

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Horry County

Honorable William H. Seals, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAKKARI JAQUILLE DE'ANDRE BROWN,

APPELLANT.

APPELLATE CASE NO. 2021-000651

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA) **TRANSCRIPT OF RECORD**
2 COUNTY OF HORRY) CASE NO.: 2019-GS-26-00097,
3 00098, 00099, 00100
4 **ORIGINAL**
5 June 7-10, 2021
6 **BEFORE:** The Honorable William Seals
7 -----
8 STATE OF SOUTH CAROLINA,
9 Plaintiff,
10 vs.
11 JAKKARI JAQUILLE DE'ANDRE BROWN,
12 Defendant.
13 -----
14
15 APPEARANCES:
16
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18 Seth Oskin, Esq.
19 Appearing for the State/Plaintiff.
20 Eric Fox, Esq.
21 Nicholas O'Neil, Esq.
22 Appearing for the Defendant.
23
24 Official Court Reporter
25 Natalie Dahl, RPR

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P.O. Box 762
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(NO DEFENSE EXHIBITS WERE MARKED)

25

JUNE 7, 2021 - JURY SELECTION

P-R-O-C-E-E-D-I-N-G-S

(State's Exhibits 1 and 2 marked.)

THE COURT: All right. Solicitor, call your case.

MR. DeBUSK: Your Honor, may we approach?

THE COURT: Yes.

(Whereupon, a bench conference was had out of the hearing of open court.)

MR. DeBUSK: This is Indictment 2019-GS-26-97, State versus Jakkari Brown for murder. We move to amend the name of the victim on the indictment. The indictment says "Mario," but it should say "Roger."

MR. FOX: No objection.

THE COURT: Indictment is amended.

(The following is had in open court:)

THE COURT: Call your case.

MR. DeBUSK: Your Honor, at this time the State calls Indictment 2019-GS-26-97, State versus Jakkari Jaquille Deandre Brown for murder.

THE COURT: Members of the jury, I have determined up to this point in time that you are qualified to serve as jurors. Now I need to go one step further and make sure you are qualified to served for this case. In order to do that, I need to ask you another series of questions, and I need you to

JUNE 7, 2021 - JURY SELECTION

1 remember that you are under oath. If any of these
2 questions apply, please stand.

3 The first case we're trying is a case against a
4 Jakkari Brown. In this regard, the State of South
5 Carolina alleges that Jakkari Brown did in Horry
6 County on or about October 7, 2018, willfully,
7 intentionally kill Roger Ramos by means of shooting
8 him, which is in violation of the law; therefore, he's
9 charged with murder. He is also charged with
10 possession of a weapon during the commission of a
11 violent crime, and he is charged with use of a firearm
12 while under the influence, and he's charged with
13 unlawful consumption of alcohol while carrying a
14 concealed weapon.

15 Mr. Brown has pled not guilty and requested a
16 trial. In this regard, has any member of the jury
17 panel heard anything about this case, read anything
18 about this case, do you know anything about this case
19 at all; if so, please stand?

20 You can come up here, if you would.

21 (The following is had as a bench conference out
22 of the hearing of open court.)

23 JUROR: Michael O'Grady, 286. It was just a
24 simple question. I've seen it on the news, that's it.
25 I wanted to know, does that count?

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JUNE 7, 2021 - JURY SELECTION

1 THE COURT: Sure. Taking that into account, if
2 you were selected to serve on the jury in this case,
3 could you be fair and impartial to both the State and
4 the defendant in this case?

5 JUROR: Sure. Absolutely.

6 THE COURT: Thank you.

7 JUROR: Robert Gardiner, 132. I believe -- is
8 this the hairdresser case?

9 THE COURT: No.

10 JUROR: Okay.

11 (The following is had in open court.)

12 THE COURT: Would the defendant, Jakkari Brown,
13 turn and face the jury panel?

14 (Whereupon, the defendant Jakkari Brown
15 complies.)

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

17 Any member of the jury panel related by blood or
18 marriage or have a close or social relationship with
19 the defendant, Jakkari Brown; if so, please stand?

20 Solicitor, if you will stand and introduce
21 yourself and any members of your team.

22 MR. DeBUSK: I'm George DeBusk. I'm senior
23 assistant solicitor. With me is Solicitor Seth Oskin,
24 and Investigator Ginger Pop.

25 THE COURT: Thank you.

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JUNE 7, 2021 - JURY SELECTION

1 Is any member of the jury panel related by blood
2 or marriage or have a close or social relationship
3 with either of these solicitors; if so, please stand?

4 And would the defense introduce yourself and your
5 staff.

6 MR. FOX: I'm Eric Fox. I'll be representing
7 Mr. Brown today with my colleague, Nicholas O'Neil.

8 THE COURT: Thank you.

9 Any member of the jury panel related by blood or
10 marriage or have a close or social relationship with
11 either of the defense attorneys; if so, please stand?
12 The witnesses on behalf of the State of South Carolina
13 will be: Seth Cole, Tyler Hembree, Joshua Stauch,
14 Ciaryllyn Edwards, John Brauch, Detective Justin Amos
15 with the Myrtle Beach Police Department; Matthew
16 Ammons with the Myrtle Beach Police Department; as
17 well as Tyler Hill, Grant Barrett, Cody Kolb, all with
18 the Myrtle Beach Police Department; as well as James
19 Green with SLED, Anthony Chiarello, Pattie Bellamy
20 with the coroner's office, Nathan Howitt with the
21 Myrtle Beach Police Department, David Goodbread from
22 RipTydz, Tarra Drost with Aqua Beach, Antonio Pino,
23 Joseph Howe from RipTydz, David Bailey, Justin Falco
24 with the Myrtle Beach Police Department, Cameron
25 Warren formerly with the Myrtle Beach Police

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1 Department, Drew Fox with the Myrtle Beach Police
2 Department, Eric Eason who is a pathologist, Malinda
3 Shadoan with the Myrtle Beach Police Department, Jamie
4 Franks, Travis Bray, and Nick Blake. In this regard,
5 is any member of the jury panel related by blood or
6 marriage or have a close personal or social
7 relationship with any of the State's witnesses; if so,
8 please stand?

9 The defendant's witnesses with be Charlie Brown
10 Jeff Bailey, Tyler Hembree, Seth Cole. In that
11 regard, is any member of the jury panel related by
12 blood or marriage or have a close personal or social
13 relationship with any of the defendant's witnesses; if
14 so, please stand?

15 Any member of the jury panel related by blood or
16 marriage to any law enforcement officer; if so, please
17 stand? That could be a city policeman, sheriff, SLED,
18 highway patrol, anything of that nature; if so, please
19 stand.

20 Any member of the jury panel aware of any bias or
21 prejudice for or against the State of South Carolina;
22 if so, please stand?

23 Has any member of the jury panel formed an
24 opinion as to the guilt or innocence of the defendant,
25 Mr. Jakkari Brown in this case; if so, please stand?

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JUNE 7, 2021 - JURY SELECTION

1 Come forward, if you would.

2 (The following was had as a bench conference out
3 of the hearing of open court:)

4 JUROR: 187. I'm a CWP holder. He's carrying a
5 firearm and drinking, he's already guilty. I'm sorry,
6 but that is what I was told when I was going to my CWP
7 class.

8 THE COURT: If you will, have a seat. You don't
9 have to respond to any other questions. You can go
10 when we are done. And your jury number?

11 JUROR: 187.

12 THE COURT: Come forward. Your name and number,
13 please?

14 JUROR: Kevin Rosa, 323. I'm a retired police
15 officer.

16 THE COURT: If you were selected to serve on the
17 jury, would you be fair and impartial to the State and
18 the defense?

19 JUROR: Well, more to the State.

20 THE COURT: Could you be fair and impartial to
21 both sides?

22 JUROR: Probably, but I have a tendency to
23 believe police.

24 THE COURT: I'll excuse you from the service of
25 this case. If you will, have a seat. You don't need

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JUNE 7, 2021 - JURY SELECTION

1 to respond to anything else, but call back tonight.
2 Stay here for now, but you don't have to stand up for
3 anything else.

4 (The following is had in open court:)

5 THE COURT: Is any member of the jury panel a
6 member of or a contributor to any groups which has as
7 its primary concern promotion of law enforcement or
8 victims' rights; these groups include, but are not
9 limited to: MADD, SADD, Citizens Against Violent
10 Crimes, Fraternal Order of the Police, or South
11 Carolina Law Enforcement Association. If this
12 question applies to you, please stand.

13 Has any member of the jury panel, or any member
14 of your immediate family, ever been involved in a
15 crime of personal violence; this could include, but
16 not limited to: Criminal sexual conduct, assault and
17 battery of a high and aggravated nature, murder,
18 manslaughter, kidnapping, armed robbery, et cetera.
19 If you or any member of your immediate family have
20 ever been a victim or a defendant in a crime such as
21 these mentioned, or anything similar to them, please
22 stand.

23 Come forward.

24 (The following was had as a bench conference out
25 of the hearing of open court.)

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JUNE 7, 2021 - JURY SELECTION

1 JUROR: Robin Stuebing, Juror 369. My mother was
2 shot in the head with a .25 in 2007 by my nephew, her
3 grandson. She did survive, but....

4 THE COURT: Taking that into account, if you were
5 selected to serve on the jury in this case, could you
6 be fair and impartial to the State and the defense?

7 JUROR: Absolutely.

8 THE COURT: Thank you.

9 MR. FOX: And the jury number?

10 JUROR: 369.

11 MR. FOX: Thank you, ma'am.

12 (The following is had in open court.)

13 THE COURT: Any member of the jury panel that
14 cannot give the parties in this case a fair and
15 impartial trial; if so, please stand?

16 Has any member of the jury panel or any member of
17 your family ever been prosecuted by this solicitor or
18 any member of the solicitor's staff, regardless of
19 whether the case was dismissed or not; if so, please
20 stand?

21 Anything further from the State?

22 MR. DeBUSK: No, Your Honor.

23 THE COURT: Anything further from the defense?

24 MR. FOX: Your Honor, in light of one of the
25 previous juror's comments at the bar, I ask if any

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JUNE 7, 2021 - JURY SELECTION

1 member of the jury panel hold a concealed weapon
2 permit holder.

3 THE COURT: Is any member of the jury panel a
4 concealed weapons permit holder; if so, please stand?

5 Gentleman in the front, your name and number?

6 JUROR: George Brown, 34.

7 THE COURT: And the lady behind you.

8 JUROR: AnneMarie Manna, 247.

9 JUROR: Robin Stuebing, 369.

10 JUROR: Richard Wells, 390.

11 JUROR: Charles Licare, 230.

12 JUROR: Debra Plant, 299.

13 JUROR: Howard Pyle, 307.

14 JUROR: Pamela Richards, 316.

15 JUROR: Melissa Kwiatkowski, 221.

16 JUROR: Riley Lovett, 239.

17 THE COURT: Anything further?

18 MR. FOX: Yes. In light of the previous
19 discussion we had, I believe with Juror 187, I would
20 ask that the fact that any of these jurors have a
21 concealed weapons permit, in light of the allegations
22 of the indictments, specifically for use of a firearm
23 while under the influence and unlawful consumption of
24 alcohol while carrying a concealed weapon, if those
25 charges alone, in light of them holding a conceals

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JUNE 7, 2021 - JURY SELECTION

1 weapons permit would influence them.

2 THE COURT: If you would stand up again, the
3 concealed weapons permit holders. Did you all hear
4 what the defense attorney just said?

5 JUROR: Yes, sir.

6 THE COURT: Give me your name and number.

7 JUROR: George Brown, 34.

8 THE COURT: Taking that into account, if you were
9 selected to serve on a jury in this case, could you be
10 fair and impartial to the State and the defense?

11 JUROR: Sorry?

12 THE COURT: Could you be fair and impartial to
13 both sides if selected?

14 JUROR: Yes, sir.

15 THE COURT: You can have a seat.
16 Name and number.

17 JUROR: AnneMarie Manna, 247.

18 THE COURT: If you were selected to serve, can
19 you be fair and impartial on both sides?

20 JUROR: Yes, sir.

21 JUROR: Robin Stuebing, 369.

22 THE COURT: If you were selected on this jury,
23 could you be fair and impartial to the State and
24 defense?

25 JUROR: Yes.

**CERTIFIED ORIGINAL FOR SOUTH CAROLINA COMMISSION OF
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1 THE COURT: Thank you.

2 Yes, sir.

3 JUROR: Richard Wells, 390.

4 THE COURT: Could you be fair and impartial to
5 both sides?

6 JUROR: Yes.

7 JUROR: Charles Licare, 230.

8 THE COURT: Could you be fair and impartial to
9 both sides if selected on this case?

10 JUROR: Yes.

11 THE COURT: And you don't need to respond.

12 Yes, ma'am.

13 JUROR: Debbie Plant, 299.

14 THE COURT: If you were selected to serve as a
15 juror in this case, could you be fair and impartial to
16 the State and the defense?

17 JUROR: Yes, sir.

18 JUROR: Howard Pyle, 307, and the answer is yes.

19 THE COURT: Thank you.

20 Lady in the back.

21 JUROR: Pamela Richards, yes.

22 JUROR: Melissa Kwiatkowski, 221. Yes.

23 JUROR: Riley Lovett, 239. Yes.

24 THE COURT: Anything further from the defense?

25 MR. FOX: No, Your Honor.

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JUNE 7, 2021 - JURY SELECTION

1 THE COURT: I find the jury qualified for this
2 case.

3 If you will proceed with the jury and two
4 alternates.

5 THE CLERK: Juror 108, Mackenzie Dunmore, what
6 say the State?

7 MR. DeBUSK: Please present the juror.

8 THE CLERK: Defense?

9 MR. FOX: Please seat this juror.

10 THE CLERK: Please be seated in the jury box.

11 Juror 369, Robin Stuebing, what say the State?

12 MR. DeBUSK: Please present the juror.

13 THE CLERK: Defense?

14 MR. FOX: Please excuse this juror.

15 THE CLERK: You are excused for this particular
16 case.

17 Juror 156, Jessica Grover, what say the State?

18 MR. DeBUSK: Please present the juror.

19 THE CLERK: Defense?

20 MR. FOX: Please seat this juror.

21 THE CLERK: Juror 247, AnneMarie Manna, what say
22 the State?

23 MR. DeBUSK: Please present the juror.

24 THE CLERK: Defense?

25 MR. FOX: Please seat the juror.

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1 THE CLERK: Please be seated in the jury box.

2 163, Quentin Hardy, what say the State?

3 MR. DeBUSK: Please excuse the juror.

4 THE CLERK: You are excused from this case.

5 Juror 34, George Brown, what say the State?

6 MR. DeBUSK: Please present the juror.

7 THE CLERK: Defense?

8 MR. FOX: Please excuse this juror.

9 THE CLERK: You are excused from this particular
10 case.

11 Juror 383, Frances Ward, what say the State?

12 MR. DeBUSK: Please present the juror.

13 THE CLERK: Defense?

14 MR. FOX: Please excuse this juror.

15 THE CLERK: You are excused from this particular
16 case.

17 258, Joseph Mazzella, what say the State?

18 MR. DeBUSK: Please present the juror.

19 THE CLERK: Defense?

20 MR. FOX: Please seat this juror.

21 THE CLERK: Juror 148, Jeffrey Grant, what say
22 the State?

23 MR. DeBUSK: Please present the juror.

24 THE CLERK: Defense?

25 MR. FOX: Please seat this juror.

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1 THE CLERK: Juror 350, Cathy Smith, what say the
2 State?

3 MR. DeBUSK: Please present the juror.

4 THE CLERK: Defense?

5 MR. FOX: Please excuse this juror.

6 THE CLERK: Juror 237, Sherrie Lorenzana, what
7 say the State?

8 MR. DeBUSK: Please present the juror.

9 MR. FOX: Please seat this juror.

10 THE CLERK: Juror 44, Regan Caines, what say the
11 State?

12 MR. DeBUSK: Please present the juror.

13 THE CLERK: Defense?

14 MR. FOX: Please seat this juror.

15 THE CLERK: Juror 343, Theresa Shook, what say
16 the State?

17 MR. DeBUSK: Please present the juror.

18 THE CLERK: Defense?

19 MR. FOX: Please excuse this juror.

20 THE CLERK: Juror 230, Charles Licare, what say
21 the State?

22 MR. DeBUSK: Please present the juror.

23 THE CLERK: Defense?

24 MR. FOX: Please excuse this juror.

25 THE CLERK: Juror 382, Christina Wall, what say

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JUNE 7, 2021 - JURY SELECTION

1 the State?

2 MR. DeBUSK: Please present the juror.

3 THE CLERK: Defense?

4 MR. FOX: Please excuse this juror.

5 THE CLERK: Juror 241, Mark Ludwig, what say the
6 State?

7 MR. DeBUSK: Please present the juror.

8 THE CLERK: Defense?

9 MR. FOX: Please seat this juror.

10 THE CLERK: Juror 316, Pamela Richards, what say
11 the State?

12 MR. DeBUSK: Please present the juror.

13 THE CLERK: Defense?

14 MR. FOX: Please excuse this juror.

15 THE CLERK: Your excused for this case.

16 Juror 111, Anjanae Ishmael, what say the State?

17 MR. DeBUSK: Please excuse the juror.

18 THE CLERK: Juror 374, Armelia Teachey, what say
19 the State?

20 MR. DeBUSK: Please excuse the juror.

21 THE CLERK: You're excused for this case.

22 Juror 286, Michael O'Grady, what say the State?

23 MR. DeBUSK: Please present the juror.

24 THE CLERK: Defense?

25 MR. FOX: Please seat this juror.

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JUNE 7, 2021 - JURY SELECTION

1 THE CLERK: Juror 193, Hakeem Jackson, what say
2 the State?

3 MR. DeBUSK: Please excuse the juror.

4 THE CLERK: Juror 294, Jennifer Perez, what say
5 the State?

6 MR. DeBUSK: Please present the juror.

7 THE CLERK: Defense?

8 MR. FOX: Please seat this juror.

9 THE CLERK: Juror 128, Kathy Friedline, what say
10 the State?

11 MR. DeBUSK: Please present the juror.

12 THE CLERK: Defense?

13 MR. FOX: Number again, please?

14 THE CLERK: 128.

15 MR. FOX: Please seat this juror.

16 THE CLERK: Juror 222, Michael Lafon, what say
17 the State?

18 MR. DeBUSK: Please present the juror.

19 THE CLERK: Defense?

20 MR. FOX: Please seat the juror.

21 THE CLERK: Juror 23, Ira Blackwell, what say the
22 State?

23 MR. DeBUSK: Please present the juror.

24 THE CLERK: Defense?

25 MR. FOX: Please excuse this juror.

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INDIGENT DEFENSE ONLY!!!!**

JUNE 7, 2021 - JURY SELECTION

1 THE CLERK: Juror 315, Thomas Rhoads, what say
2 the State?

3 MR. DeBUSK: Please present the juror.

4 THE CLERK: Defense?

5 MR. FOX: Please excuse this juror.

6 THE CLERK: Juror 390, Richard Wells, what say
7 the State?

8 MR. DeBUSK: Please excuse the juror.

9 THE CLERK: Juror 239, Riley Lovett, what say the
10 State?

11 MR. DeBUSK: Please present the juror.

12 THE CLERK: Defense?

13 MR. FOX: Please seat this juror.

14 JUROR: Juror 221, Melissa Kwiatkowski, what say
15 the State?

16 MR. DeBUSK: Please present the juror.

17 THE CLERK: Defense?

18 MR. FOX: Are we into alternates?

19 THE CLERK: Yes.

20 MR. FOX: Please excuse this juror.

21 THE CLERK: Juror 213, Polly Kidwell, what say
22 the State?

23 MR. DeBUSK: Please present the juror.

24 THE CLERK: Defense?

25 MR. FOX: Please excuse this juror.

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MOTIONS

1 JUROR: Juror 299, Debra Plant, what say the
2 State?

3 MR. DeBUSK: Please present the juror.

4 THE CLERK: Defense?

5 MR. FOX: Please seat this juror.

6 THE COURT: Any objections from the State?

7 MR. DeBUSK: None, Your Honor.

8 THE COURT: Defense?

9 MR. FOX: Hold on, Your Honor. None, Your Honor.

10 THE COURT: Thank you. The remainder of the jury
11 panel, you are excused. Call back in to see if there
12 are any further instructions. Call back in this
13 evening.

14 (The jury panel exits the courtroom at 12:21
15 p.m.)

16 THE COURT: Members of the jury, we're going to
17 start at 9:30 in the morning. We're going to stay
18 this afternoon and take up some motions to get it
19 ready for you so we can move it along when you come
20 back. However, I want to instruct you on one thing.
21 You do know a little bit about this case. You've
22 heard the names and a little bit about what this case
23 is about. When you leave the courthouse, at this
24 point in time, do not research the case. Don't get on
25 the Internet and look it up. If you talk to anybody,

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MOTIONS

1 do not discuss the case at all. Once it is over with,
2 you completed your duties, you can talk all you want,
3 but for now, do not research or discuss the case.

4 If you would, be back at 9:30 in the morning and
5 we'll try to start promptly at that time.

6 The jury is excused.

7 (The jury exits at 12:23 p.m., and the
8 following is heard out of the presence of the jury.)

9 THE COURT: Anything we need to take up?

10 MR. DeBUSK: Just the motions, Your Honor. Our
11 witnesses are not here yet, if you want to take a
12 break.

13 MR. FOX: I think we should go to lunch.

14 THE COURT: We'll come back at 1:30.

15 MR. DeBUSK: Which one do you want to do first,
16 Your Honor?

17 THE COURT: I don't care, whatever you would
18 like.

19 MR. FOX: I think we should do the Jackson v.
20 Denno, because that will play into the other one.

21 THE COURT: Sounds good. See you at 1:30.

22 (A lunch recess was taken.)

23 THE COURT: Thank you. Be seated.

24 MR. DeBUSK: Your Honor, we're creating a disk
25 for the Jackson v. Denno.

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MOTIONS

1 THE COURT: That's fine.

2 MR. DeBUSK: We do have an issue to discuss, Your
3 Honor.

4 THE COURT: Okay.

5 MR. DeBUSK: We have a video camera here. We
6 have an officer that took the original video from
7 RipTydz and modified it. He is available to testify
8 today, but he has training in Alabama tomorrow. We're
9 moving to take his evidence nunc pro tunc, direct and
10 cross-examination, play a video for the jury in lieu
11 of him missing his training.

12 THE COURT: Any objections from the defense?

13 MR. FOX: Judge, I don't consent. I understand
14 the situation. Obviously, we'll do whatever Your
15 Honor rules. Our preference is that any witness
16 testify live in front of the jury, and that they be
17 able to see the demeanor and so forth live. It is
18 just not the same as a video. So I'm prepared if Your
19 Honor says that is the proper way to handle it, but we
20 don't consent.

21 MR. DeBUSK: This is not a fact witness; it is a
22 technical witness. All he did was take a video, alter
23 it a bit to make it a little more visible. It is not
24 a fact witness. He's not talking about the fact that
25 things happened in RipTydz, that's just what happened

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MOTIONS

1 in the video.

2 MR. FOX: That's correct.

3 THE COURT: I mean, it seems harmless. I hate
4 him to miss -- we would make him miss, if you wanted
5 him to, but I prefer to do it by video, if we could.

6 MR. FOX: I'll go with however Your Honor feels
7 is the best way to handle it.

8 THE COURT: Let's do that.

9 MR. DeBUSK: Let's check the disk to start the
10 Jackson v. Denno hearing.

11 THE COURT: Okay.

12 MR. DeBUSK: Sorry, we should have had that disk
13 prepared ahead of time.

14 THE COURT: That's all right.

15 (A brief pause in the proceedings.)

16 (State's Exhibit 1 marked.)

17 MR. DeBUSK: We're ready for the Jackson v. Denno
18 hearing. We'll call Detective Amos.

19 (DETECTIVE JUSTIN AMOS, having been duly
20 sworn, testified as follows:)

21 MR. DeBUSK: Neither I nor the witness are
22 wearing masks; is that okay?

23 THE COURT: That's fine.

24

25

**CERTIFIED ORIGINAL FOR SOUTH CAROLINA COMMISSION OF
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JACKSON v. DENNO - DIRECT EXAMINATION- DET. JUSTIN AMOS

1 DIRECT-EXAMINATION

2 BY MR. DeBUSK:

3 Q Who is your employer?

4 A Myrtle Beach Police Department.

5 Q How long have you been with the Myrtle Beach
6 Police Department?

7 A About 14 years.

8 Q What are your duties at this time?

9 A Sergeant over part of our investigative unit and
10 school resource officers.

11 Q How about in October 2018, what were your duties
12 then?

13 A A major crimes detective.

14 Q Did you respond to a shooting at RipTydz Bar and
15 Grille on October 7, 2018?

16 A I did.

17 Q What was your role?

18 A One of the investigators. I was the second
19 investigator on scene, I believe.

20 Q To shortcut things a little bit, during the
21 course of the investigation, did you generate a
22 suspect?

23 A Yes.

24 Q Who was that?

25 A Jakkari Brown.

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JACKSON v. DENNO - DIRECT EXAMINATION- DET. JUSTIN AMOS

1 Q The defendant sitting in the courtroom today?

2 A Yes.

3 Q At any point, did you conduct an interview with
4 Mr. Brown?

5 A Yes, sir.

6 Q Where did that take place?

7 A At the Myrtle Beach police annex building.

8 Q Who was with you?

9 A Detective Andrew Curry, who is now our crime
10 scene supervisor.

11 Q So there were three of you in the room?

12 A Yes, sir.

13 Q Was it recorded?

14 A Yes, sir.

15 Q How was it recorded?

16 A We had an audio recorder, and the room is audio
17 and video recorded.

18 Q Okay. And when you took him in there for his
19 interview, did you inform him of his Miranda rights?

20 A I did.

21 Q How did you do so?

22 A There is a form we use, a standard form. I let
23 him read it and let him read along.

24 (State's Exhibit 2 marked.)

25 Q I'll show you State's 2; do you recognize this?

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30

JACKSON v. DENNO - DIRECT EXAMINATION- DET. JUSTIN AMOS

1 A Yes, sir. That is a copy of the Miranda rights
2 form I read to him, and it was signed by Detective
3 Curry.

4 Q While you are reading in those rights, did you
5 make any notes on the form?

6 A There is a checkmark beside -- a blank beside
7 each right. As they are read to them, we check those
8 marks off, and then he has his name, report number,
9 myself and Dr. Curry's name.

10 Q In addition to informing him of his Miranda
11 rights, do you ask about his education and his state of
12 well-being at the time?

13 A Yes, sir.

14 Q And was that all reflected on the tape?

15 A It was.

16 Q Did the defendant seem to understand what you are
17 saying?

18 A He did.

19 Q Did he show any signs of being under the
20 influence of drugs or alcohol?

21 A He did not.

22 Q Do you recall what time the interview started?

23 A It was about 1 o'clock in the afternoon.

24 Q Okay. Was he arrested that morning?

25 A He was arrested the morning of the 7th after

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JACKSON v. DENNO - DIRECT EXAMINATION- DET. JUSTIN AMOS

1 1 o'clock in the morning.

2 Q So it was, approximately, 12 hours afterwards?

3 A Yes.

4 Q Did you deny food or drink or make any threats or
5 coercion to provide his statement?

6 A I provided with him water, and no threats or
7 coercion.

8 Q Did you threaten or intimidate him in any way to
9 make him give a statement?

10 A No.

11 Q I'll show you what is marked as State's Exhibit
12 1, freshly created, and ask if you recognize this?

13 A That's the copy on disk of the interview from the
14 audio and video room.

15 Q Is that all in one part?

16 A It's four separate parts. As it was put onto the
17 computer, it broke itself into four separate parts.

18 Q When it was converted, did the contents of the
19 video change in any way?

20 A No, sir.

21 MR. DeBUSK: Your Honor, we offer for purposes of
22 the hearing State's 1 and 2 into evidence at this
23 time.

24 THE COURT: Any objections?

25 MR. FOX: No, Your Honor.

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INDIGENT DEFENSE ONLY!!!!**

JACKSON v. DENNO - DIRECT EXAMINATION- DET. JUSTIN AMOS

1 THE COURT: State's 1 and 2 admitted without
2 objection.

3 (State's Exhibits 1 and 2 admitted for Jackson
4 V. Denno hearing only.)

5 MR. DeBUSK: Your Honor, for the Court's
6 information, the actual speaking of the tape is about
7 60 minutes long. At the beginning, there is video
8 just of him sitting in the room. We would propose to
9 forward through that and start with the interview.

10 THE COURT: Any objections from the defendant?

11 MR. FOX: Not for this hearing, Your Honor.

12 THE COURT: All right.

13 (A video is played.)

14 MR. DeBUSK: There are multiple clips, Your
15 Honor, so this is the end of the first clip. We'll
16 start the second one.

17 (A video is played.)

18 MR. DeBUSK: That is the extent of our showing on
19 that, Your Honor.

20 Q (MR. DeBUSK) Once again, you read him his
21 Miranda rights?

22 A Yes.

23 Q You determined he was not under the influence?

24 A Yes, sir.

25 Q And you gave him the refreshments he asked for?

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JACKSON v. DENNO - CROSS-EXAMINATION - DET. JUSTIN AMOS

1 A Yes, sir.

2 Q You did not coerce him in any way to give that
3 statement?

4 A No.

5 MR. DeBUSK: Thank you. Answer any questions
6 defense may have.

7 CROSS-EXAMINATION

8 BY MR. FOX:

9 Q Detective, at the time of this interview, clearly
10 Mr. Brown was in custody, correct?

11 A Yes.

12 Q He wasn't free to leave?

13 A He was not.

14 Q In fact, you cuffed him at the beginning of it?

15 A Yes, sir.

16 Q Had the warrants been served on him at that
17 point, or served in the interview?

18 A I don't think they were served on him at that
19 point.

20 Q And was he -- didn't hear any discussion during
21 the interview about the result of the shooting. In
22 other words, that Mr. Ramos died as a result of the
23 shooting; that wasn't discussed during the interview,
24 was it?

25 A No, sir.

**CERTIFIED ORIGINAL FOR SOUTH CAROLINA COMMISSION OF
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JACKSON v. DENNO - CROSS-EXAMINATION - DET. JUSTIN AMOS

1 Q So during the interview, Mr. Brown, he would have
2 been unaware whether this was a bad shooting incident
3 or a homicide?

4 A I don't know if he was told by anybody. He
5 wasn't told by me.

6 Q Thank you.

7 MR. FOX: Okay.

8 THE COURT: Anything further?

9 MR. DeBUSK: We would argue it was a freely and
10 voluntary statement and admissible, Your Honor.

11 THE COURT: Would defense like to call witnesses?

12 MR. FOX: Not on this issue, Your Honor.

13 THE COURT: You may step down, Your Honor.

14 Anything from the defense?

15 MR. FOX: Again, not on the Jackson v. Denno.

16 THE COURT: I find that the defendant was
17 properly Mirandized and the statement was given freely
18 and voluntarily.

19 What's next?

20 MR. FOX: Anything further?

21 MR. DeBUSK: No. Well, Your Honor, there is a
22 second Jackson v. Denno. The witness is not here. It
23 is a short statement given at the time of the arrest.
24 We ask that it be heard at the time that the witness
25 is testifying.

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 MR. FOX: I have no objection. We discussed
2 that. This is an officer that was there at the time
3 Mr. Brown was taken into custody at the hotel. It is
4 very brief; I think maybe five minutes. So that
5 should be a quick hearing, and we have no problem
6 taking it before that officer testifies.

7 THE COURT: That is fine.

8 MR. FOX: And, for clarification, if I may, the
9 statement was admitted for purposes of the Jackson v.
10 Denno?

11 THE COURT: Correct.

12 MR. FOX: So redo this at trial. I want to be
13 sure. I have Detective Amos under subpoena, Judge.

14 At this time -- of course we filed a motion under
15 the Stand Your Ground law, which we believe would
16 entitle us, if proven, that 16-11-440 to immunity, and
17 we propose to present testimony today on that issue,
18 and we would start with Jakkari Brown.

19 (JAKKARI BROWN, having been duly sworn,
20 testified as follows:)

21 THE WITNESS: Jakkari Brown.

22 DIRECT-EXAMINATION

23 BY MR. FOX:

24 Q Jakkari, how old are you?

25 A I'm 26.

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 Q Where are you from?

2 A Georgia.

3 Q What part?

4 A Northeast Georgia.

5 Q Is that where you grew up?

6 A Yes, sir.

7 Q And that is where your family is now?

8 A Yes, sir.

9 Q You still live there when you are not working?

10 A Yes, sir.

11 Q You began at some point in 2018 to work for

12 Towersite Services?

13 A Correct.

14 Q Do you recall when you started working for them?

15 A February 27th.

16 Q You remember specifically?

17 A Yes, sir.

18 Q So that was about seven, eight months prior to

19 coming to Myrtle Beach when the RipTydz incident

20 occurred?

21 A Correct.

22 Q How long had you been here in Myrtle Beach before

23 the shooting at RipTydz?

24 A It was like Tuesday -- we left Savannah Tuesday

25 and got here at, like, Wednesday morning around 1:00 or

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 2:00.

2 Q And this incident occurred when, what day of the
3 week?

4 A October 7th.

5 Q Was it Friday, Saturday; do you remember?

6 A I think it was Saturday.

7 Q You had been here two, three days prior to
8 working?

9 A Right.

10 Q And who was here with you; who was on the crew?

11 A Eli Vacan (phonetic), Seth Cole, Tyler Hembree,
12 Jeff Bailey, and John Matthews.

13 Q And John is who?

14 A Foreman.

15 Q Was October 7 the first time you had been at
16 RipTydz that week?

17 A No, sir.

18 Q So you had been there previously, correct?

19 A Yeah, previous night.

20 Q And do you recall -- did you all go over as a
21 group? Did you go separately? How did you get to
22 RipTydz?

23 A It was just me, Eli, and Seth, I believe, and
24 Jeff.

25 Q And did you meet up with the others there?

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 A No. They didn't come that night.

