement you gave him at
21 that time; is that correct?

22 A If that's on that that's when I came up front, that's
23 when the cops came. I saw what I saw.

24 Q Okay. Fair enough. And in this statement that you do
25 give almost four hours later you did say you saw about five

1 to six people actually shooting from the top of the parking
2 lot towards the club; is that right?

3 A That's right.

4 Q So you do actually put that in there as well.

5 A Yeah.

6 MS. LIVELY: One moment.

7 (Break in proceedings.)

8 MS. LIVELY: Thank you so much, Mr. Foster.

9 MR. DUNCAN: One question.

10 REDIRECT EXAMINATION

11 BY MR. DUNCAN:

12 Q Mr. Foster, is there any question in your mind that the
13 gentleman wearing the green sweater was shooting from the
14 front of your club on Christmas Eve/Christmas Day 2018?

15 A He was shooting.

16 MR. DUNCAN: Thank you, sir.

17 MS. LIVELY: Nothing else from the State, Your Honor,
18 thank you.

19 THE COURT: You may step down.

20 MR. DUNCAN: Defendant McClinton rests, Your Honor.

21 THE COURT: Mr. Frick?

22 MR. FRICK: Your Honor, on behalf of Mr. Graham the
23 defendant rests.

24 THE COURT: Any reply?

25 MS. LIVELY: Not from the State, Your Honor, we're done

1 with our case.

2 THE COURT: All right. Ladies and gentlemen, that is
3 all of the testimony and the other evidence to be offered in
4 the trial of the case. What remains to be done are the
5 lawyers' final summations, after which I'll instruct you on
6 the law and then you'll begin deliberations. Now, from what
7 I understand the weather is going to get worse before it
8 gets better and so what we're going to do is recess now,
9 we'll conclude in the morning beginning at 10:00. So keep
10 in mind during the overnight recess no discussions and no
11 investigation, no research, no media exposure. Do have a
12 good evening, please report to your jury room in the morning
13 at 10:00, 10:00 in the morning.

14 (The jury left the courtroom.)

15 THE COURT: All right. Mr. Duncan, do you need to
16 renew your motions on the same grounds as initially stated?

17 MR. DUNCAN: I do, Your Honor.

18 THE COURT: Any additional grounds?

19 MR. DUNCAN: No, sir.

20 THE COURT: All right, that motion is denied. Mr.
21 Frick?

22 MR. FRICK: Yes, sir, same, I renew my motion.

23 THE COURT: That motion is denied. Do y'all have
24 instruction requests?

25 MS. LIVELY: Yes, Your Honor. The State was going to

1 request hand of one is hand of all based upon testimony
2 that's been provided during this trial as to multiple
3 shooters, and because there was no weapon actually found as
4 a result of this particular investigation that a hand of
5 one, hand of all seems to be appropriate regarding the
6 shooters in this case.

7 THE COURT: Mr. Duncan?

8 MR. DUNCAN: Your Honor, Mr. McClinton is charged with
9 the crime. I mean, there can't be a multiple -- there's
10 not -- there are multiple shooters but they can't prove that
11 Mr. McClinton had a gun. Putting a gun in his brother's
12 hand or Mr. Carlton Isom's -- Carlton Dixon's hand is not
13 sufficient and I don't think that the hand of one is the
14 hand of all instruction would be appropriate given what I've
15 heard in the courtroom this week.

16 THE COURT: All right. Mr. Frick?

17 MR. FRICK: Your Honor, in regards to Mr. Graham, the
18 State had an opportunity to charge him as a principal if
19 they wanted to, they didn't do that, they charged him as an
20 accessory, I don't think hand of one, hand of all applies in
21 that circumstance.

22 THE COURT: Okay. Ms. Lively?

23 MS. LIVELY: Yes, Your Honor. I'm reviewing the
24 analysis of a couple of cases here, and I apologize because
25 I was going to actually get this more appropriately in front

1 of you --

2 THE COURT: I'll think about it. We'll talk about it
3 again in the morning. What other requests do you have?

4 MS. LIVELY: Well, that was pretty much it. I was
5 going to look at your standard ones anyway once you got them
6 done, but just the usual charges are fine.

7 THE COURT: Okay. Mr. Duncan?

8 MR. DUNCAN: I would obviously like to look at the.
9 Court's instruction, but as I stand here I don't think of any
10 special instructions that I'm looking for.

11 THE COURT: Okay. Mr. Frick?

12 MR. FRICK: Your Honor, I would ask for the
13 circumstantial charge that's in the Logan case, I think
14 you're familiar with what I'm talking about.

15 THE COURT: All right. Anything else?

16 MS. LIVELY: Nothing from the State.

17 THE COURT: All right.

18 MR. DUNCAN: Not tonight.

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

21 (Court recessed for the day and resumed at 10:00 a.m.,
22 On Friday, February 7th, 2020.)

23 THE COURT: Are there any matters that need to be
24 addressed prior to the jury being brought in?

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

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1 MR. DUNCAN: Not from Defendant McClinton.

2 MR. FRICK: Nothing from Mr. Graham.

3 THE COURT: All right. Now, for the benefit of the
4 audience, we're getting ready to -- the lawyers are going to
5 be addressing the jury, and after they get through I'm going
6 to be instructing the jury on the law. During this process
7 from now until the jury goes out there will be no coming and
8 going in the courtroom, so if you don't think you can sit
9 for the next hour and a half or so, whether you need to use
10 the facilities or whatever it might be, you're not going to
11 be able to leave and you're not going to be able to come in.
12 So if you don't think you can sit that long you need to
13 leave now because you will not be permitted to leave once we
14 get started and the jury comes in. Anybody need to leave?
15 Okay. Bring the jury in.

16 (The jury returned to the courtroom.)

17 THE COURT: Good morning. As you know when we recessed
18 yesterday all of the evidence had been received, and
19 therefore what needs to be done are the lawyers final
20 summations after which I'll instruct you on the law and
21 you'll begin with your deliberations. Now, the way that
22 process occurs is that the State, of course they've got the
23 burden of proof so they will go forward first in their final
24 summation. After they conclude each of the defendants'
25 lawyers will be able to address you, and then once they

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1 conclude the State gets to make a brief reply argument to
2 the statements of the defense counsel. So please give the
3 lawyers your attention, now, as they gave you their final
4 summations.

5 MS. LIVELY: Thank you, Your Honor. Good morning,
6 everyone, happy Friday. And, you know, these cases, they
7 deal with such important issues not only in our community
8 but in regards to the fairness of the justice system to make
9 sure that everybody gets the opportunity to be in front of
10 12 people who are going to make a very important decision.
11 Now, that decision doesn't necessarily mean that we want you
12 to use your emotion. We want you to use, you know,
13 supposition, "Well, maybe this was going on behind the
14 scenes," or, "Maybe this is why somebody said something,
15 maybe this is why we're here." You're here for the choice
16 of all of us attorneys to put you on this jury to be fair,
17 not to be thinking about what's going on behind the scenes,
18 but to think about what happened that night. And remember
19 when I first started, and I always write down what I do when
20 I first start talking to a jury -- here is the thing, I
21 wrote it down, justice is knowing what is right and doing
22 it, okay? Knowing what's right. And we have laws in
23 society, because if we didn't have laws we would have chaos.
24 We don't want to have chaos, because when we have chaos what
25 do we have? We have what happened on the night of

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1 December 25, 2018. We have people who have the nerve to go
2 into a public place, who has walked through this club all
3 night long looking people in the eye, not trying to hide who
4 he is, and then he goes -- after getting in a fight,
5 grabbing pool sticks, he goes and shoots a weapon in front
6 of everyone who knows who he is. This is a small community,
7 ladies and gentlemen. Remember, I wrote this down too,
8 because we've had a lot of information and I don't remember
9 everything as well, this was not an unknown suspect,
10 everyone knew who he was. Okay. So here is one of the
11 things, let me tell you when DNA is a great tool. I love
12 DNA. I love DNA, because I've learned that I'm half
13 Italian, I'm 20 percent Greek and then I've got a lot of
14 other stuff going on, okay? That's fun, that's fun DNA, but
15 I normally don't get to do that kind of DNA. Because the
16 DNA I look for is going to be something where I can say we
17 don't know for sure who did this crime so we'd better do
18 everything we can to figure it out, so we're going to swab
19 for DNA anywhere and everywhere we can, because we don't
20 know who this person is. That happens in rape cases, that
21 happens in burglaries where you show up and your house has
22 been ransacked and they try to find out who it is. They
23 swab for DNA, we send it to SLED, guess what? They get a
24 profile. Now, that doesn't necessarily mean that they know
25 who it is. We still have to find suspects, swab their

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1 mouth, send it to SLED and compare this profile to see if it
2 matches. I know all of y'all have watched CSI, and if you
3 haven't watched it your parents have and they know about it.
4 So here is the thing, when I started this case I said the
5 beauty of this case for simplicity that Quinton "Tril"
6 McClinton, known by the community, known by most of those
7 people in the club, and if they didn't know his real name
8 they knew it was Tril, every single one of them said he shot
9 him. So let's talk about that. All right. He's charged
10 with attempted murder, possession of a weapon, and that's
11 just during the commission of a violent crime, and that's
12 because attempted murder is a violent crime. Kochese
13 Gregory died three times that night, he is a miracle to be
14 alive. And then assault first degree. "A person with
15 intent to kill attempts to kill that person with malice
16 aforethought, express or implied, that person is guilty of
17 attempted murder." So let me tell you what malice is,
18 that's evil, ill-will. It's not an accident. You're not
19 going to be told here that this was some type of
20 self-defense, that's not evidence before you in this case.
21 The fact of whether or not Kochese Gregory had a gun or
22 didn't have a gun is completely irrelevant because he didn't
23 shoot himself. He did not shoot himself. Someone shot him.
24 And even the people who said that he may have had a gun said
25 he was returning fire if that was the case, so self-defense

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1 is not even an issue before you at all. The issue is was
2 Kochese Gregory shot, and is that the man who shot him.
3 Then he was beat with pool sticks to the point where you
4 heard him say the beating was brutal, the beating was
5 brutal. He says he still suffers from what that beating did
6 to him as much as the shooting. He asked all of y'all from
7 that stand, "Don't forget how bad the beating was," that's
8 assault and battery first degree. Now, Montrell Graham,
9 he's the codefendant. Accessory after the fact means that
10 he did with knowledge harbor a person who has committed a
11 violent crime and take him away from the scene of that
12 crime. He drove -- and QM is just Quinton McClinton -- and
13 Carlton Dixon to the club that night, he tells you that
14 himself. He was with Quinton McClinton outside when he was
15 leaving the club. He saw the fight between Quinton
16 McClinton and Kochese, he saw the chaos that was going on.
17 He then said Quinton McClinton got hit by Tina Davis' car
18 and he's limping. As he is headed to the car and started to
19 leave he started ducking because there was gun fire. We all
20 know from every bit of testimony that we have that's been
21 brought to this case and in this courtroom was that gunfire
22 was coming from everywhere. 18 shell casings in the parking
23 lot were found, 18, which means there were either two guns
24 going off or that someone reloaded and started shooting
25 again. Either way that's a lot of shooting. Then he

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1 finally, if you notice in his statement -- I know it's
2 really hard to hear, but here is the thing in his statement,
3 he starts out, "I don't know what you're talking about. I
4 didn't know anybody had a gun. I just got in the car and
5 left. I heard shooting and I left." Then he goes a little
6 bit further, "Well, okay. So I ran out to the car while the
7 fight was going on and I got my phone and then I ran back to
8 where Quinton was." Did any of y'all find that strange? A
9 20 something year old young man was in the club all night
10 without his phone? What do you think he went to the car to
11 get? Because we have Chocolate Pudding, Daverican Gregory,
12 and others who said he was shooting, too, but he's not
13 charged with the crime of attempted murder, but he had
14 knowledge. He was there when people were shooting. He
15 finally at the end of his interview says, when Wade Young
16 puts him on the spot, "So you were ducking, so the shooting
17 was coming from your people, coming from your people? Yeah,
18 yeah. But I don't know who had a gun. I don't know who had
19 a gun." And then everyone gets in the car and leaves? In
20 his statement he says, after not talking to the police three
21 until days later, when does he say that he decides to come
22 in and talk to them? After Quinton McClinton, who is in
23 charge of everything this man does, tells him, "It's okay,
24 you go talk to them now, Carlton," the other guy in the car,
25 "has gone and talked to them, this is going to be our

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1 story." And that's what he did. He went in there and told
2 that same story. He never would put that gun in the
3 statement that you heard in Quinton's hands because he's
4 doing what he's told. Look at the people who had to be drug
5 in here to tell y'all what really happened. Witnesses at
6 Images when it happened, George Killian, Big Troy. I hope
7 y'all know who I'm talking about whenever I interchange
8 names. I'm just going to call him Big Troy because that's
9 what everybody referred to him. As soon as the police get
10 there, before EMS can even get there to save Kochese
11 Gregory's life he's there. He had the drink thrown in his
12 face, the fight broke out, "Quinton McClinton swung a pool
13 stick at me," he said. "Tril reached in his coat pocket and
14 pulled out a gun and said he would shoot me." Pool sticks,
15 punching, kicking, fighting, guy with the pistol in his
16 pocket was swinging the pool stick. And here is the thing,
17 even though unfortunately not everybody knows people's legal
18 names, they do clearly know and describe who they're
19 referring to. That's what George Killian does throughout
20 the entire night. I think he probably -- when I went and I
21 watched the body worn camera, he probably gave four
22 different statements confirming who it was that had the gun,
23 and then who it was who was beating Kochese Gregory and him
24 with pool sticks. So they locked the doors, because at that
25 point that's whenever Mr. Foster, who testified yesterday,

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1 who I think was trying to do the right thing, comes out and
2 he's locking the doors. And what ends up happening? "Tril
3 was shooting, the boys from Roundtree Circle. Quinton and
4 McClinton and his brother all had guns and were shooting
5 towards the club." This is exactly what George Killian, Big
6 Troy, tells the police not once, not twice, but three times,
7 and then puts it in his statement, and he was outside to
8 witness it for himself. "Kochese was shot." He had to be
9 subpoenaed to come to court, he didn't want to be here, but
10 he did give that statement that night. He identified
11 Quinton McClinton as the one who was shooting and shot
12 Kochese Gregory.

13 (Audio was played.)