2 Q John was there?

3 A No, not the previous night.

4 Q I'm sorry, I'm talking about October 7th.

5 A Oh.

6 Q The night of the shooting.

7 A Yes, we were there, the whole crew.

8 Q The whole crew was there?

9 A Yes.

10 Q And do you recall what time you got there?

11 A No.

12 Q Had you been barred from RipTydz from going there
13 for being rowdy during the week, kicked out, told not
14 to come back, anything like that?

15 A No, sir.

16 Q This is a restaurant and a bar, correct?

17 A Yes.

18 Q Multiple levels?

19 A Yes.

20 Q And they serve food?

21 A Yes, sir.

22 Q And drinks?

23 A Yes, sir.

24 Q And you all were upstairs on the -- basically the
25 bar area?

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 A Correct.

2 Q There is an outdoor part facing the ocean, and
3 then a part inside?

4 A Yes, sir.

5 Q Where were you all?

6 A We were kind of back and forth the whole night.

7 Q How long did you -- were you there, would you
8 say, before things got out of hand, before this fight
9 broke out?

10 A I really can't say. Probably two hours, at the
11 most.

12 Q And, again, I'm sorry I kind of cut you off. You
13 were lawfully there; you were not barred from being
14 there?

15 A No. I was lawfully there.

16 Q It is not a private club or anything?

17 A No, sir.

18 Q So you weren't trespassing?

19 A No, sir.

20 Q So you had been there a couple of hours. What
21 were you doing during those hours?

22 A Just enjoying the scenery, really.

23 Q Well, I mean, did you have dinner?

24 A No. We was just watching the fight.

25 Q And that was the Conor McGregor fight?

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 A Yes, sir.

2 Q Do you remember who he was fighting?

3 A No, sir.

4 Q Some nobody?

5 A Can't say.

6 Q Were you drinking anything?

7 A Yes, sir.

8 Q Alcohol?

9 A Yes, sir.

10 Q Can you remember what you drank?

11 A Couple beers, couple shots.

12 Q Now, when you went to RipTydz once, you went over
13 there, did you go back to your hotel?

14 A No, sir.

15 Q So once you left the hotel to go to RipTydz, you
16 were there until afterwards, when you ran back after
17 the shooting?

18 A Yes, sir.

19 Q You own a firearm?

20 A Yes, sir.

21 Q What kind of firearm is that?

22 A Taurus 9-millimeter.

23 Q When did you get that?

24 A It was February 10, 2016.

25 Q '16. So about two-and-a-half years prior to

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 October 2018?

2 A Yes, sir.

3 Q Where did you get it?

4 A LAR in Lavonia, Georgia.

5 Q That is?

6 A A gun store.

7 Q A licensed gun store?

8 A Yes, sir.

9 Q So you purchased that lawfully?

10 A Yes, sir.

11 Q Did you have to do a background check or
12 anything?

13 A Yes, sir.

14 Q So that was successfully completed, and you were
15 able to get the gun?

16 A Yes, sir.

17 Q And you are a resident of Georgia?

18 A Correct.

19 Q In Georgia, do you need -- are you able to just
20 open carry; in other words, carry the gun not in your
21 waistband, but just on your hip?

22 A Yes, sir.

23 Q But can you do that without a permit?

24 A Yes, sir.

25 Q You can? Why do you think that is?

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 A Second Amendment.

2 Q You said that to the police as well the same
3 night of the shooting. Tell me what you think, and
4 what you more particularly thought back in 2018, the
5 Second Amendment allowed you to do as a gun owner?

6 A Well, I thought that you could carry a firearm
7 without a license because of me not having a felony,
8 so.

9 Q So, in other words, you were not prohibited from
10 owning a firearm?

11 A No, sir.

12 Q Not a felon?

13 A No, sir.

14 Q Passed a background check?

15 A Yes, sir.

16 Q So, in your mind, the Second Amendment, you were
17 good to go?

18 A Correct.

19 Q Did you carry that gun -- once you got it in
20 2016, was it a habit to carry it with you?

21 A Yes, sir.

22 Q Where would you typically carry it?

23 A Waistband.

24 Q Was that just in Georgia?

25 A No.

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 Q Did you continue to do that after you started
2 working with TSS?

3 A Yes, sir.

4 Q With TSS, you traveled to other states besides
5 South Carolina, didn't you?

6 A That's correct.

7 Q You weren't in Georgia?

8 A No, sir.

9 Q Did you work in Georgia?

10 A Yeah. I mean, that is my main line of work.

11 Q But you worked out of state also?

12 A Yes, sir.

13 Q Can you recall what other states you worked in?

14 A Worked over 20 plus states.

15 Q Okay. Did you take the gun everywhere you went?

16 A Yes, sir.

17 Q Did other members of the crew take guns with
18 them?

19 A Yes, sir.

20 Q Do you know if any of them had concealed weapons
21 permits?

22 A I don't.

23 Q They might, you just don't know?

24 A Maybe.

25 Q Now, the crew changed, right? You mentioned in

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 the interview with the police that lots of people
2 couldn't stay with that kind of work, so there is a lot
3 of in and out?

4 A Yes.

5 Q And the crew in Myrtle Beach, do you know whether
6 any of them brought guns with them to South Carolina?

7 A Yes, I do.

8 Q How many do you think?

9 A Three.

10 Q Are you aware if any of them took guns with them
11 to RipTydz with them that night?

12 A Not to my knowledge.

13 Q You took your gun to RipTydz?

14 A Yes, sir.

15 Q No question you were consuming alcohol?

16 A Yes, sir.

17 Q Are you now aware that the State of South
18 Carolina requires a person to have a concealed weapons
19 permit to carry in their waistband?

20 A Yes, sir.

21 Q Did you know that in October 2018?

22 A No, sir.

23 Q Now, once you are at RipTydz, you had been there
24 a couple hours and the McGregor fight ends; tell me
25 what happens at that point?

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 A Well, the whole bar got rowdy.

2 Q How so?

3 A People was mad because Conor McGregor lost; I
4 don't know if it was gambling or what.

5 Q Were you mad about that?

6 A No. No.

7 Q Anyone in your group upset about the fight
8 outcome?

9 A No.

10 Q So when you say people started getting mad, at
11 this point, that did not include you or your crew?

12 A Correct.

13 Q So what did you -- how do you -- when you say
14 they were mad, how did you know that?

15 A It was just -- I mean, the vibe. You could tell.
16 People are like, oh, you know.

17 Q People talking?

18 A Yeah.

19 Q People loud?

20 A Yeah.

21 Q And, at some point, did it become more than
22 talking and becoming loud?

23 A Yes.

24 Q What did you see?

25 A Well, it was a lot of shoving and pushing, but

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 the security guards removed that person.

2 Q Okay. Now, might seem like a crazy question, but
3 how do you know it was a security guard?

4 A Because of the radio.

5 Q Did they have multiple -- RipTydz had multiple
6 people there working security, more than one?

7 A Not to my knowledge.

8 Q Did they have any kind of uniform aside from the
9 radio?

10 A Yes, sir.

11 Q Do you remember what it was?

12 A It was light green -- greenish and blue shirt.

13 Q Identifiable to you as being security?

14 A Yes, sir. Yes, sir.

15 Q So somebody was loud enough that security removed
16 them, correct?

17 A Correct.

18 Q Did that end the trouble; was that the end of it?

19 A No.

20 Q What happened?

21 A Well, more pushing and shoving ensued, and that's
22 when, I guess, John, he went to the bar or whatever.

23 Q Yeah.

24 A And after that, he came back and said people was
25 talking trash.

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 Q Okay. But at this point, anyone aggressive with
2 you, push you or anything?

3 A No.

4 Q Has anyone done that with any members of your
5 crew at that point?

6 A Not to my knowledge.

7 Q But things are still going on?

8 A Yes.

9 Q So did anything happen beyond that?

10 A Well, not beyond that, but like right after.

11 Q Tell me what happened.

12 A Well, right after John came and told us what was
13 going on, everyone was, like, I am not here for that.

14 Q Excuse me for interrupting; you mean the people
15 on your crew?

16 A Yes.

17 Q So they were like, We didn't come over here for
18 this, we came to drink and have fun?

19 A Yeah, and go home the next day.

20 Q So what's next?

21 A And then John, he leaves, and just a lot of
22 pushing started going on.

23 Q When you say he left -- were you at the bar,
24 table; where were you?

25 A I was at the table. John, he went to the bar.

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 Q Let me roughly -- if you can remember, in
2 RipTydz, you all were on the inside? If this is the
3 bar where the jury box is, if this is the end of the
4 bar, on the opposite side is where the ocean would be?

5 A Yeah.

6 Q And you all were kind of in the inside portion of
7 that?

8 A Yeah. Yeah.

9 Q And were you all -- you and your crew were at the
10 bar or table or standing around?

11 A We were at the table at this time.

12 Q Okay. Now, at one end of the bar there is a wall
13 with surfboards on it; do you remember that?

14 A Uh-huh. Yes, sir.

15 Q And that's where, kind of, the back of the bar
16 is, correct?

17 A Correct.

18 Q The bartenders and waiters could go behind with
19 trays and things of that nature?

20 A Correct.

21 Q And the other way there is a door with the
22 bathrooms?

23 A Right. Correct.

24 Q And the main part of the bar is kind of back
25 where I would be? If you are at the wall with the

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 surfboards now, back where I am would be -- open up a
2 little bit?

3 A Yeah. Yeah.

4 Q And you were at the table; how far would you say
5 from the wall?

6 A Near the bar. Table closest to the bar.

7 Q Was there a DJ or someone set up there?

8 A Yes, sir.

9 Q Had like a stand?

10 A Yeah.

11 Q It wasn't like a big DJ booth or anything?

12 A No.

13 Q You were all at a table? I got off track. You
14 are at the table, things were going crazy, people are
15 like, No thanks, don't want to be here for this; what
16 happened then?

17 A At that point, I looked to my left and I see
18 John; he's in an altercation with people.

19 Q Does John have a reputation for that during your
20 time working with him?

21 A He has a reputation for a smart mouth.

22 Q Ex-military?

23 A Yeah.

24 Q Doesn't take stuff from anyone?

25 A No.

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 Q More than willing to voice his opinion?

2 A Correct.

3 Q So when you say he's in an altercation, how was
4 that?

5 A It was more physical. He was -- someone had him
6 in a headlock at that time, and that's when I go over
7 there and help him.

8 Q Helped him -- now, at this moment, there is
9 already people mouthing off?

10 A Right.

11 Q A little bit of pushing and shoving, but it
12 doesn't involve you all, right?

13 A Correct.

14 Q And now John is involved; did you see how that
15 started?

16 A No, sir.

17 Q But he already said people talk a lot of junk,
18 came back, and now people are on John. Can you tell
19 how many people were on him?

20 A Four or five.

21 Q Okay. Did you stop to count?

22 A Did I stop to count?

23 Q Yeah. Did you take time to count?

24 A No. No. No. No.

25 Q All right. So how far away was he at that point

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 from where you were, roughly?

2 A Maybe from here to you.

3 Q So --

4 A Give or take.

5 Q Ten, 12 feet?

6 A Something like that.

7 Q So what did you do?

8 A I went over there, and the guy that was choking
9 John, I kind of, like, pushed him to get him off of
10 him, and I grabbed John.

11 Q Okay. When you say "choke," did you have him by
12 the hands, crook of his elbow?

13 A More of a headlock like.

14 Q So you are showing like both arms crossed around.
15 Was he behind him?

16 A Yeah.

17 Q So you are saying this person was behind John,
18 arms wrapped around him up high and around his neck; is
19 that correct?

20 A Correct.

21 Q So, now, when you -- there are other people
22 around?

23 A Yes, a lot of people around.

24 Q I'm specifically meaning with John.

25 A Yeah, it was people all around him.

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 Q Now, I know I'm jumping around. Are other things
2 going on? While this is happening with John, has
3 everything else calmed down in the bar?

4 A No. No.

5 Q So did anyone -- you stepped over to assist John;
6 did any of the other members of your crew go with you,
7 hey, let's help John?

8 A Not to my knowledge.

9 Q You just went?

10 A Yeah.

11 Q And you started to tell me a minute ago you got
12 there and there was a man behind him?

13 A Correct.

14 Q You testified about the security with the radio
15 and the T-shirts or the shirts?

16 A Correct.

17 Q Did this person appear to be security to you?

18 A Yes, he did.

19 Q The person that had John in a chokehold?

20 A Oh, no. No.

21 Q So as far as you knew and -- had John done
22 anything, in your mind, that would justify him being
23 tossed out of the bar by security?

24 A No.

25 Q And as far as you knew, this person was not

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 security that had him in a chokehold?

2 A Correct.

3 Q So now tell me what you did.

4 A When he grabbed John, that's when a bottle come
5 flying --

6 Q I don't want to put words in your mouth, but you
7 mentioned you did something to the person, tell me
8 about that.

9 A Oh, yeah. I, like, kind of pushed at him, like
10 that (indicates).

11 Q Was it an open push, closed fist?

12 A It was open hand.

13 Q Did you use full weight, a tap, shove?

14 A It was more of a graze. I didn't connect.

15 Q From the head up?

16 A Yeah.

17 Q Your intent was to get him off of John?

18 A To get him off.

19 Q Did that work?

20 A Yes, it did.

21 Q Did that person that you -- did you see what that
22 person did afterwards? You pushed him and he let go,
23 or John was able to get freed, right?

24 A Right.

25 Q Did you pay attention to the person behind John,

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 what he did next?

2 A No. At that time, I was ready to go.

3 Q So did you go?

4 A No.

5 Q Now, when you pushed him, where was your gun at
6 that point?

7 A In my waistband.

8 Q Had you pulled it out?

9 A No.

10 Q So John is free?

11 A Yes.

12 Q What did you do next?

13 A Well, I'm grabbing John, and John, he's like,
14 basically, got me behind him, and that's when the
15 bottle came flying past my face.

16 Q Did you see who threw the bottle?

17 A No.

18 Q Did it hit you?

19 A No, but it was close.

20 Q How could you tell?

21 A The mist from the bottle, the liquid.

22 Q Did you hear the bottle hit anyone or anything?

23 A No.

24 Q Didn't hear it smash on the wall or anything?

25 A No.

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 Q So you don't know if it hit anybody?

2 A I don't.

3 Q Didn't hit you?

4 A No.

5 Q But came close?

6 A Uh-huh.

7 Q Did you duck, knock it out of the way, anything
8 like that?

9 A No. I put my arms in front of my face to guard
10 my face.

11 Q And, again, you didn't see who threw it?

12 A No.

13 Q How did that make you feel at that moment?

14 A At that point, I was in fear.

15 Q Is there anything in particular about a bottle
16 being throwed (sic) at you, in your own experience,
17 that put you at fear?

18 A Yes.

19 Q What is that?

20 A Well, I witnessed one of my friends getting a
21 chunk of his head taken out by a bottle.

22 Q Someone threw a bottle?

23 A It was more, like, a throw, but hit, kind of. I
24 don't know. I can't explain.

25 Q Was that in a bar situation as well?

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 A Not really bar, but a club situation.

2 Q But not in someone's backyard?

3 A Right.

4 Q Were you involved in that altercation?

5 A No, sir.

6 Q But you saw it?

7 A Yes, sir.

8 Q Tell me again, your friend lost a chunk of his
9 skull, or what happened?

10 A Yeah. Like, it was a big chunk back here
11 (indicates).

12 Q That was directly from the bottle, him being
13 struck, either thrown or swung and hitting him?

14 A Correct. Correct.

15 Q Okay. All right. So at the -- so now this
16 bottle has been thrown at close range; what happened
17 after that?

18 A That is when I pulled my firearm out in the
19 waistband and was like telling people to back away.

20 Q When you did that, how did you have it?

21 A I have it like this (indicates).

22 Q You have your hand up, which way is the barrel
23 pointing?

24 A Down to the ground.

25 Q So, basically, tell me if this is correct, you

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 lifted it straight out, straight up?

2 A Yeah.

3 Q And I'm assuming you had it with the grip out?

4 When it is in your waistband, you have the barrel down
5 inside your waistband with the grip where you can get
6 it?

7 A Correct.

8 Q And you told me you lifted it straight up?

9 A Correct.

10 Q Was it inside or outside of your shirt at this
11 point?

12 A It was outside of my shirt.

13 Q Okay. What happened after that?

14 A That is when this guy just backs away, and then
15 he comes towards me again, and I lift it a little
16 higher so he could see it.

17 Q Did he stop?

18 A Yes.

19 Q Did anything happen further?

20 A He backed away, and that is when I turned to
21 leave and I get hit.

22 Q Did you see who hit you?

23 A Yeah.

24 Q Who hit you?

25 A The guy I was warning with my firearm.

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 Q So this guy -- you have a bottle flying by?

2 A Correct.

3 Q You are like, Okay, people, (indicates), let's
4 stop this?

5 A Right.

6 Q Do you believe that person saw you do that was
7 able to see the gun?

8 A Yes; he backed away.

9 Q Was he looking at you?

10 A Yes.

11 Q And, again, estimate how far away was he?

12 A Maybe two, three feet closer to me than you are
13 now.

14 Q Somewhere around here (indicates)?

15 A Yeah. Right.

16 Q And you stopped?

17 A Uh-huh.

18 Q And then came at you again?

19 A Yes.

20 Q So -- someone threw a bottle?

21 A Uh-huh.

22 Q Do you think that captured on -- we'll talk about
23 that in a minute.

24 So you showed him that, he had a weapon, and even
25 after that he came back, and what happened?

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 A And the second time when I warned him, he backs
2 away, and that is when I turned to leave and I'm like
3 I'm ready to go. When I turned, as soon as I turned, I
4 get hit.

5 Q Do you know who hit you?

6 A It was the guy I was warning.

7 Q Hit where?

8 A On the side of my face.

9 Q Knock you down?

10 A It stumbled me.

11 Q You described it to the officer as a grown-man
12 hit?

13 A Yes, sir.

14 Q Didn't knock you out?

15 A No, sir, but stumbled.

16 Q So what happened next?

17 A And then that's when I fired.

18 Q Now, did you take a stance and fire?

19 A No.

20 Q Like at a shooting range, legs spread, anything
21 like that?

22 A No. No. No.

23 Q Describe what you remember.

24 A It was more of off-balance fire.

25 Q Firing at any particular direction?

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 A At him, but not to harm, not to kill, but to get
2 him off.

3 Q How was that supposed to work; what were you
4 trying to do?

5 A I was trying to get away because I was scared,
6 because the bottle just came past me. I don't know
7 what he has in mind.

8 Q Did the bottle that was thrown -- you said you
9 didn't see who threw it. Did it come in the direction
10 from the man who hit you?

11 A Not when he hit me, but --

12 Q I'm saying the bottle was thrown, and you didn't
13 see who threw the bottle?

14 A No.

15 Q But then this person that you showed the gun to
16 comes back, steps back for a moment, but -- was anyone
17 trying to keep him away from you?

18 A No.

19 Q Could there have -- well, he comes back at you?

20 A Correct.

21 Q The direction he came -- now, you're turned, but
22 you can tell he hit you, and you can tell who hit you?

23 A Uh-huh.

24 Q Is that the same direction from where the bottle
25 came from?

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 A No.

2 Q Do you think that would be -- that's all right if
3 you don't know the answer to that.

4 So when the bottle was thrown at you, you said
5 that caused you fear, and you described what had
6 happened to your friend?

7 A Right.

8 Q How would you describe the injury? You said
9 there was a chunk of his head, but how would you
10 characterize the severity of your friend's injury from
11 the bottle?

12 A Life-threatening.

13 Q Is that a word you came up with?

14 A No.

15 Q It was bad?

16 A It was real bad.

17 Q In your own words, how would you say?

18 A It was enough to where he almost died.

19 Q Is it fair to characterize the fear you had from
20 that bottle being thrown at you, you based it on what
21 you saw your friend endure?

22 A Yes.

23 Q Now, let's talk about -- did you -- I know we're
24 jumping around, forgive me. When you fired your gun,
25 did you see what the result was?

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 A Not the full result. I just saw the guy kind of
2 fall back, and that is when I took off and ran.

3 Q Did you know if he -- did you think you would hit
4 him when you fired, when you saw what he did; do you
5 think your bullet hit him?

6 A I'm not quite sure at that point, but I know when
7 I fired, I just ran.

8 Q Okay. So you didn't see any wound or anything?

9 A No.

10 Q Where did you run?

11 A I ran to the room we were staying in at Aqua
12 Beach.

13 Q Let's go through the layout of the bar. I want
14 to get to the point where you've been, John, and he's
15 been tussling with people. You push that guy away, and
16 then you move closer to that surfboard wall, like
17 closer to the table where you were, and then you move a
18 little bit. Everybody in that little scrum of people
19 kind of moves towards the wall; correct?

20 A Correct.

21 Q Including you, John, Eli is in there somewhere,
22 at least he tells you that later, and this guy that
23 ends up hitting you?

24 A Yes, sir.

25 Q Did you notice bouncers or security at this time?

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 A No.

2 Q Could be, but -- do you know?

3 A Could be, but I don't know.

4 Q At this point, you are closer to that wall than
5 to, say, the DJ little table?

6 A Correct.

7 Q Okay. People are -- you are facing the bar, it's
8 over here. The bathroom is opposite the bar?

9 A Yes.

10 Q And the person that hit you that came at you was
11 over there by that door?

12 A Yep.

13 Q So going towards the bathroom out that door was
14 not an option?

15 A No.

16 Q And where you were at this time, there was
17 several people all around, correct?

18 A It was like a crowd.

19 Q Okay. And so that is between you and the small
20 area behind the bar; is that fair to say?

21 A Correct.

22 Q So even though the bar -- how wide, would you
23 say, is the opening behind the bar is?

24 A Maybe as wide as this.

25 Q So if you stuck your arms out, maybe that?

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STAND-YOUR-GROUND - DIRECT EXAMINATION - JAKKARI BROWN

1 A Yeah.

2 Q Give or take. But there are people all between
3 you and that bar back area?

4 A Uh-huh.

5 Q So did you feel like it was realistic to go that
6 way? I'm talking about before the gunshot now, the
7 fight is going on, did you feel like that was an
8 option?

9 A I couldn't move.

10 Q Could you have gone across the area you came
11 from?

12 A No.

13 Q And that is the area where someone threw a bottle
14 at you?

15 A Right. Right.

16 Q So at least in those moments when the bottle was
17 thrown at you, when you got punched and when you shot
18 your gun --

19 MR. DeBUSK: Object to the leading questions.

20 MR. FOX: I'll rephrase.

21 Q (MR. FOX) That's all right. I'm done with that.
22 When the shot went off, could you tell what other
23 people in the bar did; were you paying any attention?

24 A No.

25 Q And you took off?

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STAND-YOUR-GROUND - CROSS-EXAMINATION - JAKKARI BROWN

1 A Yes, sir.

2 Q And you went where?

3 A I went to the room or motel, ultimately.

4 Q Was your crew back there?

5 A Not at this time, not when I arrived.

6 Q Were they back shortly after?

7 A Yes.

8 Q And the hotel, where is that in relation to

9 RipTydz?

10 A Kind of across the street.

11 Q You can see it from RipTydz?

12 A Yes. Yes.

13 MR. FOX: Thank you, Jakkari. Answer any
14 questions the State has.

15 THE COURT: Cross.

16 MR. DeBUSK: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. DeBUSK:

19 Q You went to RipTydz carrying a gun; is that
20 correct?

21 A Can you rephrase that?

22 Q You went to RipTydz carrying a gun?

23 A Correct. Correct.

24 Q And that gun had an extended magazine; did it
25 not?

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STAND-YOUR-GROUND - CROSS-EXAMINATION - JAKKARI BROWN

1 A Correct.

2 Q How many rounds did it carry?

3 A It carries 32, but it wasn't full.

4 Q How many rounds did you have? How many rounds
5 did you think you would need that night?

6 A I didn't think I would need none.

7 Q Why did you take the gun?

8 A For my own protection.

9 Q What were you protecting from?

10 A The crime rate out there.

11 Q In RipTydz, you were there the night before, how
12 many crimes did you witness the night before?

13 A None.

14 Q But you still felt you should bring a gun to a
15 bar where they sell alcohol?

16 A Correct. I take my gun everywhere I go.

17 Q You didn't have a permit?

18 A No, sir.

19 Q You said you can open carry in Georgia?

20 A Correct.

21 Q You can't open carry in Georgia unless you have a
22 permit, can you?

23 A Not to my knowledge.

24 Q So you never looked at the Georgia law?

25 A No.

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STAND-YOUR-GROUND - CROSS-EXAMINATION - JAKKARI BROWN

1 Q You never look at South Carolina?

2 A No, sir.

3 Q You had complete disregard for the gun laws in
4 Georgia and South Carolina?

5 A I know I have my Second Amendment.

6 Q Second Amendment, but did you look at the law of
7 the states?

8 A Not at all of the states.

9 Q You never looked at the law of the states, so you
10 didn't know it was illegal to carry a gun in a bar?

11 A No.

12 Q You didn't know it was illegal to use a gun when
13 ingesting alcohol?

14 A No, sir.

15 Q You didn't bother to look?

16 A No, sir.

17 Q Have you heard the phrase "Ignorance of the law
18 is no excuse"?

19 A Yes, sir.

20 Q Now, I think you said you gave an open-hand push
21 to somebody that was holding John; is that correct?

22 A Correct.

23 Q Isn't it true you told Detective Amos that you
24 punched someone?

25 A Yes.

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STAND-YOUR-GROUND - CROSS-EXAMINATION - JAKKARI BROWN

1 Q So which one was a lie? Was it a punch or open
2 hand?

3 A It was an open-hand push.

4 Q So you lied to Detective Amos?

5 A It looks more like a punch, but it's a push.

6 Q You told Detective Amos it was a punch?

7 A Correct.

8 Q Was that a lie?

9 A It was.

10 Q Why did you lie to Detective Amos?

11 A I was in fear.

12 Q Of what?

13 A Fear of being looked at as a negative person.

14 Q And now you are looking at possibly going to
15 prison?

16 A Correct.

17 Q So which gives you more incentive to lie: being
18 seen as a negative person, or going to prison?

19 MR. FOX: Objection.

20 MR. DeBUSK: Goes to bias, Your Honor.

21 THE COURT: Rephrase.

22 Q (MR. DeBUSK) Which gives you an incentive to
23 lie: Being seen as a bad person, or going to prison?

24 MR. FOX: That is a if-you-stop-beating-your-wife
25 question.

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STAND-YOUR-GROUND - CROSS-EXAMINATION - JAKKARI BROWN

1 THE COURT: You don't have to answer it anyway.

2 Go ahead.

3 MR. DeBUSK: Thank you, Your Honor.

4 Q I'll talk about the timeline. Are you
5 left-handed or right-handed?

6 A Left-handed.

7 Q Talk about timeline a little bit. You said John
8 came back to the table and told you some people were
9 trying to start a fight with him?

10 A That's correct.

11 Q Did that happen before or after someone was
12 thrown out of the bar for fighting?

13 A That happened before.

14 Q Before. And after that happened where they threw
15 that individual out of the bar, you went over to where
16 he was being thrown out?

17 A No.

18 Q You didn't go over there?

19 A No.

20 Q Your testimony is you did not go where they took
21 that individual out?

22 A It had nothing involving me.

23 Q So your testimony is you didn't go over there?

24 A Correct.

25 Q Did John go over there?

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STAND-YOUR-GROUND - CROSS-EXAMINATION - JAKKARI BROWN

1 A Not to my knowledge.

2 Q Did you see, as shown on the video, where John
3 pushed someone right before he was pushed?

4 A I believe I wasn't even in the area when he did
5 that.

6 Q Your testimony is that you were not two or
7 three feet away from him when that happened?

8 A Correct.

9 Q You told Detective Amos you didn't see who hit
10 you?

11 A Yes, I did.

12 Q And your testimony today is different; is it not?

13 A Correct.

14 Q So today you are telling us that you saw him hit
15 you?

16 A Yes, I did.

17 Q So you lied to Detective Amos?

18 A Never lied.

19 Q Why did you tell him that you didn't see who hit
20 you?

21 A I said I never saw who threw the bottle.

22 Q He asked if you saw who hit you, and you said --

23 MR. DeBUSK: Court's indulgence.

24 (A brief pause in the proceedings.)

25 Q (MR. DeBUSK) How much did you have to drink that

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STAND-YOUR-GROUND - CROSS-EXAMINATION - JAKKARI BROWN

1 night?

2 A Not much.

3 Q Didn't you tell Detective Amos you had four or

4 five beers and four or five shots?

5 A Correct.

6 Q Is that not much to you?

7 A No.

8 Q You also told Detective Amos you love adrenaline?

9 A Yes.

10 Q You like to ride dirt bikes?

11 A Yes.

12 Q Played football?

13 A Yes.

14 Q Boxed?

15 A Yes.

16 Q So you are a pretty cool-headed fellow?

17 A I'm cool headed.

18 Q So Detective Amos asked you, Who threw that one

19 punch at you? And you said, I don't know. I was

20 blindsided. Like, I was faced this way and all, bam,

21 some blank; is that what you told him?

22 A Correct.

23 Q So you told Detective Amos you didn't see who hit
24 you?

25 A Correct.

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STAND-YOUR-GROUND - CROSS-EXAMINATION - JAKKARI BROWN

1 Q And now today you are saying you did see who hit
2 you?

3 A Yes.

4 Q So you lied to Detective Amos?

5 A I was in fear.

6 Q From Detective Amos?

7 A Of the whole situation.

8 Q And you are not in fear now?

9 A No.

10 Q So you only lie when you are in fear? You say
11 now, today, that you went and pushed someone in the
12 face that was holding John?

13 A Correct.

14 Q But you didn't see John pushing someone to start
15 the fight?

16 A No.

17 Q And you said that person threw a bottle?

18 A Yes.

19 Q Did you see that person throw the bottle?

20 A I didn't.

21 Q Did you fight that bottle off with your hand?

22 A No.

23 Q Did you put your hand up to defend off that
24 bottle?

25 A Yes, I did.

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STAND-YOUR-GROUND - CROSS-EXAMINATION - JAKKARI BROWN

1 Q How did you know to put your hand up if you
2 didn't see him throw the bottle, see it coming?

3 A It was coming towards me.

4 Q You saw it in mid-flight?

5 A There was so much going on.

6 MR. DeBUSK: Court's indulgence. Nothing
7 further.

8 THE COURT: Redirect?

9 MR. FOX: One moment, Your Honor. Nothing
10 further, Your Honor.

11 THE COURT: You may step down.

12 Call your next witness.

13 MR. FOX: Your Honor, I believe the parties will
14 stipulate. There is a video that you have heard
15 about, and I believe it is stipulated as to what would
16 be shown in court, so we will --

17 MR. DeBUSK: It is sort of an unusual situation.
18 We will stipulate to the main video, but we want to
19 present the testimony for the spotlight, the close-up
20 video, so we can get the officer on the record today
21 and on video.

22 MR. FOX: Because they obviously -- at trial, I
23 think the State wishes to introduce it, and they need
24 to set the foundation; but for purposes of the
25 stand-your-ground hearing, the parties agreed what

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STAND-YOUR-GROUND - CROSS-EXAMINATION - JAKKARI BROWN
will be shown.

MR. DeBUSK: Yes, I stipulate to the videos, but
I do want to present testimony.

MR. FOX: Oh, I understand, separate issues.

MR. DeBUSK: And Officer Howitt is present and
will testify.

THE COURT: How long is the video?

MR. OSKIN: The main video itself is brief, and
then the edited version is even much more so. Neither
video is longer than five minutes.

MR. DeBUSK: The main video is probably 15
minutes long.

MR. FOX: I think we can show -- I mean, we know
where things start, and I think what we're interested
in is where the altercation begins, and we're talking
a couple of minutes; is that accurate?

MR. OSKIN: Yes, sir.

MR. FOX: I mean, you don't need to see ten
minutes before.

MR. OSKIN: I agree with Mr. Fox for purposes of
getting it into evidence for the Court.

MR. FOX: So I propose -- I don't want to run the
machine, I'll let them do it. I trust them.

MR. DeBUSK: Your Honor, for clarity, we have the
original RipTydz video not edited. We'll do State's

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STAND-YOUR-GROUND - CROSS-EXAMINATION - JAKKARI BROWN

3.

(State's Exhibit 3 marked.)

MR. OSKIN: The State and defense have stipulated to Exhibit 3, which we'll publish to the Court.

MR. DeBUSK: I suggest we tilt the TV so you can see this.

THE COURT: Is this the long one -- okay.

MR. DeBUSK: We'll publish State's 3.

MR. FOX: Just for orientation, you are down at the bottom. The main area -- so the ocean side is back here. The surf wall with the surfboards is here, and this is back where the bathrooms are. So I'll let you see, but I think it is this way.

MR. DeBUSK: Can we stipulate as to who is John?

MR. FOX: I think so.

MR. OSKIN: Your Honor, this is John.

MR. DeBUSK: With the gray hat and dark shirt.

MR. FOX: With white stripes.

MR. OSKIN: In reference to Mr. Brown's testimony.

(A video is played.)

MR. DeBUSK: Can we stipulate that this is the defendant here with the burgundy shirt and hat?

THE COURT: Not in the white shirt?

MR. FOX: Right. That's correct.