14 MS. LIVELY: "I don't know his name. I know it's
15 Tril." And in the background you can hear him say, "You
16 know Tril, it's Quinton." A person who was there, saw it
17 for himself. Now, we have got Kelvin Killian, Antonio
18 Killian, Cowboy or was it Kalbo, that's why I put the
19 pictures up here because I want you to know who it is I'm
20 referring to. He was working as a bouncer and security that
21 night, he's at the fight outside, he was there. Remember,
22 they were all trying to get people out of the club at that
23 point because it was getting ready to be closed down, and
24 his brother obviously is Big Troy, and he said Quinton
25 McClinton hit him with a pool stick. Now, as for the

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1 shooting, outside, remember, the testimony has been, even in
2 Montrell Graham's statement he said there were ten to 15
3 people, I mean, give or take. It was chaos. They were all
4 out there. So when the shooting starts, do you think
5 everybody is going to stop and say, "Let me see who is doing
6 this shooting?" No. What they're going to do is exactly
7 what Montrell said, he's ducking allegedly, or he's a part
8 of the shooting, and they're trying to get the heck out of
9 there. So what he remembers and what he told you was, and
10 what he wrote in his statement was there was a shooting
11 outside. "I saw Carlton or Quinton McClinton shoot
12 Kochese." And that's because all of those people were out
13 in the parking lot, who was together that night? Carlton
14 Dixon, Montrell Graham and Quinton McClinton, all three of
15 them were together. There's also been testimony that
16 Quinton's older brother, Robert Junior McClinton, was there,
17 too, so possibly a fourth. So what we have is confirmation
18 through another witness that it was Carlton or Quinton
19 McClinton that he personally saw shooting Kochese. There is
20 no way if you've got a bunch of shots coming towards you and
21 guns are pointing at you that you're necessarily going to
22 know or pay attention to who actually their bullet hits the
23 person who gets injured except for the person who gets shot,
24 and here is -- that's what you end up hearing. Then we have
25 Tina Davis. Cousins with Montrell Graham and Kochese

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1 Gregory. So she is in a pretty bad bind. She is subpoenaed
2 to come to court, and I don't know if you remember, she was
3 very boisterous on the video from the body worn camera, but
4 if you remember when she was in here she was comatose, she
5 was petrified to be here. And even Lieutenant Young told
6 you when he talked to her she was terrified. She lives in
7 this small community as well. She's cousins and family with
8 these people, and that's a hard place to be. But the truth
9 is the truth and that's what we have to focus on here. They
10 were all jumping on Big Troy. Guy in a brown jacket
11 shooting a gun, she saw his arms extended. Montrell Graham
12 in a gray sweatshirt shooting in the air. She had to be
13 subpoenaed to court as well.

14 (Audio was played.)

15 MS. LIVELY: The reason why this is so important for me
16 to remind y'all, and I know you probably remember hearing
17 the body worn camera, remember me asking each one of the
18 witnesses did you realize you were being recorded that night
19 and they were like no? I promise you that these body worn
20 cameras have made such a difference in how these cases are
21 able to be brought to court. Because unfortunately it's
22 just the reality of the world that people either have, you
23 know, amnesia from fear from being talked to, being
24 convinced that it's better to just let things go, and it's
25 sad. These people were doing the right thing that night.

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1 They were being honest, they were talking to the police,
2 they were helpful. They were helpful. But when you've had
3 a chance to get away from that traumatic event, rest and
4 think about what does it mean? Does this mean I have to go
5 into a courtroom and testify? Does this mean everyone is
6 going to know I put down in words what happened and what I
7 saw? So think about that. But because we have these body
8 worn cameras, because we have the ability to bring people in
9 here and talk to 12 folks like you, we can bring out what
10 really happened and get someone like Quinton McClinton off
11 the street. James Young. It was his brother's birthday
12 party. He was outside smoking a cigarette, everything was
13 going great, and guess what? He just happens to put himself
14 in a position as to where the fight starts. So he says the
15 guys fighting Big Troy were wearing brown jackets. And that
16 keeps coming up over and over again because that is the
17 identifying factor that tells us who it is that was hanging
18 out in the club together and then left from the club
19 together, got into the fight together and then ended up
20 being the ones shooting back at the club, okay? So that is
21 the reason why I keep putting it in there. He never saw
22 Kochese with a gun, he testified to that. He said that
23 Kochese did get shot and they drug him back into the club.
24 And remember, Kochese said he was trying to get into the
25 club but they had actually locked it to try to keep people

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1 from coming back in, especially whenever the shots started?
2 He said before the shots even started, he being Kochese, he
3 had tried to get back in after he had been beaten with the
4 pool sticks but it was locked, and when he turned to go the
5 other way is whenever he said he saw Quinton McClinton lean
6 over the white vehicle, point the gun at him and pull the
7 trigger. When he was shot is when he stumbled back, and he
8 was at the door, "I've been shot, I've been shot," only then
9 do they unlock the doors to let him in. So he helped apply
10 pressure to Kochese's wound. He didn't give a written
11 statement that night. We found out who these people were by
12 actually going back to the body worn camera and identifying
13 who they were to bring them here so they could testify in
14 front of you this week. All right. Now, here is our
15 favorite, Chocolate Pudding. Here is the reason why I say
16 our favorite. Because if you remember, Lieutenant Young
17 said, "I kept trying to get him to come in, he wouldn't come
18 in, he wouldn't come in." And on the body worn camera you
19 can hear Thorpe is on the phone saying or -- it was Braylin
20 Brown or Thorpe, one of the officers saying, "Where are you?
21 I need you to come back and give us a statement. I need you
22 to come back and give us a statement. I'm coming, I'm
23 coming," and he never comes in. And here is the thing, when
24 he is up there he tells you, "I know Quinton McClinton, I
25 know Montrell Graham." So here we have someone who knows,

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1 he's now on the stand testifying about what he saw. And if
2 you remember, the reason why I pulled this one out, here is
3 Chocolate Pudding right here and there is Big Troy when the
4 officer gets there, and he -- and this is when the chaos is
5 still going on, EMS isn't even there yet. He's coming out
6 of the other door, the club side door and he's out here,
7 he's was like police, "Oh, police, police, you're here," and
8 then he starts this whole thing, "I know who shot. I know
9 who was shooting. I know who was shooting." And he right
10 away, right away says it was Tril. No hesitation
11 whatsoever. Now, he may have never intended to give a
12 written statement but that's what I'm talking about with the
13 body worn camera, we captured that at the moment when it
14 happened. That's credibility, ladies and gentlemen. That's
15 your job is to determine the credibility of these witnesses.
16 During the commotion, during the excitement of what had just
17 happened, do you think that he's sitting here thinking,
18 "This is a good way for me to pin something on Quinton
19 McClinton and Montrell Graham?" If he was thinking that
20 then he has Big Troy, Kalbo, Bernice June, Tina Davis, and
21 they had to know that, "Oh, and we hope Kochese throws out
22 Quinton's name while he's dying on the ER table" in order
23 for them to all point the finger at Quinton McClinton. That
24 would be one heck of a conspiracy on December 25th when
25 everybody wants to get home to their family and this

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1 happens. It's not reasonable. Remember, I said use your
2 common sense. This case is so clear. He said, "Officer, I
3 know who was shooting, it was Tril."

4 (Audio was played.)

5 MS. LIVELY: "Tril, Tril, I seen him." Now, how about
6 Bernice June? Her brother is Chocolate Pudding, and she
7 also did not give a written statement but she was there.
8 She also knows Quinton McClinton, saw him wearing a
9 tanish/brown jacket. She's the one who knows his nickname
10 is Tril. As a matter of fact, if you continue to watch
11 through the body worn camera she continuously goes in, and
12 when anybody is saying "I don't know. His name is Tril, I
13 don't know what his real name is, I don't know what his real
14 name is." Because you've got to remember, Big Troy and that
15 crowd, they're older. There were a lot of older people
16 because it was the guy, Chuck Sims' birthday, he's an older
17 guy. So it was kind of one of these parties where the
18 community was coming together, it was supposed to be
19 something really fun, and then these young guys, Big Troy
20 says that a couple of times, then these young guys come in
21 here. So these are people who know who he is but they don't
22 necessarily hang out with him. She knows his name is Tril,
23 and she actually tells the officer later on after Kochese
24 has actually been taken to be treated, she tells him Tril's
25 real name is Quinton McClinton. So it's very clear at that

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1 point and that's when George Killian writes his statement
2 and he's asking, "So who's the Tril boy? What's the Tril
3 boy's name? It's Quinton McClinton. Oh yeah, that's it."
4 And she describes what he was wearing, so they're all
5 talking about the same person.

6 (Audio was played.)

7 MS. LIVELY: So that's Bernice when she's talking to
8 Officer Thorpe and she's telling him that they were out
9 there, that they were shooting like hell. And then you hear
10 Troy talking in the background, "Yeah, the Tril boy. Not
11 Junior but the Tril boy, but Junior also had a gun." So
12 here we have these people that within an hour or less, once
13 the officer is there, they're giving these statements very
14 clearly as to what they say happened. Then we've got Benika
15 Kershaw. And here is the thing that Benika that I want
16 y'all to think about. She just happened to show up for the
17 party with her mother who has a disability, and they were
18 just going to hang out and then leave. Well, then she sees
19 all of this chaos. Imagine that. You're there with your
20 mother who is older that you're trying to take care of,
21 they're leaving and this fight breaks out. So she said they
22 left. But here is the thing, what a wonderful citizen she
23 is. Because what she did was -- I don't know, I might have
24 hauled butt and gotten out of there, but what she did was
25 she went across the street, across the street here at this

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1 gas station and what does she say? "No one was helping the
2 guy being beat on the ground so I called 911." That's when
3 the police knew what was going on. Not when everybody there
4 at the club started calling, but Benika, who is not related
5 to any single person there, she interjects herself into
6 doing the right thing as a member of this community and she
7 called 911. She calls 911. And then what ends up
8 happening? She says -- and she puts it on here, she starts
9 to see and hear gunfire. Where is the gunfire coming from?
10 From the top of the parking lot, the lower parking lot back
11 away from the club. The guys wearing brown have run away
12 from the club, guys in the brown jacket. She did say that
13 she saw Kochese return shots back at the others, but she is
14 seeing it from across the street. And the credibility of
15 these witnesses are completely up to you, ladies and
16 gentlemen, but remember, no one is claiming any type of
17 self-defense here. So whether or not he was defending
18 himself or someone else was defending themselves, he's the
19 one that got completely beat to a pulp with a pool stick,
20 he's the one that got shot in the abdomen and he told you it
21 was Quinton McClinton that shot him. So whether or not he
22 had a weapon or shot a gun has nothing to do with the fact
23 that he got shot that night, because no one is claiming they
24 had a right or a legal right to shoot him. She did stay and
25 give a written statement, she did cooperate. Now, Dr.

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1 Duncan Holaday. He knows nothing about anything, he's there
2 to save people's lives. The unique thing about what
3 happened with him is that he didn't realize he was going to
4 be that level of a witness, because he just happened to be
5 there working on Kochese Gregory before he was completely
6 put under and stabilized in order for them to fly him to
7 Charlotte for surgery. So as Kochese was laying there,
8 Officer Rinke was there and J. P. McNeil, one of the EMT's,
9 was there, and that body worn camera once again was on
10 recording everything that happened. They continued asking
11 Kochese. I mean, he's got a bullet hole through his body,
12 damaged his liver, he's been beat with a pool stick, he's
13 laying there, they're trying to get him stabilized, and the
14 officers saying, "Before you put him under let me try to get
15 him to answer our question." They asked him over and over
16 again, "Do you know who it was that shot you? Do you know
17 who shot you?"

18 (Audio was played.)

19 MS. LIVELY: Quinton. Dr. David Jacobs, CMC Charlotte,
20 he came in here. And the purpose of him coming in here was
21 for you to understand the level of damage that he suffered,
22 Kochese Gregory suffered from that gunshot wound. This
23 wasn't a superficial wound. This was a wound that was meant
24 to kill, no question, and he did kill him. But for those
25 surgeons, those brilliant hardworking surgeons bringing him

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1 back to life three times, this would be a murder trial. And
2 that is what Lieutenant Young told you, he thought this was
3 going to be a murder case. He couldn't get to Kochese to do
4 any type of gunshot residue on his hands because he was in
5 surgery. But here is the thing, that's the reason why in
6 the information that came out Lieutenant Young was trying to
7 do the right thing. He said at first I wasn't 100 percent
8 who was doing what because I had Benika telling me that he
9 may have been returning shots, may have had a gun. Got Pop
10 Foster, the older gentleman that testified yesterday, who
11 said, "I saw the guy in the green sweater shooting, too."
12 So what you have is you may have two people who were
13 shooting each other, and if we don't know who started it,
14 why it happened, then what you might have is some type of a,
15 you know, situation where they're both trying to kill each
16 other. It's still attempted murder, it's still people who
17 have an intent with malice to kill one another. But as the
18 evidence continued to come through, as more information
19 continued to come through and decisions were made, it was
20 determined this was not a self-defense case for the purposes
21 of Mr. McClinton, that evidence is not in front of you. And
22 Mr. Kochese Gregory, once he was healed and he's better, he
23 came in here and testified to you that he did not have a
24 gun. Whether you believe that or not is up to you, but I
25 will tell you this, it has absolutely nothing to do with the

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1 fact that Quinton McClinton shot Kochese Gregory and almost
2 killed him, and that's the issue you have to resolve. So
3 here is the victim, Kochese, in his own words. He said he
4 went to Images that night because his dad checked out of the
5 hospital and his dad was there. He saw his family members.
6 He had a Bud Light. He knows Quinton McClinton. He said
7 actually his son is tighter or has some dealings with him
8 more so than he does, he said, because of their difference
9 in age. Kochese is 44. He also knows Montrell Graham. He
10 did not actually see the fight outside with Big Troy and
11 CiCi Whitlock. He was walking outside, he was on the phone.
12 He said at that time Quinton McClinton attacks him from the
13 side and just basically sucker punches him. He said he
14 could see him from his peripheral, he knew it was him. The
15 next thing he knows, everybody just jumped on him, pool
16 sticks, kicking, punching. He's on the ground while being
17 beat. He says he had severe bodily injury and pain. He
18 said it had lasting effects even until this day the beating
19 was so brutal. He had to pull himself up and then try to --
20 he was trying to get away. He wasn't trying to stay and
21 fight, he wanted to get away but he couldn't get back in the
22 club. So when he's standing there with that bright green
23 sweater on he is a standing target, a target that Quinton
24 McClinton chose to hit. He says he gets off the ground,
25 says he never had a gun. I asked him, "Are you 100 percent

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1 sure it was Quinton? Absolutely." And you've seen the
2 pictures, and there's a ton of pictures from the scene from
3 that night and snapshots. You've seen the body worn camera.
4 That place is lit up like a Christmas tree ironically enough
5 because there's so many lights on the sidewalk around the
6 club. There's no cameras unfortunately, but there are
7 lights everywhere, and there's street lights in the parking
8 lot. There was a street light right beside the car where
9 Kochese said he saw Quinton McClinton lean over the white
10 car, point a gun at him and fire. He knew who he was, saw
11 him earlier in the club that night, knew what he was
12 wearing, 100 percent Quinton McClinton shot him. Saw him
13 when he pulled the trigger and then he felt the pressure
14 from being hit. So the law enforcement witnesses, just to
15 remind you. Barbara Cameron. She's the one who brought in
16 all of the evidence. Brian Sanders did the crime scene,
17 took pictures. He's the one that actually took the pictures
18 of one of the witnesses that came up later who didn't give a
19 written statement, it ended up being James Woodard who had
20 blood all over him. He had knots on his head and he was
21 like, "Yeah, I'm the one that's bleeding." There's blood on
22 the edge of the car and there's blood in the parking lot.
23 Now, one thing that Lieutenant Young did say, which I
24 thought was very important and I wanted to just bring this
25 up, is that they are concerned whether or not there could

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1 have been other victims. That's the reason why they called,
2 as he said, other hospitals in the area to say, "Hey, be on
3 the lookout for a gunshot wound, people coming into the ER,
4 because they know if that did happen then hospitals are
5 required under the law to actually notify them, okay?
6 Because someone who has a gunshot wound, that's something
7 that needs an investigation, even if it's an accident, a
8 hunting accident or whatever law enforcement has to be
9 notified. No one called, no other gunshot wounds from that
10 night. So where did the blood come from? The blood came
11 from James Woodard. Issue addressed. And then Braylin
12 Brown was the one who took a lot of statements that night as
13 well and helped Officer Thorpe. So Lieutenant Wade Young.
14 He actually -- the thing that I want you to know that the
15 Court is going to tell you in regards to the evidence,
16 direct evidence is eye witness testimony, a person telling
17 you that is who I saw, that is who did it, that is direct
18 evidence. It's not circumstantial. That is someone telling
19 you. And unless you have a reason to doubt their
20 credibility then that is strong convincing evidence. So he
21 said, "Quinton shot him. Tril did the shooting. Quinton or
22 Carlton were shooting guns. Tina saw Quinton fighting," All
23 of this stuff. I've said it over and over again. Now, why
24 certain things weren't done, I explained that when I first
25 started talking to you. No DNA was found on the shell