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STAND-YOUR-GROUND - CROSS-EXAMINATION - JAKKARI BROWN

1 MR. DeBUSK: And blue jeans.

2 MR. FOX: Right.

3 MR. DeBUSK: Please proceed.

4 Can we stipulate that the individual here in the
5 light pink shirt is the victim?

6 MR. FOX: I do believe that is correct.

7 It will be obvious in the other view, Your Honor.

8 MR. DeBUSK: You can stop now. I think that is
9 the extent of what we wanted to show in State's 3.
10 Now we'll show Exhibit 4.

11 (State's Exhibit 4 marked.)

12 MR. FOX: This is looking towards the wall, Your
13 Honor. You have Mr. Brown, and that is Mr. Ramos,
14 correct? And you can tell that is the end of the bar.
15 Before, we were looking at it this way, and now we've
16 changed the direction slightly.

17 (A video is played.)

18 MR. DeBUSK: Sorry, these are of playback and not
19 of the original tape.

20 (A video is played.)

21 MR. DeBUSK: We would like to publish it again.

22 MR. FOX: I'm fine to play it one more time.

23 (A video is played.)

24 THE COURT: Got it.

25 MR. DeBUSK: There are additional views the State

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MOTIONS

1 would like to play, but we'll wait.

2 THE COURT: Okay. Take a 10-minute break.

3 (A recess is taken.)

4 THE COURT: Thank you. Everyone have a seat.

5 MR. DeBUSK: At this time, State moves for
6 summary judgment on this motion based on State v.
7 Slater. In State v. Slater, the Supreme Court found
8 that the unlawful carrying of a pistol by itself can
9 be enough to, basically, put a person at fault and
10 bring on difficulty. In that case, the individual had
11 become armed previous to the encounter that resulted
12 in the fatal shooting. He approached that shooting
13 armed. When he approached, he saw someone had a
14 weapon. He pulled his gun and fired a shot killing
15 someone as the defendant retreated. In that case, the
16 Supreme Court found that there was -- that he was at
17 fault on bringing on the difficulty because he went
18 into an already exists encounter being armed and being
19 the proximate cause of the death.

20 In this case, this defendant admits not only that
21 he was carrying a pistol unlawfully without a permit
22 and on the premises of a bar where alcohol was served,
23 he was drinking and using alcohol when he shot. These
24 three in total on State v. Slater would make him at
25 fault on bringing on the difficulty; therefore, he

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1 cannot claim self-defense or stand your ground.

2 In addition, we would argue his testimony was not
3 reliable because he admitted he lied. He said he lied
4 to Detective Amos. Once he has lied, you can't put
5 any credibility in his testimony. The video itself
6 shows him approaching the situation where RipTydz
7 personnel were restraining the individual named John,
8 the foreman, and he punched. It is clear from the
9 video there was a punch to the jaw of the victim, and
10 in that he, again, was at fault for bringing on the
11 difficulty and cannot claim protection under the act.

12 THE COURT: All right. Defense.

13 MR. FOX: Judge, I would start with the Slater
14 case. It is factually distinguishable. In that case,
15 the man went in gun out and into a fray. In this
16 case, Mr. Brown, the video showed and the testimony is
17 that even after things started to happen with other
18 people, even as he went in open fist or open hand or
19 not, he did not bring out the weapon until such time
20 as a bottle was thrown close by his head. He was in
21 fear for injury and he was later punched.

22 It is factually distinguishable from Slater. In
23 Slater, the Supreme Court said he can be unlawfully
24 carrying a weapon -- can be proximate cause or can be
25 unlawful activity, not that it is fact specific. So I

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INDIGENT DEFENSE ONLY!!!!**

MOTIONS

1 point out as well, Your Honor, State v. Glenn, which
2 is 429 S.C. 108, that is the Supreme Court of South
3 Carolina from 2019. It says that the Court on the
4 issue -- on the specific issue of unlawful activity,
5 for the Defense of Person and Property Act, it is
6 basically, as Your Honor knows, the elements of
7 self-defense, with the additional element of not being
8 engaged in unlawful activity. Glenn says that in your
9 stand-your-ground hearing, the Court must make a
10 factual finding that the alleged unlawful activity is
11 the proximate cause of the underlying incident, and
12 that the State bears the burden of proof beyond a
13 reasonable doubt to establish that. So the burden is
14 on them to show beyond a reasonable doubt in this
15 case, that the proximate cause of this shooting was
16 the unlawful carrying of the weapon, or the
17 consumption of alcohol, the things they've alleged.

18 Judge, I think clearly the intent of the
19 legislature with that Section C of that statute,
20 16-11-440(c), the person who wants to invoke the
21 privilege and the immunity of that statute, not being
22 engaged in an unlawful activity clearly contemplates
23 someone who is engaged in an armed robbery, and when
24 someone struggles with them, shoots them and tries to
25 claim self-defense. There is a case that I don't have

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1 on the tip of my tongue, but Justice Hearn points out
2 the situation of someone who is in a public park that
3 closes at 9:00. At 8:59 they are entitled, under that
4 theory, to a full stand-your-ground immunity if they
5 are attacked and fought back; but at 9 o'clock, when
6 the park is legally closed, somehow they wouldn't.
7 Those kind of absurd situations are not what the law
8 contemplates.

9 I think, at the very least, we have a factual
10 dispute here, and the State would need to refute
11 beyond a reasonable doubt that the proximate cause of
12 this shooting was, in fact, Mr. Brown's illegal
13 activity regarding the gun. I would say he meets the
14 other elements, Judge. He is not at fault. This
15 fight -- only if you segregate it into individual,
16 one-on-one encounters, the difficulty in that bar
17 starts separate from him and apart from him. He only
18 becomes involved when, first, his crew leader, John
19 Matthews, becomes involved. John Matthews doesn't
20 start the overall brawl, but he invites himself into
21 it. At that point is when Jakkari becomes involved.
22 At that point, Roger Ramos is already involved with
23 John Matthews.

24 Now, if you specifically say, well, that is only
25 about any altercation between Mr. Brown and Mr.

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1 Matthews, I would say still, again, Jakkari is not at
2 fault in bringing on the trouble, because Mr. Ramos
3 already joined an altercation, if not started one with
4 Mr. Matthews, and Mr. Brown is simply responding to
5 that. So I don't believe he's at fault in bringing in
6 the trouble.

7 He has testified that he actually believed that
8 he was in imminent danger of serious bodily injury. I
9 think even if he had not had a good friend who had
10 been seriously injured by a blow to the head with a
11 bottle, whether thrown or swung at him, that there is
12 none of us who would willingly stand 3 or 4 feet away
13 from someone who would throw a bottle to our head with
14 the danger of sustaining a brain injury or perhaps
15 loss of the use of the eyes. Serious bodily injury,
16 under the law, contemplates other areas, permanent
17 disfigurement, risk of death, or loss of use --
18 permanent use of a limb or organ. I think the eyes
19 would count. I think getting a big chunk taken out of
20 your skull would count. So he is in genuine fear of
21 serious bodily injury.

22 Would a reasonable prudent person of ordinary
23 courage and firmness feel the same? I think they
24 would. He is not cowardly in this scenario. He is
25 not clearly a fragile person. I think most of us

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INDIGENT DEFENSE ONLY!!!!**

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1 would feel a degree of fear in that same scenario.
2 The other is duty to retreat or have the means of
3 avoiding trouble. He had nowhere else to go. You can
4 kind of see in that video, and he described how he is
5 at the end of the bar. In one direction are the
6 bathrooms, but that is where Mr. Ramos is throwing
7 bottles and punches. Behind him is a group of people,
8 and you can see people all around him and at his feet.
9 There is a narrow passageway behind the bar, but not a
10 meaningful way to leave. The other option would be to
11 go back across -- I wouldn't say "open floor," but
12 across the main part of the bar area where he's a
13 sitting target, wide open, and crowded full of people.
14 So he doesn't have anywhere to go at that point.

15 So I think he meets all of the elements. I
16 believe he is without fault, and I believe that the
17 proximate cause is not alleged illegal activity. I
18 would put in the record that the Black's Law
19 dictionary definition of proximate cause is that which
20 in a natural and continuous sequence, unbroken by any
21 efficient intervening cause produces injury and
22 without which the result would not have occurred. I
23 would argue that the intervening cause are the actions
24 of Roger Ramos throwing a bottle at close range at
25 Mr. Brown, and following that up -- the video is clear

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INDIGENT DEFENSE ONLY!!!!**

MOTIONS

1 that he steps back, and someone is in between them to
2 keep him back, and only when that person stumbles or
3 is knocked down, Mr. Ramos comes back again; and but
4 for his own actions, those intervening actions,
5 Jakkari's alleged illegal activity is not the
6 proximate cause.

7 So I would argue there is no grounds for, number
8 one, summary judgment; and that we met all of the
9 elements and he is entitled to immunity under the act.

10 THE COURT: The only problem I have is that you
11 have to have a person, to get immunity, is not engaged
12 in any unlawful activity. In this case, he
13 specifically said on the stand he saw John in an
14 altercation. John was in a headlock. He goes over to
15 the altercation and pushes or hits somebody that is in
16 the fight. Not only is he doing that, he's carrying a
17 pistol without a concealed weapons permit, which is in
18 violation of the law. He's carrying a firearm on
19 premises where alcohol is served for on-site
20 consumption, which is a violation of the law. And
21 he's under the influence of alcohol when he uses the
22 pistol. He specifically said he had four, five shots,
23 four, five beers, what have you. So I don't think
24 he's entitled to protection under the act, and I would
25 deny your motion.

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NATHAN HOWITT - DIRECT EXAMINATION

1 MR. FOX: Thank you.

2 MR. DeBUSK: May we present Officer Howitt's
3 testimony about the highlight video?

4 THE COURT: Yes.

5 MR. DeBUSK: We ask for purposes of filming, can
6 we take the plexiglass screen down?

7 THE COURT: Yes. If you will call your witness.

8 (NATHAN HOWITT, having been duly sworn,
9 testified as follows:)

10 THE WITNESS: Nathan William Howitt, H-O-W-I-T-T.

11 DIRECT-EXAMINATION

12 BY MR. OSKIN:

13 Q Who is your current employer?

14 A City of Myrtle Beach.

15 Q How long have you worked with them?

16 A Approximately four years.

17 Q And what department within the City of Myrtle
18 Beach?

19 A The police department.

20 Q Do you have any prior law enforcement experience
21 with your time in Myrtle Beach?

22 A No, sir.

23 Q What is your position with the police department?

24 A Currently assigned to the Crime Scene
25 Investigations Unit.

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NATHAN HOWITT - DIRECT EXAMINATION

1 Q What are some of your duties in that position?

2 A Numerous responsibilities: Responding to scenes,
3 taking photographs, collecting evidence, processing
4 evidence, working with videos. I'm an AFIS officer, so
5 I do fingerprint examinations.

6 Q Were you employed in that same capacity in
7 October of 2018?

8 A I was.

9 Q Did you become involved in the investigation of a
10 homicide that occurred at RipTydz in the heart of town?

11 A I did.

12 Q What was your involvement in that case, sir?

13 A Detective Curry at the time contacted me. He
14 asked -- he had video from RipTydz that he wanted me to
15 take a look at it to see if I could do something with
16 it to make it a little more viewable.

17 Q How would you describe it being originally
18 orientated?

19 A The camera appeared to be fish-eyed. It is where
20 the glass is kind of curved, so it is kind of like
21 looking through a fish bowl almost. It is distorted --
22 not distorted, that's not the right word, but it's
23 shaped in nature.

24 Q Okay. And that -- is it true that that fish-eyed
25 lens depicted the bar inside RipTydz?

NATHAN HOWITT - DIRECT EXAMINATION

1 A It did.

2 Q Did you edit that video to make it easier to
3 view?

4 A I did.

5 Q Did you edit its orientation?

6 A I did. I rotated it approximately 90 degrees.

7 Q How did you do that?

8 A The video collected from the scene was in DAV
9 format. A lot of times when you buy surveillance
10 systems, they have their own type of video files, and
11 with it, they don't naturally play with the video
12 software that is on your computer; you have to use the
13 program that comes with the DVR system. So what I've
14 done, I took the DAV file and opened up in Smart
15 Player, which is the program that comes with the player
16 or comes with the system. From there, it gives you the
17 option to export it as an AVI file. The reason we do
18 that is because it is easier to work with. It is a
19 different file format.

20 So what I've done was I took the original DAV
21 file and converted it to an AVI file. From there, I
22 was able to import into GOM Player, which is one of
23 our common players that we use which plays AVI-type of
24 format videos.

25 Q Let me stop you right there for the Court. When

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NATHAN HOWITT - DIRECT EXAMINATION

1 you mention GOM and DVR, those are just different
2 players associated with different video systems?

3 A Right. There is different video types. GOM
4 player is something we use because it plays just about
5 anything. With this particular DVR system, it has a
6 video format that is not supported by GOM naturally, so
7 I had to convert it first to play it inside GOM.

8 Q And is that a part of your work duties in the
9 Crime Scene Unit?

10 A Yeah. That's correct.

11 Q What did you do next to the video after setting
12 it at a 90-degree orientation?

13 A I magnified. I zoomed in so you could better --
14 kind of give you a better perspective of what is going
15 on.

16 Q Did you do that to highlight a specific area -- I
17 think you just said that -- within the bar?

18 A I did. Where the main incident occurred, I
19 rotated and zoomed in so it's easier to see.

20 Q With regard to that main incident, did you place
21 any identifying markers on people involved in that
22 video?

23 A I did. After I oriented in the GOM player, I
24 used Omnivore Program, which is a scene capturing
25 program, to capture it. Then, I imported into a media

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INDIGENT DEFENSE ONLY!!!!**

NATHAN HOWITT - DIRECT EXAMINATION

1 composure where I added spotlights to the defendant and
2 the victim.

3 MR. OSKIN: Court's indulgence, please, sir.

4 (State's Exhibits 5-8 marked.)

5 Q (MR. OSKIN) You were talking about the
6 identifying markers you placed on individuals; what
7 are those called?

8 A Spotlight feature.

9 Q And you described how you did that?

10 A Well, I imported the video. There is a third
11 step where I import the video to add the media
12 composure. It is called the Ocean Systems, which had a
13 spotlight feature on it. From inside of the media
14 composure, I was able to put spotlights on the two main
15 parties.

16 Q Okay. And who were the two main parties
17 spotlighted in the video?

18 A Roger Ramos, and then Jakkari Brown.

19 MR. OSKIN: If I may approach this witness?

20 THE COURT: Yes.

21 Q (MR. OSKIN) I'll show you what is marked as
22 State's Exhibit No. 4; do you recognize that?

23 A I do. These are three spotlight videos I
24 created.

25 Q Is that the same video you were just telling this

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NATHAN HOWITT - DIRECT EXAMINATION

1 Court about?

2 A It is.

3 Q It is the video you edited?

4 A It is the video I worked on, yes.

5 Q And includes the spotlights?

6 A Yes, sir.

7 Q Other than that, does it have any material
8 deletions, alterations, changes to it?

9 A No; just the rotation and magnification of the
10 spotlights.

11 Q It is an accurate reflection of the bar area of
12 RipTydz in Myrtle Beach?

13 A Yes, sir.

14 Q How were you able to identify this particular
15 item of evidence?

16 A I had my initials on it. I reviewed the videos
17 and confirmed they were the ones I created.

18 Q Those are your initials there?

19 A Those are my initials right there.

20 MR. OSKIN: At this time, we move into evidence
21 State's Exhibit 4.

22 THE COURT: Any objections?

23 MR. FOX: None.

24 THE COURT: 4 is in evidence without objection.

25 (State's Exhibit 4 admitted.)

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INDIGENT DEFENSE ONLY!!!!**

NATHAN HOWITT - DIRECT EXAMINATION

1 MR. OSKIN: We have to reset the video.

2 (A brief pause in the proceedings.)

3 Q (MR. OSKIN) I'm approaching you with what is
4 marked as State's Exhibit 5, 6, 7 and 8; I'll ask you
5 if you recognize these?

6 A Yes. On No. 5, yes; yes, on No. 6; yes, on No.
7 7; yes, on No. 8.

8 Q What are those?

9 A Those can be the final video project I created
10 with the spotlights added.

11 Q Are those -- how would you describe those photos;
12 what are they photos of?

13 A They are going to be photos of the bar area where
14 the fight occurred.

15 Q And they reflect the same video you just
16 testified to editing previously?

17 A That's correct.

18 Q Are those what we call "still shots"?

19 A Those are still shots, yes, sir.

20 Q No additional edits, alterations, material
21 deletions?

22 A No, sir.

23 Q Those photos are correctly reflected in the
24 videos and still shots there?

25 A Yes, sir.

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NATHAN HOWITT - CROSS-EXAMINATION

1 MR. OSKIN: Your Honor, at this time the State
2 would seek to move into evidence State's 5, 6, 7, and
3 8.

4 MR. FOX: No objection.

5 THE COURT: State's 5 through 8.

6 (State's Exhibits 5 through 8 admitted.)

7 Q (MR. OSKIN) Mr. Howitt, did you respond to any
8 other locations as part of the investigation?

9 A I did. I responded to the Aqua Beach to collect
10 video from that location.

11 Q Did you secure those items?

12 A I did. I was informed by Crime Scene Officer
13 Bailey that there was video that needed to be picked
14 up. I responded to the Aqua Beach and secured the
15 video and took it back to the crime scene office.

16 Q Did that complete your involvement in this case?

17 A Yes, sir.

18 MR. OSKIN: Nothing further for me. Answer any
19 questions from Mr. Fox.

20 THE COURT: All right. Mr. Fox.

21 CROSS-EXAMINATION

22 BY MR. FOX:

23 Q Just a couple. Officer, with the still photos,
24 State's 5 through 8, each one has four separate
25 photos -- what I take to be four separate photographs

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INDIGENT DEFENSE ONLY!!!!**

NATHAN HOWITT - CROSS-EXAMINATION

1 on each sheet; is that correct?

2 A Yes, sir.

3 Q So are those sequential?

4 A I don't know how -- I didn't create this, so I'm
5 not sure, but it is accurate from the video I created.

6 Q I understand. So you recognize it from the
7 video?

8 A I recognize it from the video, but I did not
9 create this.

10 Q I understand. Do you know how that would have
11 been done; in other words, is that something, if you
12 would have been asked to, is that something you could
13 have done?

14 A I could have done that, yes.

15 Q How do you do that?

16 A Couple different ways. There is programs out
17 there that would make still images from a video. I
18 would use Input Ace personally, but there is different
19 programs out there for it.

20 Q Is it basically, kind of, a screen shot?

21 A Basically a screen shot, yes, sir.

22 Q You basically freeze the video that you are
23 looking at and pick a particular point?

24 A You could do that, yes.

25 Q That type -- okay. With the -- so you first

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NATHAN HOWITT - CROSS-EXAMINATION

1 collected and had the -- I'll call it the fish eye or
2 fish bowl, so the original form that came from RipTydz?

3 A Yes, sir.

4 Q And that was -- the segment you had was a good 15
5 minutes long or so?

6 A It was a long video. I'm not sure how long it
7 was, but longer than the 30 seconds.

8 Q That was my next question. So you narrowed it
9 down to where you decided the key part was up through
10 and immediately following the shooting?

11 A Detective Curry said give me a start time and end
12 time. He said create a video from this time, this
13 period.

14 Q And you answered my next question which was: At
15 the direction of Detective Curry, that is how you did
16 it? So he instructed you and the orientation where and
17 for how long?

18 A Yes. He had a specific task, because he wanted
19 to make it more viewable, easier to understand, I
20 guess.

21 Q I understand. Okay.

22 MR. FOX: Thank you. No further questions.

23 THE COURT: Redirect?

24 MR. OSKIN: Nothing from the State, Your Honor.

25 THE COURT: All right. You may step down.

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1 MR. OSKIN: At this time, we ask that Mr. Howitt
2 be released from his subpoena.

3 MR. FOX: No objection.

4 THE WITNESS: Thank you, sir.

5 THE COURT: All right. Anything else we need to
6 take up before tomorrow?

7 MR. DeBUSK: No, Your Honor.

8 MR. FOX: No, Your Honor.

9 THE COURT: I'll see you all at 9:30.

10 **(WHEREUPON, THE PROCEEDINGS FOR JUNE 7, 2021**
11 **CONCLUDED. THE FOLLOWING WAS HAD ON JUNE 8, 2021.)**

12 THE COURT: Anything we need to take up before we
13 bring in the jury?

14 MR. DeBUSK: Nothing from the State.

15 MR. FOX: No, Your Honor.

16 THE COURT: Go ahead and bring in the jury.

17 (The jury enters at 9:42 a.m., and the
18 following is heard in the presence of the jury.)

19 THE COURT: Good morning. Mr. O'Grady, I'll make
20 you the foreman of the jury. If you would, sit in
21 this seat here. If you will switch with him, I would
22 appreciate it.

23 Madam clerk, if you will, swear in the jury.

24 (Whereupon, the jury was sworn.)

25 THE COURT: Members of the jury, we're getting

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1 ready to start this case, but before we do, I want to
2 go over a few things with you to give you a little of
3 what I call background in the process of the trial.
4 The first thing I will tell you is that the State of
5 South Carolina has the burden of proof in this case.
6 They have to prove the defendant guilty beyond a
7 reasonable doubt. At the end of this trial, I'll go
8 over that with you in great detail. I'll explain that
9 to you in much more detail.

10 Furthermore, I'll explain what your role is and
11 what my role is and how they differ. You all are the
12 judge of the facts; in turn, I'm the judge of the law.
13 You ask yourselves, What does that mean? That simply
14 means that you, the jury, determine what the facts of
15 this case are; not me, not my clerk, nobody in the
16 audience, just you all.

17 You ask yourselves, How do we determine what the
18 facts of the case are? It is very simple; you
19 determine that from the evidence. Evidence is made up
20 of two things. It is made up of the witnesses that
21 come over here and take this witness stand. They are
22 sworn in and they testify. Furthermore, it may be
23 made up of any exhibits entered into the record as
24 evidence; that could be photographs, reports, posters,
25 pictures, et cetera. That is where you determine what

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1 the facts of the case are.

2 In turn, I'm the judge of the law. It is my job
3 to give these parties a fair trial and to instruct you
4 on the law applicable to this case in detail. I will
5 do that at the very end of the case. I'll read it to
6 you in great detail. Only when I tell you to begin
7 your deliberations will you take your findings of
8 fact, the law as I give it to you, and put the two
9 together and get a decision therefrom. Very simple
10 and a lot of commonsense used in that process.

11 Furthermore, and this is very important, if we
12 take a break, go home at lunch, do not finish and go
13 home at night, as I told you yesterday, do not
14 research the case. Do not discuss the case among
15 yourselves. That is premature. It is important that
16 you hear everything you need to hear before you start
17 deliberations. It is important that you hear
18 everything that the State has to show you, tell you;
19 everything the defense has to show you and tell you;
20 everything I need to tell you.

21 Once you have the everything you need, I'll
22 specifically tell you to begin your deliberations that
23 day. You ask yourselves, We're tied up in the jury
24 room, they're doing motions, we're having lunch, what
25 do we talk about? Talk about sports, yourselves.

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OPENING STATEMENT BY MR. OSKIN

1 Don't talk about this case. That is very, very
2 important.

3 Furthermore, if we are moving along pretty good
4 and someone needs a break, just wave your hand and
5 I'll make sure you are taken care of. I want you to
6 relax and be comfortable.

7 I'll recognize the State for your opening
8 statements at this time.

9 MR. OSKIN: Thank you, Your Honor. May it please
10 the Court?

11 THE COURT: Yes, sir.

12 MR. OSKIN: In the heart of Myrtle Beach where
13 the area is strung with restaurants and bars, there is
14 a bar called RipTydz. It sits between the beach and
15 the boulevard. It is a big building. It has three
16 floors. It has a lot going on there. It offers
17 something for everyone. You can sit down there, have
18 a meal with your family. You can have a drink at one
19 of the smaller bars. They even have a rooftop bar on
20 the third floor that overlooks the ocean; I think they
21 call it an open-air bar. They have dozens of
22 televisions that stream sporting events. They serve
23 food, appetizers, literally the whole menu.

24 On the night of October 7, 2018, they were having
25 an MMA watch party, or a UFC fight that was being

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OPENING STATEMENT BY MR. OSKIN

1 streamed. That attracted dozens of people to come to
2 the bar and watch it. Some of the people it attracted
3 was the defendant in this matter and his co-workers.
4 They were staying in a hotel nearby, relatively right
5 across the street. They walked over to take in the
6 fight and just hang out after a couple days of work.
7 Then were in town. They were telephone linemen
8 responding to a storm that occurred in our area
9 previously.

10 So the defendant is with a couple of his buddies
11 there, and also there is a young man named Roger
12 Ramos. Roger Ramos worked at RipTydz, but he wasn't
13 working that night. Like a lot of people do in the
14 bar and restaurant industry do, you sometimes hang out
15 at the place you work on your nights off. He was
16 there taking in the fight.

17 As the night progressed, that fun beach bar, good
18 times started to take little bit of a turn towards
19 tension. Some altercations started happening between
20 people. People were getting chippy. People were
21 getting rowdy, mouthing off to each other, a little
22 pushing and shoving. The defendant's co-worker was
23 one of the main people doing that. As he is doing
24 that, RipTydz staff, Roger, and other people are
25 trying to deescalate the situation, break up the

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OPENING STATEMENT BY MR. OSKIN

1 different people having words with each other to keep
2 it from going any further.

3 The defendant sees his co-worker there. His
4 other co-workers tell him to not go towards it, stay
5 out of it. At that time, he shoves past and he goes
6 towards where his friend -- where his co-worker is
7 being presumably escorted out. Roger Ramos is close
8 there. That is when the defendant escalates these
9 altercations into a personal fight. He strikes Roger
10 Ramos in the face. Roger Ramos then gathers himself
11 after just trying to de-escalate the situation. Roger
12 Ramos is now on alert. He throws a beer bottle. It
13 is a small area they are in. He throws a beer bottle,
14 and then he punches the defendant back, trading a
15 punch for a punch that the defendant started.

16 After Roger punches him back, as his feet are
17 set, the defendant pulls out a gun from his waistband
18 and shoots Roger, shoots him in the face, and he
19 collapses. Everybody that was in that bar then
20 scatters. They disburse, run out of the bar. The
21 defendant runs out of the bar as well. He runs across
22 the street to the hotel he's staying at. His
23 co-workers ask him what happened, and he tells them.
24 They tell him they'll turn him in to law enforcement.
25 At that point, he makes a decision to head towards the

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OPENING STATEMENT BY MR. OSKIN

1 parking lot. He takes the shirt he was wearing in the
2 bar off, puts on a different shirt, puts the gun and
3 the magazines that were in it in the book bag, and he
4 heads towards one of the trucks.

5 Before he can get to either of the trucks, Myrtle
6 Beach Police are there. Again, this is in the center
7 of town. Myrtle Beach Police is not too far away.
8 There is a lot of patrol on the Boulevard. They
9 respond before he gets in the truck. When he sees
10 them, he says something to effect of, I'm the guy you
11 are looking for. So they arrest him, place him in
12 handcuffs; therefore, he's under arrest. They read
13 him his Miranda rights, and he admits to being the
14 shooter of the incident that just happened. Because
15 of that, he's been charged with murder. He's been
16 charged with being in possession of a weapon during a
17 violent crime. He's been charged with carrying a
18 firearm in a place that carries alcohol, and consuming
19 alcohol while carrying a firearm.

20 As His Honor was telling you, he was telling you
21 his role. He will tell you the law as it stands in
22 our state. You, the jury, are the finders of the
23 fact. The defendant is represented by Mr. Fox and
24 Mr. O'Neil. I represent the State along with
25 Mr. DeBusk. We're the prosecutors. It is our burden

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OPENING STATEMENT BY MR. OSKIN

1 to prove this defendant guilty beyond a reasonable
2 doubt.

3 Beyond a reasonable doubt, when you hear it, it
4 sounds like a very high burden, right? That is
5 because it is. It is the highest burden in the land,
6 but it is not an impossible burden. It is a burden
7 we're willing to accept. It is a burden we'll meet in
8 this case. It is proof that will leave you firmly
9 convinced of the defendant's guilt.

10 So what are you going to find him guilty of?
11 Murder is the intentional killing of another with
12 malice aforethought, expressed or implied.
13 Intentional killing means you meant to do it. Of
14 another means another human being, and that person's
15 life was ended as a result of that act.

16 I want you to focus on malice aforethought.
17 Malice is broken into an ill-will, a depraved heart,
18 wicked, even heart; just a general ill-will.
19 Aforethought is the time that the evil or ill-will was
20 conceived. Now, you hear "murder" and you think it
21 has to be some sort of premeditation, but in South
22 Carolina, it doesn't. You can have premeditation, but
23 you don't have to. It can be a murder that is planned
24 for days, weeks, or just a few moments up until the
25 time that the fatal act is carried out. That is what

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OPENING STATEMENT BY MR. OSKIN

1 you have here.

2 Expressed or implied is, again, pretty easy.

3 Expressed, I'm going to kill you, and then that person
4 is killed. Pretty obvious. More times than not, it
5 is implied, and it is implied by the circumstances.
6 It will be implied by the evidence you are going to
7 see.

8 Possession of a weapon during a violent crime,
9 again, pretty simple. His Honor will further define
10 all of these statutes at the end of the trial.
11 Anything I say different from him, he's the man in the
12 robe, listen to what he says.

13 Possession of a weapon during a violent crime is
14 pretty easy; that means he was in possession of a
15 weapon when that crime was committed. Here, the
16 defendant was carrying a gun, and that was the means
17 of death in Roger's death. We have to prove he was
18 consuming alcohol while he was in possession of that
19 weapon. We also have to prove that he carried it into
20 a place that sells alcohol. That is what is going to
21 be charged before you.

22 He's not just guilty because I say it; he's
23 guilty because that is what the evidence demands. I
24 want you to understand what evidence to expect. You
25 will hear from multiple, different types of people.

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OPENING STATEMENT BY MR. OSKIN

1 You'll hear from RipTydz staff, from general managers,
2 bartenders, and you'll hear from people that were
3 there that night that didn't work there. You'll hear
4 from Myrtle Beach Police, some of the co-workers of
5 the defendant. Best of all, you'll see a video of
6 everything. You are going to see the footage from the
7 third floor of the bar. You are going to see what I
8 just told you play out. You are going to hear again a
9 statement from the defendant admitting to do it. So
10 this is not a who-done-it.

11 The defendant comes up with a story once he's
12 arrested, and that's the version you are going to hear
13 from them. Now, it's never his burden of prove
14 himself innocent; it is always our burden. I can't
15 state that enough, but I won't keep boring you with
16 that. Focus on the night -- well, you're going to
17 focus on the whole night, but focus on the encounter
18 between the defendant and Roger. At the end of the
19 day, ladies and gentlemen, you can't punch someone,
20 and then shoot and kill them when they punch you back;
21 that's what you are going to see. It is going to take
22 a couple of witnesses to do all of that. Please pay
23 attention to every bit of it. I don't always get to
24 stand up here and say that the crime occurred on
25 video, but this one did.

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OPENING STATEMENT BY MR. FOX

1 At the end of the trial, when you take all of the
2 facts and testimony on that witness stand, again, not
3 what I say, but what the evidence will prove; in fact,
4 the evidence will demand it, that at the end of the
5 trial, we'll come back before you and ask you to find
6 the defendant guilty of killing Roger Ramos, being in
7 possession of a weapon during a violent crime, and
8 that he had a gun on him inside that bar, and that
9 that bar was selling alcohol.

10 Thank you for your time and attention. We'll be
11 back.

12 THE COURT: Thank you.

13 MR. FOX: May it please the Court, Your Honor?

14 THE COURT: Yes.

15 MR. FOX: Good morning, ladies and gentlemen. My
16 name is Eric Fox. It is my privilege today and this
17 week to represent Jakkari Brown, the gentleman there
18 in the white shirt, along with my colleague Nicholas
19 O'Neil.

20 "I was scared," over and over again you will hear
21 Jakkari say in this interview he had with the police,
22 in this interview. Over and over, I was scared. I
23 was in fear. It was chaos. It was crazy. Things
24 were popping off. It was a blur. It was a reflex.
25 Over and over. You can see his demeanor, and I'm very

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OPENING STATEMENT BY MR. FOX

1 confident -- in that interview, he is distraught. He
2 is a wreck, not because he had been arrested, but
3 because he's been in this very traumatic thing. What
4 happened is absolutely tragic. Not every tragedy is a
5 crime. Mr. Oskin is correct, this is not a
6 who-done-it. We know what happened. You are going to
7 have the unique opportunity to see a pretty good video
8 of what happened in RipTydz that night. It is not
9 simply an encounter or fight between Jakkari Brown and
10 Roger Ramos. It is much bigger than that.

11 It is a crowded bar. Dozens of people are there.
12 At some point, after this MMA fight, people get their
13 feelings hurt because their favorite guy didn't win,
14 and they start yapping. They start pushing on each
15 other. Stupid male drunken behavior. It had nothing
16 to do with Jakkari. You can see for yourself when it
17 starts who is involved, and it is not him. His boss,
18 John Matthews, is there. As John would say, I get in
19 bar fights. I go to bars and I fight. He starts
20 yapping with somebody. Again, it is just a stupid
21 thing, two guys just blah, blah, blah. No, you can't
22 say that, and it starts to get physical. But it
23 quickly spreads, and you will hear that there is
24 actually going on in a couple different locations, and
25 you can see it.

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OPENING STATEMENT BY MR. FOX

1 There is a group of people here, group of people
2 here, and there is probably a dozen or more people
3 involved. Not Jakkari. At some point, Mr. Matthews,
4 his boss, they grab ahold of him. It is very unclear.
5 You can see identifiable security people with the
6 colored shirts that says "security" and radios. There
7 is other bouncers there that are not identifiable. So
8 it is not clear who are the people who have the right
9 to enforce this and provide security, and who are just
10 civilians. One of those: Mr. Ramos. Mr. Ramos might
11 be employed, but he was not working at RipTydz that
12 night. He was not identifiable in any way as being an
13 employee or security with RipTydz.

14 This fight had nothing to do with him either at
15 the beginning. No one was picking on him. No one
16 swung at him. No one was pushing him. But he sees
17 some of the RipTydz people with John Matthews,
18 Jakkari's boss, and he takes it upon himself to not
19 de-escalate, but escalate. Witnesses you will hear
20 from will tell that you this was just a push and
21 shouting match until the RipTydz people got involved,
22 and then it escalated. They did nothing to
23 de-escalate this.

24 Roger Ramos will go behind John Matthews and put
25 him in a chokehold; that is when Jakkari gets

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OPENING STATEMENT BY MR. FOX

1 involved, when his boss is now getting choked. He
2 swings at Roger Ramos, then they are done, right.
3 There is still stuff going on. It is not just John
4 Matthews. There is a crowd of people here, some
5 there. It is a tight area; you can see for yourself.
6 There is an area at one end of the bar. There is a
7 wall, and there is the bar, if you can imagine that
8 wall right there in front of the jury box, that would
9 be the bar. Then, probably no more than 8, 10 feet is
10 another wall, so it is kind of a dead-end there. A
11 dozen people or more fussing in different groups,
12 pushing and tugging on each other. Other people
13 cheering them on.

14 After Jakkari swings at Mr. Ramos, it is unclear
15 if he makes contact or not. John Matthews kind of
16 gets free, but things move. They start at one point
17 and move a few feet. Jakkari makes no further steps
18 to go after Mr. Ramos. Again, this is all very clear.
19 Roger Ramos takes a bottle at close range, as close as
20 I am to you, and throws it with all his might directly
21 at Jakkari's head. He misses. Jakkari flinches.
22 Jakkari makes no effort to respond, go after Roger
23 Ramos, chase him down, hit him, do anything. He stays
24 where he is. There is someone between -- someone who
25 is identifiable to security -- between the two of them

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OPENING STATEMENT BY MR. FOX

1 who is trying to hold Mr. Ramos back, and at some
2 point that person's glasses get knocked off, and he
3 ends up on the floor like Mr. Magoo looking for his
4 glasses.

5 At that point, Roger Ramos goes back, runs up to
6 Jakkari, and hits him on the side of the head with a
7 closed fist enough to stagger Jakkari. At this point,
8 the gun is out. There is a shot, and Roger Ramos is
9 tragically killed. Jakkari Brown did not start this
10 fight, this altercation. You have to look at it as a
11 bigger picture than the two of them. The State would
12 like you to make it about these two individuals, but
13 you have to put it into context. There was
14 difficulty, a fight that involved Mr. Ramos before
15 Jakkari Brown got involved. It was quick, and it was
16 done between the two of them, and Roger Ramos
17 continued to escalate it. Roger Ramos -- you don't
18 deescalate a fight by tossing beer bottles at people's
19 heads. The natural response of anyone is to put you
20 in fear.

21 Ladies and gentlemen, you will hear testimony.
22 You will hear from Jakkari. You will hear his
23 statement to the police, and you may well hear his
24 testimony here in court. I'm very confident what you
25 will see is a person who was so distraught, so torn

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OPENING STATEMENT BY MR. FOX

1 up, so undone by what happened, that when he went back
2 across the street to the hotel where his friends and
3 co-workers were, they could not calm him down. The
4 reason he was in a different shirt than the one he had
5 worn at RipTydz is because they literally threw him in
6 a cold shower to calm him down. He was hysterical and
7 upset. They threw him in the shower and said, You
8 have got to get a grip, son. They told him, You have
9 to turn yourself in. By the way, his boss said, I'm
10 going downstairs, I have to tell law enforcement where
11 you are. He wasn't running. He had no keys to go to
12 the truck. He put on dry clothes after the shower,
13 went downstairs, and law enforcement was right there.
14 He put the gun away from himself because he told the
15 police that night, I'm a young black man, I knew I was
16 a suspect, I didn't want to be shot, so I put that gun
17 away from me.

18 It was right there. It took them seconds. They
19 walked up to the entrance, Oh, there is bushes,
20 there's the gun. He wasn't trying to hide, wasn't
21 trying to run. He knew he wasn't getting away. This
22 is not a murder. There is no malice. Jakkari Brown
23 does not have an evil, depraved heart. There was no
24 intent to kill anyone. The tragedy, a horrible
25 tragedy, but not every tragedy is a crime.

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CIARALYN EDWARDS - DIRECT EXAMINATION

1 THE COURT: Thank you.

2 Does the counsel have any objections to the jury
3 taking notes?

4 MR. DeBUSK: None from the State.

5 MR. FOX: No, Your Honor.

6 MR. DeBUSK: We call Ciaralyn Edwards.

7 (CIARALYN EDWARDS, having been duly sworn,
8 testified as follows:)

9 THE CLERK: State your full name for the Court.

10 THE WITNESS: Ciaralyn Edwards.

11 DIRECT-EXAMINATION

12 BY MR. DeBUSK:

13 Q What is your occupation?

14 A Server.

15 Q Do you live in Horry County?

16 A I do.

17 Q Are you familiar with RipTydz Bar and Grille?

18 A I am.

19 Q How are you familiar with RipTydz?

20 A I opened it in 2017, and I worked there until the
21 beginning of last year.

22 Q Opening, you worked there when it first opened?

23 A I did.

24 Q Where is it located?

25 A On Fourth Avenue North.

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CIARALYN EDWARDS - DIRECT EXAMINATION

1 Q Is it on the beach?

2 A Yes.

3 Q How long did you work there?

4 A Three years.

5 Q And when you were there, what was your job?

6 A Service, like serving.

7 Q Did you know an individual by the name of Roger
8 Ramos?

9 A I did.

10 Q How did you know Roger?

11 A I grew up with him. I met him at the YMCA on the
12 north end in Myrtle Beach. I was in middle school,
13 maybe -- yeah, middle school.

14 Q You knew him until October of 2018?

15 A I did. We eventually ended up working together
16 at RipTydz.

17 Q How many floors does RipTydz have?

18 A Three.

19 Q What are on the various floors?

20 A So the ground level is like where we keep storage
21 and a serving section for us when we take breaks, smoke
22 breaks and stuff. The middle floor is going to be more
23 like dining, and we have a back deck inside and the
24 inside bar. The third floor is going to be more like
25 the nightlife scene. We have a turf outdoor area, and

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CIARALYN EDWARDS - DIRECT EXAMINATION

1 then a bar and tables for eating or dining.

2 Q What kind of place is RipTydz, what clientele?

3 A It really varies. So we have the tourists crowd,
4 the local crowd, just changes throughout the year,
5 really; but more tourists and local.

6 Q You get families and couples?

7 A Yeah. Absolutely.

8 Q Do they serve alcohol at RipTydz?

9 A Yes.

10 Q Is that served to be drunk there?

11 A Yes.

12 Q Not like a liquor store; it is a bar?

13 A Rights, a bar.

14 Q How many staff members typically worked on the
15 third floor?

16 A Serving-wise, at the time, it was about four or
17 five. That night I believe it was about six because of
18 the fight.

19 Q Were you were working on the night of October 6
20 and the early morning hours of October 7, 2018?

21 A I was.

22 Q What was going on that night; anything special?

23 A There was a fight that night. It was the Khabib
24 McGregor fight.

25 Q It was a televised event?

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CIARALYN EDWARDS - DIRECT EXAMINATION

1 A Yes; a UFC fight.

2 Q Pay-Per-View fight?

3 A Yes, I believe.

4 Q They were showing it up at the bar?

5 A We were.

6 Q Did that bring a larger crowd than usual?

7 A It did.

8 Q And did you lay out extra staff because of that?

9 A We did.

10 Q Who was fighting in the televised event?

11 A McGregor versus Khabib.

12 Q Was this a big deal, a big fight?

13 A It was. McGregor was coming out of retirement
14 and he was, I guess, trying to get his title back, or
15 something like that.

16 Q And I think you said it already, but you had a
17 big crowd?

18 A We did.

19 Q Okay. How did the night progress as they showed
20 the fight?

21 A I want to say as the fight started to come to an
22 end, it kind of translated to the bar. There was a
23 fight within the fight. So after Khabib was announced
24 the winner, McGregor's team ran into the cage and
25 started fighting Khabib's team. Khabib's team jumped

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CIARALYN EDWARDS - DIRECT EXAMINATION

1 out of the cage and fought McGregor's.

2 Q This was all on the TV?

3 A On TV. And then, like, the tension from the
4 fight translated directly to the bar.

5 Q Now, you said you laid out extra staff; was Roger
6 working that night?

7 A He was not working.

8 Q Was he there?

9 A He was.

10 Q What was he doing?

11 A He was spectating the fight.

12 Q Was there security working on the premises that
13 night?

14 A There was?

15 Q Do you know how many?

16 A One.

17 Q One in the bar area?

18 A (Witness nods head.)

19 Q Where were you working?

20 A I had -- it was Table 4, 13 and 12, so towards
21 the elevators for guests, not employees.

22 Q Is that right close to the bar, or some distance?

23 A I mean, it is still close to the bar. It's more
24 towards, like, the exit where the stairs and elevators
25 are for guests, but still close to the bar.

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CIARALYN EDWARDS - DIRECT EXAMINATION

1 Q After the fight ended and it got rowdy at the
2 bar, what did you do?

3 A A fight broke out. I was kind of trying to break
4 up the fight, kind of keep guys separated as best as I
5 could. Security and the GM went to kind of de-escalate
6 that fight, and they brought someone they believed to
7 be an aggressor of that fight downstairs.

8 Q So the GM and the security guy left with that
9 person?

10 A They did.

11 Q So they were out of the building when the rest of
12 the things happened?

13 A They were in the elevators for -- I believe it
14 got stuck for a moment. But, yeah, they were
15 downstairs.

16 Q After that individual was taken out, what
17 happened next?

18 A Another fight started to break out. There was
19 just some aggressive behaviors, and I remember kind of
20 trying to make my way through the crowd and separate
21 and getting between the aggressiveness.

22 Q Is that typically what the RipTydz staff would do
23 if there was some sort of --

24 A Absolutely. Just trying to calm things down.

25 Q Would you try to restrain someone acting rowdy?

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CIARALYN EDWARDS - DIRECT EXAMINATION

1 A Yeah.

2 Q What happened next?

3 A I'm trying to make my way through the crowd, and
4 the fight got to the point where I didn't think that I
5 was able to help it in any way. I didn't feel like I
6 was stopping anything. There was a fight -- there was
7 a fight to the point where I believed one of my
8 co-workers, Chad, was going to be knocked unconscious,
9 so I was trying to pull these guys off of Chad.

10 Q The people on Chad, were they employees or
11 someone else?

12 A They were somebody else.

13 Q Okay.

14 A I was trying to pull someone off of Chad, and I
15 took a moment and was like, Wow, this is getting out of
16 hand. In that moment, my friend Roger was shot. It
17 happened so quickly, but the shooter just stood up and
18 shot him right in front of me.

19 Q Did you see the gun?

20 A I did.

21 Q Did you see the individual?

22 A I did.

23 Q What did he do?

24 A He pulled the gun out of his waistband and raised
25 it to Roger and just shot him point-blank right in the

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CIARALYN EDWARDS - DIRECT EXAMINATION

1 face.

2 Q It was an immediate thing, pulling it out and
3 shooting?

4 A Absolutely.

5 Q Did you get a good look at the shooter?

6 A I did.

7 Q What was he wearing, do you recall?

8 A A red T-shirt.

9 Q I'll show you State's 27?

10 A That's the T-shirt.

11 Q The color you saw?

12 A It is.

13 MR. DeBUSK: We move 27 into evidence.

14 THE COURT: Any objections?

15 MR. FOX: No objection.

16 (State's Exhibit 27 admitted.)

17 THE COURT: 27 in evidence without objection.

18 MR. DeBUSK: May I publish it to the jury?

19 THE COURT: Yes.

20 (State's Exhibit 27 published to the jury.)

21 Q (MR. DeBUSK) Did you see what this individual
22 did after shooting Roger?

23 A From what I can remember, he had this, like,
24 now-what demeanor. Like he pumped forward and was
25 talking down on him when he was on the ground.

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CIARALYN EDWARDS - DIRECT EXAMINATION

1 Q Did he stay there long?

2 A No. He ran after that.

3 Q When this individual pulled the gun and shot
4 Roger, how close were you?

5 A An arm's length away.

6 Q I'll show you State's Exhibit 7; in the lower,
7 right-hand corner, ask if you can see yourself in that
8 view?

9 A You said lower, right-hand corner?

10 Q Yeah. Can you see --

11 A I can.

12 Q Is there something distinctive from your
13 appearance that night?

14 A I had a bun in my hair.

15 Q So your hair was up high?

16 A Yes.

17 Q And on top of that, you are pretty tall, so you
18 kind of --

19 A Yeah.

20 Q Would you draw an arrow towards yourself and put
21 your initials there?

22 A (Witness complied.)

23 Q This is State's 7; what is that? What are those
24 photos?

25 A Up here?

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CIARALYN EDWARDS - DIRECT EXAMINATION

1 Q No. The other photos.

2 A This is a view of the bar to the left -- I'm
3 sorry, to the right, that would be the doors where the
4 restroom is. To the right, the blue countertop is
5 going to be the bar. The area I'm standing towards,
6 the left more, is where the service bar is, where
7 servers work and the bartenders work. You have the
8 surfboards, which are like a display.

9 Q But is that a fair and accurate representation of
10 RipTydz?

11 A Is RipTydz, absolutely.

12 Q And you appear in those photos?

13 A I do.

14 MR. DeBUSK: Your Honor, we ask to put State's 7
15 in evidence.

16 THE COURT: I thought it was in evidence.

17 MR. DeBUSK: Not in front of the jury.

18 MR. FOX: Moved into evidence? Yes, at this
19 time, until foundation is laid.

20 MR. DeBUSK: I believe she identified it, because
21 she's in it.

22 THE COURT: That's what we just did.

23 MR. FOX: It identifies players, not where it
24 came from and what it is.

25 THE WITNESS: It comes from the cameras at

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CIARALYN EDWARDS - DIRECT EXAMINATION

1 RipTydz.

2 THE COURT: Anything else?

3 MR. FOX: No, Your Honor.

4 THE COURT: State's 7 in evidence without
5 objection.

6 (State's Exhibit 7 admitted.)

7 MR. DeBUSK: May I publish it?

8 THE COURT: Yes.

9 Q (MR. DeBUSK) You have the picture. Let's talk
10 about the lay of the land. There is a long bar on the
11 third floor, correct?

12 A Yes.

13 Q And there are TVs over the bar where people are
14 watching the fight?

15 A Uh-huh.

16 Q At the end of the bar, there is a wall; what are
17 those things hanging?

18 A Surfboards.

19 Q Just decorations?

20 A They are.

21 Q Does the bar go all the way to the wall there?

22 A No.

23 Q Is there a gap?

24 A There is.

25 Q What is the purpose of that?

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CIARALYN EDWARDS - DIRECT EXAMINATION

1 A Service station.

2 Q Where were you standing relative to that gap in
3 between the wall and the bar?

4 A I was standing in between it.

5 Q In that gap?

6 A Yes.

7 Q You have the bar here, you have the gap here, the
8 wall with the surfboards; what is directly ahead of
9 you?

10 A The opening for the restroom.

11 Q Is there a door?

12 A There is. It is usually wedged open.

13 Q Okay. Where did Roger fall after he was shot?

14 A In front of the surfboards parallel to the wall.

15 Q In the area between the gap between the bar and
16 the wall and the door to the restrooms?

17 A Correct.

18 Q What happened after Roger fell and after the
19 individual that shot him ran away?

20 A For a moment, I ran behind the bar. When I kind
21 of had a moment to realize there was no more shooting,
22 I ran downstairs in panic. I remember letting some of
23 the kitchen staff know what was going on. I ran
24 downstairs to the first floor to see if I could see
25 where the shooter ran. I couldn't, so I ran back

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CIARALYN EDWARDS - DIRECT EXAMINATION

1 upstairs, and then at that point there was people
2 trying to resuscitate Roger.

3 Q Doing CPR?

4 A They were.

5 Q Did you stay around and talk to police?

6 A I did.

7 Q Were you there when EMS arrived?

8 A I was.

9 Q Did they take Roger from the scene?

10 A They did.

11 Q Now, I hate to ask the obvious, but what was your
12 emotional state after this happened?

13 A I was hopeful he would make it, initially. Some
14 of the people working on him spoke with the police
15 officer and told me that he wasn't going to make it,
16 and when I found that out, I was screaming. I dropped
17 to the ground. I was praying. It was hard for me.

18 Q This whole thing was very traumatic for you?

19 A It has been.

20 Q And, again, you saw the individual that shot
21 Roger?

22 A I did.

23 Q And he pulled the gun out and shot him point
24 blank?

25 A Yes, sir.

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CIARALYN EDWARDS - CROSS-EXAMINATION

1 MR. DeBUSK: Thank you.

2 THE COURT: Cross.

3 CROSS-EXAMINATION

4 BY MR. FOX:

5 Q Ms. Edwards, after the Conor McGregor fight,
6 there were multiple fights in the bar area at RipTydz,
7 right?

8 A Correct.

9 Q And groups that didn't appear to have anything to
10 do with another?

11 A Yes.

12 Q Fair to say?

13 A Yes.

14 Q And where was -- when the first altercation broke
15 out, where was Roger?

16 A Roger, I'm not sure where he was when the first
17 fight broke out. I started to make my way to that area
18 when the first fight broke out.

19 Q Had you -- you were aware he was there that
20 night?

21 A I was. I took care of him. I brought some food.
22 He ordered food through me.

23 Q Did he order any drinks?

24 A Not through me, but he had drinks, absolutely.
25 He ordered pickles and wings through me.

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CIARALYN EDWARDS - CROSS-EXAMINATION

1 Q Do you know what he was drinking?

2 A I don't.

3 Q Or how much?

4 A No.

5 Q Was he there during the whole fight that you
6 recall?

7 A Yeah. I'm not sure if he was there through the
8 preliminary fights, but I know he was there for the
9 beginning of the fight.

10 Q And he was not working that night, correct?

11 A No. He was off.

12 Q Now, what is his job at RipTydz?

13 A Server.

14 Q Same as you?

15 A Same as I.

16 Q So he's not security?

17 A No.

18 Q And security at RipTydz -- do you have, like,
19 formal bouncers? Do you have people whose role is to
20 be --

21 A No. We just hire security.

22 Q And that is Platinum Plus?

23 A That it is Platinum Plus, yes.

24 Q And on third floor, you say that night there was
25 one person from Platinum Plus there?

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CIARALYN EDWARDS - CROSS-EXAMINATION

1 A Uh-huh.

2 Q And you have to answer out loud for the court
3 reporter.

4 A Yes. Yes.

5 Q Thank you. Now, I'm sorry, you said there was
6 one person from Platinum Plus working that night?

7 A Yes -- no -- well, there is also someone that
8 does the door at the Beach House, which is our sister
9 restaurant across the street. So there is two people
10 that are supposed to be in communication with each
11 other.

12 Q At the time these fights started to break out,
13 how many people were present there on the third floor
14 of RipTydz that you are aware of?

15 A Like customers?

16 Q Security people.

17 A One person.

18 Q And they took another individual down the
19 elevator?

20 A Correct.

21 Q With the general manager?

22 A Yes.

23 Q So when the fights continued, your testimony is
24 that there was no other security person there?

25 A No.

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CIARALYN EDWARDS - CROSS-EXAMINATION

1 Q Are they identifiable in any way?

2 A Who?

3 Q Security.

4 A Yes; they have like a uniform.

5 Q Could you describe what the uniform looks like?

6 A It's black, I believe. They have like their

7 holster. They kind of look like little police

8 officers, I guess you could say.

9 Q Carry radios?

10 A They do.

11 Q Is anything on the shirt?

12 A Security.

13 Q It says "security." Okay. So they are

14 identifiable. If someone was there and never saw one

15 before, you could tell it was security because it says

16 "security"?

17 A Yes.

18 Q Now, you described it as chaotic once the fights

19 started; it was more than a couple people, correct?

20 A Yeah.

21 Q And it is happening in that whole side of the

22 bar; is that right?

23 A That's correct.

24 Q Did you see what Roger was doing at that time?

25 A Trying to help me break up the fight.

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CIARALYN EDWARDS - CROSS-EXAMINATION

1 Q Did you see him get anybody in a chokehold?

2 A No.

3 Q Was he wearing any kind of uniform?

4 A No. He was not working.

5 Q Right. So there was no way for anyone not
6 familiar with Mr. Ramos to know that he was an employee
7 there?

8 A Yes. He was wearing casual clothing. He was
9 wearing a button-up, cargo shorts, and sandals.

10 Q Okay. Now, did you see anybody -- you said you
11 didn't see Roger with anybody in a chokehold. Did you
12 see any of the people in these scuffles, in these
13 fights, in a chokehold; I mean someone's arm around
14 their neck kind of thing?

15 A Not that I recall.

16 Q Okay. Did you see Roger throw a bottle?

17 A I remember a bottle breaking, but I'm not sure
18 what direction or if it came from him or not.

19 Q Okay. But no question you heard a bottle
20 breaking?

21 A I did.

22 Q Did you see Roger -- the person -- this shirt you
23 identified, maroon shirt, the picture that the
24 Solicitor showed you a moment ago, do you remember
25 anyone wearing that shirt?

CIARALYN EDWARDS - CROSS-EXAMINATION

1 A I do.

2 Q Did you see that person get punched?

3 A I did not.

4 Q Did you see Roger throw a punch at that person?

5 A I did not. I did see Roger get punched by that
6 person.

7 Q And then you stopped looking?

8 A There was so much going on that there was so much
9 to look at.

10 Q So that punch was several seconds before the
11 gunshot, correct?

12 A Yes.

13 Q And that punch occurred several feet away from
14 where the shooting occurred?

15 A Yes, a few feet away.

16 Q So that was more, say -- not in the middle, but
17 the shooting was closer to the wall with the surfboards
18 and --

19 A The punch occurred closer to the door where the
20 restroom is, and then the shooting occurred closer to
21 the gap in between the surfboards and the service
22 station.

23 Q Right. Now, you saw a punch from the man in the
24 maroon shirt, and then you didn't see him again until
25 you say you saw him raise up and pull his gun and fire?

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CIARALYN EDWARDS - CROSS-EXAMINATION

1 A Correct.

2 Q So you missed what happened in between?

3 A No, I didn't miss what happened in between. Like
4 I'm not exactly sure everything that -- like what the
5 shooter did.

6 Q But you didn't see Roger Ramos throw a bottle at
7 the person in the maroon shirt?

8 A No.

9 Q And you didn't see him run back afterwards and
10 punch the man in the maroon shirt with a closed fist?

11 A No.

12 Q But now you are paying attention to where he
13 stands up and see a gun?

14 A I did, because I was paying attention to Chad,
15 because I was afraid he was going to be knocked
16 unconscious; that is what I was paying attention to in
17 between.

18 Q Because it was chaotic in there?

19 A It was.

20 Q Loud?

21 A Very.

22 Q Lots of people yelling, shouting, scuffle, hard
23 to figure who is with who; fair to say?

24 A I kind of -- serving throughout the night, I got
25 an idea who was with who.

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CIARALYN EDWARDS - CROSS-EXAMINATION

1 Q Now, do you have -- do you -- does RipTydz have
2 anything to do with the training of their security
3 people, or just subcontract?

4 A A subcontract company, yes.

5 Q Do you have any awareness of what training, if
6 any, people at Platinum Plus get for crowd control?

7 A I have no idea.

8 Q Are the staff at RipTydz permitted to consume
9 alcohol when they are on duty?

10 A No.

11 Q And, in this case, you attempted as things
12 started to escalate, people started getting angry, you
13 made some efforts to kind of calm things down?

14 A Yeah, to get in between people, calm things down
15 as best I could.

16 Q How did you do that?

17 A I put myself in between people.

18 Q Did you yell at people?

19 A Yeah.

20 Q Did you put anyone in a chokehold?

21 A No.

22 Q Did you throw bottles to get them to calm down?

23 A I did not.

24 Q Punch anybody?

25 A I did not.

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CIARALYN EDWARDS - CROSS-EXAMINATION

1 Q Do you think that would escalate or de-escalate a
2 situation?

3 A I wasn't hit, so I couldn't say that. If I was
4 hit, I probably would be frustrated. I probably would
5 be irritated. I probably would have been escalated,
6 personally, because I'm not going to allow someone to
7 hit me in the face. With someone sober, not sober, it
8 would be really hard for me to allow someone to punch
9 me in the face and just allow that to happen.

10 Q Okay. Now, when -- afterwards, Mr. Ramos is down
11 and you remember talking to the police, correct?

12 A I do.

13 Q And you described the people that were performing
14 -- attempting to perform CPR; these were not EMS
15 workers?

16 A No. They all have training and --

17 Q How do you know they had training?

18 A Speaking with them afterwards. They've also come
19 to revisit RipTydz and meet up with each other.

20 Q Did you also describe their condition that night
21 to the police as being wasted?

22 A Yeah, I know they had been drinking. I was
23 really frustrated. I was confused. I had someone look
24 at me and tell me to shut the fuck up while I was
25 holding Roger's hand and trying to talk to him. I was

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CIARALYN EDWARDS - REDIRECT EXAMINATION

1 telling him to stay with me, and that I was right
2 there. He looked at me and told me to shut up, and I
3 was trying my best to just help Roger stay with me
4 (crying).

5 Q So Roger was a friend of yours?

6 A He was.

7 Q Childhood friends?

8 A He was.

9 MR. FOX: Thank you.

10 THE COURT: Redirect.

11 MR. DeBUSK: Briefly.

12 REDIRECT-EXAMINATION

13 BY MR. DeBUSK:

14 Q Defense talked a little bit about what Roger was
15 wearing; do you remember his color shirt?

16 A I want to say baby blue, but it's been so long I
17 don't really remember. I know it was a button-up. It
18 was a Polo, actually.

19 Q With the buttons up the front?

20 A Uh-huh, and a collar.

21 Q And you talked about the uniform of the security.
22 Did the people who worked at RipTydz, the servers and
23 bartenders, did they have any uniform?

24 A We would wear a black short sleeve Polo-style
25 shirt.

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CIARALYN EDWARDS - REDIRECT EXAMINATION

1 Q Did it have any logo?

2 A It has a RipTydz logo on the right -- sorry, on
3 the left side of the chest.

4 Q So the on-duty bartenders and bar-backs and
5 servers would have that black Polo on?

6 A Correct.

7 Q And did you actually see Roger get punched?

8 A I did.

9 Q That happened, you said, closer to the door to
10 the bathroom?

11 A Yes.

12 Q How much space was there between the gap where
13 you were standing at the shooting and the door to the
14 bathroom?

15 A How much space was there? I would say from the
16 shooting where it occurred, where you are standing, and
17 the punch would have occurred where the chairs are.

18 Q About that far (indicates)?

19 A Uh-huh.

20 Q So maybe 8 feet?

21 A Uh-huh.

22 MR. DeBUSK: Nothing further.

23 MR. FOX: Nothing further.

24 MR. DeBUSK: We ask Ms. Edwards be released.

25 THE COURT: Any objections?

DAVID GOODBREAD - DIRECT EXAMINATION

1 MR. FOX: No, sir.

2 THE COURT: Have a good day.

3 MR. OSKIN: State calls Dave Goodbread.

4 (DAVID GOODBREAD, having been duly sworn,
5 testified as follows:)

6 THE CLERK: State your full name and spell your
7 last name for the Court.

8 THE WITNESS: David Goodbread, G-O-O-D-B-R-E-A-D.

9 DIRECT-EXAMINATION

10 BY MR. OSKIN:

11 Q Good morning, Mr. Goodbread. Who is your current
12 employer?

13 A RipTydz Hospitality Group.

14 Q How long have you worked there?

15 A Since we opened in 2017.

16 Q What is your current position?

17 A Director of Operations.

18 Q That sounds like a lot. What are some of your
19 duties as Director of Operations?

20 A Pretty much watch day-to-day sales, make sure
21 employees are doing what they are supposed to be doing,
22 marketing.

23 Q What type of establishment would you say RipTydz
24 is?

25 A Restaurant and bar.

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DAVID GOODBREAD - DIRECT EXAMINATION

1 Q What type of clientele comes there?

2 A Really, it is everybody from families, to kids on
3 spring break, to people that come down here in the
4 winter and spend the winters with us, a mix of
5 everybody.

6 Q Your time working in Myrtle Beach, is it safe to
7 say that Myrtle Beach is a travel destination?

8 A Absolutely; very touristy.

9 Q Does that reflect different crowds throughout the
10 different times of year?

11 A Yes. Every week it can be a total group of
12 people.

13 Q Does your restaurant host any type of special
14 events?

15 A Occasionally, we do. For instance, this week is
16 CCMF, so we'll have the country music event this
17 weekend. Depending what the town has going on, we play
18 on that to get the tourist come to us.

19 Q Do you stream sporting events?

20 A Absolutely.

21 Q What about special sporting events?

22 A Occasionally, a Pay-Per-View event.

23 Q What would that entail?

24 A It would be just boxing matches we would rent and
25 have people come in and charge them to watch the fight.

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DAVID GOODBREAD - DIRECT EXAMINATION

1 Q Does MMA fights fall in that same category?

2 A Yes.

3 Q Were you working on the night of October 7, 2018?

4 A I was.

5 Q Were you employed in the same capacity then?

6 A I was general manager at the time, yes.

7 Q And you were able to remember you were working
8 that night?

9 A Yes, sir.

10 Q Was there an event going on that night?

11 A Yes, an MMA fight.

12 Q Do you remember between who?

13 A Mayweather and McGregor.

14 Q Where were you when the fight ended on
15 television?

16 A I was on the rooftop just as it ended, and then I
17 had an incident and I was in the elevators as it was
18 really coming to an end.

19 Q Let's talk about that incident. What incident
20 was occurring that demanded your attention at that
21 time?

22 A There was a small altercation happening on the
23 third floor on the rooftop. We were taking that
24 customer out in the elevator, and I was in the elevator
25 escorting him down to the first floor.

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DAVID GOODBREAD - DIRECT EXAMINATION

1 Q As general manager, operator of a profitable
2 business, would it be your -- are you responsible for
3 communicating policies to employees when altercations
4 or stuff like that happens?

5 A Yes, absolutely. My job is to tell them how to
6 handle certain situations.

7 Q And how do you try to handle situations if they
8 pop up?

9 A Ultimately, diffuse it however we can. Talk the
10 customer down. We employ a security company as well,
11 and usually have them come and stand there and make
12 sure the customer and employees are safe, talk the
13 situation down as we can, and calmly ask them to leave.

14 Q Was security employed on the night of these
15 fights on television?

16 A Yes.

17 Q Do you remember how many would have been in
18 RipTydz?

19 A Between two to four; I don't remember exactly.

20 Q If you saw the video of it, would that help?

21 A Yeah, absolutely.

22 Q And are you familiar with the video surveillance
23 and all of that as part of your job duties?

24 A Yes, very well.

25 MR. OSKIN: If I may approach this witness, Your

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DAVID GOODBREAD - DIRECT EXAMINATION

1 Honor?

2 THE COURT: Yes.

3 Q (MR. OSKIN) I'm showing you what is marked as
4 State's Exhibit No. 3; do you recognize that specific
5 disk?

6 A Yes.

7 Q How are you able to recognize it?

8 A I signed my initials on it today.

9 Q So you viewed what is on this disk?

10 A Correct, every video.

11 Q Is that an accurate reflection of what occurred
12 at RipTydz that night of what you are testifying?

13 A Absolutely.

14 Q There hasn't been any edits, alterations,
15 deletions, material changes to this video that make it
16 appear any other way than it was on your system that
17 night?

18 A Not at all.

19 MR. OSKIN: At this time, we seek to move State's
20 Exhibit No. 3.

21 THE COURT: Any objections?

22 MR. FOX: Not on this one, Your Honor.

23 THE COURT: State's 3 in evidence without
24 objection.

25 (State's Exhibit 3 admitted.)

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DAVID GOODBREAD - DIRECT EXAMINATION

1 MR. OSKIN: At this time, the State seeks to
2 publish to the jury State's No. 3.

3 THE COURT: Okay.

4 MR. OSKIN: I beg your indulgence while we get
5 the television set up.

6 Q (MR. OSKIN) Can you see the screen?

7 A Yeah.

8 Q Thank you for your patience.

9 MR. OSKIN: May the witness stand by me so he can
10 see the whole screen?

11 THE COURT: Yes.

12 MR. OSKIN: Thank you, sir.

13 Q (MR. OSKIN) Is there multiple angles within the
14 RipTydz camera system?

15 A Correct.

16 Q Which angle is this?

17 A This is our front, main entry.

18 Q What floor is that on?

19 A First floor entering from the sidewalk.

20 Q Okay.

21 (Video is played.)

22 Q What camera is this?

23 A Main parking lot, ground level.

24 Q Does it accurately reflect the parking lot at
25 RipTydz?

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DAVID GOODBREAD - DIRECT EXAMINATION

1 A Absolutely.

2 Q Camera was working at this time?

3 A Correct.

4 Q Okay. What angle is this?

5 A Third floor, rooftop bar camera, exactly where
6 the incident occurred.

7 Q Okay. On the night of the incident?

8 A Correct.

9 Q How about this angle?

10 A This is the same floor facing the opposite way
11 when you get off of the elevators entering this level.

12 This is the third floor, opposite side of the
13 bar. So this is the ocean side of the bar. Third
14 floor bathroom hall area where that gentleman just
15 walked out is where the incident occurred.