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1 casings. In order for them to have a comparison they've got
2 to have something off of whatever item they want to get to
3 say we've got some DNA off of it. You know, sometimes you
4 hear, "We swabbed it, there was no DNA so there's nothing we
5 could compare it to." That's what happened in this case.
6 No GSR kits. No GSR testing of the victim's clothing
7 because he was shot, which means he would have residue on
8 him because he actually got hit by a bullet. And then no
9 DNA tests, which I just now explained to you on that. But
10 remember, I never promised y'all that at the beginning of
11 this case. I told you this is a common sense case, it's eye
12 witness testimony. These are people who knew who was
13 shooting. So here is the questions I want to answer for
14 you, which I believe after all of the evidence has been
15 brought in this case is going to get you where you need to
16 be to be firmly convinced of the guilt of Quinton McClinton
17 and Montrell Graham. Was Kochese Gregory at the Club Images
18 on that day? Absolutely. Was Quinton McClinton there?
19 Clearly he was there. Was Montrell Graham there? Yes, he
20 was. Was there a fight outside the club and Quinton
21 McClinton attacked Kochese Gregory? Yes. Even Montrell
22 Graham in his statement tells you they were all fighting and
23 that Quinton was fighting Kochese. At the time Kochese was
24 shot, were Quinton McClinton and Montrell Graham in the
25 parking lot? Yes. Did the person who shot Kochese shoot

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1 from the parking lot back towards Kochese? Yes. Did
2 Kochese shoot himself? Absolutely not. How many eye
3 witnesses saw Quinton McClinton shooting a gun in the
4 parking lot towards the club when Kochese was shot? Six.
5 But the most important one is the one who got shot himself,
6 that's Kochese Gregory. He told you when he was dying on
7 the ER table that it was Quinton. He told you when he came
8 into this courtroom that it was Quinton. There's no
9 question it was Quinton McClinton. And then Montrell Graham
10 puts himself there with Quinton. Some eye witnesses
11 actually put a gun in his hand as well. But remember the
12 chaos. They knew that there's a bunch of shots coming from
13 the parking lot and they know he's out there with his other
14 people in the parking lot. He admits he was ducking while
15 shots were being fired around him. He then admits finally
16 that it was his people who were shooting. He then takes
17 Quinton away from the scene, doesn't go to the police for
18 three days. Leaves the scene, drops Quinton off, doesn't do
19 anything at all to assist the police in finding Quinton
20 McClinton because he's been told not to. He was told by
21 Quinton McClinton only after they got all of their stories
22 straight, Carlton Dixon and Montrell Graham, only then he
23 had to be given permission to go and talk to the police. He
24 knew exactly what he was doing, who was doing it and what he
25 was doing when he drove him away from that scene. So

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1 attempted murder. A person with intent to kill attempts to
2 kill another person with malice aforethought expressed or
3 implied. So what does that mean? That sounds pretty fancy.
4 Hatred, ill-will, hostility towards another person. Do you
5 think Quinton had hostility that night when he was beating
6 Kochese Gregory with a pool stick? The intentional doing of
7 a wrongful act without just cause. We do have laws in South
8 Carolina that say you can protect yourself, but he's the one
9 with the pool stick and he's the one that all of those
10 witnesses put a gun in his hand. He had intent to inflict
11 injury to the level of killing someone that night. It
12 didn't matter who it was, but it was Kochese Gregory. It
13 was Kochese Gregory. And Montrell Graham knowing what
14 happened got him in that car and got the heck out of there.
15 So we have Quinton McClinton. Brutally beat Kochese Gregory
16 with the pool stick, guilty, assault and battery first
17 degree. He shot to kill Kochese Gregory. Malice, ill-will,
18 hatred, intent. There's no self-defense in this case, he
19 shot him. Looked him in the face and pulled the trigger.
20 He possessed a weapon, which was the firearm that we've been
21 talking about, which was never recovered for us to do
22 ballistics testing on. No firearms were recovered from
23 Kochese or anybody on the scene. But he, from all of those
24 eye witness testimony, did possess a weapon, a firearm in
25 his coat pocket according to Big Troy, threatening to shoot

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1 somebody, threatening to shoot him, and then what? He was
2 ready. He was ready that night to shoot somebody. He's
3 already threatening people in the club and then he shot him.
4 All of the evidence points to Quinton McClinton. The only
5 reasonable common sense conclusion is that he's guilty,
6 every single offense, ladies and gentlemen, that's common
7 sense. But you have to be firmly convinced, and I believe
8 if you look at all of this evidence, you use your common
9 sense, you consider everything that you've heard from that
10 witness stand, the only conclusion you will come to is
11 guilty. I really appreciate your time. I know this has
12 been a long week for everybody but this is an extremely
13 important case for Kochese Gregory, for the defendants, and
14 for these community people who came in here and testified
15 truthfully about what they saw. Now, yes, you can decide
16 whether or not their credibility is that they were truthful
17 or not, whether they were truthful or not, why they may have
18 changed their stories. But remember, the body worn camera
19 doesn't lie, and what was going on those first few minutes
20 of that chaos is a reflection of what terror that man
21 brought to this community that night. Find him guilty,
22 ladies and gentlemen. Thank you very much.

23 THE COURT: Mr. Duncan?

24 MR. DUNCAN: Thank you, Your Honor. Ladies and
25 gentlemen, good morning. This will be my last chance to

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1 talk to y'all. Ms. Lively gets to come back at the end
2 because the burden is on them, the burden is on the State
3 and it's a heavy burden. The Judge will give you the law on
4 what beyond a reasonable doubt means. I would submit to you
5 that in this case there is plenty of reasonable doubt to go
6 around. Here is the thing, Ms. Lively says it's a simple
7 case. Investigator Young says, you know, what we've got --
8 I think he said it about three times -- all we have in this
9 case is eye witness testimony, that is all we have. Well,
10 here is the truth of the matter. You know, we hear about
11 the evidence, all of the evidence that's mounted and -- any
12 of y'all -- I'm a lot older -- I hate to be this way as I
13 look through the group I realize I have reached the age of
14 beyond the age of most of y'all, I guess I'm in the older
15 generation now. And remembering not all of it, not all of
16 it, but television shows we've been spoiled by we've got to
17 do this and you've got to have -- you know, what kind of
18 evidence is there building your investigating? You know
19 when the warrant was issued for Quinton McClinton's arrest?
20 He said it yesterday on the stand, Investigator Young, this
21 case was solved in like 18 hours. Eighteen hours after the
22 incident on Christmas Day they had a warrant, he had wrapped
23 up the case. Now, he talks about, you know, it was early in
24 the investigation when he swore out a warrant against Mr.
25 Gregory, that was January 31st. Was it early in the

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1 investigation? I don't know, that's how he characterized
2 it. But here is the thing about that, he hadn't decided by
3 January 31st whether Mr. Gregory was guilty of attempted
4 murder or not. He thought, you know, maybe he should be
5 charged too. He should be charged. He told you the facts
6 showed that Mr. Gregory was shooting a gun, but he had
7 wrapped up the case against Quinton McClinton before people
8 ate Christmas dinner. They found blood. Look, I can --
9 they found blood in the parking lot. They found blood in
10 the parking lot. Got this gentleman here. There was a
11 bigger picture of him with the blood on his head, but this
12 is Mr. Woodard, James Woodard, it's State's Exhibit -- this
13 one is 55, wearing, I believe, a brown jacket. We've heard
14 about the brown jacket guys, those -- was Mr. Woodard one of
15 the guys shooting? The guys wearing brown jackets were
16 shooting. But Investigator Young said Mr. Woodard had been
17 hit in the head with a pool ball. I think Chocolate
18 Pudding -- I think that's right, don't hold me to that,
19 somebody had hit him in the head with a pool ball and he
20 said, "Yeah, they hit me in the head. I was bleeding,
21 that's my blood." So Investigator Young said, "Well, that
22 suits me. I don't want to do any -- I don't want to look
23 into that," where perhaps a person had been shot, had been
24 the shooter. I don't know, there was blood in the parking
25 lot. It seems to me that it's a reasonable thing to do to

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1 test that blood and make sure it belonged to the guy who
2 said, "Well, I claim it. I took his word for it. It didn't
3 seem like it had nothing to do with the investigation into
4 this incident in which Mr. Gregory was shot." Again,
5 y'all -- we don't have to have a CSI investigation, Law and
6 Order investigation into every case, I understand that. But
7 when you've got 18 shell casings across the parking lot,
8 you've got testimony that somewhere between four and six
9 individuals are shooting from out in the parking lot. There
10 is testimony about people shooting from -- one person,
11 Kochese Gregory, shooting into the parking lot from the
12 club. And Mr. Foster is the club owner, he don't know
13 anybody. Here is what Mr. Foster knows, he knows he owns
14 the club and a bad thing happened at that club at night and
15 he hated it because it cost him business. He didn't want
16 that going down in his club. He's trying to lock up the
17 club, get it secure, and all -- you know, when he comes in
18 and says, "I saw a guy with the green sweater shooting out
19 toward the parking lot and I saw fire coming back. I don't
20 know who -- I don't know who started what but there was
21 shots coming both directions." And Ms. Lively says to you
22 it doesn't matter if Kochese Gregory is shooting the gun or
23 not, whether you believe he is shooting a gun or not. Well,
24 I submit to you that it's right significant whether you
25 believe Kochese Gregory is shooting a gun or not, because

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1 Kochese Gregory is the only human being, is the only eye
2 witness who says that my client shot him. Everybody else --
3 and we hear on the camera like Tril, Tril, Katril, who is
4 another person, Tril, Katril. Junior McClinton, who's
5 Quinton's older brother. Carlton Dixon. Montrell Graham.
6 Not picking on Montrell, but at least five individuals are
7 mentioned. Mr. Foster said in a statement that Ms. Lively
8 asked him about, it was five or six. So there's six people,
9 five or six people shooting from that end of the parking
10 lot. You don't know who those five or six are exactly,
11 we've got different -- those names that I just gave you.
12 But the only one when they came to court and testified, and
13 not -- I'm not trying to be like me and William Frick were
14 so skilled cross examiners, I think that on direct exam when
15 Ms. Lively asked them, "Did you see Kochese get shot?" To a
16 man or to a woman they all said no, I didn't see that. So
17 here is what we're left with, we're left with Kochese
18 Gregory's word that Quinton McClinton shot him, that's what
19 we're left with. Now, Kochese Gregory told several people,
20 but if I go to McDonald's today and walk in and say,
21 "William Frick shot me," and I tell 15 people, it doesn't
22 make it more true that 15 people heard me say it. This case
23 rises and falls on the credibility of Kochese Gregory. Do
24 you believe what that man said from the witness stand? Do
25 you believe what he said? I submit to you that there are

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1 lots of holes in his testimony, significant things that
2 don't make any sense at all, such as he's in the club, comes
3 outside the club, I think he gave the number of 15 people,
4 15 people jumping on him. Nobody helped him. He's got
5 family in there, friends in there, he's a life long -- he
6 has lived in Chester 44 years. He wasn't invited to the
7 party so it wasn't his people's party, but his people were
8 there. He had -- Chocolate Pudding was his cousin, the
9 Killian boys knew him, they were his age range. I mean,
10 he's the mid-40's guy, those guys were his age. They were
11 his people, his friends. And I remember him, you know, Mr.
12 Frick asked the questions and said, "So nobody came?" And
13 he said, "Sad to say," said it about three times, "Sad to
14 say," nobody helped him. And then the people that were
15 beating him stopped beating him, walked away, dispersed, no
16 one came to help. They got tired of kicking him? I'm not
17 trying to be funny. What happened there that made them
18 disperse? Just a right significant point I think for y'all
19 to consider. Again, y'all decide the facts so y'all decide
20 what's important and what's not, I don't -- I'm just the
21 lawyer. I don't get to tell you what's important, y'all
22 decide what's important. But it seems right significant to
23 me that if a man had been beating you and wanted to shoot
24 you and you're there, if he wanted to shoot you, why
25 wouldn't he shoot you? What do you reckon made him walk off

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1 65 feet away according to Mr. Gregory and then take aim and
2 shoot at you? I mean, does that make sense? Does that make
3 sense to you? Again, Mr. Gregory, if he would have had a
4 gun, if he has a gun he could tell you that, "People were
5 shooting at me, I shot back." He said, "I didn't have a
6 gun. I never had a gun. Never had a gun. Couldn't
7 possibly have shot a gun." Montrell Graham's statement that
8 y'all watched, his video, he says, "I saw Ryan Gregory hand
9 Kochese a gun." Yeah. You don't have to believe that, you
10 don't have to believe that, but there is evidence that
11 Kochese had the gun. Again, the lady that Ms. Lively -- you
12 know, me and Ms. Lively agree on something, that's good.
13 We probably don't agree on much in this case. But the lady
14 who went across the street, Ms. Kershaw, she is the closest
15 thing to, you know, a good samaritan in this case as there
16 is. She was like -- I don't mean to be rude about you folks
17 from Chester County, y'all are from more of the city than I
18 am, I'm from way back in the country in Chesterfield County.
19 But this lady wasn't a Chester lady, she was from Union.
20 She'd only been here about three years, she didn't really
21 know anybody. Her mother was the one invited to the party.
22 And again, I was a little bit offended that I think Ms.
23 Lively referred to her as an older lady, I think she's like
24 mid-50's or something like that -- but sorry. In any event,
25 Ms. Kershaw says she went across the street, she's seeing

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1 this incident going on, she calls 911, she sees the guy get
2 off the ground -- well, wait a minute. I think another
3 significant point here and one that again bears on Kochese
4 Gregory's credibility is this sort of mysterious disbursing
5 of the crowd who is hitting on him. I think as you consider
6 it it would make more sense what Ms. Kershaw sees from
7 across the road where a black Jeep Cherokee that she later
8 learns is driven by Ms. Tina Davis, also known as Terquila
9 Clifton, is pulling back and forth and looked like it was
10 hitting somebody and causes the crowd to disperse around
11 there. And again, Ms. Kershaw is watching from across the
12 street and she doesn't really -- she doesn't really know
13 anybody. She doesn't know -- who people are and she
14 explains that. She has got it mixed up in her statement
15 about who might have got hit and I think she said Kochese
16 Gregory got hit by the vehicle, and I don't think that -- I
17 don't think there's any other testimony to that effect.
18 Again, significant to me, and I would ask that you consider
19 it, is that Mr. Kochese says, "Nobody helped me, I didn't
20 have a gun." Ms. Kershaw is watching from across the street
21 and says, "I see this guy shooting. The man in the green
22 sweater is shooting." And I'm not going to dig out the
23 green sweater but it's in the evidence and y'all saw it
24 yesterday or the day before, it's a pretty bright sweater.
25 I mean, it's something you could see even from across the