16 Q For the record, you've watched these video clips
17 in their entirety?

18 A Correct.

19 Q You are just stating what angles they are for the
20 jury for now?

21 A Yes.

22 Q I'll have you focus on a specific --

23 MR. OSKIN: If you can pause it.

24 Q (MR. OSKIN) Are you able to see this?

25 A Yeah.

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DAVID GOODBREAD - CROSS-EXAMINATION

1 Q You stated this is the?

2 A Third floor bar area.

3 Q Do you see yourself on this video yet?

4 A May I?

5 Q Yes. If you can point it out to the jury when
6 you find yourself, please.

7 A Sure.

8 (A brief pause in the proceedings.)

9 A This is me coming across right there. That's
10 when I'm taking him out there. I'm walking out right
11 here (indicates). I escorted that gentleman to the
12 elevator.

13 Q (MR. OSKIN) Okay.

14 (A brief pause in the proceedings.)

15 MR. OSKIN: You can return to your seat. Answer
16 any questions that defense counsel may have.

17 MR. FOX: If you could, leave that up. I'm
18 sorry. I just want to ask you questions about the
19 layout.

20 THE WITNESS: Sure.

21 CROSS-EXAMINATION

22 BY MR. FOX:

23 Q So you identified what this is; it's the inside
24 here, down at the bottom of the screen, that is the
25 bar?

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DAVID GOODBREAD - CROSS-EXAMINATION

1 A Correct.

2 Q And the main entrance that we saw before is back
3 up in this direction?

4 A Correct. Elevators and stairs.

5 Q And back this way is kind of the outdoors, and
6 down here is the outdoor part of the bar?

7 A Absolutely. The bar is a U-shape with an outdoor
8 area to the east side of it.

9 Q And then after -- I'll go -- I won't go through
10 everything, but fair to say there are a couple dozen
11 people in this general area as things happened and
12 things got testy?

13 A Absolutely.

14 Q You took a gentleman out. Why was he taken out?

15 A He started a fight with another customer.

16 Q Were you able to handle him by yourself, or did
17 anyone go with you?

18 A It was me and another individual.

19 Q Was that a RipTydz employee?

20 A Yes.

21 Q Do you remember if it was security?

22 A No. It was a RipTydz employee. There was
23 actually three.

24 Q And a security person?

25 A Yes.

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DAVID GOODBREAD - CROSS-EXAMINATION

1 Q So that was Platinum Plus Security?

2 A Yes.

3 Q And they have blue shirts?

4 A Blue uniform, correct.

5 Q And were there, that you recall, any other people
6 around the time of the fight on the floor at that time
7 from Platinum other than the person that helped you
8 escort the --

9 A Yes.

10 Q So more than one?

11 A Yes. There were two others, at least.

12 Q You are sure of that?

13 A Yeah. Because that is where 90 percent of the
14 business was, up on the roof that night; so security
15 would be on the roof.

16 Q Now, over on this end, this is the wall and you
17 can see the surfboards?

18 A Correct.

19 Q And this is where the shooting took place at that
20 end of the bar?

21 A Correct, closer to the wall.

22 Q This leads where?

23 A The restrooms.

24 Q And that is the only way -- this end of the bar,
25 that is it, that is the only way out?

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DAVID GOODBREAD - CROSS-EXAMINATION

1 A Correct. In that corner, yes.

2 Q And then you can go back this way?

3 A Correct. There is emergency exits in the bottom
4 left corner.

5 Q Now, this is -- down this curve would be kind of
6 the back of the bar?

7 A It is a service station for the service to use.

8 Q And so there are drink trays and --

9 A Cabinets, soda machine.

10 Q Not designed for the public to walk out there?

11 A Correct.

12 Q How wide would you say that is from there to the
13 wall, roughly?

14 A Four feet.

15 Q So, roughly, between you and the TV?

16 A Less than that. Mind you, there is cabinets. So
17 the walkway is probably 36 inches.

18 Q You took the gentleman you got involved with,
19 that person that you escorted out, did you see who he
20 was fighting or scuffled with?

21 A No; I wasn't sure.

22 Q Did you see who that person was targeting?

23 A No.

24 Q But you saw that he was --

25 A I saw there was a customer that was going to

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DAVID GOODBREAD - CROSS-EXAMINATION

1 create more of an issue.

2 Q You can take the stand.

3 What was your title and job responsibilities back
4 on October 2018 at RipTydz?

5 A General manager. Watching day-to-day operations,
6 budgeting, hiring.

7 Q Anything to do with security, training, anything
8 of that nature?

9 A Nothing past hiring the company.

10 Q What about for your employees?

11 A We have typical on-the-job training, but nothing
12 specifically for security purposes.

13 Q Anything -- it is a bar --

14 A They are all TIP certified, so it is not
15 over-serve. Watch what you serve as far as alcohol
16 consumption.

17 Q Any training what you are to do, as it is
18 inevitable with alcohol, when someone has too much and
19 gets aggressive, any discussion?

20 A Instructed to get a manager.

21 Q Get a manager, okay. In other words -- so are
22 they specifically instructed don't get involved?

23 A Yeah, they are not supposed to ever get involved.

24 Q Because that could be dangerous for them?

25 A Absolutely.

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DAVID GOODBREAD - REDIRECT EXAMINATION

1 Q And creates a liability issue if they go
2 overboard with the customer, but it could be dangerous
3 to the server?

4 A Correct.

5 Q And, consequently, could be dangerous to the
6 people around?

7 A Correct.

8 Q So, again, not supposed to get involved in that?

9 A Right.

10 MR. FOX: Thank you. No further questions.

11 REDIRECT-EXAMINATION

12 BY MR. OSKIN:

13 Q Not getting involved, do you mean you are
14 supposed to let people stand over there and fight until
15 it's over?

16 A No. Absolutely not. Get a manager, someone that
17 maybe knows how to handle the situation a little
18 better. If they see something going on, they are going
19 to get people to calm down as best they can. But if it
20 is serious, get a manager and let them handle it.

21 Q And I think you said to calm it down?

22 A Correct. De-escalate.

23 MR. OSKIN: Your Honor, nothing further from the
24 State.

25 MR. FOX: Nothing further.

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NATHAN HOWITT - TESTIMONY IS PLAYED TO JURY

1 MR. OSKIN: I ask him to be released from his
2 subpoena.

3 MR. FOX: No objection.

4 THE COURT: Okay. Call your next witness.

5 MR. DeBUSK: May we approach, Your Honor?

6 THE COURT: Yes.

7 (Whereupon, a bench conference was had.)

8 MR. OSKIN: At this time, the State calls Nate
9 Howitt. This witness' testimony was previously
10 recorded and allowed admissible, and we seek to
11 publish his testimony and cross-examination to the
12 jury at this time.

13 THE COURT: Okay. Go ahead.

14 (A video is published to the jury.)

15 MR. OSKIN: I would like to mark this as an
16 exhibit for purposes of the record.

17 (State's Exhibit 34 marked, which was later
18 remarked as Court's Exhibit 1.)

19 THE COURT: Let's take a 15-minute break.

20 (The jury exits AT 11:17 a.m., and the
21 following is heard out of the presence of the jury.)

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

23 (A recess was taken and State's Exhibits 9
24 through 34 marked.)

25 THE COURT: Bring in the jury.

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NATHAN HOWITT - TESTIMONY IS PLAYED TO JURY

1 MR. DeBUSK: One brief matter. The testimony of
2 Nathan Howitt was marked is a State's exhibit. It's
3 technically not a State's exhibit because it can't go
4 back to the jury, so we would move to void State's 34
5 and change that to Court's 1.

6 MR. FOX: No objection.

7 (Court's Exhibit 1 marked.)

8 (The jury enters at 11:31 a.m., and the
9 following is heard in the presence of the jury.)

10 THE COURT: All right. State, you can call
11 your next witness.

12 MR. OSKIN: Your Honor, we're still in the prior
13 recorded testimony. The State wishes to publish to
14 the jury what's been admitted as State's 4.

15 THE COURT: Okay. Any objections?

16 MR. FOX: No, Your Honor.

17 (State's Exhibit 4 published to the jury.)

18 MR. FOX: Your Honor, he's played it three, four
19 times. He's published and republished.

20 THE COURT: Okay. It's time to move it on. Call
21 your next witness.

22 MR. DeBUSK: Yes, sir. The State calls Joshua
23 Stouch.

24 (JOSHUA STOUCH, having been duly sworn,
25 testified as follows:)

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JOSHUA STOUCH - DIRECT EXAMINATION

THE WITNESS: Joshua Stouch, S-T-O-U-C-H.

DIRECT-EXAMINATION

BY MR. DeBUSK:

Q Who is your employer?

A I'm currently an elected official for the Commonwealth of Pennsylvania through Douglas Township, Montgomery County, as an elected state constable.

Q How big is your jurisdiction?

A Well, theoretically, we are state-wide. We serve -- we are elected locally, but we have state-wide jurisdiction.

Q How big is Montgomery County?

A Pretty big. It's one of the largest counties in Pennsylvania.

Q How long have you worked in Montgomery County?

A Since 2009, approximately.

Q What is the equivalent in South Carolina terms of the constable position you're elected to?

A Probably a sheriff would be the closest that I could think of.

Q How long have you been in law enforcement?

A This year is 21 in public safety and law enforcement.

Q When were you first elected as constable in Montgomery County?

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JOSHUA STOUCH - DIRECT EXAMINATION

1 A November of 2009.

2 Q And I think in October 6, the evening of
3 October 6 and the early morning hours of October 7th of
4 2018, where were you?

5 A In Myrtle Beach, South Carolina.

6 Q Did you -- you were here on official business, or
7 private?

8 A No, private.

9 Q Vacation, essentially?

10 A Yes. We were down here exploring vacation
11 options and possible retirement in the future for me.

12 Q Okay. Did your night bring you to the RipTydz
13 bar?

14 A It did.

15 Q What were you doing there?

16 A We were there to kind of celebrate the plan of
17 retirement that my wife and my potential business
18 partners and I were looking at doing, which was
19 purchasing a restaurant in the area down here, and we
20 wanted to go to RipTydz to watch the UFC fight going on
21 that evening.

22 Q Did you watch the fight?

23 A We did.

24 Q What happened as the fight was winding down?

25 A Towards the end of the fight, it was a little

JOSHUA STOUCH - DIRECT EXAMINATION

1 wild inside the bar. Everyone was kind of amped up
2 throughout the night. For about half of the people
3 there, it was an unexpected win, and the other half of
4 people it was an expected loss, depending what side you
5 were on. Emotions were high and people were wound up.

6 Q Were there any events that were of note?

7 A There was. There was an altercation that took
8 place approximately somewhere between the bathrooms and
9 the bar on the third floor.

10 Q I'll show you State's 23 and ask if you recognize
11 this?

12 A I do.

13 Q What is it?

14 A This is the third floor, what I would call "the
15 surfboard wall," that is how I know it, of the RipTydz
16 Bar and Grille.

17 Q Is that the area you are referring to?

18 A It is.

19 Q Is that a fair and accurate representation of
20 that area that night?

21 A It is.

22 MR. DeBUSK: That's State's 23, Your Honor.

23 THE COURT: Any objections?

24 MR. FOX: No objections.

25 THE COURT: State's 23 in evidence without

JOSHUA STOUCH - DIRECT EXAMINATION

1 objection.

2 (State's Exhibit 23 admitted.)

3 Q I'll give you State's 23. Can you indicate for
4 the jury the area where you saw the altercation?

5 A So it would be approximately from where the chair
6 is turned backwards here, somewhere in this area,
7 forward towards the back wall here. Then, this doorway
8 that is on the backside, that is the entryway that
9 leads to the bathroom entryway, and I believe there is
10 an elevator for staff use as well in that area, maybe a
11 mechanical room or something. The DJ would be
12 positioned where the DJ equipment was.

13 MR. DeBUSK: May I publish 23 to the jury?

14 THE COURT: Yes.

15 (State's Exhibit 23 published to the jury.)

16 Q What did you see of this altercation.

17 A Well, there was a large amount of people in the
18 bar that evening given the circumstances of what
19 everyone was looking for with watching the UFC fight.
20 There was a large altercation and it appeared to
21 involve multiple people. It was very difficult to tell
22 if people were involved, or if it was the crowd being
23 pushed back and forth.

24 Q Did you see a shooting?

25 A I did.

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JOSHUA STOUCH - DIRECT EXAMINATION

1 Q Did you actually see the shooting?

2 A I did not see the trigger being pulled on the
3 firearm. I did witness the individual with a firearm.
4 Obviously, I heard the shooting as well.

5 Q Did you get a good look of the person?

6 A I did.

7 Q Did you give that description to the police?

8 A I did.

9 Q And you actually saw that individual with a
10 firearm?

11 A I did.

12 Q That was after the shooting?

13 A Correct.

14 Q Did you see where he went?

15 A I believe he exited the same direction pretty
16 much everyone else did. I believe there was only one
17 way out at that point, and it was either the steps or
18 the elevator.

19 Q After the shot was fired, what did you do?

20 A I did about a two or three second scene
21 assessment to figure out what was going on, where
22 everyone was at. I briefly remember thinking about
23 where my spouse and my friends were at, knowing that
24 they were safe. I immediately looked and saw the
25 victim of the shooting on the ground, and I responded

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JOSHUA STOUCH - DIRECT EXAMINATION

1 over to him.

2 Q Why did you respond to the victim?

3 A It's kind of what I do for the last 21 years.

4 I've been in public service, and I respond to -- go to
5 directions other people flee from. I don't know why,
6 but I do.

7 Q Were you able to render any assistance?

8 A I was. I moved the victim away from the wall, to
9 the best of my ability, so I could get onto the
10 opposite side of him so that my back was against the
11 wall to observe everything else. I wasn't sure if the
12 shooter was still on location inside of the bar. I
13 wasn't sure at that point if he fled outside. So I
14 wanted a clear view of everything and get him away from
15 the wall to begin to work on him.

16 Q Did anyone else help working on him?

17 A Yes. I believe there was a female nurse. I
18 believe she was a nurse, and there was, I believe, a
19 Coast Guard -- member of the U.S. Coast Guard.

20 Q What did you all do?

21 A So I attempted to -- I immediately did a patient
22 assessment, located a bullet wound that was in the
23 throat and neck area, facial area. I saw that he was
24 bleeding out profusely. I removed the shirt that I had
25 at the time, a green Eagles jersey, and I utilized that

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JOSHUA STOUCH - DIRECT EXAMINATION

1 in order to attempt to control the bleeding. At that
2 point, I checked for a pulse, found that there was a
3 light pulse. I checked for any kind of breathing of
4 any kind, whatsoever. Once we assessed that he was not
5 breathing, we attempted to do airway control and
6 position him in a manner which we could do CPR, and
7 then we started CPR.

8 Q Chest compressions?

9 A Chest compressions only. He had a large amount
10 of blood coming out of his mouth.

11 Q I'll show you State's 14; do you recognize that?

12 A I do.

13 Q What is that?

14 A The Eagle's jersey I was wearing that evening at
15 RipTydz.

16 Q Is that the one you said you used to apply
17 pressure?

18 A That's correct.

19 Q Did that stay with the scene?

20 A It did.

21 MR. DeBUSK: I ask to move State's 14.

22 THE COURT: Any objection?

23 MR. FOX: No, Your Honor.

24 THE COURT: 14 admitted with no objection.

25 (State's Exhibit 14 admitted.)

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JOSHUA STOUCH - DIRECT EXAMINATION

1 MR. DeBUSK: May I publish to the jury?

2 (State's Exhibit 14 published to the jury.)

3 Q How long did you and the nurse and the Coast
4 Guardsman perform CPR?

5 A It felt like forever, but I was told 13 to 15
6 minutes, until the medics could get up there before
7 they cleared the scene.

8 Q Did EMS take over?

9 A They did.

10 Q Were you there when they removed him from the
11 scene?

12 A I was.

13 Q When EMS took over, did he still have a pulse?

14 A To the best of my knowledge, he did. I still had
15 a pulse when they took over.

16 Q Was it clear he was grievously injured?

17 A Absolutely.

18 Q Was the victim responsive at any time while you
19 were helping him?

20 A Not at all.

21 Q Did you stay around to give statements to the
22 police?

23 A I did.

24 Q Did you get the shirt back?

25 A I did not.

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JOSHUA STOUCH - CROSS-EXAMINATION

1 Q What did you do the rest of the -- after speaking
2 to police?

3 A While we were downstairs speaking to the police,
4 which would be outside, after I gave the statement, I
5 tried to figure out where the rest of my crew was.
6 While I was there, an individual came over from across
7 the street, from the parking lot, spoke to one -- I
8 believe it was a lieutenant that was there from the
9 police department.

10 Q We can't go into that, but.

11 A Sorry.

12 Q But you were there when the individual came over?

13 A That's correct.

14 MR. DeBUSK: Thank you.

15 CROSS-EXAMINATION

16 BY MR. FOX:

17 Q Mr. Stouch, the altercation you observed, I'll
18 refer you back to State's 23.

19 A Yes, sir. I'm sorry.

20 Q That's okay. That is the end of the bar area,
21 the surfboard wall?

22 A That's correct.

23 Q The fight that you observed?

24 A Correct.

25 Q Now, was that the only fight going on?

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JOSHUA STOUCHE - CROSS-EXAMINATION

1 A As far as individuals on the floor there?

2 Q In that whole bar area.

3 A That was the only one that drew my attention was
4 the altercation that was occurring there, because I was
5 coming out of the bathroom.

6 Q You were coming out of the bathroom?

7 A Correct.

8 Q Was that -- and that's one portion of the bar.
9 The bathroom is over here kind of -- not behind, but
10 you go past the DJ equipment, and there is the door
11 into the bathroom?

12 A Yeah. That doorway leads to what I call a
13 vestibule, where the bathroom doors are. That is only
14 part of the bar.

15 Q You were coming out of there, and that is where
16 you saw this?

17 A Correct.

18 Q How would you describe -- was it chaotic, people
19 standing there yelling; what was going on?

20 A I mean, I describe it as fairly chaotic.

21 Q Roughly, how many people would you say were mixed
22 up in that when you walked out of the doorway?

23 A I would say probably 20 to 30, total, from that
24 doorway out to where I said about the chair being out
25 here. So this had approximately 20, 30 people in that

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JOSHUA STOUCHE - CROSS-EXAMINATION

1 area.

2 Q You are talking about this chair in the lower,
3 left corner?

4 A Yeah. So that chair is approximately just off
5 the picture here, is about the end of the bar. The bar
6 is a U-shaped bar. That is about where the bar goes to
7 the rest of the location.

8 Q Twenty to 30 in that area, so it was fairly
9 crowded with people in that area?

10 A Definitely.

11 Q Okay. Now, did you see any persons you
12 identified as security at that time?

13 A I believe there was armed security there.

14 Q Could you identify the employees of RipTydz?

15 A As far as do I know who they are?

16 Q No. I'm sorry. Just were they identifiable by
17 uniform?

18 A Yes. Yes, they had RipTydz shirts on.

19 Q Let me start with the security person or people,
20 was it more than one security person?

21 A I believe there was -- I saw at least two, three
22 different throughout the evening there. I don't know
23 if they were all stationed there at the third floor at
24 the same time or not.

25 Q I'm specifically interested at the time when you

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INDIGENT DEFENSE ONLY!!!!**

JOSHUA STOUCHE - CROSS-EXAMINATION

1 exited that bathroom or door, and there is this scuffle
2 going on --

3 A Uh-huh.

4 Q -- do you recall how many security people you
5 could see at that time?

6 A I believe there was only one, that I recall.

7 Q What was he doing? It was a male?

8 A It was a male, yes.

9 Q What was he doing?

10 A I honestly can't recall that evening what his
11 actions were.

12 Q Was he in the middle of that crowd of 20, 30
13 people?

14 A At some point in time, I believe I saw security
15 move through that crowd and move towards the crowd.

16 Q What about the RipTydz employees, were they
17 involved in any way in this scuffle?

18 A So if I may with the picture?

19 Q Of course.

20 A This back area behind here, to the back of the
21 surfboard here, that is what I would refer to as a
22 service area; that is where a lot of the employees
23 stand. They have dish carts and things on the backside
24 there. So the employees tend to congregate there every
25 time I have been there before. I remember them being

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JOSHUA STOUCHE - CROSS-EXAMINATION

1 in that area, so that is approximately within 3 or
2 4 feet of where the majority of this incident occurred.

3 Q Sure. From your observation, did they get
4 involved in any way trying to break it up, or were they
5 drug into this fight?

6 A I believe they got drugged into it or attempting
7 to break it up. I don't know what their intent was,
8 but they were definitely there.

9 Q The person that you attended to after you heard
10 the gunshot, clearly had been injured?

11 A Uh-huh.

12 Q Do you remember seeing him prior to when you saw
13 him on the ground?

14 A No.

15 Q So you didn't see what he was doing in the
16 moments before the gunshot?

17 A I did not.

18 Q Do you recall whether he was wearing any kind of
19 security uniform or identification that would lead you
20 to know that he was --

21 A No. I believe he was dressed, for lack of a
22 better term, in plain clothing.

23 Q Lack of a better term, like civil clothes?

24 A Yes.

25 Q Not in a uniform of any kind?

JOSHUA STOUCH - CROSS-EXAMINATION

1 A Correct.

2 Q Did not see the shot, but heard it?

3 A Correct.

4 Q How long -- it was almost three years ago, but to
5 the best your recollection, how long from the time you
6 walked out of the door to when you heard the gunshot?

7 A I would say, approximately, five to seven seconds
8 as I made my way out.

9 Q You were back there using the bathroom?

10 A Correct.

11 Q When you went back to the restroom, was there any
12 fights, any people jawing, unhappy about the fight?

13 A I believe there were just people making comments;
14 they were most of the night after the fight.

15 Q But there wasn't any scuffles, pushing, punching?

16 A Not that I observed.

17 Q But when you came out, something clearly was
18 going on?

19 A That's correct.

20 Q But didn't see the person who ended up on the
21 ground who you tended to?

22 A I did not observe him prior to that.

23 Q And you did not see the person that -- didn't see
24 the shot being fired?

25 A Correct.

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JOSHUA STOUCH - CROSS-EXAMINATION

1 Q Let me talk to you about the layout. You
2 described back by the wall at the end of the bar what
3 you described as a service area?

4 A Correct.

5 Q And that is a fairly narrow passage?

6 A Correct.

7 Q Not designed for the public to use to get from
8 one side of the bar to the other?

9 A No. I think there is something that says
10 employees only. I don't know if there is now, but.

11 Q It is fairly narrow; maybe 3, 4 feet wide?

12 A Approximately 3, 4 feet. It's big enough someone
13 can fit through and maybe a cart that they might move
14 dishes around with and cleaning supplies, things like
15 that.

16 Q And on that wall, the surf wall, the only door,
17 the only way out of the barroom is the door to the
18 vestibule that you came out of?

19 A Correct. On the other side of that surf wall,
20 other side of the bar is an emergency exit, but other
21 than that, that is correct.

22 Q During the five to seven seconds, roughly, when
23 you came out of the doorway back into the bar, can you
24 describe it in a little more detail? So there was 20
25 to 30 people?

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INDIGENT DEFENSE ONLY!!!!**

JOSHUA STOUCHE - CROSS-EXAMINATION

1 A Uh-huh.

2 Q Clearly some kind of unrest?

3 A Correct.

4 Q Is that fair to characterize it that way?

5 A Correct.

6 Q What did you actually see? What was going on?

7 A There were individuals that were pushing,
8 shoving, looked like punches might have been thrown.
9 It was difficult to see if anything landed at all, you
10 know, from the amount of people that were there.

11 Q Was it possible to kind of determine who was with
12 who?

13 A It was virtually impossible to do that. They
14 were as crowded together as everybody was. There was a
15 group facing this way, and a couple people facing this
16 direction. So there was a group facing towards the
17 surfboards, and then a couple people facing the
18 opposite way.

19 Q Did you see anyone in a chokehold?

20 A No, I don't remember observing that at all.

21 Q Do you see any bottles flying through the air?

22 A No.

23 Q Hear any bottles breaking?

24 A No.

25 Q Okay.

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INDIGENT DEFENSE ONLY!!!!**

JOSHUA STOUCHE - REDIRECT EXAMINATION

1 MR. FOX: Thank you. That is all I have.

2 THE COURT: Redirect.

3 REDIRECT-EXAMINATION

4 BY MR. DeBUSK:

5 Q Briefly, you said that you have been to RipTydz
6 before?

7 A I have.

8 Q Before this incident?

9 A Yes.

10 Q Is it a place you feel safe?

11 A Yes.

12 Q Not the kind of place you would expect fights or
13 shooting?

14 A No, none at all.

15 Q Now, you said you saw the gun, saw someone with a
16 gun; you did see that person?

17 A Say again.

18 Q You did see someone with a gun?

19 A Correct.

20 Q Male or female?

21 A Male.

22 Q Black, white?

23 A Black male.

24 Q Was the gun in his hand, waistband?

25 A Coming down off the right side.

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INDIGENT DEFENSE ONLY!!!!**

JOSHUA STOUCH - RECROSS-EXAMINATION

1 Q Was it going back into the waistband?

2 A I couldn't tell from the angle I was at.

3 Q But you are sure you saw it?

4 A Absolutely.

5 RECROSS-EXAMINATION

6 BY MR. FOX:

7 Q Have you been to the Myrtle Beach area
8 previously?

9 A That's correct.

10 Q How many times have you been down here?

11 A Dozens.

12 Q Dozens. So going back how many years?

13 A Well, the first time I was ever here, I was five
14 years old. The most recent trips I made were within
15 the last five, seven years; so 30, 40 times in the last
16 five to seven years.

17 Q RipTydz is right on the Boulevard, isn't it?

18 A It is.

19 Q Down from the Skywheel?

20 A Correct.

21 Q So you were coming here since you were small; are
22 you familiar with some of the incidents that occurred
23 down at the Boulevard over the years, the violent
24 incidents?

25 A I am; in that general area, yes.

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INDIGENT DEFENSE ONLY!!!!**

DREW FOX - DIRECT EXAMINATION

1 Q And, again, the Skywheel is less than a block
2 away?

3 A That's correct.

4 Q Are you familiar with the incident a couple years
5 ago where there was a shooting live streamed on
6 Facebook by the Skywheel?

7 A I actually am.

8 Q So RipTydz itself, you feel safe; the Boulevard
9 can be a dangerous place at times?

10 A I cannot disagree with that.

11 MR. FOX: Thank you.

12 THE COURT: You may step down. We ask that he be
13 released from his subpoena.

14 MR. FOX: No objection.

15 THE COURT: You're excused.

16 Next witness.

17 MR. DeBUSK: We call Officer Drew Fox.

18 (DREW FOX, having been duly sworn, testified
19 as follows:)

20 THE CLERK: State your full name for the Court.

21 THE WITNESS: Drew Fox.

22 DIRECT-EXAMINATION

23 BY MR. DeBUSK:

24 Q Who is your employer?

25 A City of Myrtle Beach.

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INDIGENT DEFENSE ONLY!!!!**

DREW FOX - DIRECT EXAMINATION

1 Q Which part?

2 A The City of Myrtle Beach Police Department.

3 Q How long have you been with the Myrtle Beach
4 Police Department?

5 A About four years.

6 Q How long have you been in law enforcement?

7 A Same; a little over four years.

8 Q You started with Myrtle Beach?

9 A Yes, sir.

10 Q What are your duties at this time?

11 A I'm assigned to the waterfront area of the city.

12 Q You are a patrolman on the waterfront?

13 A Yes, sir.

14 Q You literally cover the waterfront, right?

15 A I do.

16 Q What were your duties in October of 2018?

17 A Same assignment, the waterfront of Myrtle Beach.

18 Q Now, on the late evening hours of October 6,
19 2018, and the early morning hours of October 7, 2018,
20 were you on duty?

21 A I was.

22 Q Where were you?

23 A I was in the northern part of the patrol district
24 at the waterfront.

25 Q About 1 o'clock a.m. on the 7th, where were you?

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DREW FOX - DIRECT EXAMINATION

1 A Located in front of RipTydz restaurant.

2 Q Why were you there?

3 A I was parked in the median doing paperwork. It
4 was a high-foot traffic area; that is where I decided
5 to do paperwork.

6 Q I'll show you what is marked as State's 33 and
7 ask if you recognize this?

8 A I do.

9 Q What is it?

10 A That is a photo view of the RipTydz restaurant,
11 Ocean Boulevard.

12 Q Does it also show the Aqua Beach Hotel?

13 A It does.

14 MR. DeBUSK: We move State's 33 into evidence.

15 THE COURT: Any objections?

16 MR. FOX: No, Your Honor.

17 THE COURT: State's 33 in without objection.

18 (State's Exhibit 33 admitted.)

19 MR. DeBUSK: May the witness step down?

20 THE COURT: Yes.

21 Q (MR. DeBUSK) Could you indicate for the jury
22 where is RipTydz?

23 A Located there (indicates).

24 Q Where were you parked doing your paperwork?

25 A Right about here.

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INDIGENT DEFENSE ONLY!!!!**

DREW FOX - DIRECT EXAMINATION

1 Q While parked there, did you receive a call or any
2 reason to respond to RipTydz?

3 A No, sir. I was just parked there doing
4 paperwork.

5 Q What happened?

6 A I observed what appeared to be at that time a
7 fight taking place in front of RipTydz. I looked up
8 and saw a large crowd, a lot of pushing and shoving. I
9 called it out on the radio as a possible fight. As I
10 exited my patrol car, someone ran up to me and said
11 someone was shot on the roof of RipTydz.

12 Q What did you do?

13 A I responded and tried to gain access to the roof
14 of RipTydz through a staircase that was located right
15 over here.

16 Q Did you walk up to the third floor?

17 A I did.

18 Q When you did this, were you wearing body cameras?

19 A Yes, sir, I was.

20 Q Let me show you what is marked as State's 32 and
21 ask if you recognize that?

22 A Yes, sir.

23 Q What is that?

24 A That is a disk of my body cam footage.

25 Q How do you know that?

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INDIGENT DEFENSE ONLY!!!!**

DREW FOX - DIRECT EXAMINATION

1 A I initialed it after I reviewed it.

2 Q So that is the disk you reviewed. What happened
3 then?

4 A As I was making my way up the stairs, I observed
5 a large crowd coming down the stairs. When I made it
6 to the third floor, there was a lot of chaos going on,
7 multiple people screaming that someone was shot. I
8 ordered everyone down that was in the restaurant at
9 that time to get on the ground.

10 Q Why did you do that?

11 A I was unsure if the shooter was still on scene,
12 and there was a lot of people running behind me, and I
13 just wanted everyone down on the ground.

14 Q Safe for yourself and others?

15 A Yes, sir.

16 Q What happened next?

17 A At which time I saw somebody in the far corner
18 down on the ground with a group of people doing CPR on
19 him.

20 Q What did you do next?

21 A I tried to make -- worked my way over there to
22 take over the CPR process, at which time I was informed
23 that there was an EMT and nurse doing CPR. So I told
24 them to continue what they were doing. I deemed what
25 they were doing to be adequate life-saving procedures,

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DREW FOX - DIRECT EXAMINATION

1 and I began to do scene security to try to get a
2 description of the shooter.

3 Q Did you talk to witnesses?

4 A I did.

5 Q Were you able to rely on any description to other
6 officers?

7 A I was.

8 Q What was that description?

9 A Initial description was a black male, red shirt,
10 blue jeans.

11 Q Did the individuals performing CPR continue?

12 A Yes, sir. At no time did they stop.

13 Q Did EMS ultimately arrive at the scene?

14 A Yes, sir, they did.

15 Q Did they take over?

16 A Yes, sir.

17 Q Was the victim transported from the scene?

18 A Yes, sir.

19 Q What did you do next?

20 A We began taking witness statements, at which time
21 I went down to my patrol car, which was, again, located
22 in this area. I went to go get some more witness
23 statements and some documents for the witnesses to fill
24 out, at which time I heard one of my fellow officers at
25 the time talking to somebody from the scene that

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INDIGENT DEFENSE ONLY!!!!**

DREW FOX - DIRECT EXAMINATION

1 said --

2 MR. FOX: Objection.

3 THE COURT: Sustained.

4 A Sorry.

5 Q (MR. DeBUSK) So you saw a fellow officer talk to
6 someone and give information?

7 A Yes, sir.

8 Q Based on the information, what did you all do?

9 A We started to make our way over to the Aqua Beach
10 Inn, and set up a perimeter on that.

11 Q What do you mean by "set up a perimeter"?

12 A It was deemed to me that the suspect may be in
13 this area, so I began to work my way in this parking
14 lot to keep eyes on the entrance -- one of the
15 entrances into the hotel.

16 Q What happened next?

17 A I saw a male fitting the description. I began to
18 call that out on the radio, at which time he ducked
19 down between two parked cars and bushes alongside the
20 hotel.

21 Q What did you do next?

22 A I began to work my way around some parked cars.
23 I drew my weapon, ordered that male to come out and
24 show me his hands, and that is where I met him
25 somewhere along the building right there.

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INDIGENT DEFENSE ONLY!!!!**

DREW FOX - DIRECT EXAMINATION

1 Q Were there other officers present when that
2 happened?

3 A Yes, sir. While I was making my way there, other
4 officers were flowing into the parking lot.

5 Q Did some of those other officers place that
6 individual under arrest?

7 A Yes.

8 Q Thank you. You may be seated.

9 Now, you work for Myrtle Beach Police?

10 A Yes, sir.

11 Q RipTydz, where we saw this, is that within the
12 municipal bounds of Myrtle Beach?

13 A Yes, sir, it is.

14 Q And I hate to ask an obvious question, but what
15 county is that in?

16 A Horry County, sir.

17 Q After the arrest of the suspect was accomplished,
18 did you have any further involvement with the
19 investigation?

20 A No, sir. I went back up to the restaurant to
21 continue handing out witness statements and taking
22 statements, but then detectives took over the case.

23 Q Okay. Again, what is marked as State's 32, that
24 was a copy of your body camera on you?

25 A Yes, sir.

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INDIGENT DEFENSE ONLY!!!!**

DREW FOX - CROSS-EXAMINATION

1 MR. DeBUSK: At this time, I move this into
2 evidence.

3 THE COURT: Any objections?

4 MR. FOX: None, Your Honor.

5 THE COURT: State's 32 admitted.

6 (State's Exhibit 32 admitted.)

7 MR. DeBUSK: We would like to publish State's 32.

8 (State's Exhibit 32 published to the jury.)

9 Q (MR. DeBUSK) When did you turn on your body cam?

10 A I believe I turned it on as I exited my patrol
11 car and walked into the parking lot.

12 MR. DeBUSK: Sorry, Your Honor. Please answer
13 any questions defense may have.

14 CROSS-EXAMINATION

15 BY MR. FOX:

16 Q Officer Fox, RipTydz clearly is labeled in red,
17 correct?

18 A Yes, sir.

19 Q And then you can kind of see in the shadows the
20 Skywheel is here on the lower, left corner?

21 A Yes, sir.

22 Q And you've been an oceanfront patrol officer for
23 a number of years?

24 A Yes, sir.

25 Q And several years prior to October 2018?

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DREW FOX - CROSS-EXAMINATION

1 A I believe one-and-a-half years prior to that.

2 Q So you are familiar with the fact that at times
3 things on the Boulevard can get testy?

4 A Yes, sir.

5 Q And because of the combination of lots of people
6 from lots of areas, and sometimes alcohol, altercations
7 and fights and even shootings are not unheard of in
8 that area?

9 A Correct.

10 Q That is why you're assigned to be there and have
11 a physical presence, correct?

12 A Yes, sir.

13 Q Did you have anything to do -- you testified you
14 went over to Aqua Beach and had information that the
15 person of interest or suspect may be over there; in
16 fact, did you see the black male, red shirt, et cetera?

17 A I saw a male fitting the description, at which
18 time I called it out to my other officers that I
19 believed that a male fitting that description was over
20 there.

21 Q Did you have any interaction with that person?

22 A Briefly. I was -- I worked my way around the car
23 to eventually detain that suspect, or at least aid in
24 the detention of him.

25 Q Okay. Didn't have anything to do with

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DREW FOX - REDIRECT EXAMINATION

1 questioning him or anything?

2 A No, sir. I didn't -- didn't ask the suspect any
3 questions. My role was to detain him.

4 Q Or collect any evidence from that location?

5 A Correct. Again, I didn't collect any evidence.
6 I saw some evidence, but I didn't collect anything.

7 Q Okay.

8 MR. FOX: Thank you.

9 REDIRECT-EXAMINATION

10 BY MR. DeBUSK:

11 Q You said that there was previous shootings and
12 violent acts on the Boulevard?

13 A Yes, sir.

14 Q Do most of those involve people carrying guns
15 illegally?

16 A I don't know if they were carried legally or
17 illegally, but, yes, there are.

18 Q Do you have lots of incidents of people carrying
19 guns illegally?

20 A Yes, sir.

21 MR. DeBUSK: Thank you.

22 THE COURT: Any objection to him being excused?

23 MR. DeBUSK: No, Your Honor.

24 MR. FOX: No, Your Honor.

25 THE COURT: He's excused.

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PATTY BELLAMY - DIRECT EXAMINATION

1 Call your next witness.

2 MR. DeBUSK: Thank you, Your Honor. Patty
3 Bellamy.

4 (PATTY BELLAMY, having been duly sworn,
5 testified as follows:)

6 THE CLERK: Be seated and state your full name
7 for the Court, please.

8 THE WITNESS: Patty Bellamy.

9 DIRECT-EXAMINATION

10 BY MR. DeBUSK:

11 Q Who is your employer at this time?

12 A Horry County Coroner's Office.

13 Q How long have you been with the coroner's office?

14 A Since November of 2018.

15 Q How about before the coroner's office?

16 A Myrtle Beach Police Department.

17 Q How long were you with Myrtle Beach?

18 A January of 2018 to November of 2018.

19 Q While you were there, what was your duties?

20 A Crime scene investigator.

21 Q What does a crime scene investigator do?

22 A We process -- respond to scenes, process
23 evidence, collect evidence.

24 Q Were you employed in October of 2018?

25 A Correct.

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INDIGENT DEFENSE ONLY!!!!**

PATTY BELLAMY - DIRECT EXAMINATION

1 Q As a crime scene investigator?

2 A Crime scene technician.

3 Q Crime scene technician?

4 A Yes.

5 Q How about on October 7, 2018, did you respond to
6 RipTydz Bar?

7 A I did.

8 Q What was the nature of the call?

9 A I was requested to respond regarding a shooting
10 incident.

11 Q Do you recall what time you arrived?

12 A Around 10:00 in the morning I was dispatched.

13 Q And when you arrived, what did you do, when you
14 first arrived at RipTydz?

15 A I approached the officer on scene to kind of get
16 a rundown of what had taken place, and then proceeded
17 with taking photographs of -- overall photographs of
18 the incident location.

19 Q Is that the inside and outside, or just outside?

20 A At the time, I started with outside.

21 Q I'll show you what is marked as State's 21; do
22 you recognize that?

23 A I do; that is the outside of RipTydz.

24 Q One of the photos you took?

25 A That is correct.

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INDIGENT DEFENSE ONLY!!!!**

PATTY BELLAMY - DIRECT EXAMINATION

1 MR. DeBUSK: We move State's 21 into evidence.

2 MR. FOX: No objection.

3 THE COURT: 21 in evidence with no objection.

4 (State's Exhibit 21 admitted.)

5 Q (MR. DeBUSK) After you photographed the outside
6 of RipTydz, what did you do?

7 A At that point, I proceeded inside RipTydz.

8 Q Where did you go?

9 A To the third floor.

10 Q What did you find on the third floor?

11 A There were chairs everywhere. The scene was just
12 a really big mess, is the best way to describe it.

13 Q Did you take photos?

14 A I did.

15 Q I'll show you State's 22, 23, and 28 and ask you
16 if you recognize those?

17 A Yes.

18 Q What are they?

19 A The first photograph is where the incident
20 occurred. The other photograph is also just an overall
21 of what the incident looks like, and then the other one
22 is a picture of a hat that was on the bar that we
23 found.

24 Q These are photographs you took?

25 A Yes.

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PATTY BELLAMY - DIRECT EXAMINATION

1 MR. DeBUSK: We move State's 22, 23, and 28.

2 THE COURT: Any objections?

3 MR. FOX: No objection.

4 THE COURT: 22, 23 and 28 without objection.

5 (State's Exhibits 22, 23 and 28 admitted.)

6 Q (MR. DeBUSK) What did you do after you took
7 photos of the inside?

8 A If I recall, at that time I was requested to
9 respond to the hotel across the street, the Aqua Beach
10 Hotel I think it was.

11 Q What did you do there?

12 A I took overall photographs of that area. I was
13 requested to respond there. There was a gun recovered
14 underneath the bush on the left side of the building,
15 and to search two rooms there.

16 Q Did you take pictures of the exterior of Aqua
17 Beach?

18 A I did.

19 Q Did you take pictures of the gun and the location
20 where you found it?

21 A That's correct.

22 Q I'll show you State's 24, 25, and 26; do you
23 recognize these?

24 A Yes. The first picture is the outside to
25 establish the incident location. The second one is the

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PATTY BELLAMY - DIRECT EXAMINATION

1 picture of a gun underneath the bush, and also the
2 third picture is the same, which shows a cell phone
3 that was left on top of a parking post.

4 MR. DeBUSK: State moves 24, 25, and 26 into
5 evidence at this time.

6 THE COURT: Any objection?

7 MR. FOX: No objection.

8 THE COURT: 24 through 26 admitted without
9 objection.

10 (State's Exhibits 24 through 26 admitted.)

11 MR. DeBUSK: May I publish?

12 THE COURT: Yes.

13 (State's Exhibits 24 through 26 published to
14 the jury.)

15 Q (MR. DeBUSK) Did you collect that firearm?

16 A I did.

17 Q What was it?

18 A It was a Taurus Gen II. I think it had a light
19 or something I remember on the end of it. It was with
20 an extended magazine and a short, regular magazine.

21 Q I'll show you State's 30 and 31 and ask if you
22 recognize these?

23 A First picture is an extended magazine and a small
24 magazine, and the second picture is a picture of the
25 gun that was collected.

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PATTY BELLAMY - DIRECT EXAMINATION

(State's Exhibit 35 marked.)

Q I'll show you State's 35 with packaging. I realize you have to open it to answer my question, but do you recognize this?

(A brief pause in the proceedings.)

Q (MR. DeBUSK) This is a general thing: Why do we package and tape the boxes so carefully?

A To secure the evidence and make sure that nobody has opened the box prior to us, you know, processing our evidence.

So, yes, this is the gun and the small magazine, along with the extended magazine, that I collected on scene. Also, my handwriting is on the outside of the box.

Q Are these secured here and safe?

A Yes.

Q There is a band through the action of the gun so it can't go off?

A Correct.

Q And there is no ammunition?

A That is correct.

MR. DeBUSK: We offer State's 35 into evidence.

THE COURT: Any objections?

MR. FOX: No, Your Honor.

THE COURT: 35 is in evidence without objection?

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PATTY BELLAMY - DIRECT EXAMINATION

(State's Exhibit 35 admitted.)

1
2 Q (MR. DeBUSK) After you went to the scene, when
3 you found the gun under the bush, what did you do
4 after you collected the gun?

5 A After I collected the gun, I proceeded to two
6 rooms located in the Aqua Beach Hotel. We had a search
7 warrant to look for any other kind of evidence that we
8 needed to collect at that time or process.

9 Q Did you collect anything from the rooms?

10 A No, sir, I do not recall.

11 Q Now, at the location where you collected the gun,
12 did you collect anything else?

13 A At that particular time, there was the gun,
14 extended magazine, small magazine, along with 17,
15 9-millimeter Ruger bullets that were recovered
16 underneath the bush.

17 Q Was there a bag there?

18 A There was a black backpack I was given by one of
19 the officers that was collected when they apprehended
20 the suspect.

21 Q Let me show you State's 13 and ask if you
22 recognize that?

23 A Yes, that was the black backpack I was given.

24 Q Let me show you State's 27 and ask if you
25 recognize that?

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PATTY BELLAMY - DIRECT EXAMINATION

1 A That was the shirt that was inside the backpack.

2 MR. DeBUSK: Your Honor, State offers 13, 27, 30,
3 and 31 into evidence.

4 THE COURT: Any objections?

5 MR. FOX: Without objection.

6 THE COURT: 13, 27, 30 and 31 in evidence.

7 (State's Exhibits 13, 27, 30, 31 admitted.)

8 Q (MR. DeBUSK) No. 27 was actually in the bag?

9 A Correct.

10 MR. DeBUSK: May I publish?

11 THE COURT: Yes.

12 (State's Exhibits 13, 27, 30 and 31 published
13 to the jury.)

14 Q (MR. DeBUSK) You collected the gun, got the bag,
15 search the rooms, but didn't collect anything; so what
16 did you do next?

17 A I responded to Grand Strand Hospital.

18 Q What was at Grand Strand?

19 A The victim had been transported to Grand Strand
20 Hospital.

21 Q When you were there, did you collect any
22 evidence?

23 A I did. I collected a bullet fragment.

24 Q Do you remember who turned that over to you?

25 A If I recall, I think it was the surgeon or either

PATTY BELLAMY - DIRECT EXAMINATION

1 one of the officers that was there had collected it
2 from the surgeon. It was like in a clear, plastic bag.
3 I think one was given to me, along with two shoes, I
4 think, that the victim had on.

5 Q I think you have to open this to identify it, but
6 could you -- well, let me get it marked -- open it
7 first, sorry.

8 A Okay.

9 (A brief pause in the proceedings.)

10 A So these two boxes are inside the envelope; one
11 is a bullet fragment?

12 Q Is that the one you collected at Grand Strand?

13 A Recovered from the victim's body, yes.

14 Q And let's deal with this.

15 (State's Exhibit 36 marked.)

16 Q (MR. DeBUSK) What is marked as 36, what is that?

17 A Bullet fragment that was recovered from the
18 victim's body.

19 Q How do you recognize the packaging?

20 A My handwriting, and I have it in the description.

21 MR. DeBUSK: We offer 36 into evidence.

22 MR. FOX: None.

23 THE COURT: 36 is in evidence.

24 (State's Exhibit 36 admitted.)

25 Q (MR. DeBUSK) You received that from someone else

PATTY BELLAMY - DIRECT EXAMINATION

1 at the hospital?

2 A Correct.

3 Q While you are there at the hospital, did you
4 photograph the victim?

5 A I did.

6 Q Where was he?

7 A He was in one of the trauma rooms.

8 Q Was he on the table, bed?

9 A On the table.

10 Q Did you -- was his clothing with him at that
11 time?

12 A When I photographed him, he didn't have any
13 clothing on.

14 Q Was it still located at the scene?

15 A Yes.

16 Q I'll show you State's Exhibit 12 and ask if you
17 recognize that?

18 A Yes; this was a shirt that the victim had on.

19 Q Okay. Does it accurately reflect the color of
20 his shirt?

21 A It was a light pink.

22 MR. DeBUSK: State offers Exhibit 12.

23 THE COURT: Any objections?

24 MR. FOX: No objections.

25 THE COURT: 12 is admitted.

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INDIGENT DEFENSE ONLY!!!!**

PATTY BELLAMY - DIRECT EXAMINATION

(State's Exhibit 12 admitted.)

1
2 Q (MR. DeBUSK) After you collected the bullet and
3 photographed the body, what did you do?

4 A I think, at that time, I responded back to
5 RipTydz to finish helping my other officer that was
6 there on scene process the evidence.

7 Q And who was on scene?

8 A Crime Scene Investigator David Bailey.

9 Q Did you collect or receive from Investigator
10 Bailey any evidence?

11 A From him, yes. It was a shell casing that was in
12 a black glove.

13 (State's Exhibit 37 marked.)

14 Q I'll ask if you recognize State's 37?

15 A A 9-millimeter Ruger shell casing inside the
16 black latex glove that was given to David Bailey.

17 Q And you received that from David Bailey?

18 A Yes.

19 Q Now, that casing, this gun, and this bullet
20 fragment you collected, what did you do with it?

21 A I secured them into our crime scene storage unit.
22 The following day it was taken out of the storage unit
23 for processing.

24 Q When did it leave your custody and control?

25 A When did it leave my custody?

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INDIGENT DEFENSE ONLY!!!!**

PATTY BELLAMY - DIRECT EXAMINATION

1 Q Uh-huh.

2 A After I processed the evidence, secured it, and
3 packaged it, then it is dropped off and delivered to
4 Property and Evidence at the main PD.

5 Q Who was the director of Property and Evidence at
6 that time?

7 A I do not recall.

8 Q Does the name Malinda Shadoan --

9 A Yes.

10 MR. DeBUSK: At this time, we move State's 37
11 into evidence.

12 THE COURT: Any objections?

13 MR. FOX: We've been letting them in, but I think
14 the person collecting it would have to establish where
15 it came from. She only knows what she is told.

16 THE COURT: We'll wait until this person
17 testifies.

18 MR. DeBUSK: Okay.

19 Q (MR. DeBUSK) So you placed these items into
20 evidence. While they were in your custody and
21 control, did you alter or change them in any way?

22 A No, sir.

23 Q Did you photograph them?

24 A Yes, sir.

25 Q At the RipTydz bar itself, when you returned

THE COURT - LUNCH

1 there, did you collect any clothing items?

2 A Yes. There was a burgundy hat, there was a pair
3 of sunglasses, and I think a silver chain on the bar.

4 Q Let me show you State's 14 and 28 and ask if you
5 recognize these?

6 A Yes.

7 Q What are they?

8 A The first one is a green Eagles jersey, and then
9 the other one is a maroon, burgundy, in color hat that
10 was at the bar.

11 Q Did you collect both of those items?

12 A I did.

13 Q And they were at the bar area?

14 A Yes. Yes.

15 MR. DeBUSK: I offer these in evidence, Your
16 Honor.

17 Please answer any questions the defense may have.

18 MR. FOX: No questions of this witness. Thank
19 you.

20 MR. DeBUSK: May the witness be excused?

21 THE COURT: She's excused.

22 Is now a good time for lunch?

23 MR. DeBUSK: Yes, sir.

24 THE COURT: Let's take a lunch until 2:15. Do
25 not discuss the case. The jury is excused; everyone

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INDIGENT DEFENSE ONLY!!!!**

TARRA DROST - DIRECT EXAMINATION

1 else remain seated.

2 (The jury exits at 1:00 p.m., and the
3 following is heard out of the presence of the jury.)

4 THE COURT: See you at 2:15.

5 (A lunch recess is taken.)

6 (State's Exhibits 38 through 40 marked.)

7 THE COURT: Good afternoon. Ready to go?

8 MR. DeBUSK: Yes, Your Honor.

9 THE COURT: Bring in the jury.

10 (The jury enters at 2:21 p.m., and the
11 following is heard in the presence of the jury.)

12 THE COURT: Call your next witness.

13 (TARRA DROST, having been duly sworn,
14 testified as follows:)

15 THE CLERK: State and spell your name for the
16 Court.

17 THE WITNESS: Tarra Drost, T-A-R-R-A, D-R-O-S-T.

18 DIRECT-EXAMINATION

19 BY MR. DeBUSK:

20 Q Ms. Drost, who is your employer?

21 A Aqua Beach Inn.

22 Q Where is it located?

23 A 1301 Withers Drive in Myrtle Beach.

24 Q Is it near RipTydz?

25 A Right behind RipTydz, yes.

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INDIGENT DEFENSE ONLY!!!!**

TARRA DROST - DIRECT EXAMINATION

1 Q How long have you been employed by Aqua Beach?

2 A About ten years now.

3 Q What is Aqua Beach?

4 A It is a hotel.

5 Q What kind of trade do you do; mostly tourists?

6 A Yes.

7 Q What are your duties?

8 A General manager.

9 Q As part of your duties, do you oversee the
10 surveillance cameras?

11 A Yes, sir.

12 Q How about in October of 2018, was it the same?

13 A Yes, sir.

14 Q So you also had responsibility for cameras back
15 then?

16 A Yes, sir.

17 Q Okay. Do you know in October of 2018, was
18 Jakkari Brown a registered guest at your inn?

19 A Yes, sir.

20 Q Do you know when?

21 A I would say October 7th, 8th.

22 Q Do you have surveillance cameras in the building?

23 A Yes, sir.

24 Q How many, about?

25 A There are three on each floor, 11 floors, so 33

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INDIGENT DEFENSE ONLY!!!!**

TARRA DROST - DIRECT EXAMINATION

1 on the floors, and about ten in the lobby area outside
2 and inside.

3 Q So lots of cameras?

4 A Yes.

5 Q Okay. So I'll show you State's Exhibits 38 and
6 40 and ask if you could review these exhibits.

7 A Yes, sir.

8 Q What are they?

9 A They are surveillance videos of the day that this
10 incident took place of the lobby, the outside of the
11 lobby, and the hallway that the guests was staying in.

12 Q How many channels do you have there?

13 A About 43.

14 Q I mean, on those particular --

15 A Oh, on those. I want to say they had -- outside
16 of the lobby, two of the inside of the lobby, and one
17 on the floor.

18 Q So four?

19 A Yes.

20 Q Are these fair and accurate copies of the videos
21 from Aqua Beach for the early morning hours of
22 October 7, 2018?

23 A Yes, sir.

24 Q Let me show you -- how do you recognize that
25 those are the videos?

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INDIGENT DEFENSE ONLY!!!!**

TARRA DROST - DIRECT EXAMINATION

1 A I initialed them when we looked at it earlier.

2 Q I'll show you State's 39 and ask if you recognize
3 that?

4 A Yes, sir.

5 Q What is that?

6 A That is the edited that shows just specific
7 items, I guess, all calculated together.

8 Q I'm trying not to talk over you. Is everything
9 on the edited version also on the original version?

10 A Yes, sir.

11 MR. DeBUSK: At this time, we move to admit
12 State's 39, 38 and 40.

13 THE COURT: Any objections?

14 MR. FOX: No, Your Honor.

15 THE COURT: All right. State's 38 through 40 in
16 evidence without objection.

17 (State's Exhibits 38 through 40 admitted.)

18 MR. DeBUSK: At this time, we'll publish State's
19 39.

20 THE COURT: Solicitor, is there any way you can
21 back that a little bit where we can see it, or do you
22 have a computer we can watch it?

23 MR. DeBUSK: I think we can angle it enough so
24 you can see it.

25 (A brief pause in the proceedings.)

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INDIGENT DEFENSE ONLY!!!!**

TARRA DROST - CROSS-EXAMINATION

1 MR. DeBUSK: For the Court's information, it is
2 approximately seven or eight minutes long.

3 THE COURT: All right. Can you dim the lights?

4 (A pause in the proceedings and State's
5 Exhibit 38 published to the jury)

6 MR. DeBUSK: We're having technical difficulties.
7 It is going to take a moment to copy it onto the
8 computer and then play it from the computer itself.

9 Q (MR. DeBUSK) While she's preparing that, I'll
10 ask you a couple more questions. There was a
11 timestamp on the cameras in the upper, right-hand
12 corner, is that timestamp correct for October 7 of
13 2018?

14 A No, sir. It will be an hour off. It doesn't
15 change during Daylight Saving, yes, sir.

16 MR. DeBUSK: Thank you. Answer any questions
17 that the defense may have.

18 CROSS-EXAMINATION

19 BY MR. FOX:

20 Q Even recognizing they are an hour off, the
21 timestamps, it's working right; in other words, you can
22 look at that and get an idea of the beginning time and
23 the end time, and you can see it is ten minutes
24 elapsed, 20 minutes elapsed?

25 A Yes, sir.

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INDIGENT DEFENSE ONLY!!!!**

TARRA DROST - CROSS-EXAMINATION

1 Q Even if it's not because of Daylight Saving Time?

2 A Uh-huh.

3 Q So -- and this is, kind of, a compilation of
4 different -- obviously different cameras and views, and
5 kind of cut up in different views?

6 A Yes, sir.

7 Q So instead of staring at a blank hall, we see
8 people coming and going?

9 A Yes.

10 Q And is it fair to say from beginning to end it is
11 a good 20 minutes or more?

12 A Yes, sir.

13 Q Now, the Aqua Beach, all of the rooms face -- it
14 is across the street from the ocean, but faces the
15 ocean?

16 A Yes. All the balconies face towards the ocean.

17 Q So every room has a view, and the main entrance
18 is in front, the Boulevard is visible, and those
19 buildings, including RipTydz, that are oceanfront, are
20 visible?

21 A Yes, sir.

22 Q So were you at the Aqua Beach that night?

23 A I was not working that night, no, sir.

24 Q Thank you.

25 A Yes, sir.

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INDIGENT DEFENSE ONLY!!!**

ANTONIO PINO - DIRECT EXAMINATION

1 THE COURT: Redirect.

2 MR. DeBUSK: None, Your Honor. We ask that the
3 witness be excused from her subpoena.

4 MR. FOX: Without objection.

5 MR. DeBUSK: Our next witness is Antonio Pino.

6 (ANTONIO PINO, having been duly sworn,
7 testified as follows:)

8 THE WITNESS: Antonio Pino.

9 DIRECT-EXAMINATION

10 BY MR. DeBUSK:

11 Q Where do you live?

12 A Georgetown.

13 Q What do you do?

14 A I'm a blogger.

15 Q What did you do before you were a blogger?

16 A Hospital corpsman in the Navy.

17 Q That is a person that is a medic?

18 A Yes, sir.

19 Q Like EMS for the Navy?

20 A Yes, sir.

21 Q Were you at the RipTydz Bar on October 7, 2018
22 early in the morning?

23 A Yes, sir.

24 Q Why were you over there?

25 A I was there to watch the fight.

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INDIGENT DEFENSE ONLY!!!!**

ANTONIO PINO - DIRECT EXAMINATION

1 Q Is it the famous McGregor fight?

2 A Yes, sir.

3 Q Anything unusual happen while you were there?

4 A Can you repeat?

5 Q Did anything unusual happen while you were there?

6 A Yes. There were two fights. There were two
7 fights there about ten to five minutes apart. After
8 the end of the second fight, I heard a gunshot.

9 Q Were you part of either one of these fights?

10 A No, sir.

11 Q What did you do when you heard the gunshot?

12 A When I heard the gunshot, I sat still because it
13 was only one shot, not a series of shots. I wasn't in
14 fear that it was a mass shooting. Once everything
15 settled, the patrons scattered, I went around the
16 corner to see what happened. Because of my military
17 training, I wanted to see if I could help out at all.

18 Q Was someone already helping him?

19 A There was about four people trying to render aid.

20 Q So they didn't need another hand, basically?

21 A No, sir.

22 Q Now, while you were there, did you see anything
23 of interest in the area?

24 A Yes. I happened to be standing next to a shell
25 casing. The officer was next to me, so I picked up the

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INDIGENT DEFENSE ONLY!!!!**

ANTONIO PINO - CROSS-EXAMINATION

1 shell casing and handed it to the officer, but he
2 instructed me to put it back down.

3 Q But you put it down where you found it?

4 A Yes, sir.

5 Q Did you alter or change it while it was in your
6 hand?

7 A No, sir.

8 Q And you put it back down in the place where the
9 police officer told you?

10 A Yes, sir.

11 MR. DeBUSK: Thank you. Answer any questions
12 defense may have.

13 CROSS-EXAMINATION

14 BY MR. FOX:

15 Q Mr. Pino, you heard the shot, but did not see the
16 actual shot?

17 A No, sir.

18 Q Where were you in the bar area?

19 A I was on the third floor. There is an elevator.
20 As soon as you get off the elevator, there is seating
21 to the right. I heard the shot. It was from around
22 the corner, so my view was obstructed by a wall.

23 Q So you didn't walk back -- if you get off the
24 elevator, you don't go back as far as the bar?

25 A No, sir.

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ANTONIO PINO - CROSS-EXAMINATION

1 Q So if you're stepping off of the elevator,
2 directly in front of you, slightly to the right is
3 where the bar is?

4 A Yes, sir.

5 Q And that goes on around and there is an open
6 area? If I'm here at the wall and get off at the
7 elevator, me, there is the wall, and I would step up
8 and it is kind of like this (indicates) to get into the
9 area? Did you see where the DJ was?

10 A Yes. Yes. I'm familiar where that area is.

11 Q So around the corner. So you stayed back in that
12 first area near the elevator where there was seating?

13 A Yes, sir.

14 Q How long -- did you watch the entire MMA fight?

15 A Yes, sir.

16 Q So you were there for an hour or so?

17 A Maybe an hour-and-a-half, two hours.

18 Q And you say two fights broke out; what did you
19 see?

20 A The first fight, right in my direct line of
21 vision. I was sitting next to a husband and wife. So
22 after the first fight, we chuckled that they take this
23 UFC seriously. About five, ten minutes later, we heard
24 another scuffle, but this one I couldn't see; that is
25 when I heard the shot.

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ANTONIO PINO - CROSS-EXAMINATION

1 Q Could you tell, roughly, how long that -- so was
2 the first fight just done, or was that continuing?

3 A Maybe about one, two minutes before security
4 stepped in.

5 Q And I talked over you there for a second. Was
6 the first fight done before the second one started?

7 A Yes; about five to ten minutes apart.

8 Q And then you hear another start up, and it was
9 around the corner where you can't see; what made you
10 think it was a fight?

11 A So much rumbling and sounded like the first
12 fight.

13 Q Shouts?

14 A Shouts and stuff like that.

15 Q Angry voices?

16 A Yes, sir.

17 Q And you could tell that security got involved?

18 A Security got involved with the first one, I saw
19 that one, but my view was obstructed on the second one.

20 Q Second one, you are not sure?

21 A Yes, sir.

22 Q Okay. How long did that fight go on before there
23 was the gunshot?

24 A It was maybe one, two minutes, and then I heard
25 the gunshot.

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ANTONIO PINO - REDIRECT EXAMINATION

1 Q So you didn't see any of the -- did you hear
2 bottles breaking?

3 A Can't say I recall.

4 Q Did you -- when you went around the corner, after
5 the gunshot to possibly render aid, you saw people
6 attempting to render aid to someone, could you see the
7 person on the ground?

8 A Yes, sir.

9 Q Had you seen that person any time earlier in the
10 evening?

11 A No, sir.

12 MR. FOX: Thank you.

13 REDIRECT-EXAMINATION

14 BY MR. DeBUSK:

15 Q Just one. We talked about a table by the
16 elevator and the fight. Where the person was on the
17 ground having aid rendered to him, how far from him was
18 that casing that you picked up?

19 A Maybe about 5 feet.

20 Q So close?

21 A Yes, sir.

22 Q Definitely wasn't around the corner?

23 A No, sir.

24 Q By the bar?

25 A Yes, sir.

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INDIGENT DEFENSE ONLY!!!!**

JOSEPH HOWE - DIRECT EXAMINATION

1 MR. DeBUSK: Thank you.

2 THE COURT: Recross.

3 MR. FOX: No, Your Honor.

4 MR. DeBUSK: We ask him to be excused.

5 THE COURT: You're excused.

6 Call your next witness.

7 MR. OSKIN: State calls Joseph Howe.

8 (JOSEPH HOWE, having been duly sworn,

9 testified as follows:)

10 THE CLERK: Be seated and state your full name
11 for the Court.

12 THE WITNESS: Joseph James Howe.

13 DIRECT-EXAMINATION

14 BY MR. OSKIN:

15 Q Who is your current employer?

16 A RipTydz.

17 Q How long have you worked there?

18 A Four years.

19 Q What is your position there?

20 A GM.

21 Q What was your position in October of 2018?

22 A One of the managers on duty.

23 Q Come closer to the mic. Were you working on the
24 night of October 7th?

25 A Yes, sir.

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INDIGENT DEFENSE ONLY!!!!**

JOSEPH HOWE - DIRECT EXAMINATION

1 Q Was there any special events going on that night?

2 A There was an MMA fight that we had been
3 advertising.

4 Q What floor of the restaurant were you in at the
5 time that those fights are being streamed?

6 A I was on the second floor.

7 Q Did something happen that made you go to the
8 third floor?

9 A I was -- I was the third floor, I'm sorry. I was
10 on the roof when it happened. I was delivering bottles
11 to a group that rented out the turf area, on the turf.

12 Q Did you see anything unusual happening in the
13 crowd of people?

14 A Not initially. After I dropped the bottles, I
15 was coming back, and that is when it broke out. I was
16 on the north end of the rooftop bar when it broke out,
17 so it caught my attention.

18 Q What caught your attention? Was it an
19 altercation, physical contact?

20 A Started as pushing, and then people started
21 swinging.

22 Q Okay. And I think you said -- where were you
23 specifically on the rooftop bar?

24 A I was on the north side of the rooftop bar coming
25 back to get another bottle or champagne.

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INDIGENT DEFENSE ONLY!!!!**

JOSEPH HOWE - DIRECT EXAMINATION

1 Q What did you do?

2 A I started to make my way over there towards the
3 altercation.

4 Q Why did you do that?

5 A As managers, we try to diffuse situations when
6 they arise.

7 Q Were you able to diffuse the situation at all?

8 A No, sir.

9 Q Did you see any specific fights occurring, or was
10 it more of just a broad --

11 A It was a big group of people. It started with a
12 couple of them. I saw the tail-end of it. I saw Roger
13 take a hit to the face, I don't know if he took one or
14 two, and then saw him just fall back.

15 Q When you say "Roger," you are referring to Roger
16 Ramos?

17 A Yes, sir.

18 Q Was he an employee at RipTydz?

19 A He was.

20 Q Was he working that night?

21 A No, sir.

22 Q Did you have a chance to supervise Roger?

23 A I have.

24 Q About how long did he work -- assigned to you?

25 A Close to a year, I think.

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JOSEPH HOWE - DIRECT EXAMINATION

1 Q If I'm saying that correctly.

2 A A long time ago so -- I am pretty sure close to a
3 year.

4 Q What was his position?

5 A He was a server.

6 Q And in his time as a server -- I'll ask you
7 questions about what kind of worker he was -- did he
8 show up to work on time?

9 A Yes, sir.

10 Q Was he a responsible worker?

11 A Yes, sir.

12 Q Have any issues with him and other co-workers?

13 A Not specifically.

14 Q Do you sometimes have issues with employees
15 working in the restaurant industry?

16 A Yes, sir. Roger would inform you if he was going
17 to be late. He was an employee we were considering to
18 make a lead server.

19 Q So I know you say you saw -- you say you saw
20 Roger get punched?

21 A Yes, sir.

22 Q What happened with the crowd after that?

23 A I was mainly looking at him. I just saw him,
24 like, (indicates), and after he got hit, he touched his
25 lip and face and started charging towards the group,

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INDIGENT DEFENSE ONLY!!!**

JOSEPH HOWE - DIRECT EXAMINATION

1 and I saw him fall back. There was a sound, and
2 everyone kind of ducked to the ground.

3 Q Are you able to describe that sound?

4 A Like a loud pop, like a bottle breaking on our
5 floor up there, but a lot louder.

6 Q Did you hear any bottle pop before that shot?

7 A No, sir.

8 Q Were there more than -- were there several people
9 in that area of the bar?

10 A Yes, sir.

11 Q Let me show you something.

12 MR. OSKIN: Court's indulgence, sir.

13 Q (MR. OSKIN) I'm approaching you with what is
14 marked and entered into evidence and published to this
15 jury as State's 22; do you recognize that?