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1 road with the lighting out there. I'm not really
2 challenging the lighting in the thing, I'm challenging -- I
3 mean, we'll put it where it is, I'm challenging Kochese
4 Gregory's testimony, absolutely 100 percent. He ain't
5 telling you the truth. He ain't telling you the truth. I
6 don't know why he's not, really, I don't know why he is not.
7 He got shot. That bothers -- I mean, I'm sure he's upset
8 about that, I'm sorry about that. But the State hat not met
9 their burden of proving that Quinton McClinton is
10 responsible for that shooting. All they can show you is
11 that five or six people probably wearing a brown jacket like
12 this one were shooting from down in the parking lot and one
13 bullet hit Kochese Gregory, so one of five or six people
14 shot Kochese Gregory from somewhere in the parking lot over
15 at Club Images on Christmas morning. Here in America, here
16 in South Carolina, in Chester County, South Carolina, we
17 deserve better than that. That's -- if I'm -- I'm a
18 citizen, if I'm charged, I happened to be at the club on
19 that night and I walked -- I was there and somebody said, "I
20 saw Duncan shooting," and then other folks started calling
21 my name along with several others, but the police obviously
22 is locked in on my client. Again, they solved the crime in
23 18 hours. They had a warrant in hand on Christmas Day
24 afternoon or evening is what Lieutenant Young said. So they
25 had -- Investigator Young in the Chester County Sheriff's

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1 Office had what he wanted, what he needed to bring this case
2 on December the 25th, 2018, he had it, they locked in on
3 Quinton McClinton. It's interesting -- I think it's
4 interesting as you consider evidence and consider how
5 people's minds work, I mean, mine, yours, everybody. The
6 doctor, Dr. Holaday, Duncan Holaday, works down at Chester
7 Hospital, said, "You know, they said a name and I" -- in his
8 statement -- and he testified about it. He reviewed it,
9 looked at his statement and talked about that he knew it
10 wasn't like Billy and Ray, and the officers, officers asked
11 him, "Well, was it" -- and he wrote Trio in his statement
12 and he said, "Yeah, that was it." And then he watched it on
13 video and was like, "Well, that wasn't it at all." It's
14 like human nature is that, you know, when somebody is asking
15 you and you go well that person is looking for that, I want
16 to help them. You know, most of us do want to help, we want
17 to be like well, yeah, what was that? Whose name was that?
18 And then it turns into sort of a mob mentality and everybody
19 is going, "Yeah, Tril, shooting like hell." That woman said
20 shooting like hell. And then Bernice June -- and then Ms.
21 June, when questioned here in court, said, well -- I think
22 the word Ms. Lively used was copycatting, "Everybody else
23 was saying it so I said it, too. I was drinking that night,
24 I don't really know." Well, y'all, surely to goodness,
25 surely to goodness in this county, in this state, in this

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1 country we deserve better as a citizen, if I'm charged with
2 a crime, if I'm charged with attempted murder for crying out
3 loud, not charged with shoplifting, I'm charged with
4 attempted murder, they ought to have to do more than come in
5 and say some folks were calling out your name there at the
6 club in the one hour right after an incident in which 18
7 shell casings were found. So 18 gunshots out there, I don't
8 know who all was shooting. A number of people shooting.
9 But Kochese Gregory said it was Quinton McClinton, no need
10 to look any further. I ask y'all to consider all of that as
11 you consider the charge of attempted murder. The charge of
12 assault and battery. Judge Cole is going to give you
13 instructions about first degree, second degree. Again, I
14 don't think the State has presented evidence sufficient to
15 establish that Quinton McClinton is responsible for any --
16 for the injuries suffered by Mr. Gregory, Kochese.
17 Kochese's own testimony was there was this group of people
18 beating on him. The best I could tell, the best I could
19 tell when he said sucker punched or something to that
20 affect, he did say Quinton McClinton punched him. I don't
21 think -- I think that was with a fist, I think there was a
22 fight. I listened to Montrell Graham's statement on the
23 recorded interview and Montrell talked about -- and you'll
24 recall, it's in evidence, you can look at -- you can move to
25 the spot and see it, but I don't think it was Lieutenant

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1 Young, I think it was the other officer, Detective Crockett
2 who said something about, "Well, how come -- did Quinton
3 need help? Quinton is a pretty good sized guy, couldn't he
4 handle Kochese?" And Montrell says, "No. Chocolate Pudding
5 and Kochese were both on Quinton and so Quinton had to
6 get -- Carlton jumped in there. Carlton had to get in
7 there, it was two, so it was two on two." Again, it sounded
8 like a fight, it sounds like a fight. And if y'all believe
9 punishment is due, there will be instructions about assault
10 and battery second degree, which is essentially what would
11 happen in a fight not with Mohammed Ali or Mike Tyson but
12 with a regular person having a fight, misdemeanor charge.
13 Again, I don't think they've established it. I don't think
14 that testimony has established that Quinton McClinton is
15 responsible for injuries suffered by Mr. Kochese Gregory.
16 Again, I ask you to examine, please carefully think about
17 the testimony of Kochese Gregory offered from that stand,
18 see if it makes sense to you. I submit to you it does not,
19 and that a man should not be convicted of anything based on
20 that testimony. I do know that this wasn't where y'all
21 wanted to spend this week but I appreciate your attention,
22 y'all have been very attentive. Y'all have been here on
23 time. It means -- the system doesn't work without you, will
24 not work without you. It is very scary for lawyers but
25 particularly for young men like Mr. McClinton and Mr. Graham

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1 putting their hands, putting their lives, putting their
2 fates in the hands of the 12 of y'all, but we trust the
3 system and respectfully ask you to return a verdict of not
4 guilty. Thank you very much.

5 THE COURT: Mr. Frick?

6 MR. FRICK: Thank you, Your Honor, solicitor, ladies
7 and gentlemen of the jury. I told you you were lucky, you
8 got to hear three lawyers tell you about this case all week
9 long and a third one is up here again. I don't have a fancy
10 Powerpoint presentation. I don't have any card tricks for
11 you today, but I do have a story I want to tell you about,
12 and I think it ties into the oath that you took on Monday
13 when you came in here. Many of you were probably not aware,
14 but about 105 years ago just down the road from our
15 neighbors in Fairfield County, there was a guy who was
16 charged with assaulting the wife of a very prominent person
17 in the community. This case caused such outrage that the
18 person who got charged had to be housed in Columbia until
19 his trial came up on June 14th of 1915. That day he was
20 brought up by train to Winnsboro and they were walking up
21 the steps to the Fairfield County Courthouse, he was
22 accompanied by the sheriff, Sheriff Adam Hood, and the
23 sheriff's deputy. You think law enforcement had small
24 departments now, that was the entire sheriff's department in
25 Fairfield County at the time so he had to enlist other

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1 deputies. Deputy Boulware was with him, and as they walked
2 up the steps of the Fairfield County Courthouse at the top
3 of the steps was the man whose wife -- the husband whose
4 wife is the victim in the case and his family, and they had
5 guns and the sheriff knew it and the deputy knew it but they
6 were armed, too. As they went up the steps it was described
7 as a hail of bullets, the sheriff didn't stop. Now,
8 understand, ladies and gentlemen, he's an elected official,
9 the guy at the top of the stairs and the family are
10 important folks in the community that elects him. The easy
11 thing to do is say, "Hoss, you're on your own this time,"
12 but he didn't do that. He took an oath to uphold the rule
13 of law and that's what this whole thing is about. It is not
14 about whether you like Quinton McClinton or not, whether you
15 like Montrell Graham or not. It is about whether the State
16 has proven to you beyond a reasonable doubt that a crime
17 occurred, and more specifically the crime that they allege
18 occurred. You took that same oath essentially to uphold
19 that rule of law. That's why we don't have mob justice in
20 this country, that's why we don't handle matters on our own.
21 Things happen. We call the authorities, they investigate
22 hopefully, and then the person has their day in court, and
23 until y'all come back and the foreman hands that piece of
24 paper to the clerk and it goes over here to be read, the
25 people sitting at that table are presumed innocent, innocent

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1 only until y'all are satisfied by competent evidence that
2 the State proves their case, otherwise they're still not
3 guilty. Now, ladies and gentlemen, let's go into this one a
4 little bit. There are no forensics in this case. I'll be
5 honest, folks, I've been doing this for awhile and I am
6 absolutely baffled that in a shooting case you were told,
7 "Don't worry about the fact that we didn't test any of the
8 shell casings. It doesn't matter whether the victim had a
9 gun or not, that's not important." That is ridiculous,
10 absolutely ridiculous. We have 18 shells casings. Okay.
11 That's a heck of a lot of shell casings, I'll give you that.
12 They're scattered here and they're over here, and you hear
13 testimony there's shooting back and forth, so we're trying
14 to figure out who is shooting what and where so we collect
15 all of these shell casings. By the way, and I'm not going
16 it drag all of these picture -- I really love playing with
17 all of the evidence but I'm not going to do that to y'all
18 today. But right here in front of the sidewalk of the club
19 where this fight takes place, where Kochese Gregory says he
20 stayed the whole time, where people said they saw him with a
21 gun, there are two fired shell casings and one unfired
22 bullet right there. Ain't a single witness got on this
23 stand and said they saw anybody at that table shooting in
24 front of the club. What they did say is they saw the man in
25 the green sweater with a gun right there. He had a gun,

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1 make no mistake about it, and he fired that gun. The
2 solicitor blows that off by basically saying, "Well, we sent
3 it for DNA testing." Okay, great, you didn't find any DNA.
4 However, if only we had this magical place that had
5 scientists who could examine shell casings to determine
6 whether or not they had been fired and possibly whether they
7 had been fired by the same gun. Oh wait, we do. It's on
8 Broad River Road, it's called the State Law Enforcement
9 Division commonly referred to as SLED. That's their sole
10 purpose, but unless you tell them to do it they don't do it.
11 So if you send it down there and say, "Hey, look for DNA,"
12 which they're highly likely to find on these things, but
13 that's what we look for. Okay, we don't find it. But wait,
14 the only person we try to examine it against is Quinton
15 McClinton. There were several names bandied about that
16 night; Tril, Katril, CiCi, Junior, even Montrell's because
17 he's sitting at the table, even Montrell was out there. "I
18 ain't worried about that, we'll get Quinton's DNA, let's
19 test it against that." We don't find anything. We don't
20 examine them any further, we just send those right on back.
21 We don't know. We're still investigating the case. We
22 don't know what happened. We don't know who the shooter is.
23 You'll see it on the body cam, and Investigator Young talked
24 about it, there was some question as to whether the shooter
25 had gotten injured. Because one, there's blood out in the

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1 parking lot, there's a picture of a pool of blood. There's
2 blood on the front of the Impala where allegedly the shooter
3 is leaning across, we don't test it. We don't test it. Oh,
4 that's right, there was a guy who was out there who said he
5 got hit with a pool ball and he said that's his blood.
6 Folks, I don't know if he stuck in his finger and tasted it
7 and said that's his blood, I don't know how exactly he knows
8 that's his blood but he said that's his blood. That's good
9 enough, we don't need to go any further. That part of this
10 investigation is closed, whew, glad we solved that. That's
11 ridiculous, ladies and gentlemen. You're still trying to
12 figure out who all is out there. You might not find DNA on
13 a shell casing or a pool cue or a cue ball, but you dang
14 sure are going to find it in the blood. So now you've got a
15 person on the scene. Don't worry about that, it's not
16 important. By the way, that dude was out there wearing a
17 brown jacket, too. So no blood. No testing of the shell
18 casings. We -- and I'll be honest, folks, you know, they
19 tried to get fingerprints off this. I would submit to you a
20 pool cue in a pool hall where a lot of people were touching
21 it wouldn't probably show you a whole lot off of it anyway,
22 but we don't get a fingerprint off of this. So as was
23 stated, it all comes down to statements and who you're going
24 to believe. And as I told you on Monday and I'll tell you
25 again right now, you, y'all collectively are the ones who

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1 get to determine who you want to believe, what you want to
2 believe, if you want to believe it, and you ain't got to
3 believe all of it and you ain't got to believe none of it,
4 and you can believe just some of it. And I submit to you
5 anybody who can stand in front of you with a straight face
6 and say Dafrican Gregory is credible deserves an Emmy on
7 Oscar night, and also I have some ocean front property in
8 Richburg I would really like to talk to you about. He is
9 absolutely incredible. You can't believe the words out of
10 his mouth. He stands up here first of all and says that all
11 of the people that were in the club on Kochese's side, all
12 of his family, and he watches out for his family. Well, how
13 incredible that law and behold when he gets on the stand the
14 two guys on trial are the two guys that did it. Amazing.
15 That's the first time he's ever told anybody that. You see
16 him on the camera. He's out there that night, comes here
17 and testifies how distraught he was, how upset he was about
18 this horrible situation. Didn't tell a soul. I mean, he's
19 standing there and he doesn't know the cops are talking to
20 him so he says something, but he don't say a whole lot. He
21 sure don't want to put his name on the statement. When Wade
22 Young offers to meet him down in Winnsboro where he stays he
23 says, "Oh yeah, I'll be there." Doesn't show up, doesn't
24 show up again, doesn't show up again. He doesn't want to
25 talk about it. But when he is subpoenaed, while he's on

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1 probation, subpoenaed to come to court by the State, "Them
2 two must be the guys that did it. Oh yeah, they did it."
3 Ladies and gentlemen, you can't believe a thing. And by the
4 way, his story don't even make any sense. He says Quinton
5 is shooting up in the air and Montrell is the one that is
6 aiming. Nobody says that. He can't even come up with a
7 good story that's consistent with everybody else. Next I'll
8 go ahead and go on in to Kochese. Ladies and gentlemen, the
9 State is in a very difficult situation on this one, because
10 you either believe Kochese -- and again, it's your decision,
11 I'll just tell you what I think, you're either going to
12 believe Kochese or you've got to believe Ms. Kershaw.
13 Because Kochese says, "I didn't have no gun." Ms. Kershaw
14 says, "I saw the guy in the green sweater with a gun." Mr.
15 Foster said, "I saw the guy in the green sweater with a
16 gun." Kochese maintains -- oh yeah, shell casings and
17 bullet right there where he was. I asked him very
18 specifically, "Did you ever leave that spot? After you were
19 beat down and you stand back up and you get shot, did you go
20 any further than that spot? No, I didn't go any further."
21 Okay, great, we've solved that one. Where did the shells
22 come from? There's only one place. He had a gun. Ladies
23 and gentlemen, if he's maintaining that lie with all of this
24 other evidence, how can you believe anything else he says
25 with just that? That's reasonable doubt in and of itself.

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1 I submit to you another dude in a brown jacket is reasonable
2 doubt, but let's stay on Kochese. So he says, and I like
3 this a whole lot, he just went to the club on Christmas Eve,
4 didn't know there was a party. Nobody invited him. He knew
5 everybody on the inside, that's why they let him in. Okay.
6 They were all his friends and family. All of his friends
7 and family are in the club. And then as he walks out
8 Quinton McClinton just starts beating on him with a pool cue
9 and all of his friends and family let him get beat. He
10 doesn't even maintain that Tina Davis or Tequila Clifton or
11 whatever deal she wants to be called, gets in her car and
12 starts trying to run over Quinton McClinton. "Nobody helped
13 me. I all alone bear this burden. And after this horrible
14 beating I get up and then I am shot and I stagger back into
15 the club." Folks, that story is ridiculous, that is
16 absolutely ridiculous. And let's talk about his statement
17 to the good doctor. Now, the doctor, I ain't going to fault
18 him, okay? But, I mean, he writes a statement that says,
19 "Yeah, yeah, yeah, sure, that sounds good, it was Trio or
20 Tril or -- you know what? I want to be a medical doctor,
21 that's fine, that sounds right." Or whether it was Quinton
22 after I'm shown the video and that's what he says on the
23 video. I'm not faulting him, he's trying to help a man.
24 His job isn't to come in here and testify, his job is to
25 help save people's lives and he did a good job that night

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1 quite frankly. So Quinton -- I mean, so Kochese is laying
2 there and says Quinton. What happened to him after he gets
3 shot? He goes back into the pool hall with all of them
4 folks in there, with all that commotion going on where
5 everybody is yelling out names, maybe he don't know it is
6 Quinton, maybe it's the only name he hears. He's on the
7 operating table under medication, I would presume, and being
8 questioned by law enforcement and he says Quinton, and this
9 is the reliable evidence you have? Because you don't have
10 to go back and look, but you've got the video if you want to
11 see it, in the pool hall you hear all of this commotion, all
12 of those folks are still in there and they're all his folks
13 and they're all yelling, "It was Tril. It was Katril. I
14 saw CiCi." And by the way, where did CiCi go in all of
15 this? CiCi is the one that started the whole dang fight.
16 He throws a drink in somebody's face and then that's when
17 all of this ruckus ensues, but we're not worried about CiCi.
18 All right, fine. All of these names are being bandied
19 about, okay? Even the bouncer himself, who keeps saying
20 Tril and he also says Katril a couple of times in there, so
21 he ain't sure exactly even what the nickname is. But he
22 dang sure ain't sure of what the person's government name is
23 because -- and it's on the video -- I'm glad for body
24 cameras, too -- it's on the video that's he's writing out
25 the statement he yells out, "Hey, how do you spell the

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1 shooter's name?" And the cop says, "Q-u-i-n-t-o-n." Ladies
2 and gentlemen, they're right, it's all about these
3 statements. But can you put any credibility, can you trust
4 in any of these statements? Let's get to Ms. Kershaw. And
5 I will agree with everybody else, I think she's probably the
6 most credible witness that you saw up here, really. I mean,
7 she's the absolutely most believable one. And this is why I
8 think so, she wanted to be sure when she wrote her
9 statement. She admitted, "Yes. I heard the name Kochese
10 and that's why I put the name in there. I didn't know who
11 that dude was but I wrote Kochese." She was right, because
12 she knew the guy in the green jacket was the guy that got
13 shot and she saw him with a gun and shooting. She wrote
14 that name in, came in here, admitted, "Yeah, I heard it, I
15 heard it," like all of these other people who heard things,
16 okay? And she wrote that in there, and she said, "Yeah, I
17 did see some shooting from down there near the car wash but
18 I didn't know who it was so I did not write those names."
19 Even with all of these names being bandied about she wanted
20 to be certain so she said, yeah, I saw it but I ain't
21 writing those names in it. I submit to you, ladies and
22 gentlemen, Kochese Gregory finds her to be the most credible
23 witness, too, because when she said it was 15 people whaling
24 on him on this very stand he said, "Yep, that's how many it
25 was. Why did you say that? Because that's what she said."

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1 That's what he testified to. So ladies and gentlemen,
2 Kochese had a gun, Kochese fired a gun. There's no credible
3 evidence that Quinton McClinton fired a gun, nothing. You
4 don't have any forensics, you don't have any credible
5 statements that do that. So it's not beyond a reasonable
6 doubt, ladies and gentlemen, that a crime of attempted
7 murder was committed by anybody sitting at that table over
8 there or any other crime for that matter. What you do have
9 is a whole lot of speculation and that's not the way it
10 works. They've got to prove it to you beyond a reasonable
11 doubt. Is there any other reasonable explanation? Yeah,
12 and I'm going to show you one, but there's plenty of others.
13 And taking the word of somebody ignoring blood, don't test
14 the shell casings, don't even try. See this is -- and I've
15 tried enough cases with Ms. Lively, I know she's going to
16 come up here in just a second and beat up what I'm telling
17 you, but this is what I'm telling you on this, okay? We
18 sent the shell casings to see if we could get DNA off of it,
19 we didn't even try to see if they can get any other
20 forensics off of it. They tried to get GSR off of the
21 clothing. They sent it up there, that's what Wade Young
22 testified to and SLED said, "We don't test that." That's
23 not what we have on the other stuff, they didn't ask for
24 anything. So you have nothing to support any of these
25 statements, it all comes down to the credibility. Now, I

CLOSING ARGUMENTS

1 promise I'm about to finish up. Now, as I told you at the
2 beginning and I maintain again, this is two separate trials.
3 Again, they ain't going to give you two paychecks but you're
4 working double this week because you've got two trials
5 you're hearing at the same time. They have charged Montrell
6 Graham with accessory after the fact to this attempted
7 murder. What the State has alleged is that, one, a violent
8 felony occurred. In this case they're alleging the
9 attempted murder and the person who committed it was Quinton
10 McClinton. That's what they're alleging first, they've got
11 to prove that first. Second, that Montrell Graham knew he
12 did it, okay? I suggest to you, I don't know that anybody
13 knew what was going on in that parking lot that night. And
14 then third and finally, and I think the most important, even
15 if you believe they've met the first two, which I submit
16 they have not, even if you think they have satisfied the
17 burden on those first two, the third element is he has to
18 have had the intent and purpose of taking Quinton McClinton
19 away from that scene to evade law enforcement, essentially
20 to get out of there, to hide him. Not, "Oh crap, there's
21 some shooting, let me get out of here," which I found
22 interesting because that's exactly what the solicitor said
23 she probably would have done and I think I would have done
24 if I'm in a parking lot and there's bullets going back and
25 forth. I think I would do exactly what Montrell said he

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1 did, I would be ducking down trying to get to that car. And
2 if some dude jumped in that car I'm not going to say,
3 "Excuse me, sir. Per chance, did you take part in
4 committing a felonious act before you got in my vehicle?
5 Because I do not want to take you away from this scene if
6 you did." Nobody is going to do that, come on. If somebody
7 is shooting you're going to get the devil out of there, and
8 that's all Montrell Graham did. Why do I believe that?
9 Because a couple of days later he walks into the sheriff's
10 department and told them what he did. He didn't have to.
11 They didn't have a warrant, he was free to go that day. He
12 could have looked down and said, "I'm ready to go. Okay.
13 Been good to see you, Wade. You always looked out for me
14 since sixth grade, take care." But he didn't do that, he
15 sat down and they talked. Ladies and gentlemen, this is not
16 a popularity contest. It's not about whether you like the
17 folks or not, it's about whether or not the State has proven
18 their burden. And you took an oath, and ain't nobody going
19 to be shooting at you like Sheriff Hood and Deputy Boulware,
20 but it's a serious oath and I ask you to uphold the rule of
21 law, weigh the evidence. You've listened carefully, you've
22 done an excellent job on that through a long trial, and when
23 you come to that final conclusion I believe you will find
24 Montrell Graham not guilty. Thank you very much for your
25 time, attention and service.

JURY CHARGE

1 THE COURT: Ms. Lively?

2 MS. LIVELY: Yes, thank you, Your Honor. I'll just
3 keep this brief. I know y'all have heard probably more than
4 you want to ever hear about this case but there are a couple
5 things that I do want to point out. The fact that the State
6 didn't care that Kochese Gregory might have had a gun is
7 laughable. And I know that at the defense table a lot of
8 what's happening in this case may be funny to them, this is
9 no joke, and I'm asking you to take this as seriously as the
10 State has. Kochese Gregory was charged with attempted
11 murder, too. These investigations are ongoing until we step
12 in a courtroom and we know that we have witnesses who are
13 willing, or subpoenaed, which is the right that we have to
14 bring people in here and testify under oath in front of all
15 of you and that's the rule of law. Nothing funny about
16 that. His charges were dismissed, because as these things
17 are ongoing, things are happening and evolving until we walk
18 in here with the evidence that we have had the opportunity
19 to gather since 2018 to present evidence to you to convince
20 you of their guilt. There was not evidence sufficient to
21 bring a case against Kochese Gregory for attempted murder,
22 but there was volumes of eye witness testimony that Quinton
23 McClinton was, and we have a gunshot victim who almost died.
24 That's evidence, ladies and gentlemen. The other thing is
25 to get a warrant you just need probable cause, that's more

JURY CHARGE

1 likely than not. If that's all we needed to convict people
2 we would sure be able to clean out our jailhouses because
3 that's just tipping the scales, more likely than not this
4 person was probably, possibly involved in this crime. But
5 guess what, until I can come in here beyond a reasonable
6 doubt and prove you of someone's guilt leaving you firmly
7 convinced of their guilt, that's what the constitution puts
8 on me and I'm fine with that, and that's the case we brought
9 to you this week. And yeah, I called Benika Kershaw to the
10 stand. I knew she was going to say Kochese Gregory had a
11 gun, I'm not hiding that from y'all because I knew you could
12 see through what was going on that night and you would cut
13 through all of the smoking mirrors, the jokes by the defense
14 and see what's really going on. Yeah, Chocolate Pudding
15 didn't want to be here, we had to chase him down. Fine.
16 Yeah. Big Troy had to ask how do you spell that Tril boy's
17 name because he didn't know, Quinton. I probably misspelled
18 it three or four times, q-u-e, q-u-i. Does that mean he
19 doesn't know who it was that shot Kochese? And here is the
20 thing that I want you to use your common sense when you go
21 back in that jury room, hands down, there's a thing that
22 allows attorneys, whether it's the defense or myself, to get
23 in what we call an excited utterance of individuals who are
24 still in the shock and trauma of an event happening, that
25 what our courts have said those statements come in even if

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1 they are hearsay. And the reason why is because these
2 people are still under the shock of what happened. They
3 haven't had a chance to have two or three days to get their
4 story straight, they haven't had two weeks to get their
5 story straight. It is happening at the moment whenever they
6 are still under the excitement of what happened, the terror
7 of what happened. Those statements are the statements that
8 are coming out of your mouth right after you see something
9 happen. That's the reason why I kept bringing up the body
10 worn camera and kept reminding people, "Don't you remember
11 what you said when it happened?" Because people start to
12 convince themselves once they decide they don't want to be
13 involved anymore it's easier for them to forget than to have
14 to relive it. So ladies and gentlemen, I'm just asking you,
15 once again, use your common sense. I'm not going to beat up
16 on, you know, a lot of what the different people who came in
17 here and said because they were scared to death. They hate
18 me right now. This isn't a popularity contest. I'm not
19 going to try to throw out any jokes to try to get y'all to
20 like me, that's not my job. I just want y'all to use your
21 common sense, apply the law to the facts, and then once you
22 do there's only one result, they're guilty. Or either
23 Kochese had this elaborate plan to get all of his family on
24 Christmas to say, "Hey, here is a good chance for us to
25 frame somebody for attempted murder and I'll take the

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1 bullet, and when I'm on the ER table I'm going to say it's
2 Quinton, okay, right before they put me under." That's what
3 you have to believe, what is reasonable. Just be
4 reasonable. Thank you.

5 THE COURT: Does any juror need to take a break before
6 I instruct you on the law? Okay. Let me ask you to please
7 go to your jury room, don't talk about the case, I'll bring
8 you back after that short break.

9 The jury left the courtroom.

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

11 (A break was taken.)

12 THE COURT: All right. Bring the jury in, please.

13 (The jury returned to the courtroom.)

14 THE COURT: All right. Ladies and gentlemen, as you
15 know you have heard and seen all of the evidence in the
16 case. You've now heard the final summations of the lawyers
17 and therefore it now becomes my duty and obligation to
18 instruct you on the law that's applicable in the case, and
19 then you are tasked to go back and to begin with your
20 deliberations and through that process you will examine the
21 evidence. You'll determine the material facts relating to
22 the allegations. You will apply the law and you will
23 determine whether or not a defendant has been found guilty
24 of any crime that has been alleged against that particular
25 defendant. It is your exclusive prerogative to determine

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1 what the facts are, and you do that through your own common
2 sense examination and evaluation of all of the testimony and
3 the other evidence received during the course of this trial,
4 and you 12 jurors alone will decide what weight, value and
5 effect to give to any particular witness testimony or other
6 evidence in the case. But your sole objective is to simply
7 render a fair and impartial decision based upon the evidence
8 presented during the course of this trial and the law that's
9 applicable as I will have provided it to you. Now, in this
10 case, as you know, there are four separate indictments.
11 Each of those are going to require for you to come to a
12 decision and render a verdict, so you'll be rendering four
13 separate and distinct verdicts, one for each of the
14 indictments. Three of those indictments are alleged against
15 Quinton Tywan McClinton, one of those indictments is alleged
16 against Montrell Graham. Indictment 2019-258 charges Mr.
17 McClinton with the crime of attempted murder. The State
18 alleges in this indictment that he did on or about
19 December the 25th of 2018, with intent to kill did attempt
20 to kill Kochese Gregory with malice aforethought by shooting
21 him with a firearm. The second indictment charges Quinton
22 McClinton with the crime of assault and battery in the first
23 degree. The State alleging that again on or about
24 October -- excuse me, December the 25th of 2018, that Mr.
25 McClinton did unlawfully injure Kochese Gregory or attempt

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1 or offer to injure Mr. Gregory with the present ability to
2 do so, and that the act was accomplished by means likely to
3 produce death or great bodily injury. The third indictment
4 is against also Mr. Quinton McClinton, and that indictment
5 charges him with the possession or display of a firearm
6 during the commission of a violent crime. The State
7 alleging in this indictment that Mr. McClinton did on
8 December 25th, or on or about December 25th, 2018, did
9 possess or visibly display a firearm during his commission
10 of the crime of attempted murder. And the remaining
11 indictment is an indictment against Montrell Graham. That
12 indictment charges him with having committed the crime of
13 accessory after the fact to the commission of a felony. The
14 indictment alleging that Montrell Graham did here in Chester
15 County on or about December the 25th of 2018, harbor or
16 assist Quinton McClinton, with the intention of enabling him
17 to escape detention, arrest or punishment for his commission
18 of the crime of attempted murder, which is a felony under
19 the law, with knowledge that Mr. McClinton had committed
20 that offense. Now, as to all of those allegations and as to
21 each of the charges set forth in each of those indictments
22 each of the defendants in this case have entered a plea of
23 not guilty. The plea of not guilty places upon the State
24 the burden of proving the allegations made by way of each of
25 those indictments, the burden of proving each of the

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1 essential elements of the crimes that have been alleged
2 against each of the separate defendants, and therefore the
3 burden is upon the State to establish each defendant's guilt
4 to the satisfaction of you 12 jurors beyond a reasonable
5 doubt before any verdict of guilty could be returned as to
6 any indictment against any defendant. The indictments
7 themselves are not evidence of anything, they're not proof
8 of anything, they don't establish anything. They will be in
9 the jury room but that's not because they're evidence
10 because they're not, they'll be in the jury room simply to
11 serve as the verdict forms. Mr. Foreman, on the back of
12 each indictment you're going to see the word verdict and
13 it's going to be beneath that word that you're going to be
14 indicating the jury's unanimous decision as it relates to
15 that specific indictment, and in a couple of those
16 indictments you will be able to consider lesser-included
17 offenses. I'm going to explain all of that to you shortly.
18 I will also have a verdict form guide that will assist you
19 in the various verdict forms that you'll be able to consider
20 depending upon your determination of fact based upon the
21 evidence that you will consider that was received during the
22 course of the trial. Now, each of these indictments are
23 being tried together and there are two defendants that are
24 being tried together, but you are to consider each of those
25 indictments against each of the separate defendants