16 A Yes, sir.

17 Q What is that?

18 A The scene when the incident ended.

19 Q Is that the area you are describing now to this
20 jury?

21 A Yes, sir.

22 Q After you hear the shot, did people in the bar
23 then leave?

24 A People started to scatter or went to the ground.

25 Q Did you have any communications with any patrons

JOSEPH HOWE - DIRECT EXAMINATION

1 in the bar after that or momentarily thereafter?

2 A Yes, sir.

3 Q Do you remember the type of gentleman you spoke
4 to?

5 A I can't remember if it was an EMT or firefighter
6 or police officer, but there was like four gentlemen
7 there that were trying to help. It was one of them. I
8 don't remember which one. I can't remember the
9 conversation.

10 Q I understand. You can't say what anyone else
11 said anyway, so that's all right. Did you notice any
12 case or casings?

13 A Yes, sir. I'm the one that found it initially
14 and turned it into the officer.

15 Q Did someone else put you on notice to the casing?

16 A Someone pointed it out. I made sure to not let
17 anyone touch it.

18 Q Did they point it out, pick it up?

19 A I don't believe so, no.

20 Q So you saw -- became in possession of that casing
21 from the top floor?

22 A Yes, sir.

23 Q What did you do with it?

24 A It was one of the officers, responding officers,
25 that was there.

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INDIGENT DEFENSE ONLY!!!!**

JOSEPH HOWE - CROSS-EXAMINATION

1 Q That was a uniformed police officer with Myrtle
2 Beach?

3 A Yes, sir.

4 Q And just so this jury understands, what is the
5 turf area on the third floor?

6 A An area outside where, at the time, we were
7 holding corn hole. It is astro turf.

8 Q Is that open air?

9 A Yes, sir.

10 Q Can you see the ocean and the beach from that
11 area?

12 A The Boulevard and the beach.

13 MR. OSKIN: Please answer any questions Mr. Fox
14 has for you.

15 CROSS-EXAMINATION

16 BY MR. FOX:

17 Q Mr. Howe, you are out on the observation deck and
18 you saw a fight break out?

19 A Yes, sir.

20 Q And I think you told the police there were eight
21 or more people, in your estimation, fighting?

22 A There was a group that was pushing and shoving.

23 Q Did it appear to be one big mosh pit, or
24 different individual fights?

25 A Seems to be a couple of them, but obviously

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INDIGENT DEFENSE ONLY!!!!**

JOSEPH HOWE - CROSS-EXAMINATION

1 people get involved in trying to separate or push
2 people apart. There was people in line trying to get
3 drinks. You know, people just standing there waiting
4 to order that I don't think had anything to do with it,
5 no.

6 Q Right. Kind of chaotic?

7 A Yes, sir.

8 Q How many people -- we're talking about the area
9 at the end of the bar, on the inside by the wall with
10 the surfboards?

11 A It was about 15 feet from there, north.

12 Q I got you. But that is where the fight was, in
13 that area?

14 A Initially.

15 Q Where the DJ had his stand, kind of on that side?

16 A No. DJ stand -- yes. Yeah.

17 Q Let me ask you --

18 A That is pretty much where it started, right in
19 front of there.

20 Q Let me show you State's 23. Tell me if you
21 recognize it.

22 A Yes, sir, I do.

23 Q What is that?

24 A That is the Boulevard side of the rooftop bar.

25 Q And at the back it shows that wall with the

JOSEPH HOWE - CROSS-EXAMINATION

1 surfboards?

2 A Yes, sir.

3 Q Is that the area where the fight was going on?

4 A Yes, sir.

5 Q Okay. Did you see in that group of people, were
6 there any people from employees of RipTydz involved in
7 that scuffle?

8 A Yes, sir.

9 Q Did you see Mr. Ramos in there?

10 A Yes, sir.

11 Q He wasn't working that night?

12 A No, sir.

13 Q Okay. And did you see Mr. Ramos with his arms
14 around someone's neck trying to get involved in the
15 fight?

16 A Not that I remember, no, sir.

17 Q You say you saw Mr. Ramos get punched?

18 A Yes, sir.

19 Q Did you see him punch anyone?

20 A I believe he took a swing, yes, sir.

21 Q Did you see him throw a bottle at someone?

22 A No, sir, I did not.

23 Q Before you were manager, general manger at
24 RipTydz, did you work in the food service industry?

25 A No, sir.

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JOSEPH HOWE - REDIRECT EXAMINATION

1 Q How long have you been doing that?

2 A Sorry?

3 Q How long have you been doing that again?

4 A Five years.

5 Q If a patron had thrown a bottle from 2, 3 feet
6 away, would you consider that to be an aggressive act?

7 A I believe anyone would.

8 Q You saw Mr. Ramos on the ground. You heard a
9 pop, and saw Mr. Ramos on the ground after?

10 A Yes, sir.

11 MR. FOX: Thank you.

12 THE COURT: Redirect?

13 REDIRECT-EXAMINATION

14 BY MR. OSKIN:

15 Q Mr. Howe, regardless of your profession, if
16 someone punched you first, would you retaliate?

17 A Yes, sir.

18 MR. OSKIN: Nothing further from the State.

19 THE COURT: Recross?

20 MR. FOX: No, Your Honor.

21 MR. OSKIN: The State asks that Mr. Howe be
22 released from his subpoena.

23 MR. FOX: No objection.

24 MR. DeBUSK: State calls Justin Falco.

25 (JUSTIN FALCO, having been duly sworn,

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INDIGENT DEFENSE ONLY!!!!**

JUSTIN FALCO - DIRECT EXAMINATION

1 testified as follows:)

2 THE CLERK: State your full name and spell it,
3 please. You can remove your mask.

4 THE WITNESS: Yes, ma'am. Officer Justin Falco,
5 J-U-S-T-I-N, F-A-L-C-O.

6 DIRECT-EXAMINATION

7 BY MR. DeBUSK:

8 Q How long have you been with Myrtle Beach Police
9 Department?

10 A About four-and-a-half years.

11 Q So you were employed by them in October of 2018?

12 A Yes, sir.

13 Q What were your duties at that time?

14 A I was assigned to the waterfront.

15 Q So a patrol officer?

16 A Yes.

17 Q And covering the waterfront?

18 A Yes.

19 Q Did you respond on the early morning hours of
20 October 7, 2018 to RipTydz?

21 A Yes, sir.

22 Q What was the nature of the call?

23 A An assisting officer at the time -- or I believe
24 the primary officer on the case had called out with a
25 shots-fired call. I was at the police station at the

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JUSTIN FALCO - DIRECT EXAMINATION

1 time, so I responded lights and siren to that area.

2 Q What was the scene like when you arrived?

3 A People were exiting the facility. Myself and
4 another officer ran up the stairs. We made contact
5 with the primary officer already on scene.

6 Q Was that Officer Fox?

7 A Yes, sir. It was pretty chaotic. People were
8 yelling and screaming. There was people doing CPR on
9 the victim at that time.

10 Q So the victim was still on the scene?

11 A Yes.

12 Q There were other officers present when you
13 arrived?

14 A I believe it was just myself, the officer I ran
15 upstairs with, and Officer Fox.

16 Q Did you collect any evidence at the scene?

17 A Evidence was handed off to me.

18 Q From whom did you get it from?

19 A I believe the RipTydz manager.

20 Q What was it?

21 A A shell casing.

22 Q Was it packaged in any way?

23 A It was accompanied with a rubber glove.

24 Q When you received that, what did you do?

25 A Secured it on my person. My primary concern was

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JUSTIN FALCO - DIRECT EXAMINATION

1 that there wasn't a shooter still active in the
2 facility.

3 Q But it was protected in the glove?

4 A Yes, sir.

5 Q By securing it, you put it in your pocket?

6 A Yes, sir.

7 Q What did you do with it?

8 A I held onto it for duration of the time I was on
9 scene. Once the scene was secured, the building was
10 clear, crime scene showed up, I handed it to our crime
11 scene officer.

12 Q Do you remember who that was?

13 A Officer Bailey.

14 Q Now, while you had it, you took it from the
15 manger to Officer Bailey, did you alter it or change it
16 in any way?

17 A I did not.

18 MR. DeBUSK: Thank you. Answer any questions
19 defense may have.

20 MR. FOX: No questions.

21 MR. DeBUSK: We ask he be released.

22 THE COURT: You are free to go.

23 Call your next witness.

24 MR. DeBUSK: State call David Bailey.

25 (DAVID BAILEY, having been duly sworn,

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DAVID BAILEY - DIRECT EXAMINATION

1 testified as follows:)

2 THE CLERK: Please be seated and state your full
3 name for the Court, please.

4 THE WITNESS: David Brown Bailey.

5 DIRECT-EXAMINATION

6 BY MR. DeBUSK:

7 Q Officer Bailey, who is your employer?

8 A City of Myrtle Beach.

9 Q Which section?

10 A Myrtle Beach Police Department.

11 Q What is your current assignment?

12 A Crime scene investigator.

13 Q How long have you been doing that?

14 A Four years.

15 Q How long have you been in law enforcement?

16 A 28 years.

17 Q Now, in October of 2018, what were your duties?

18 A I was working back-up for Officer Bellamy.

19 Q So did you respond to RipTydz on October 7, 2018?

20 A I did, sir.

21 Q "Working back-up," what do you mean?

22 A If she gets a call, overwhelming, a large call,
23 they call me to help out.

24 Q So you are there doing anything she couldn't
25 handle at the moment?

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DAVID BAILEY - DIRECT EXAMINATION

1 A Yes, sir.

2 Q When did you arrive at RipTydz?

3 A It was early morning. I don't remember the exact
4 time, but early morning hours.

5 Q Was the victim still on the scene when you
6 arrived?

7 A Not that I saw.

8 Q So the victim was transported already?

9 A Yes. To my knowledge, the victim was already off
10 the scene.

11 Q And at that scene at RipTydz your role was being
12 secondary officer?

13 A Yes, sir.

14 Q What did you see when you arrived?

15 A A lot of commotion, a lot of people. It was --
16 it looked like security guards for the business or
17 whatever, saw a lot of people walking around. I was
18 able to find Officer Bellamy, and we communicated on
19 what she needed and didn't need, things like that.

20 Q What did you do?

21 A Basically, assisted her with photograph and
22 scanning, the 3D scanner, and that is pretty much all I
23 assisted with.

24 Q Did you collect any evidence?

25 A I did. I was handed evidence.

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DAVID BAILEY - DIRECT EXAMINATION

1 Q Whom did you get it from?

2 A I can't remember the exact officer's name. I
3 haven't seen him --

4 Q Justin Falco?

5 A Yes. Yes. Sorry, yes.

6 Q That's all right. When you received this casing
7 from Justin Falco, what did you do with it?

8 A Secured it in my vehicle. Once I got released
9 from the scene -- I left the scene before a lot of the
10 officers did and took it back to our crime scene office
11 and secured it in our evidence vaults.

12 Q Who did you turn it over to?

13 A To Property and Evidence.

14 Q Did you turn it over to Crime Scene Specialist
15 Bellamy at any point?

16 A No, it stayed in my hands and took it straight
17 and secured it myself.

18 Q Let me show what was marked for identification as
19 State's 37 and ask if you recognize that?

20 A Yes, sir, I do.

21 Q What is it?

22 A It is a 9-millimeter Ruger shell casing.

23 Q Is that the casing you collected?

24 A Yes.

25 Q Is that standard Myrtle Beach Police Department

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CODY KOLB - DIRECT EXAMINATION

1 packaging?

2 A Yes.

3 Q While that casing was in your control, did you
4 alter it or change it in any way?

5 A No, sir, I did not.

6 Q Did you keep it safe?

7 A Yes, I did.

8 MR. DeBUSK: Thank you.

9 MR. FOX: No questions, Your Honor.

10 MR. DeBUSK: We ask that Officer Bailey be
11 excused.

12 THE COURT: You are free to go.

13 Next witness.

14 MR. DeBUSK: State calls Cody Kolb.

15 (CODY KOLB, having been duly sworn, testified
16 as follows:)

17 THE CLERK: State your full name for the record.

18 THE WITNESS: Cody Kolb.

19 DIRECT-EXAMINATION

20 BY MR. DeBUSK:

21 Q Officer Kolb, who is your employer?

22 A City of Myrtle Beach Police Department.

23 Q What are your duties?

24 A Assigned to B-9 waterfront.

25 Q So you patrol the waterfront?

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CODY KOLB - DIRECT EXAMINATION

1 A Yes, sir.

2 Q How about in October of 2018?

3 A The same.

4 Q Did you respond to RipTydz Bar and Grille in the
5 early morning hours of October 7?

6 A I did.

7 Q What was the nature of the call?

8 A I was in a different area of the patrol unit.
9 Patrolman Fox called out a disturbance, ultimately
10 called out shots fired. Dispatch advised there was
11 shots fired and reported someone down. Myself and my
12 partner responded to the scene. We met with the
13 supervisor, who was out in front at the time, asked
14 what we could do to help, if there was anything on
15 scene we could do, and he directed us up to Grand
16 Strand Regional to follow up with the victim, who had
17 just been transported.

18 Q What is Grand Strand Regional?

19 A The area hospital, the trauma center.

20 Q Big one up there by 80th North?

21 A Yes, sir.

22 Q What did you do when you arrived at Grand Strand?

23 A So when we first got there, initially, just
24 got -- figured out which room the victim was in. We
25 walked in and met with whatever medical staff still in

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CODY KOLB - DIRECT EXAMINATION

1 the room, and they advised us that the victim was
2 deceased, and then ultimately we called dispatch to
3 notify them of the victim's status.

4 Q Were you there at the time that they stopped
5 resuscitation?

6 A It might have happened just literally as I walked
7 in the door, because they were putting down their
8 instruments and stepping away from him.

9 Q Did you stay in the room with the victim's body
10 at that point?

11 A I did, yes. Stayed in the room for the entire
12 time until I was released.

13 Q Did you collect any evidence?

14 A I did. Someone from the hospital was going over
15 the victim's body, filling out some paperwork on their
16 end, and then a projectile, which is like a bullet,
17 fell out of like the upper back of the victim. They
18 picked it up with thongs and placed it in a plastic
19 bag, and I held onto it until the crime scene tech
20 arrived.

21 Q So you witnessed this bullet being located?

22 A Yes.

23 Q And you collected it?

24 A Yes.

25 Q Did you keep it in your custody and control?

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CODY KOLB - DIRECT EXAMINATION

1 A Yes.

2 Q Who did you relinquish it to?

3 A Ms. Patty Bellamy from crime scene.

4 Q Patty Bellamy?

5 A Yes, sir.

6 Q While it was in your custody and control, did you
7 alter or change it in any way?

8 A I did not.

9 Q Let me show you State's 36 and ask if you
10 recognize this?

11 A Yeah, I believe this to be the same from that
12 night.

13 Q And you turned that -- you retrieved that from
14 the body and turned it over to Patty Bellamy?

15 A Correct.

16 Q While you had it in your custody and control, did
17 you alter or change it in any way?

18 A I did not.

19 MR. DeBUSK: Thank you. Answer any questions
20 defense may have.

21 MR. FOX: No questions.

22 THE COURT: Call your next witness.

23 MR. OSKIN: State would call Red Ammons, also
24 known as Matthew Ammons.

25 (MATTHEW "RED" AMMONS, having been duly sworn,

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MATTHEW "RED" AMMONS - DIRECT EXAMINATION

1 testified as follows:)

2 THE CLERK: Thank you. Be seated and state your
3 name.

4 THE WITNESS: My name is Matthew Red Ammons.

5 DIRECT-EXAMINATION

6 BY MR. OSKIN:

7 Q Who is your current employer?

8 A Family business.

9 Q Who was your employer back in October of 2018?

10 A City of Myrtle Beach Police Department.

11 Q And how long had you worked for the Myrtle Beach
12 Police Department?

13 A At that time, seven years, eight years.

14 Q What were your duties in October?

15 A Patrol.

16 Q What area did you patrol?

17 A City-wide.

18 Q Did you respond to the RipTydz Bar and Grille on
19 the night of October 7, 2018?

20 A Yes, sir, I did.

21 Q Can you tell us what the nature of the call was
22 that made you respond?

23 A Yeah. It came out as a shots-fired call. I
24 heard multiple units heading that way and calling for
25 additional units due to the amount of people on scene,

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MATTHEW "RED" AMMONS - DIRECT EXAMINATION

1 that is whenever I headed that way.

2 Q What did you do when you arrived?

3 A Um....

4 Q Let me specify, I apologize. What did you do
5 when you arrived to RipTydz Bar?

6 A When I arrived there, multiple people were
7 running out of the business. I tried to speak with
8 different people to gather any information that I
9 could. I kept hearing radio traffic in reference to
10 the third floor. At that time, I made my way up to the
11 third floor to assist. As I got up there, the victim
12 was laying on the south side of the room. There was
13 multiple people that claimed they were off-duty
14 paramedics and a nurse that were working on him, so at
15 that time I kept trying to get information as far as
16 the suspect.

17 Q You stated that the victim was still present?

18 A Yes.

19 Q In addition to those people there, how would you
20 describe the scene, from your experience?

21 A Chaotic.

22 Q Other than gathering initial information, what
23 else did you do while inside RipTydz?

24 A Really, just asking -- trying to get everyone to
25 stay back from the victim, giving the people there room

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MATTHEW "RED" AMMONS - DIRECT EXAMINATION

1 to work on him, and then just trying to gather more and
2 more information as far as the description of the
3 suspect to provide to the other officers arriving on
4 scene.

5 Q Were you able to develop a description of a
6 suspect?

7 A Yes.

8 Q What was that?

9 A Black male with a burgundy or reddish colored
10 shirt with a logo on the front of it.

11 Q Did you go to any different location after you
12 were able to develop that description at RipTydz Bar?

13 A Yes, sir. Once the fire department arrived on
14 the scene and took over handling the victim, I left and
15 went to the lower part of RipTydz. It has a back deck
16 area, I went to check there and went to check multiple
17 businesses north of there, going in and out with
18 multiple officers to locate anyone matching that
19 description.

20 Q Okay. Did you go to any different locations
21 other than the RipTydz Bar in search of that?

22 A Yeah. I would say about three, four hotels north
23 of there, went to their different security -- or front
24 desks seeing if they saw anyone matching that
25 description coming in.

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MATTHEW "RED" AMMONS - DIRECT EXAMINATION

1 MR. OSKIN: May I approach?

2 THE COURT: Yes.

3 Q (MR. OSKIN) I'll show you State's Exhibit No.
4 33; do you recognize that?

5 A Yes, I do.

6 Q What is that?

7 A An aerial photograph of North Ocean Boulevard.

8 Q Is that the area you were talking about that you
9 responded to?

10 A Yeah, it does.

11 Q Were you able to actually locate the shooter?

12 A Yeah, I was.

13 Q Where was he located?

14 A Right here at the Aqua Beach Inn, on the south
15 side of the building of the parking lot.

16 Q Would you point that out?

17 A Right here.

18 Q Were you advised of that possible location as
19 part of your investigation?

20 A Yes, I was.

21 Q Since this case involved a shooter, as a law
22 enforcement officer, did you have to prepare additional
23 special way to confront a suspect like that?

24 A Yeah. With the City of Myrtle Beach there is
25 policy in place where we have an active shooter vest,

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MATTHEW "RED" AMMONS - DIRECT EXAMINATION

1 which is a thicker vest, that we can put on. It is
2 carried in our patrol car. It stops your higher
3 caliber rounds and rifle rounds. So if time permits,
4 we put those on, which we did in that case.

5 Q Do you wear that in addition to your basic duty
6 vest?

7 A Yes. It goes over the top of the entire uniform.

8 Q I know you pointed it out, but did there come a
9 time where you approached Aqua Beach Inn?

10 A Yes. After getting a description or the
11 information of the suspect going to Aqua Beach from
12 Corporal Warren at that time, that is whenever a group
13 of us met up and approached the Aqua Beach.

14 Q And did you locate -- I think I asked this, but
15 did you locate the suspect at the Aqua Beach?

16 A I did.

17 Q Where at?

18 A South side of the parking lot.

19 Q What was the individual wearing when you located
20 him?

21 A A brighter green color shirt at that time.

22 (Whereupon, a bench conference was had.)

23 THE COURT: Members of the jury, we have to take
24 something up out of your presence, so if you would,
25 take a 15-minute break and we'll be back with you.

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PROFFER TESTIMONY OF MATTHEW "RED" AMMONS - MR. OSKIN

1 (The jury exits at 3:17 p.m., and the
2 following is heard out of the presence of the jury.)

3 THE COURT: All right.

4 PROFFER TESTIMONY

5 Q (MR. OSKIN) Mr. Ammons, during the course of the
6 location of the suspect, you did locate him?

7 A Yes, sir.

8 Q Did you place him under arrest at that time?

9 A Yes, sir.

10 Q Did he make any sort of statements?

11 A Post-Miranda, I asked him if he -- he was very
12 upset, was very emotional, crying.

13 Q Before -- tell me about that process.

14 A As we located him on the south side of the
15 building, it was myself and multiple officers, and due
16 to the severity of the crime, guns were pointed at him.
17 He was given verbal commands to stay where he was.
18 Once confirmation was given that I was covered by
19 fellow officers, I holstered my weapon, approached him,
20 and put him in cuffs.

21 Q At that time, you read him his Miranda rights?

22 A Yes, sir; once in cuffs.

23 Q Did you tell him that he had the right to remain
24 silent?

25 A Yes, sir.

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PROFFER TESTIMONY OF MATTHEW "RED" AMMONS - MR. OSKIN

1 Q Did you tell him anything he said would be used
2 against him in a court of law?

3 A Yes, sir.

4 Q Did you inform him that he had a right to an
5 attorney?

6 A Yes, sir.

7 Q Did you inform him that if he couldn't afford an
8 attorney, one would be provided for him?

9 A Yes, sir.

10 Q Did the suspect at that time appear to understand
11 the English language?

12 A Yes, sir.

13 Q Was he replying appropriately to your questions?

14 A Yes, sir.

15 Q Did you ask the defendant if he had been
16 drinking?

17 A No, sir, I did not.

18 Q Did he respond appropriately to the questions you
19 were asking?

20 A Yes, sir.

21 Q Did you threaten him in any way when asking those
22 questions?

23 A No, sir.

24 Q Did you promise anything when you asked him those
25 questions?

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PROFFER TESTIMONY OF MATTHEW "RED" AMMONS - MR. OSKIN

1 A No, sir.

2 Q What were you trying to do in that moment?

3 A Trying to gather more information in reference to
4 the case.

5 MR. OSKIN: If I may approach, Your Honor?

6 THE COURT: Please.

7 Q (MR. OSKIN) Mr. Ammons, I'm approaching you with
8 what is marked as State's 9; do you recognize that?

9 A Yes, sir.

10 Q What is that?

11 A Copy of the body-worn camera of mine.

12 Q As patrol officers, you always wear cameras?

13 A Yes, sir.

14 Q You turn it on when you start to engage anyone in
15 the public?

16 A Yes, sir. Yes, sir.

17 Q And that reflects the statement you just told the
18 Court?

19 A Yes, sir.

20 Q And your interactions with this defendant?

21 A Yes.

22 Q Have you seen this video?

23 A I have.

24 Q How do you know that?

25 A Because I put my initials on it.

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PROFFER TESTIMONY OF MATTHEW "RED" AMMONS - MR. OSKIN

1 Q So there is no material edits, deletions,
2 alterations to this?

3 A No, sir.

4 Q This is an accurate reflection of your encounter
5 with the defendant that night?

6 A Yes, sir.

7 MR. OSKIN: At this time, we seek to admit into
8 evidence for purposes of this hearing State's 9.

9 MR. FOX: Without objection.

10 (State's Exhibit 9 admitted for the proffer
11 testimony of Matthew Ammons.)

12 (State's Exhibit 9 published to the Court.)

13 Q (MR. OSKIN) Did you have any communication at
14 all with the defendant before he was placed into
15 handcuffs?

16 A No.

17 Q And that video accurately reflects --

18 A Yes.

19 MR. OSKIN: We seek to move State's 9.

20 THE COURT: Any objections?

21 MR. FOX: Only that I think it should stop at the
22 point where Mr. Brown has been -- stops talking, in
23 effect. We have officers speaking and giving their
24 own -- nothing necessarily wrong, but has nothing to
25 do with his statements. It speaks for itself, what he

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PROFFER TESTIMONY OF MATTHEW "RED" AMMONS - MR. OSKIN
1 says. I think the last three or four minutes aren't
2 relevant to this issue.

3 MR. DeBUSK: We don't object to that. The
4 problem is that we can't edit these videos because
5 they are on a certain type of player. We can stop
6 publishing at that point. If the jury wants to see
7 it, instead of sending it back with the jury, we can
8 tell them to come out here to see it and we can stop
9 it.

10 MR. FOX: I think once he steps into the
11 vehicle -- that should be fine.

12 THE COURT: All right. I'll find that he was
13 properly Mirandized and the statement was given freely
14 and voluntarily.

15 (State's Exhibit 9 admitted.)

16 MR. OSKIN: For the purposes of the
17 admissibility, I think we're ready to proceed.

18 THE COURT: Ready for the jury?

19 MR. OSKIN: I am, yes, sir.

20 MR. DeBUSK: Your Honor, may we approach for
21 scheduling, briefly?

22 THE COURT: Yes.

23 (Whereupon, a bench conference was had.)

24 (Whereupon, the jury enters at 3:35 p.m., and
25 the following is had in the presence of the jury.)

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MATTHEW "RED" AMMONS - DIRECT EXAMINATION (CONT.)

1 MR. OSKIN: Back on the record, Your Honor?

2 THE COURT: Yes.

3 DIRECT EXAMINATION (CONT.)

4 Q (MR. OSKIN) All right. Mr. Ammons, to catch
5 back with this jury, I believe we paused your
6 testimony and you located the defendant in a parking
7 lot of Aqua Beach?

8 A Yes, sir.

9 Q And you did, in fact, arrest the defendant?

10 A Yes, sir.

11 Q How many officers were involved in the arrest at
12 that time?

13 A As far as right there around the scene, I would
14 say probably five officers.

15 Q Who placed the cuffs on him?

16 A I did.

17 Q Did anybody read Miranda rights to him?

18 A I did.

19 Q Did you inform him he had the right to remain
20 silent?

21 A Yes, sir.

22 Q Did you inform him that if he said anything that
23 it could and would be used against him in the court of
24 law?

25 A Yes, sir.

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MATTHEW "RED" AMMONS - DIRECT EXAMINATION (CONT.)

1 Q Did you tell him he had a right to an attorney?

2 A Yes, sir.

3 Q And he could have one appointed before answer
4 questions?

5 A Yes, sir.

6 Q Did he appear to understand those rights?

7 A He did.

8 Q Did he indicate that he understood them?

9 A Yes, he did.

10 Q He appeared to understand the English language?

11 A Yes, sir.

12 Q And he answered the questions as you asked?

13 A Yes, sir.

14 Q Were you wearing a body camera?

15 A I was.

16 Q Do you always wear a body cam when on patrol?

17 A Yes, sir.

18 Q That is to record any time you have interactions
19 with the public?

20 A Uh-huh.

21 Q Were you wearing a body cam when you had that
22 conversation with the defendant?

23 A When I read him his Miranda rights, yes, sir.

24 MR. OSKIN: Can I approach?

25 THE COURT: Yes.

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INDIGENT DEFENSE ONLY!!!!**

MATTHEW "RED" AMMONS - DIRECT EXAMINATION (CONT.)

1 Q (MR. OSKIN) I'll approach you with what is
2 marked as State's Exhibit No. 9; do you recognize
3 that?

4 A Yes, sir.

5 Q What is that?

6 A It's the DVD of the body-worn camera.

7 Q Have you seen that disk right there?

8 A I have.

9 Q How do you know that?

10 A My initials I put on it.

11 Q So you actually reviewed that?

12 A Yes.

13 Q Has there any been any material edits,
14 alterations, or deletions?

15 A No, sir.

16 Q Has it been changed in any way?

17 A No, sir.

18 Q It presents exactly what was on your body cam the
19 night you had this conversation with this defendant?

20 A Correct.

21 MR. OSKIN: Your Honor, State seeks to move into
22 evidence and publish to the jury State's 9.

23 THE COURT: Any objections?

24 MR. FOX: No, Your Honor.

25 THE COURT: Nine is in evidence without

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MATTHEW "RED" AMMONS - DIRECT EXAMINATION (CONT.)

1 objection.

2 (State's Exhibit 9 admitted and published to
3 the jury.)

4 Q (MR. OSKIN) So this defendant had property with
5 him when he was placed under arrest?

6 A Yes, sir.

7 Q What property was that?

8 A He had a book bag.

9 Q Did you search that bag?

10 A I did.

11 Q Why?

12 A To make sure there was no other weapons.

13 Q Was there any clothing found in it?

14 A There was. There was multiple items. The one
15 that we were looking for is the burgundy color shirt.

16 Q And were any weapons found on or around the
17 defendant at that time?

18 A To the right-hand side there is a small headroom
19 there, a pistol was located in the bottom of that, base
20 of that.

21 Q About how far from where you placed the defendant
22 under arrest, about how far was that book bag and
23 weapon?

24 A The book bag was beside him, probably 2 or 3 feet
25 away from him, and then the firearm was maybe 6 to

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INDIGENT DEFENSE ONLY!!!!**

MATTHEW "RED" AMMONS - CROSS-EXAMINATION

1 8 feet.

2 Q What was done with the backpack and his contents
3 after he was placed under arrest?

4 A Secured and handed to crime scene.

5 Q And the gun?

6 A The firearm, an officer stood by with it until
7 cream scene arrived to take photos, and then it was
8 taken by crime scene as well.

9 Q And then what happened after the suspect was
10 arrested?

11 A He was transported to the City of Myrtle Beach
12 Police Department.

13 MR. OSKIN: Answer any questions from Mr. Fox.

14 CROSS-EXAMINATION

15 BY MR. FOX:

16 Q Mr. Ammons, yourself and five or six other
17 officers responded once Mr. Brown was located at Aqua
18 Beach?

19 A Yes, sir.

20 Q And you obviously were with law enforcement when
21 you approached him, all geared up, weapons, the whole
22 thing?

23 A Yes, sir. Yes, sir.

24 Q And you shouted or gave him several commands?

25 A Yes, sir.

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INDIGENT DEFENSE ONLY!!!!**

MATTHEW "RED" AMMONS - CROSS-EXAMINATION

1 Q He immediately complied?

2 A One hundred percent.

3 Q Fully cooperative?

4 A Yes, sir.

5 Q And, immediately, you said, Hands up; his hands
6 are up. Hands on the car; hands on the car. Hands
7 behind the back; his hands went behind the back?

8 A Yes, sir.

9 Q Now, when you Mirandized him -- and when we say
10 "Mirandized," you read him his Miranda warnings?

11 A Yes, sir.

12 Q That is the right to remain silent and those
13 rights?

14 A Yes, sir.

15 Q Now, did you read from that, or was it from
16 memory?

17 A From memory.

18 Q And the video appears that it was a rapid-fire
19 recitation; wouldn't you agree?

20 A Yes, sir.

21 Q And rather than stop after each right, you kind
22 of ran them off and asked him if he understood?

23 A Yes, sir.

24 Q And he did respond that he did?

25 A Yes, sir.

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INDIGENT DEFENSE ONLY!!!!**

MATTHEW "RED" AMMONS - REDIRECT EXAMINATION

1 Q But he, clearly, was very upset?

2 A Uh-huh.

3 Q Yes or no?

4 A Yes, sir.

5 Q These are your words, "very emotional"?

6 A Yes, sir.

7 Q Crying?

8 A Yes, sir.

9 Q He was distraught?

10 A He was upset.

11 Q Did you tell him he could stop answering
12 questions any time if he chose to?

13 A No, sir.

14 MR. FOX: Thank you. That is all I have.

15 THE COURT: Redirect?

16 REDIRECT-EXAMINATION

17 BY MR. OSKIN:

18 Q The defendant stated he clearly understood he was
19 under arrest?

20 A Yes, sir.

21 Q He stated, I did it?

22 A Yes, sir.

23 Q He said, Don't mess up my proof for what I did?

24 A Correct.

25 MR. OSKIN: Nothing further from the State.

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INDIGENT DEFENSE ONLY!!!!**

TYLER HILL - DIRECT EXAMINATION

1 MR. FOX: Nothing further.

2 THE COURT: Have a good day.

3 Next witness.

4 MR. DeBUSK: Tyler Hill.

5 (TYLER HILL, having been duly sworn, testified
6 as follows:)

7 THE CLERK: State your full name for the Court.

8 THE WITNESS: Tyler Hill.

9 DIRECT-EXAMINATION

10 BY MR. DeBUSK:

11 Q Who is your employer?

12 A City of Myrtle Beach Police Department.

13 Q How long have you been with Myrtle Beach Police
14 Department?

15 A About six years now.

16 Q What are your duties?

17 A I work for the traffic division.

18 Q How about back in October of 2018, what was your
19 duties then?

20 A Same thing, traffic division for the police
21 department.

22 Q Did you respond to RipTydz Bar and Grille on
23 October 7, 2008 (sic)?

24 A I did.

25 Q Why would a traffic officer go to a shooting

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INDIGENT DEFENSE ONLY!!!!**

TYLER HILL - DIRECT EXAMINATION

1 call?

2 A It was a high priority call. A lot of officers
3 on scene. They didn't find the suspect yet. I came to
4 help locate and help where I could.