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1 separately with regard to the evidence that relates to that
2 particular indictment and the allegations contained therein,
3 and, of course, separately as to each of the separate
4 defendants. And therefore depending on your determination
5 of fact and in your application of the law your verdicts in
6 this case may all be the same or they may be different.
7 That, of course, will depend upon your decision as to the
8 facts relating to the allegations contained in an
9 indictment, and then your application of the law to those
10 facts as I have -- will have provided them to you. Now,
11 because you are the judges of the facts you are therefore
12 necessarily the sole judges of the credibility, that is the
13 believability of each witness that has testified during the
14 course of this trial, and therefore you may believe
15 everything that a witness testified to, you may chose to
16 believe none of it, you may believe some portion of it and
17 reject some other portion of it. But there are a number of
18 factors which you should take into account in assessing the
19 credibility of a witness and the testimony they provide and
20 I'm going to list those factors for you. You should
21 consider the demeanor of the witness, that is how the
22 witness appeared to you while the witness was on that
23 witness stand testifying and providing information to you.
24 In other words, was that witness straight forward in
25 responding to the questions that were posed of the witness

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1 or was the witness hesitant or evasive in responding to
2 questions that were asked of the witness. Simply put, do
3 you find that that witness appeared to be telling the truth
4 and that witness had knowledge of the facts to which that
5 witness has testified. You should also consider whether or
6 not the testimony of the witness is consistent or is it
7 inconsistent with that witness' own testimony provided here
8 during the course of the trial as well as whether it was
9 consistent or inconsistent with other statements made by
10 that same witness, whether those statements were made in
11 court or outside of court. You should also consider whether
12 or not the testimony of a witness is consistent or is it
13 inconsistent with other testimony and other evidence
14 received during the course of this trial. You should also
15 consider how the witness came to know the facts to which
16 that witness has testified. In other words, what was that
17 witness' opportunity and ability to perceive the existence
18 of those facts to which that witness has testified by having
19 previously used his or her senses. And then what is that
20 witness' ability to be able to come into court and to
21 accurately recollect to you as to what they have previously
22 perceived. You should also consider any bias or prejudice
23 or interest that you find the witness might have with
24 respect to the case. In other words, do you find some
25 reason that a particular witness would come into court and

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1 would testify one way or another to help or hurt one side or
2 the other. And you may consider any interest that a witness
3 might have in the outcome if you determine that a witness
4 does have such an interest, and you further find that that
5 interest would bear upon that particular witness'
6 credibility. You should also consider whether or not the
7 testimony of a witness is strengthened or is it weakened by
8 other testimony or other evidence received during the course
9 of the trial. Now, as I've said, you are the judges of the
10 facts and you are the judge of the credibility of each
11 witness, and therefore you may believe everything that they
12 say, you may believe none of it, you may believe some
13 portion of a witness' testimony and reject some other
14 portion of that same witness' testimony. You could believe
15 one witness as opposed to several or several as opposed to
16 one. But whatever your good judgment and common sense tells
17 you is the most believable and credible testimony is the
18 testimony you should accept, and you should reject any
19 testimony or other evidence that you find not to be credible
20 or believable. Again, as I've stated, your sole objective
21 is to render a fair and impartial decision based upon the
22 evidence and testimony received during the trial and the law
23 that I will have provided to you. Now, the same law that
24 provides that you are the judges of the facts also provides
25 that I am the judge of the law, and that simply means that

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1 nobody is going to tell you how to arrive at your
2 determination of fact in this case. You do that, as I've
3 already stated, through the exercise of good judgment and
4 common sense conscientiously applied to the testimony and
5 evidence received during the course of the trial. You must,
6 however, under your oath as a juror accept the law as I
7 provide it to you as being the law that you are to apply in
8 the case. In other words, you're never to concern yourself
9 of what you thought the law was before you came to serve as
10 a juror this week or what you think the law ought to be.
11 Under your oath as a juror you must accept the law as I
12 provide it to you as being the law that you are to apply in
13 the case, and then you simply take that law and you apply it
14 to the facts as you 12 jurors determine those facts to be
15 based upon your common sense examination of the evidence in
16 the case. Now, as you know the State has the burden of
17 proving a particular defendant's guilt as to a particular
18 criminal offense beyond a reasonable doubt. That doesn't
19 mean that the State has to prove a defendant's guilt beyond
20 all doubt or beyond any possible doubt, but it does require
21 the State to prove a defendant's guilt beyond a reasonable
22 doubt. And the term reasonable doubt should be given its
23 plain ordinary meaning. A reasonable doubt is the kind of
24 doubt that would cause a reasonable person to hesitate to
25 act upon the information that is being provided. Now, a

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1 defendant in a criminal trial is entitled to any reasonable
2 doubt that arises from the evidence or lack of evidence in
3 the case, and if upon any factual issue essential to a
4 finding of a verdict of guilty you have some reasonable
5 doubt as to how that issue should be resolved, it would be
6 your duty to resolve that reasonable doubt in favor of the
7 defendant. Now, while there are various forms of evidence,
8 such as testimony, photographs, documents, charts and other
9 types of physical exhibits, there are really only two types
10 of evidence and either or both of those types of evidence
11 may be used independently or in combination to prove a fact
12 at issue, but the two types of evidence are direct evidence
13 and circumstantial evidence. Direct evidence is the
14 testimony of a person who testifies from actual knowledge of
15 that fact. It is the testimony of a person who has
16 perceived the existence of some fact by means of his other
17 her senses, and then they come into court and they testify
18 as to what they have previously perceived. Direct evidence
19 proves the existence of a fact directly and it does not
20 require any deduction or inference in order to establish
21 that fact. Circumstantial evidence, on the other hand, is
22 the proof of some other fact or a set of facts which taken
23 either singly or collectively may prove the existence of a
24 fact in question as a necessary consequence, that is through
25 an inference. And an inference is simply a deduction of

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1 fact that may logically and reasonably be drawn from proof
2 of some other fact or a set of facts. In other words, it's
3 not a fact proven by the direct testimony of a witness based
4 upon that witness' perception, but it is a conclusion which
5 might reasonably be drawn from the proof of other facts. In
6 other words, you may infer that a particular event occurred
7 or that a particular fact exists based upon the proof of
8 sufficient factual circumstances which would reasonably
9 warrant your arriving at a particular conclusion. The
10 commission of a crime and any particular element necessary
11 to prove a crime may be proven by direct evidence or by
12 circumstantial evidence or by a combination of both direct
13 and circumstantial evidence. The law makes no distinction
14 between the weight or value to be given to direct evidence
15 or circumstantial evidence, however to the extent that the
16 State relies upon circumstantial evidence in order to
17 establish the commission of a crime, all of the
18 circumstances proven must be consistent with each other, and
19 when taken together point conclusively to the guilt of the
20 defendant beyond a reasonable doubt. If these circumstances
21 which are established merely portray the defendant's
22 behavior as suspicious the proof is insufficient and it
23 fails. The burden rests with the State regardless of
24 whether the State relies upon direct evidence or
25 circumstantial evidence or some combination of both types of

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1 evidence to prove a defendant guilty beyond a reasonable
2 doubt. Proof beyond a reasonable doubt is proof that leaves
3 you firmly convinced of a defendant's guilt. There are very
4 few things in the world that we know with absolute
5 certainty, and in criminal cases the law does not require
6 proof that overcomes every possible doubt. If based on your
7 consideration of the evidence in this case you are firmly
8 convinced that a defendant is guilty of a crime with which
9 he has stood trial, you must find that defendant guilty of
10 that crime. Now, if on the other hand you think there is a
11 real possibility that the defendant is not guilty of a crime
12 with which he has been charged then you must give that
13 defendant the benefit of that doubt and find him not guilty.
14 Now, as you know the Defendant McClinton is charged with
15 three crimes; attempted murder, assault and battery in the
16 first degree, separate events, separate charges, and
17 possession of a firearm during the commission of the crime
18 of attempted murder. So I'm going to instruct you on each
19 of those crimes and the law that relates to it and what's
20 necessary to establish each of those separate offenses.
21 These are all statutory offenses, and that just means
22 they're set forth in those blue volumes. The legislature
23 meets every year from January until June. During the course
24 of that legislative session they pass a number of laws and
25 rules and regulations that govern or conduct our conduct in

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1 a variety of ways. Some of those statutes are penal
2 statutes, or criminal penalty statutes, and that just means
3 that the legislature prohibits us from engaging in certain
4 types of conduct, and where we engage in that conduct in
5 violation of the law it subjects us to some type of
6 punishment or penalty as a result of violating the statute
7 or committing that crime. Please understand, however, that
8 you are never to concern yourself with any punishment or
9 penalty that might result from any decision that you make,
10 that's not something that you are to be concerned about,
11 that's not something that you decide. Your sole obligation
12 and duty in this case is to determine whether or not a
13 defendant has been proven guilty of a particular crime
14 beyond a reasonable doubt, and you must make that
15 determination without any consideration being given to any
16 consequence of any decision that you make. Attempted murder
17 is a statutory offense that's set forth in section 16-3-29
18 of the Code of Laws of South Carolina, and that statute
19 provides that a person who with intent to kill attempts to
20 kill another person with malice aforethought, either
21 expressed or implied, commits the offense of attempted
22 murder. So again, the person who with intent to kill
23 attempts to kill another person with malice aforethought,
24 either expressed or implied, commits the offense of
25 attempted murder. In order for you to find the Defendant

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1 McClinton guilty of the crime of attempted murder it would
2 be necessary that the elements in this case has established
3 to your satisfaction beyond a reasonable doubt that Mr.
4 McClinton did with malice aforethought and a specific intent
5 to kill commit some overt act or acts in an attempt to kill
6 Kochese Gregory. An attempt is the commission of an overt
7 act or acts done in furtherance of the intent to do a
8 specific thing which tends towards the accomplishment of the
9 intended goal, but which falls short of completion. An
10 attempt to commit a crime means making an effort towards or
11 the doing of an act or acts which directly move toward the
12 completion of the commission of the crime which is intended,
13 in this case that is alleged to be the crime of murder. The
14 crime of attempted murder does require the element of malice
15 aforethought. Malice aforethought is an essential element
16 of the crime of attempted murder, and it is a technical term
17 importing wickedness and excluding just cause or legal
18 excuse. It is something which springs from depravity from a
19 heart devoid of social duty and fatally bent on mischief.
20 It is a state of mind indicating an extreme disregard for or
21 an extreme indifference to human life. It may also be
22 described as a state of mind which indicates a formed
23 purpose and design to do a wrongful act under circumstances
24 that exclude any legal right to do it. As in the case of
25 murder the law does not require that malice must exist for

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1 any appreciable length of time before the commission of an
2 act or acts constituting the offense of attempted murder.
3 Indeed, it may be conceived at the very moment that any
4 wrongful act is committed. It is sufficient in the law so
5 long as the State does prove beyond a reasonable doubt
6 malice accompanying acts constituting the attempt to commit
7 the crime of murder. You are further instructed that a
8 specific intent to kill must also be proven as an essential
9 element of the crime of attempted murder. A specific intent
10 to kill means that the defendant consciously intended the
11 commission of the acts that constitute the attempt to commit
12 the crime of murder. Specific intent refers to the state of
13 a person's mind which directs his actions towards a specific
14 object or a goal or result, and in this case that would be
15 to kill. The element of intent to kill may be inferred from
16 acts, declarations and conduct, as well as from any other
17 circumstances established by the evidence in this case from
18 which you might reasonably infer such intent, as often a
19 person's intent or state of mind may only be established by
20 circumstantial evidence. Therefore, in order to establish
21 the crime of attempted murder it is necessary that the
22 evidence in this case establishes that the defendant,
23 Quinton McClinton, did with malice aforethought and a
24 specific intent to kill, commit some overt act or acts in
25 the attempt to kill Kochese Gregory without any legal

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1 justification or excuse. Now, often when a person is
2 charged with an offense such as attempted murder, depending
3 upon how the jury decides the facts and applies the law, it
4 might be that the jury would be able to consider some lesser
5 included offense because some element of the greater crime
6 might not be proven beyond a reasonable doubt. So in this
7 particular case I'm going to instruct you on the lesser
8 included offense of assault and battery of a high and
9 aggravated nature. A person charged with the crime of
10 attempted murder may be found guilty of only the lesser
11 included offense of assault and battery of a high and
12 aggravated nature even though that particular crime is not
13 actually or specifically set forth in the indictment, but
14 that depends upon your determination of the fact and then
15 your application of the law. If you find that that finding
16 is warranted then you may find the Defendant McClinton
17 guilty of only the lesser offense of assault and battery of
18 a high and aggravated nature. So that you can understand
19 that offense I'm going to define for you the terms assault
20 and the term battery, and then I'll define for you the
21 criminal offense known as assault and battery of a high and
22 aggravated nature, which is also a statutory offense. An
23 assault is the unlawful attempt to do violence or injury to
24 the person of another where there is the present ability to
25 complete that attempt by way of a battery. And the battery

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1 is the unlawful and intentional touching or striking of the
2 person of another or by some object put in motion by
3 another. It is the completion of an act doing violence or
4 injury to the person of another. Battery may be further
5 defined as the carrying into affect an assault by using or
6 applying force to the person of another no matter how slight
7 in a rude, angry or resentful matter, and without a legal
8 justification or excuse. While an assault and battery does
9 not require a specific intent to cause a particular harm, it
10 does require that at least a criminal intent be shown.
11 Criminal intent is a state of mind that operates jointly
12 with some act in the commission of acts constituting a
13 crime. A criminal intent is a mental state of conscious
14 wrongdoing in contrast to the commission of an act which is
15 the result of accident, mistake or inadvertence. A criminal
16 intent may be proven by the acts and declarations and
17 conduct of the defendant charged as well as from any other
18 circumstances which are established by the evidence in this
19 case from which you might naturally and reasonably infer
20 such an intent because, as I've stated, often the state of a
21 person's mind can only be proven by attendance of
22 circumstances. Assault and battery of a high and aggravated
23 nature is a statutory offense set forth in 16-3-600,
24 Subsection B. And that particular statute provides that a
25 person is guilty of the crime of assault and battery of a

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1 high and aggravated nature if a person unlawfully injures
2 another person, and great bodily injury to that other person
3 results, or the injurious act is accomplished by means
4 likely to produce death or great bodily injury. So again,
5 aggravated assault and battery is defined or committed when
6 a person unlawfully injures another person and great bodily
7 injury to that person results, or the act is accomplished by
8 means likely to produce death or great bodily injury, and of
9 course, everybody knows what death means. But under the
10 statute great bodily injury means an injury which causes a
11 substantial risk of death or which causes serious permanent
12 disfigurement, or which causes a protracted loss or
13 impairment of the function of a bodily member or organ. As
14 has been stated, Mr. McClinton is charged in a separate
15 indictment with the crime of assault and battery in the
16 first degree which the State alleges was a separate event
17 from that which resulted in the charge of attempted murder,
18 but it is alleged to have occurred during a course of events
19 which the State alleges occurred back on December 24th and
20 25th of 2018. But the indictment charging assault and
21 battery in the first degree is a separate and distinct
22 criminal offense, and that offense is set forth in Section
23 16-3-600 in a separate subsection. And that statute
24 provides that a person commits the offense of assault and
25 battery in the first degree if the person unlawfully injures

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1 or offers or attempts to injure another person with the
2 present ability to do so, and the act is accomplished by
3 means likely to produce death or great bodily injury. As I
4 have said previously, a jury may consider a lesser included
5 offense from that alleged in that particular indictment
6 where the law and the evidence permit you to do so. And
7 regarding the indictment, which alleges Mr. McClinton
8 committed the crime of assault and battery in the first
9 degree you are going to be permitted to consider the lesser
10 included offense of assault and battery in the second
11 degree. Assault and battery in the second degree is a
12 statutory offense set forth in 16-3-600 Subsection D. And
13 that statute provides that a person is guilty of the crime
14 of assault and battery in the second degree if a person
15 unlawfully injures another person or offers or attempts to
16 injure another person with the present ability to do so, and
17 moderate bodily injury to another person results, or
18 moderate bodily injury to that other person could have
19 resulted. Moderate bodily injury is defined as physical
20 injury that involves a prolonged loss of consciousness or
21 that causes temporary or moderate disfigurement, or
22 temporary loss of a bodily member or organ, or an injury
23 that requires medical treatment and the treatment requires
24 the use of a regional or general anesthesia, or the injury
25 results in a fracture or dislocation. Moderate bodily

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1 injury does not include one time treatment and subsequent
2 observation of scratches, cuts, abrasions, bruises, burns,
3 splinters or any other minor injury that does not require
4 extensive medical care. And the remaining indictment
5 against Mr. McClinton charges him with possession of a
6 firearm during the commission a violent crime, that's also a
7 statutory offense set forth in 16-23-490. That statute
8 provides that a person shall be guilty of an additional
9 criminal offense if a person is in possession of a firearm
10 or visibly displays what appears to be a firearm during the
11 commission of a violent crime and is convicted of committing
12 or attempting to commit a violent crime as defined in
13 section 16-1-60. 16-1-60, that defines what violent crimes
14 are, states that the crimes of attempted murder and assault
15 and battery of a high and aggravated nature are classified
16 as violent crimes under the law. Before the defendant can
17 be found guilty of a violation of this particular provision
18 of law, it would be necessary that you have found the
19 defendant to be guilty of attempted murder or assault and
20 battery of a high and aggravated nature on the indictment
21 charging Mr. McClinton with attempted murder, and that you
22 find beyond a reasonable doubt that he possessed or visibly
23 displayed a firearm during the commission of that violent
24 crime. Now, the defendant, Montrell Graham, is charged in a
25 separate indictment. That indictment charges him with the

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1 crime of accessory after the fact to the commission of a
2 felony, in this case that would be the crime of attempted
3 murder. An accessory after the fact to a felony is a person
4 who knows that the principal felon has committed and
5 completed a felony, and assists that principal felon with
6 the intention of facilitating his escape from arrest,
7 conviction or punishment. In order for the defendant,
8 Montrell Graham, to be found guilty as an accessory after
9 the fact to the commission of a felony in this case it must
10 be proven that a felony has been committed by a perpetrator.
11 In this case that perpetrator must be proven to have been
12 Quinton McClinton, and it must be further proven that
13 Quinton McClinton did commit the felony of attempted murder
14 or assault and battery of a high and aggravated nature.
15 Secondly, in order for Mr. Graham to be found guilty for the
16 offense of which he's charged, it must be shown that he had
17 knowledge that Quinton McClinton had committed the crime of
18 attempted murder or assault and battery of a high and
19 aggravated nature. And thirdly, that Montrell Graham did
20 harbor, aid, help or assist Quinton McClinton for the
21 purpose of assisting him in escaping from and avoiding
22 detection, arrest, apprehension or conviction. Now, Mr.
23 Foreman and ladies and gentlemen of the jury, I am not in
24 any way concerned with what your decisions are, but as I
25 told you, any decision that you render must be unanimous,

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1 that is all 12 of you must be in agreement. And Mr.
2 Foreman, as you have been previously told, you will be
3 presiding over jury deliberations simply to ensure that
4 those deliberations are carried out in some orderly fashion.
5 But all jurors are expected to participate in those
6 deliberations because, as I say, any verdict is the
7 unanimous and consensus opinion of all 12 jurors and so all
8 12 must be in agreement before any decision may be returned.
9 Now, Mr. Foreman, you're going to have these indictments in
10 the jury room as I told you, they will serve as the verdict
11 forms. On the back of the indictment the title is on the
12 lower left-hand corner you'll see the word verdict, and it's
13 beneath that word that you're going to indicate the jury's
14 unanimous decision as it relates to that particular
15 indictment. You will sign your name as the foreperson, you
16 will see where that is being inserted, and you're the only
17 juror that signs the verdict form. And there's also a space
18 for you to place the appropriate date, today is the 7th of
19 February. Now, as I told you, you've got a number of
20 different verdict forms to consider depending upon your
21 decision as to the facts. I've prepared those two sheets,
22 one for Mr. McClinton and one for Mr. Graham, these reflect
23 what the potential verdict forms are as they relate to each
24 of the separate indictments that you are to consider. On
25 the verdict -- on this document it has each of the

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1 indictments alleged against the defendant set forth
2 separately. As to Mr. McClinton, the first indictment
3 reflected on the verdict form guidance sheet is attempted
4 murder. The three potential verdict forms that you have are
5 guilty, which means guilty of attempted murder, or guilty of
6 assault and battery of a high and aggravated nature if the
7 jury determines that he's only guilty of that lesser
8 included offense, or not guilty if the jury finds he has not
9 been proven to have committed any crime as it relates to
10 that indictment beyond a reasonable doubt. The second
11 indictment that's reflected on the verdict form is for
12 possession of a firearm during the commission of a violent
13 crime. And the reason that comes right below the indictment
14 for attempted murder is because that criminal offense only
15 relates to the attempted murder indictment, it does not
16 relate to a separate indictment charging Mr. McClinton with
17 assault and battery in the first degree. As to that
18 particular indictment you have two potential verdict forms,
19 those are guilty and not guilty. However, you are
20 instructed that you may not find Mr. McClinton guilty of
21 possession of a firearm during the commission of a violent
22 crime unless you have found him to have been guilty of a
23 crime being attempted murder or guilty of assault and
24 battery of a high and aggravated nature, which are those two
25 offenses that you are to consider on the attempted murder

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1 indictment. So again, in order to be guilty of possession
2 of a firearm during the commission of a violent crime, Mr.
3 McClinton would have to have been found guilty of a violent
4 crime, and that would either be attempted murder or assault
5 and battery of a high and aggravated nature. And then the
6 remaining indictment for Mr. McClinton is the indictment for
7 assault and battery in the first degree. And as to that
8 indictment you're going to have three potential verdict
9 forms, those are guilty, which means guilty of assault and
10 battery in the first degree, or guilty of assault and
11 battery in the second degree, which is the lesser included
12 offense that you're permitted to consider with respect to
13 that indictment, or not guilty if the State has failed to
14 prove either of those criminal offenses to your satisfaction
15 beyond a reasonable doubt. With respect to Mr. Graham
16 you've got one indictment that charges accessory after the
17 fact to the commission of a felony, you have two potential
18 verdict forms, those are guilty or not guilty. Understand
19 that under no circumstances may Mr. Graham be found guilty
20 unless you find that Mr. McClinton has been found guilty of
21 a felony, and that's either attempted murder or assault and
22 battery of a high and aggravated nature. If you find that
23 Mr. McClinton is not guilty of either of those felonies,
24 then Mr. Graham could not be found guilty of accessory after
25 the fact to the commission of a felony, because no felony

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1 would have been proven to have been committed. Also, even
2 if you find Mr. McClinton has been proven guilty of either
3 attempted murder or assault and battery of a high and
4 aggravated nature, you still could not find Mr. Graham
5 guilty of accessory after the fact to the commission of that
6 crime unless you further find that he knew Mr. McClinton had
7 committed that crime, and with that knowledge he assisted
8 Mr. McClinton in escaping or avoiding detection, arrest or
9 apprehension. During deliberations there may come a time
10 where you have some question about the evidence in the case,
11 in fact, you might even want something else. You might
12 think, well, if we had something else that would help us so
13 can we get it. Understand that all of the evidence that's
14 going to be introduced in this case has been introduced.
15 Now that the case is closed no additional evidence can be
16 received or permitted to be introduced, and so if you think
17 something else is going to help you but it's not in the jury
18 room with you and it has not been introduced during the
19 trial of this case, it can't be received now. So don't ask
20 me about something that you don't have or was not introduced
21 in the trial, because even if it would help you and even if
22 I wanted to give it to you I couldn't. Now, there have been
23 a number of exhibits which were introduced during the trial
24 and we're going to have the court reporter and the lawyers
25 and myself are going to verify all of the exhibits before

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1 they go back, so everything that was introduced should be
2 back there with you in the jury room. So if we make a
3 mistake and you think, well, we're sure something was
4 introduced but we don't have it here, then you let me know
5 and we'll determine if that was actually omitted, but
6 everything should be there. If at anytime during
7 deliberations you have a question about testimony and that
8 question can be answered by having a witness' testimony
9 replayed in whole or in part if that's all you need, you can
10 request to have testimony replayed or reheard. Now, I don't
11 have transcripts so I'm not going to send transcripts back
12 to the jury room with you, but if you want to hear a
13 particular witness' testimony replayed to help you, we can
14 bring you back into the courtroom and the court reporter
15 will provide that testimony by way of audiotape so you can
16 rehear the testimony should you need to. If at anytime
17 during deliberations you have a question about the law
18 that's applicable, I am always permitted to answer those
19 questions, and so if you need a complete re-instruction I
20 can provide you with that. If you simply need a particular
21 explanation or clarification of some point of law that I
22 have given you, I can provide you with that. So Mr.
23 Foreman, if at anytime you have any question about anything
24 and you need to bring something to my attention or you need
25 assistance or clarification on the law, you write it on a

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1 piece of paper, give it to the bailiff, he will provide it
2 to me and I will respond to any question or issue that the
3 jury might have. Don't know if we have smokers on the jury,
4 if we do have smokers you can smoke during deliberations but
5 you cannot smoke in the courthouse, you would have to go
6 outside to accomplish that purpose. But if you need to
7 smoke, let the bailiff know, they'll take those outside to
8 accomplish that purpose and then you'll be brought back when
9 you're finished. However, please understand, that
10 deliberations may not be engaged in unless all 12 jurors are
11 present in the jury room so that all may participate in
12 those deliberations. So if at anytime a juror is absent for
13 any authorized purpose the deliberations must stop and they
14 may only resume when all 12 jurors are present so that all
15 may participate. Now, your lunches have been ordered, and
16 I'm not sure whether they're here yet or not, but as soon as
17 they arrive they'll be provided to you. You can begin
18 deliberations and eat while you deliberate, you can stop
19 your deliberations and eat your lunch and then resume, I'll
20 leave that up to you. That is in your discretion as to how
21 you wish to accomplish that. But, Mr. Foreman, as I say,
22 once you and your fellow jurors have reached a unanimous
23 decision on each of the indictments, indicate that decision
24 as instructed and knock on the door, tell the bailiff you've
25 reached decisions and we'll bring you back to receive those

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1 verdicts. Let me just address one thing. I've got these
2 four indictments, these are official court documents, I
3 don't have copies of them, I don't have duplicates of them.
4 You are going to be indicating the jury's decision on the
5 back so don't mess it up, okay? Be certain that it's
6 correct when you're writing it. And that's another reason
7 why I'm giving you these two sheets, because I could print
8 these all day long. If you need more of these I can print
9 them all day long, so this will help you understand what it
10 is. You'll also be reflecting the jury's decision on these
11 two documents and signing your name, but if you mess this up
12 just keep it but tell the bailiff that you need another copy
13 and I'll bring you another copy, okay? The indictments I
14 have no more copies of, that's all I have. So as you decide
15 it and reflect on here, I suggest doing that first and then
16 you can write it on these, whatever that decision is, these
17 are the indictments. Now, I've got some matters I need to
18 address with the lawyers because I might have forgotten to
19 give you some information as I should have, and if I did,
20 and I agree that what I should have done I didn't do, I'll
21 bring you back to provide you with that additional
22 information. If I don't need to bring you back for any
23 reason, then I'll simply send word by way of the bailiff
24 that you may begin deliberations, and in that event he will
25 bring to the jury room all of the exhibits which have been

JURY CHARGE

1 admitted, and to you, Mr. Foreman, he will also provide the
2 guidance for the verdict form document and the indictments
3 themselves. Now, right now I'm going to ask the two
4 alternate jurors to stay in the courtroom with me, and I'll
5 ask the 12 primary jurors to please retire to your jury room
6 but do not begin deliberations until I send you word to do
7 so.

8 (The 12 jurors left the courtroom.)

9 THE COURT: As you know, you are alternate jurors and
10 you can't participate in the jury deliberations because the
11 original 12 appear to be able to perform their functions so
12 that's going to conclude your service right now. However,
13 during deliberations something might happen, there might be
14 an emergency or some issue arise that cause one of these 12
15 jurors to be unable to continue but the deliberations have
16 not ended. In that event one or both of you will be called
17 upon to take that juror's place. So while you can't
18 participate in deliberations right now it might be that
19 there will come a time where you might be needed so you'll
20 stay with us. You will be located in a separate room apart
21 from the original 12 jurors. You are both still instructed
22 that you can't talk about the case, you can't discuss it
23 with each other. Your lunches also will be brought to you
24 wherever they take you.

25 (The alternate jurors left the courtroom.)

JURY VERDICT

1 THE COURT: Are there any exceptions taken to the
2 instruction or requests or additions to the instructions by
3 the State?

4 MS. LIVELY: Not from the State.

5 THE COURT: By the Defendant McClinton?

6 MR. DUNCAN: No, sir.

7 THE COURT: By the Defendant Graham?

8 MR. FRICK: No, sir.

9 (Break in proceedings.)

10 THE COURT: Are all of the exhibits accounted for?

11 MS. LIVELY: Yes, Your Honor.

12 MR. DUNCAN: Yes, sir.

13 THE COURT: All right. Send them back. Tell the jury
14 to begin deliberations and notify us when they've concluded.
15 We'll be at ease while they are deliberating.

16 (The jury began deliberations.)

17 THE COURT: I understand that the jury has reached a
18 decision. Are we ready to receive it? Them in?

19 MS. LIVELY: The State is ready, Your Honor.

20 MR. DUNCAN: Defendant McClinton is ready.

21 MR. FRICK: Ready.

22 THE COURT: Bring in the jury.

23 (The jury returned to the courtroom.)

24 THE COURT: Mr. Foreman, have you and your fellow
25 jurors reached a unanimous decision as to each of the

JURY VERDICT

1 separate indictments that you were considering?

2 THE JUROR: Yes, Your Honor.

3 THE COURT: Have you reflected those decisions on the
4 back of the indictments as requested?

5 THE JUROR: Yes, Your Honor.

6 THE COURT: Did you also complete that verdict form
7 sheet that I provided separately?

8 THE JUROR: Yes, Your Honor.

9 THE COURT: Have you signed your name to each?

10 THE JUROR: Yes.

11 THE COURT: And put the appropriate date, the 7th?

12 THE JUROR: Yes, Your Honor.

13 THE COURT: If you will please hand the documents up by
14 way of the bailiff.

15 (Break in proceedings.)

16 THE COURT: All right. On indictment 2019-00258, the
17 State versus Quinton Tywan McClinton, an indictment for the

18 crime of attempted murder, the decision of the jury is
19 guilty. Signed by Joseph Raines, dated today's date.

20 Indictment 2020-00128, State versus Quinton McClinton,

21 indictment for assault and battery in the first degree, the

22 decision of the jury is guilty. Signed Joseph Raines, dated

23 today's date. Indictment 2019-00262, State versus Quinton

24 Tywan McClinton, indictment for possession of a firearm

25 during the commission of a violent crime, the decision of

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1 the jury is guilty. Signed by Joseph Raines, dated today's
2 date. Indictment 2019-00246, State versus Montrell Graham,
3 indictment for accessory after the fact to the commission of
4 a felony, the decision is guilty. Signed by Joseph Raines,
5 dated today's date. Are these the verdicts of the jury, and
6 if they're your verdicts and they're still your verdicts I
7 would ask that you indicate so by the raising of your right
8 hands. Have we got everybody? All have answered in the
9 affirmative. Does the defendant -- either defendant wish to
10 have the jury polled?

11 MR. DUNCAN: No, sir.

12 MR. FRICK: I would request it, Your Honor.

13 THE COURT: All right. Poll the jury, please.

14 MS. LIVELY: Your Honor, I would just request that they
15 be polled by their numbers and not by uses of their names.

16 THE COURT: Okay.

17 MS. LIVELY: Thank you.

18 THE COURT: Juror 124, is this your verdict and still
19 your verdict?

20 THE JUROR: (Nods head yes.) Do I stand?

21 THE COURT: Juror 80, is this your verdict and still
22 your verdict?

23 THE JUROR: Yes, sir.

24 THE COURT: Juror 72, is this your verdict and still
25 your verdict?

JURY VERDICT

1 THE JUROR: Yes, sir.

2 THE COURT: Juror 115, is this your verdict and still
3 your verdict?

4 THE JUROR: Yes, sir.

5 THE COURT: Juror 125, is this your verdict and still
6 your verdict?

7 THE JUROR: Yes, sir.

8 THE COURT: Juror 16, is this your verdict and still
9 your verdict?

10 THE JUROR: Yes, sir.

11 THE COURT: Juror 25, is this your verdict and still
12 your verdict?

13 THE JUROR: Yes, sir.

14 THE COURT: Juror 182, is this your verdict and still
15 your verdict?

16 THE JUROR: Yes, sir.

17 THE COURT: Juror 15, is this your verdict and still
18 your verdict?

19 THE JUROR: Yes, sir.

20 THE COURT: Juror eight, is this your verdict and still
21 your verdict?

22 THE JUROR: Yes.

23 THE COURT: Juror 73, is this your verdict and still
24 your verdict?

25 THE JUROR: Yes, sir.

JURY VERDICT

1 THE COURT: And juror nine, is this your verdict and
2 still your verdict?

3 THE JUROR: Yes, sir.

4 THE COURT: All of the jurors have answered in the
5 affirmative. Are there any other matters to be addressed
6 with the jury present?

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

8 MR. DUNCAN: Not from Defendant McClinton.

9 MR. FRICK: No, sir.

10 THE COURT: All right.

11 (The jury was dismissed.)

12 THE COURT: Any motions to address prior to the
13 imposition of sentence?

14 MR. DUNCAN: Your Honor, we would renew, or make a
15 motion for a judgment notwithstanding the verdict, or the
16 appropriate name for that, based on a lack of competent
17 evidence as raised at the end of the State's case and at the
18 end of the presentation of evidence.

19 THE COURT: So your motion is for a new trial?

20 MR. DUNCAN: That's correct.

21 THE COURT: All right, that motion is denied. Mr.
22 Frick?

23 MR. FRICK: Your Honor, I make the same motion for a
24 new trial and renew all objections as previously ruled upon
25 throughout the trial.

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1 THE COURT: I find that motion is also denied. Any
2 other matters to address prior to the imposition of
3 sentencing?

4 MS. LIVELY: Your Honor, the State would just ask for
5 just a couple of minutes to go run and get the sentence
6 sheets.

7 THE COURT: All right.

8 MS. LIVELY: Other than that, literally just to hit
9 print, Your Honor, I apologize, I need to do that.

10 THE COURT: Okay. We'll take ten minutes.

11 (A recess was taken.)

12 THE COURT: Okay. Anything further on behalf of the
13 State?

14 MS. LIVELY: Yes, sir, Your Honor. What the State
15 wants the Court to be aware of is in regards to Quinton
16 McClinton, he does have a prior record that I wanted to read
17 out into the record for the Court. 2003, malicious injury
18 to personal property. 2005, possession of crack, assault
19 and battery of a high and aggravated nature, possession of a
20 stolen gun. 2007, possession of a stolen gun, possession of
21 crack second offense. 2010, public disorderly conduct.
22 2013, trespass, possession of marijuana. 2015, possession
23 of marijuana. 2016, accessory after the fact to a felony,
24 which was actually an armed robbery and conspiracy, at which
25 time he did serve SCDC time for that particular offense,

SENTENCING HEARING

1 Your Honor. This defendant is a documented gang member both
2 federally and state. As for Montrell Graham, Your Honor, he
3 has a 2014 A and B third. And then he was just convicted in
4 2014 for breaking and entering autos, tanks, five years with
5 90 days, balance suspended, probation for three years,
6 weapons, pistol owned by a certain person, stolen gun, and
7 then petit larceny. He then received -- actually a case
8 that I had back in 2017, a burglary second degree where he
9 was convicted and had five years balance suspended on
10 probation for three years. He was on probation at the time
11 when this offense took place.

12 THE COURT: All right. Mr. Duncan?

13 MR. DUNCAN: Thank you, Your Honor. Your Honor, Mr.
14 McClinton is 31 years old. As you heard, he has some items
15 on his record but I think his time at the department of
16 corrections he served on a 2016 conviction, I know he got a
17 five year sentence, he had served some time before going, I
18 think he spent about a year and a half down at SCDC. I'll
19 say obviously we are certainly disappointed with the jury's
20 verdict here this afternoon particularly on that attempted
21 murder charge. I thought the -- I would ask the Court to
22 take into account the circumstances as set forth in the
23 trial. It's an incident at the club, a lot of chaos, a lot
24 of confusion, number of gunshots being fired. There was
25 certainly significant evidence that the victim was firing a

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1 gun, not necessarily at Mr. McClinton but firing a gun. And
2 again, Mr. McClinton's prior record is not a significant
3 prior record I do not believe for a 31 year old man. He is
4 a life long resident of Chester. He's got a lot of family
5 support, they've been here throughout the week as he -- his
6 mother is here, again, many family members. Quinton has one
7 child who is a little girl 18 months old named McKenzie
8 McClinton. He is not married but he only has the one little
9 girl he's been supporting. He has been in jail, Ms.
10 Hartman -- Ms. Boulware has indicated he's been in jail for
11 401 days since January 3rd, 2018. Your Honor, we would ask
12 the Court to have as much mercy as possible in imposing a
13 sentence on Mr. McClinton. And that's what we have to say.

14 THE COURT: All right. Mr. McClinton, do you want to
15 add anything?

16 DEFENDANT MCCLINTON: No, sir.

17 THE COURT: All right, Mr. Frick?

18 MR. FRICK: Thank you, Your Honor. Mr. Graham is 23
19 years of age. He was working when this happened, he had
20 been working at Meritor, I think it's called something else
21 now, up in the Town of York. Your Honor, he has family
22 members out here as well. Your Honor, I can tell you when
23 Mr. Graham realized that law enforcement was looking for
24 him, he'd heard that there was a warrant for him. They
25 weren't looking for him, he had been told that there was a

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1 warrant. I happened to be in my office that day, he and his
2 uncle, who I have come to know over the last couple of
3 years, came by and we sat down and had a conversation about
4 the best course of action and he agreed that the best thing
5 was just go on and turn himself in and work on facing
6 consequences as we went along. Judge, Montrell is clearly a
7 follower, not a leader in anything. He's a good young man
8 when he's not around the bad influence. Before this last
9 scrape when we pled him on the charge for which he's on
10 probation he was doing great, working and staying out of
11 trouble and unfortunately on that Christmas Eve he did go
12 over to the club. Judge, I'm not saying he participated in
13 anything but he made that one poor judgment call that put
14 him in this location. Other than that I think this young
15 man would be finishing up his probation, which he had done
16 reasonably well on. The main violation that he has, and I
17 think really the only violation he would have had on that
18 was the community safety violation in this for being charged
19 in this case. Judge, I ask you to have as much leniency as
20 possible. I do think he's a good young man who just went
21 astray.

22 THE COURT: What was he on probation for?

23 MR. FRICK: I think it was a burglary charge, I cannot
24 remember the degree.

25 MS. LIVELY: I think it was burglary second.

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1 MR. FRICK: It was a burglary non-violent?

2 MS. LIVELY: That's correct. It was a non-violent
3 burglary second degree, and that was on September 5th, 2017.

4 THE COURT: All right. Mr. Graham, have you got
5 anything you want to add?

6 DEFENDANT GRAHAM: I just want to apologize to my
7 family for putting them through this, my friends and family
8 for putting them all through this mess. I should have
9 stayed at home but I just wanted to be with my friends so
10 nothing would happen between me and him. I (inaudible.)

11 THE COURT: All right. As to Mr. McClinton, indictment
12 2019-00258, an indictment for attempted murder, wherein you
13 have been found guilty by a jury for that offense, the
14 sentence of the Court is you, Quinton Tywan McClinton, be
15 confined to the South Carolina Department of Corrections for
16 a period of 25 years. Indictment 2019-022 -- excuse me,
17 00262, possession of a weapon during the commission of that
18 crime, five years. Indictment 2020-00128, sentence of the
19 Court is you be confined to the South Carolina Department of
20 Corrections for a period of ten years. As to Mr. Graham,
21 indictment 2019-00246, an indictment for accessory after the
22 fact to the crime of attempted murder, sentence of the Court
23 is you, Montrell Graham, be confined to the South Carolina
24 Department of Corrections for a period of 15 years, that
25 sentence is suspended upon the service of five years

SENTENCING HEARING

1 followed by five years of probation. Mr. McClinton and
2 Mr. Graham, each of you have a right to appeal the verdicts
3 of the jury and the sentence of the Court, you must file
4 your notice of intent to appeal those decisions within ten
5 days of today's date. Mr. Duncan and Mr. Frick will assist
6 you with that should you wish to. Okay. Anything else?

7 MR. FRICK: Thank you, Your Honor.

8 MR. DUNCAN: Thank you.

9 (End trial proceedings.)

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1 I, the undersigned, Michael C. Watkins,
2 Official Court Reporter for the Sixth Judicial
3 Circuit of the State of South Carolina, do hereby
4 certify that the foregoing is a true, accurate and
5 complete transcript of the proceedings had and
6 evidence introduced in the trial of the captioned
7 case relative to appeal in Court of General Sessions
8 for Chester County, South Carolina, on the 3rd-7th
9 days of February, 2020.

10 I do further certify that I am neither of kin, counsel,
11 nor interest to any party hereto.

12

13

May 7, 2020

14

15

16


Michael C. Watkins

17

Court Reporter

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25

WITNESSES

Wade Young (CSD)

✓ R. St. Clair

ARREST WARRANT NUMBER/DOA

2018A1210100854 (DOA-1-3-19)

ACTION OF GRAND JURY

TRUE BILL

Wally H. Halloway

Foreperson of Grand Jury

Date: 4-30-19

VERDICT

guilty

De Rains 7 Feb 20

Foreperson of Petit Jury

Date:

DOCKET NO. 2019-GS-12-258

The State of South Carolina
County of Chester

COURT OF GENERAL SESSIONS

APRIL TERM 2019

THE STATE
vs.

Quinton Tywan McClinton

ATTEMPTED MURDER

SC Code: §16-3-29

CDR Code: 3410

Class: Felony A

FILED
2019 APR 30 P 3:51
S.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

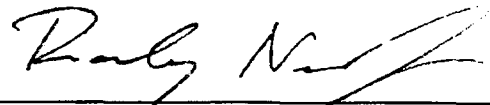
INDICTMENT

At a Court of General Sessions, convened on April 30, 2019, the Grand Jurors of Chester County present upon their oath:

ATTEMPTED MURDER

That Quinton Tywan McClinton did in Chester County on or about December 25, 2018, with intent to kill, attempt to kill Kochese Gregory, with malice aforethought, either expressed or implied, by shooting him, in violation of Section 16-3-29 of the *Code of Laws of South Carolina, (1976), as amended*.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Randy E. Newman, Jr., SOLICITOR

WITNESSES

Wade Young (CSD)

✓ R. St. Clair

ARREST WARRANT NUMBER/DOA

2019A1210100015 (DOA-1-3-19)

ACTION OF GRAND JURY

TRUE BILL

Wally H. Hobbey
Foreperson of Grand Jury

Date: 4-30-19

VERDICT

guilty

Joe Lewis 7 Feb 20

Foreperson of Petit Jury

Date:

DOCKET NO. 2019-GS-12-262

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

APRIL TERM 2019

THE STATE

vs.

Quinton Tywan McClinton

Indictment for

Possession or Display of Firearm or
Knife During Commission of a Violent
Crime

SC Code: § 16-23-490

CDR Code: 0549

Class: Felony, F

FILED
2019 APR 30 P 3:51

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

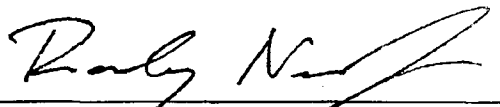
INDICTMENT

At a Court of General Sessions, convened on April 30, 2019, the Grand Jurors of Chester County present upon their oath:

**POSSESSION OR DISPLAY OF FIREARM OR KNIFE DURING COMMISSION OF A
VIOLENT CRIME**

That Quinton Tywan McClinton did in Chester County on or about December 25, 2018, possess or visibly display a firearm or knife, to wit: firearm, during his/her commission of a violent crime, to wit: Attempted Murder, in violation of §16-23-490, *Code of Laws of South Carolina, (1976), as amended.*

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Randy E. Newman, Jr., SOLICITOR

WITNESSES

✓ Young (CSO)

DOCKET NO. 2020-GS-12-128

The State of South Carolina
County of Chester

FILED
28 JAN '20 PM 3:27
CLRK OF CRT CHESTER SC

COURT OF GENERAL SESSIONS

JANUARY TERM 2020

ARREST WARRANT NUMBER/DOA

2020-GS-12-128 DI

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

D. 1/28/2020

VERDICT

guilty

THE STATE
vs.
QUINTON MCCLINTON

ASSAULT AND BATTERY 1ST DEGREE

SC Code: §16-3-600(C)(1), 16-3-600(C)(2)

CDR Code: 3412

Class: Felony E

Foreperson of Petit Jury

Date:

Joe Roney 7 Feb 20

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

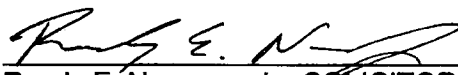
INDICTMENT

At a Court of General Sessions, convened on January 28, 2020 the Grand Jurors of Chester County present upon their oath:

ASSAULT AND BATTERY FIRST DEGREE

That Quinton McClinton did in Chester County on or about December 25, 2018, unlawfully injure Kochese Gregory, or offer or attempt to injure the victim with the present ability to do so and the act was accomplished by means likely to produce death or great bodily injury or occurred during the commission of a robbery, burglary, kidnapping, or theft by hitting and kicking him about his head and body and beating him with a pool stick, in violation of Section 16-3-600(C)(1) of the *Code of Laws of South Carolina, (1976), as amended*.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Randy E. Newman, Jr., SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,

s/Taylor D. Gilliam
Taylor D Gilliam
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

RECEIVED
Nov 12 2020
SC Court of Appeals

This 12th day of November, 2020.