5 Q So all-hands-on-deck when you have something like
6 that?

7 A Pretty much, yes, sir.

8 Q What was the nature of the call you received?

9 A From what I knew at the time, it was some kind of
10 shooting at the RipTydz establishment.

11 Q What did you do when you arrived at the area of
12 RipTydz?

13 A When I first got there, I drove around the
14 parking lots trying to get a suspect or vehicle
15 description, just drove around.

16 Q Did you have a suspect description at that time?

17 A I believe we had a description, yes, sir.

18 Q It came out on the radio?

19 A Yes, sir, over the radios.

20 Q All right. Now, did there come a time that you
21 got a suspect description and a location?

22 A At one time, I believe the officers called out
23 that they located a possible suspect in bushes around
24 the bar, I believe that was across the street, hotel
25 across the street.

**CERTIFIED ORIGINAL FOR SOUTH CAROLINA COMMISSION OF
INDIGENT DEFENSE ONLY!!!**

TYLER HILL - DIRECT EXAMINATION

1 Q Now, did you respond to that hotel?

2 A The parking lot area, yes, sir, outside of it.

3 Q Okay. Do you remember the name of that hotel;
4 was it Aqua Beach?

5 A Yes, sir. Yes, sir.

6 Q This is State's Exhibit 33. This is RipTydz. Is
7 this the hotel you went to, Aqua Beach?

8 A Yes, sir.

9 Q When you arrived, what did you see?

10 A A lot of other officers on scene. They directed
11 me over me to a certain area of the parking lot where I
12 happened to be driving through the area. I exited my
13 patrol car and went towards the other officers near the
14 bushes on the side of the hotel.

15 Q What did you find in those bushes?

16 A The suspect was located there. He was detained
17 there next to the bushes. After the suspect was
18 detained, the firearm was located in the bushes there
19 near where the suspect was detained.

20 Q I'll show you State's 25 and 26 and ask if you
21 recognize these photos?

22 A Yes, sir. That's the parking lot area and next
23 to the bushes where he was located. I came around the
24 backside, came in between the building and the hotel,
25 into that area.

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INDIGENT DEFENSE ONLY!!!!**

TYLER HILL - CROSS-EXAMINATION

1 Q Was this in proximity to where the suspect was
2 arrested?

3 A Right in the same spot, yes, sir.

4 Q Now, what did you do with that gun? Did you do
5 anything with that gun?

6 A With the gun, you said?

7 Q Yeah.

8 A No, sir. I saw it, kept my flashlight on it,
9 radioed where it was, and waited until crime scene
10 picked it up.

11 Q So you secured it?

12 A Secured it, yes, sir. Kind of stayed there to
13 make sure nobody messed with it.

14 Q From the time you first found that gun to when it
15 was collected by crime scene, did anyone alter or
16 change it in any way?

17 A No, sir. I was pretty much the only one there.
18 No one came by and touched it or altered it in any way.

19 Q You, basically, guarded the gun at the crime
20 scene?

21 A Yes, sir.

22 MR. DeBUSK: Thank you. Answer any questions
23 defense may have.

24 CROSS-EXAMINATION

25

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INDIGENT DEFENSE ONLY!!!!**

TYLER HILL - REDIRECT EXAMINATION

1 BY MR. FOX:

2 Q Briefly. So when you arrived at Aqua Beach, was
3 Mr. Brown already detained by the other officers?

4 A I believe he was in the process of being detained
5 as I came around the back side of the bushes, yes, sir.

6 Q So you did a quick sweep of the flashlight and
7 quickly found the firearm?

8 A Yes, sir.

9 Q Wasn't difficult, and you didn't have to hunt and
10 poke under bushes?

11 A No, sir. It was laying right there where he was
12 found.

13 Q Okay. Thank you.

14 REDIRECT-EXAMINATION

15 BY MR. DeBUSK:

16 Q Does State's 25 and 26 show the location where
17 you found it; is that where you found it?

18 A Yes, sir. In the bushes next to the parking lot,
19 curb area.

20 Q Are it was not out in the open; it was in the
21 bushes?

22 A I believe it was under the bushes, yes, sir.

23 MR. DeBUSK: Thank you.

24 MR. FOX: Nothing further.

25 MR. DeBUSK: We ask him to be excused from his

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INDIGENT DEFENSE ONLY!!!!**

MALINDA SHADOAN - DIRECT EXAMINATION

1 subpoena.

2 THE COURT: You are excused.

3 Call your next witness.

4 MR. DeBUSK: Malinda Shadoan.

5 (MALINDA SHADOAN, having been duly sworn,
6 testified as follows:)

7 THE CLERK: State your name for the Court.

8 THE WITNESS: Malinda Shadoan.

9 DIRECT-EXAMINATION

10 BY MR. DeBUSK:

11 Q Who is your employer?

12 A City of Myrtle Beach Police Department.

13 Q How long have you been with Myrtle Beach?

14 A Fourteen years in July.

15 Q What are your duties at this time?

16 A Property and evidence technician. So what I do
17 on a daily basis is collect all of the evidence and
18 found property from the City from either investigators,
19 crime scene officers, on the road officers. We will
20 process it into my room and store it in a secured
21 location where me and only a few other people have
22 access to.

23 Q And in October of 2018, were your duties the
24 same?

25 A Yes.

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INDIGENT DEFENSE ONLY!!!!**

MALINDA SHADOAN - DIRECT EXAMINATION

1 Q I'll show you three pieces of evidence and ask if
2 during the course of -- is that packaging -- during the
3 course of your work, if you had these items?

4 A Yes; and that is my handwriting as well.

5 Q That's how you recognize it?

6 A Yes.

7 Q What are the items?

8 A Do you want me to say specifically?

9 Q Yes.

10 A Do you mind me referring to my notes?

11 Q No, please. That is what notes are for. How
12 many pieces of evidence do you handle in a year?

13 A Thousands. Thousands.

14 Q That is why you take notes?

15 A Yes. Absolutely. So I look here and they should
16 have a number, which is a bar code, and that correlates
17 to my records, and it is an electronic record. Group
18 15 would be the gun, and that is a Taurus semi-auto
19 handgun with a laser.

20 Q Are there magazines with the gun?

21 A Yes. On the box itself it says "included is an
22 extended mag and a small mag."

23 Group 29 is a full metal jacket. And Group 30 is
24 a casing; that is what these two are here.

25 Q "Full metal jacket," what do you mean?

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INDIGENT DEFENSE ONLY!!!!**

MALINDA SHADOAN - DIRECT EXAMINATION

1 A A fragment.

2 Q Of a bullet, projectile?

3 A Yes.

4 Q These three items, from whom did you receive it?

5 A Again, I'll look at my notes. It looks like
6 Patty Bellamy at the time processed it, vouchered into
7 my room, and I took it from her on -- do you need date
8 and time?

9 Q No. So you received it from crime scene?

10 A At the time she was crime scene in our division,
11 yes.

12 Q What did you do with it?

13 A Again, made sure that everything was legitimate.
14 So what it had on the envelope is what it said on the
15 voucher. I went ahead and secured it into our
16 location. I processed it, and it becomes what is
17 called a "property record number." Each one has an
18 individual -- kind of like a fingerprint. No other
19 number is assigned to another piece of evidence. From
20 there, I house it until further direction from anyone
21 in the department.

22 Q These three items, were they taken anywhere?

23 A Yes; to SLED, which is the State Law Enforcement
24 Division.

25 Q For what purpose?

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INDIGENT DEFENSE ONLY!!!!**

MALINDA SHADOAN - DIRECT EXAMINATION

1 A Analysis. It was done either by -- it is
2 considered an I-lab, which is a receipt to tell me to
3 take it to SLED to analysis. So whatever they needed
4 done to it, I was the one that hand-delivered it.

5 Q So you took it to SLED. When you take items like
6 this to SLED, do they repackage or keep the original?

7 A No. They'll take this actual box here, and I
8 have it sealed with -- it is their yellow tape, and I
9 date and initial it, and they keep it as-is.

10 Q That's to indicate if there is any tampering?

11 A Correct. Correct. And then from here, I put it
12 in one together so that they didn't get lost, and then
13 when it comes back, I assume it looks like this,
14 because, again, it is sealed with their tape when I get
15 it back.

16 Q So once you put it in at SLED, it is in
17 tamper-resistant packaging?

18 A Yes.

19 Q And while these items were in your custody and
20 control, did you alter or change them in any way?

21 A No, sir.

22 Q Did you keep them safe?

23 A I did.

24 MR. DeBUSK: Thank you.

25 MR. FOX: No questions of this witness.

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INDIGENT DEFENSE ONLY!!!!**

JAMES GREEN - DIRECT EXAMINATION

1 THE COURT: Have a good day.

2 Call your next witness.

3 MR. OSKIN: State calls James Green from SLED.

4 (JAMES GREEN, having been duly sworn,
5 testified as follows:)

6 THE CLERK: State your name for the Court.

7 THE WITNESS: James Green.

8 (State's Exhibit 41 marked.)

9 DIRECT-EXAMINATION

10 BY MR. OSKIN:

11 Q Who is your current employer?

12 A Employed by the South Carolina Law Enforcement
13 Division, commonly referred to as SLED.

14 Q How long have you worked for them?

15 A Sixteen years; since June 2, 2005.

16 Q What is your position with them?

17 A Forensic firearms examiner in the Forensics
18 Services Laboratory.

19 Q What are some of your duties of that job?

20 A I examine firearms and firearms-related evidence,
21 bullets, cartridge cases, to determine if they were
22 fired by a submitted firearm or not.

23 Q Tell this jury a little bit about your
24 educational background.

25 A I have a master's and bachelor's, and once I

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INDIGENT DEFENSE ONLY!!!!**

JAMES GREEN - DIRECT EXAMINATION

1 began at SLED, I began the firearm and tool mark course
2 of instruction. It is about a three to
3 three-and-a-half year apprentice-type of course of
4 study, studying under a court qualified firearms
5 examiner. At first, there was a lot of reading on the
6 history of firearms and the history of ammunition, how
7 they are manufactured. If we know how they are
8 manufactured, we can determine how they will mark with
9 a bunch of microscopic comparisons, written exercises,
10 and tests.

11 Q Do you have any other special training in
12 addition to that extensive education?

13 A I've attended classes through the Association of
14 Firearm and Tool Mark Examiner, which is a world-wide
15 organization of firearm examiners. I've also attended
16 various armor courses put on by different
17 manufacturers.

18 Q Some of the work you do is subject to peer
19 review?

20 A Yes, sir. In the Firearms Department, every
21 report that goes out is micro-verified. So if I look
22 at a case and, say, I had 20 cartridge cases, I'll look
23 at them and determine how many firearms will be
24 present, write my answers down, and a second court
25 firearms examiner comes behind me and works the case

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INDIGENT DEFENSE ONLY!!!!**

JAMES GREEN - DIRECT EXAMINATION

1 themselves. If they agree, they initial and date on
2 the worksheet. Also, they do administrative and
3 technical review of my case file and report prior to it
4 being published.

5 Q And as part of your job duties of SLED and the
6 position you have, have you ever testified in General
7 Sessions court before?

8 A Yes, sir.

9 Q How many times have you done that?

10 A Ninety-one; 89 in state court, and twice in
11 federal.

12 MR. OSKIN: The State seeks to move Specialist
13 James Green as an expert in firearms analysis.

14 MR. FOX: No objection.

15 Q I got that correct?

16 A Firearm examiner or firearm analyst, yes, sir.

17 Q Did you become involved in the firearm analysis
18 for the items sent to you from the Myrtle Beach Police
19 for the incident that occurred in October of 2018?

20 A Yes, sir.

21 Q Do you remember what items you examined?

22 A I examined a pistol, a fired bullet, and a fired
23 cartridge case.

24 MR. OSKIN: May I approach this witness, Your
25 Honor?

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INDIGENT DEFENSE ONLY!!!!**

JAMES GREEN - DIRECT EXAMINATION

1 THE COURT: Yes.

2 Q (MR. OSKIN) I'm showing you what's marked as
3 State's Exhibit No. 37, 36, and 35; do you recognize
4 those items?

5 A Yes, sir. State's Exhibit 37 is the fired
6 cartridge case I examined in this case. State's
7 Exhibit 36 is the fired bullet I examined. State's 35
8 is the pistol I examined in this case.

9 Q Were they packaged in any sort of special
10 packaging?

11 A State's 35 was in an evidenced state sealed
12 cardboard box. State's Exhibits 36 and 37 were under
13 evidence tape sealed envelope when I received them.

14 Q Does that make those items tamper indicative?

15 A Yes, sir. If they were opened, the first thing I
16 would do is stop and find out why, had they been opened
17 before they got to us; and in this case, both are
18 sealed.

19 Q And those are items that you analyzed as part of
20 this case?

21 A Yes, sir. When firearm evidence comes in, if
22 it's big enough, we use a Dremel tool, electric pencil,
23 and we scribe the item number, our lab number, and our
24 initials on there. So if we get to court or if they re
25 resubmitted, we'll know that that is what it was. My

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JAMES GREEN - DIRECT EXAMINATION

1 markings are on Exhibits 35, 36, and 37.

2 MR. OSKIN: Your Honor, we seek so move into
3 evidence State's 35, 36, and 37.

4 THE COURT: Any objections?

5 MR. FOX: Not at this time.

6 (State's Exhibits 35 through 37 admitted.)

7 Q (MR. OSKIN) What did you conclude after
8 examining those items in comparison with one another?

9 A First, one of the things we do -- since a firearm
10 was submitted in this case, I fired test bullets into
11 our vertical water recovery tank to recover specimens I
12 know that are fired by that pistol that I fired them
13 myself. Once I did that, I microscopically compared
14 the fired bullets and fired casings to make sure the
15 gun was marking consistently. When I was happy it was,
16 I microscopically compared State's 35 to State's
17 Exhibit 37, and I concluded that State's Exhibit 37 was
18 fired by State's Exhibit 35 pistol.

19 State's Exhibit 36, the bullet, due to the damage
20 and inconsistent or insufficient marks of value, my
21 answer was it was inclusive. It is a fancy word for
22 "I can't say yes; I can't say no." All of the
23 characteristics that were supposed to be there, like
24 the number of lands and grooves, the type of rifling
25 and caliber, everything was similar to State's 35, but

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JAMES GREEN - DIRECT EXAMINATION

1 there was not enough markings for me to say, yes,
2 State's 36 was fired by the pistol. I could have said
3 it could have been, or virtually could not have been,
4 but I can't tell.

5 Q I'll approach you with State's 41 and ask if you
6 recognize that.

7 A Yes, sir; State's 41 is the report I issued in
8 this case.

9 Q Handwritten by you or typed up by you?

10 A Yes, sir.

11 Q And no edits, alterations, or deletions of
12 anything?

13 A No, sir.

14 MR. OSKIN: At this time, we seek to move into
15 evidence State's 41.

16 MR. FOX: None, Your Honor.

17 THE COURT: 41 is admitted without objection.

18 (State's Exhibit 41 admitted.)

19 MR. OSKIN: Please answer any questions Mr. Fox
20 may have for you.

21 CROSS-EXAMINATION

22 BY MR. FOX:

23 Q Just one, Mr. Green. You testified clearly about
24 what analysis you did do and can do, but, of course,
25 the one thing you can't do is analyze or know the

**CERTIFIED ORIGINAL FOR SOUTH CAROLINA COMMISSION OF
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1 context of how these bullets were fired, correct?

2 A Could you --

3 Q The circumstances?

4 A No. Everything -- nothing I can do can determine
5 why the gun was fired.

6 Q Right. That's not your job?

7 A No, sir.

8 MR. FOX: Thank you. That is all.

9 THE COURT: Anything further?

10 MR. OSKIN: No, sir, Your Honor, not on this.

11 THE COURT: Have a good day.

12 MR. OSKIN: We ask that he be released from his
13 subpoena.

14 MR. FOX: Of course.

15 THE COURT: Is that the last witness for the day?

16 MR. OSKIN: It is.

17 THE COURT: All right. Jury, let's come back at
18 9:30 in the morning. Do not research or talk about
19 the case. Have a good night.

20 (The jury exits at 4:09 p.m., and the
21 following is heard out of the presence of the jury.)

22 THE COURT: See you at 1:30. Have a good night.

23 (WHEREUPON, THE PROCEEDINGS FOR JUNE 8, 2021
24 CONCLUDED. THE FOLLOWING WAS HAD ON JUNE 9, 2021.)

25 THE COURT: Good morning. State ready?

**CERTIFIED ORIGINAL FOR SOUTH CAROLINA COMMISSION OF
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JOHN BRACH - DIRECT EXAMINATION

1 MR. DeBUSK: Yes, sir.

2 MR. FOX: Ready, Your Honor.

3 THE COURT: All right. Bring them in.

4 (The jury enters at 9:42 a.m., and the
5 following is heard in the presence of the jury.)

6 THE COURT: State, call your next witness.

7 MR. OSKIN: State calls John Brach.

8 (JOHN BRACH, having been duly sworn, testified
9 as follows:)

10 THE CLERK: Please be seated and state your full
11 name for the Court, and spell your last name.

12 THE WITNESS: John Brach, B-R-A-C-H.

13 DIRECT-EXAMINATION

14 BY MR. OSKIN:

15 Q What is your current occupation?

16 A Real estate agent and bartender.

17 Q Do you live in Horry County?

18 A Yes.

19 Q Are you familiar with RipTydz?

20 A Yes.

21 Q How are you familiar with it?

22 A I know people that work there. I go there and
23 have meals, drinks.

24 Q Do you know any of the employees there?

25 A Yep.

**CERTIFIED ORIGINAL FOR SOUTH CAROLINA COMMISSION OF
INDIGENT DEFENSE ONLY!!!!**

JOHN BRACH - DIRECT EXAMINATION

1 Q Who do you know there?

2 A The general manager, David Goodbread, some
3 bartenders. There's a list of people I probably know
4 there.

5 Q I understand. Were you at RipTydz on the night
6 of October 6 going into the hours of October 7, 2018?

7 A Yes.

8 Q Do you remember if there was a special event
9 going on that night?

10 A This was a UFC fight.

11 Q Do you, by chance, recall who was fighting?

12 A Conor McGregor and somebody else.

13 Q Were patrons at the bar watching that fight?

14 A A lot.

15 Q What happened after the fight on the television
16 ended?

17 A There was a fight that broke out amongst the
18 crowd, and then -- should I continue?

19 Q So there was a scuffle going on?

20 A Yes.

21 Q Were you part of any of that scuffle?

22 A I was trying to prevent people from joining in on
23 the fight.

24 Q Did anything unusual happen while you were trying
25 to keep the crowd at bay?

**CERTIFIED ORIGINAL FOR SOUTH CAROLINA COMMISSION OF
INDIGENT DEFENSE ONLY!!!!**

JOHN BRACH - DIRECT EXAMINATION

1 A Out of the corner of my eyes, someone was saying,
2 "Don't touch me, don't touch me," and flashed a butt of
3 a gun.

4 Q What was the description of that person?

5 A Black male, red shirt.

6 Q Where did he have the gun?

7 A In his waistband.

8 Q Did you notice anything unusual?

9 A The magazine was longer than normal.

10 Q And you stated he was stating, "Don't touch me"?

11 A Yes.

12 Q About how close were you to him?

13 A Longer than arm's reach to 10 feet, something
14 like that. I'm not really sure.

15 MR. OSKIN: Your Honor, may I approach this
16 witness?

17 THE COURT: Yes.

18 Q (MR. OSKIN) I'm showing you what is marked as
19 State's No. 10; do you recognize that?

20 A Yes.

21 Q What is that?

22 A Picture of me.

23 Q Where are you at?

24 A Right there (indicates).

25 Q Where are you at, in general? What is this a

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INDIGENT DEFENSE ONLY!!!!**

JOHN BRACH - DIRECT EXAMINATION

1 photo of?

2 A Oh, RipTydz Bar and Grille.

3 Q What level of the bar?

4 A The third floor.

5 Q No alterations, deletions; I haven't made this
6 photo look like anything other than what it was that
7 night that you were at RipTydz?

8 A No.

9 MR. OSKIN: Your Honor, at this time, we seek to
10 admit State's No. 10.

11 MR. FOX: No objection.

12 THE COURT: State's 10 admitted without
13 objection.

14 (State's Exhibit 10 admitted.)

15 MR. OSKIN: The State would seek to have him
16 identify him through marking.

17 Q (MR. OSKIN) If you could, sir, I know that the
18 contrast is a little tough, if you can draw a line to
19 yourself, and then put your initials by it?

20 A (Witness complied.)

21 Q (MR. OSKIN) At this time, we seek to publish
22 this photo to the jury.

23 (State's 10 published to the jury.)

24 Q (MR. OSKIN) What did you do after that first
25 fight broke up?

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INDIGENT DEFENSE ONLY!!!!**

JOHN BRACH - DIRECT EXAMINATION

1 A I went towards where the bathroom and service bar
2 is.

3 Q And did you observe anybody being taken out of
4 the bar at that point?

5 A Not really, no.

6 Q After you got back from the bathroom, did you
7 notice that another fight had broken out?

8 A Yes.

9 Q Where in the bar did that end up?

10 A Closer to where I was, where the service and the
11 bathroom was.

12 Q What did you do when that night was going on in
13 the area you just described?

14 A I first tried to stop that one from happening,
15 and then I immediately removed myself because I
16 realized I didn't want to be any part of this.

17 Q Did you see anything after that?

18 A No.

19 Q Did you hear any noises?

20 A It was very loud.

21 Q Did you see the shooting?

22 A No.

23 Q What did you do next? How did you --

24 A I was on the bar floor behind; people were
25 scrambling around.

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JOHN BRACH - CROSS-EXAMINATION

1 Q Did you see if anyone had been shot, by chance?

2 A I did not see anybody.

3 Q Did you notice the individual you saw earlier
4 with a gun in that fight that you saw?

5 A I did not.

6 Q And when did you leave the bar area?

7 A Shortly after getting up, while everybody was
8 trying to leave all at the same time.

9 MR. OSKIN: Please answer any questions Mr. Fox
10 has.

11 CROSS-EXAMINATION

12 BY MR. FOX:

13 Q Mr. Bach, with the initial fight that broke out,
14 how many people would you say was involved in that?

15 A I don't even remember. Maybe a handful.

16 Q Was a handful two or three; is it five or six?

17 A Five or six.

18 Q Okay. How would you describe that fight?

19 A I was not watching the fight. I was trying to
20 draw my attention to stop people from joining in on the
21 fight.

22 Q So other people were trying to join in?

23 A I was trying to prevent anything from happening
24 I'm not saying that someone was trying to join in or
25 not.

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INDIGENT DEFENSE ONLY!!!!**

JOHN BRACH - CROSS-EXAMINATION

1 Q How were you preventing anything; what were you
2 doing?

3 A Had my arms out like this (indicates.)?

4 Q I got you. So it was a general --

5 A Yeah.

6 Q So like a traffic stop, hold up?

7 A Yep.

8 Q Okay. I got you. Now, again, I realize it is
9 three years later, you didn't have a stopwatch. How
10 long did that take? Was that a ten second thing, a few
11 minutes?

12 A Couldn't tell you; don't recall.

13 Q It lasted more than an instant?

14 A Yeah.

15 Q Did anybody -- despite your efforts, did other
16 people join into that, whether by yelling or pushing,
17 anything?

18 A There was a lot going on, but I don't know
19 exactly who was yelling, who was throwing punches, who
20 was involved in what.

21 Q Did it seem to be that one group of five or six?

22 A I couldn't tell you.

23 Q I understand. Now, you were -- I wasn't able to
24 see at the time the picture that the Solicitor showed
25 you. You are familiar with the RipTydz. When you come

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JOHN BRACH - CROSS-EXAMINATION

1 off the elevator on the third floor, there is an area,
2 and the bar is ahead, and you go around the corner to
3 the right, and that is where that surfboard wall is,
4 correct?

5 A Yes.

6 Q Where did this happen when you described the
7 little scuffle; were you in the surfboard area?

8 A It was kind of, but more near the bar.

9 Q More at the other end of the bar?

10 A Yeah.

11 Q Okay. I understand. So did that finally work
12 itself out, that little --

13 A I don't know.

14 Q -- brawl?

15 A I don't know. I tried to remove myself from it.

16 Q Got you. Didn't involve you; not getting into
17 it?

18 A Yup, not my circus.

19 Q Was that the end of it?

20 A What do you mean?

21 Q Generally, the atmosphere in the bar, did that
22 calm down after that?

23 A After what?

24 Q After that fight, those five or six people,
25 you're like, Hey, stay out of it --

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INDIGENT DEFENSE ONLY!!!!**

JOHN BRACH - CROSS-EXAMINATION

1 A Yeah, seemed to be calmer. And then another
2 fight broke out.

3 Q Did you see how that began?

4 A No.

5 Q Have any -- were you there with other people?

6 A Yeah.

7 Q Have anything to do with any of your crew?

8 A My crew?

9 Q Your friends, your people, people you were with?

10 A My friends were trying to stop the fight. I was,
11 basically, by myself. I did not know where they were
12 after the fight broke out.

13 Q Did you have eyes on them; could you see what was
14 going on?

15 A No, I did not know where they were. I know they
16 were trying to stop the fight.

17 Q Okay. But you weren't -- you can't say what they
18 were doing to stop the fight?

19 A No.

20 Q And when you say "friends," you are talking about
21 the friends you went to RipTydz with that night, not
22 friends that were employees of the bar?

23 A They are employees of the bar; and, yes, I did go
24 to the bar with them.

25 Q Were they working that night?

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INDIGENT DEFENSE ONLY!!!!**

JOHN BRACH - CROSS-EXAMINATION

1 A No.

2 Q Who did you go with?

3 A Scott Emdy (phonetic).

4 Q Anyone else?

5 A There is other people that met us there, but that
6 was the only person I went there with.

7 Q Who did you meet up with there?

8 A Dave Goodbread.

9 Q Right. The general manager at RipTydz. Anyone
10 else?

11 A There was other people, but it was just kind of
12 people coming and going.

13 Q I understand. From your times going to RipTydz,
14 and the people you know that work there, did you know
15 Roger Ramos?

16 A I met him a time or two.

17 Q But you would have recognized him if you saw him
18 that night?

19 A Yeah.

20 Q Did you see him that night?

21 A No.

22 Q Okay. Didn't see him involved in any of the
23 scuffles, fighting?

24 A No.

25 Q The -- the second fight that broke out, again,

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INDIGENT DEFENSE ONLY!!!!**

JOHN BRACH - CROSS-EXAMINATION

1 how many people would you say was involved in that?

2 A A couple. There was one guy trying to, like,
3 fight another guy, and I removed myself again. I don't
4 want to be a part of it.

5 Q I understand; not your circus.

6 A Yes.

7 Q Were you paying attention, or just don't need any
8 part of it?

9 A Nope. No.

10 Q When did you see the person with the gun in his
11 waistband?

12 A I didn't see him from the initial time. I wasn't
13 paying attention to this, again.

14 Q But, at some point, you testified you saw a gun?

15 A Yeah, from the first time.

16 Q So that was earlier on?

17 A Yeah. Right.

18 Q All right. So then -- I'll call it "the fight,"
19 but the second fight, at that point, you didn't see
20 that same fellow?

21 A Didn't see anybody. I had a lot to drink, and I
22 don't recall.

23 Q You told the police you more or less blacked out
24 from adrenaline after all of this, didn't you?

25 A That is correct.

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TYLER HEMBREE - DIRECT EXAMINATION

1 MR. FOX: Thank you. No further questions.

2 THE COURT: Redirect.

3 MR. OSKIN: Nothing from the State. I ask that
4 he be released.

5 MR. FOX: No objection.

6 THE COURT: Have a good day.

7 Call your next witness.

8 MR. DeBUSK: Tyler Hembree.

9 (TYLER HEMBREE, having been duly sworn,
10 testified as follows:)

11 THE CLERK: State your full name for the Court.

12 THE WITNESS: Tyler Hembree.

13 DIRECT-EXAMINATION

14 BY MR. DeBUSK:

15 Q Do you live in South Carolina?

16 A I do not.

17 Q So you came out of state to testify?

18 A Yeah.

19 Q What is your occupation?

20 A I work at a machine fabrication company.

21 Q How about in October of 2018, what was your
22 occupation then?

23 A Worked in telecommunications.

24 Q What company?

25 A TSS.

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INDIGENT DEFENSE ONLY!!!!**

TYLER HEMBREE - DIRECT EXAMINATION

1 Q What does that stand for?

2 A Towersite Services.

3 Q What does Towersite Services do?

4 A We do minor upgrades on cell phone towers,
5 sometimes build them, maintain and upgrade service.

6 Q So maintain the cell phone towers?

7 A Uh-huh.

8 Q Okay. You don't work for them anymore, though?

9 A No.

10 Q How did -- how is your work organized; when you
11 are given a job, were they near your home, or
12 elsewhere?

13 A Mostly in Georgia, but not really near my home.

14 Q Were you in Horry County here in Myrtle Beach in
15 October of 2017 (sic)?

16 A Yes.

17 Q What brought you here?

18 A Work.

19 Q How -- what kind of work did you have? What kind
20 of group did you have with you?

21 A I don't understand.

22 Q How many people from Towersite Services were here
23 in Horry County with you?

24 A I believe five.

25 Q Was that you and five more, or five altogether?

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INDIGENT DEFENSE ONLY!!!!**

TYLER HEMBREE - DIRECT EXAMINATION

1 A Five altogether.

2 Q Was there anyone else working with you?

3 A No.

4 Q Did you have a foreman?

5 A Oh, yes. Yes.

6 Q Do you remember his name?

7 A John Matthews.

8 Q What did John Matthews look like?

9 A Just a bigger, stockier guy. Yeah, that's pretty
10 much it. Bigger fellow.

11 Q Who else was with you?

12 A There was Eli, Seth, me, Jack and Jeff.

13 Q So those last five you named all worked for
14 Towersite Services?

15 A Yes.

16 Q But John did not?

17 A No; he had his own company.

18 Q But he was working with your crew at that time?

19 A Yes. Just kind of the foreman for us that week.

20 Q Were you staying at a particular place as a home
21 base in Myrtle Beach?

22 A It was a hotel, yeah.

23 Q Do you remember the name of it? Was it the Aqua
24 Beach?

25 A Aqua Beach, yes.

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INDIGENT DEFENSE ONLY!!!!**

TYLER HEMBREE - DIRECT EXAMINATION

1 Q Did you all have rooms at the Aqua Beach?

2 A We did, yeah.

3 Q What kind of jobs were you doing while you were
4 in Horry County?

5 A We were working on rooftops, just minor
6 adjustments to antennas and things, because of the
7 weather previous.

8 Q Was this right after one of our hurricanes?

9 A Yes.

10 Q Let me show you a few pictures. I'll ask you
11 about State's 19 and ask if you recognize these people?

12 A I do. It is me to the left, and John is in front
13 of me on the right.

14 Q John is the foreman that didn't work for
15 Towersite Services?

16 A Yes.

17 Q If you would, would you write under each "Tyler"
18 and "John"?

19 A In the white?

20 Q Yes, in the white.

21 A (Witness complies.)

22 Q Is that how you all were dressed that night?

23 A Yes.

24 Q The night of October 7 -- night of October 6 and
25 morning of October 7th?

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INDIGENT DEFENSE ONLY!!!!**

TYLER HEMBREE - DIRECT EXAMINATION

1 A I was.

2 MR. DeBUSK: At this time, we move No. 19 into
3 evidence.

4 MR. FOX: No objection, Your Honor.

5 THE COURT: State's 19 is in evidence without
6 objection.

7 (State's Exhibit 19 admitted.)

8 MR. DeBUSK: May I publish?

9 THE COURT: Yes.

10 Q (MR. DeBUSK) Let me show you State's 18 and ask
11 if you recognize that?

12 A I do.

13 Q Who is that?

14 A Jeff.

15 Q Would you write "Jeff" under that.

16 A (Witness complies.)

17 THE COURT: At this time, we offer State's 18
18 into evidence.

19 MR. FOX: No objection.

20 THE COURT: State's 18 is in evidence without
21 objection.

22 MR. DeBUSK: May I publish?

23 THE COURT: Yes.

24 (State's Exhibit 18 admitted.)

25 Q (MR. DeBUSK) I'll show you State's 17 and 16; do

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TYLER HEMBREE - DIRECT EXAMINATION

1 you recognize these individuals?

2 A I do.

3 Q Who are they?

4 A To the left is Seth, I'm in the middle, and John
5 on the right.

6 Q Again, would you write the names?

7 A (Witness complies.)

8 Q That was State's 17. How about 16?

9 A I recognize them, yeah.

10 Q And who are they?

11 A Seth on the left, and John is on right.

12 Q Would you write that again. Thank you.

13 A (Witness complied.)

14 MR. DeBUSK: At this time, we move State's 16 and
15 17 into evidence.

16 MR. FOX: Without objection.

17 THE COURT: State's 16 and 17 in evidence.

18 (State's Exhibits 16 and 17 admitted.)

19 MR. DeBUSK: May I publish?

20 THE COURT: Yes.

21 Q (MR. DeBUSK) State's 15; do you recognize that?

22 A I do.

23 Q Who is that?

24 A That is Eli.

25 Q Would you write "Eli," if you would?

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INDIGENT DEFENSE ONLY!!!!**

TYLER HEMBREE - DIRECT EXAMINATION

1 A (Witness complied.)

2 Q And State's 29?

3 A I do.

4 Q Who is that?

5 A Jakkari.

6 Q Could you write "Jakkari" under there?

7 MR. DeBUSK: At this time, we move State's 15 and
8 29 into evidence.

9 MR. FOX: Without objection.

10 THE COURT: State's 15 and 29 in evidence without
11 objection.

12 (State's Exhibits 15 and 29 admitted.)

13 Q (MR. DeBUSK) Those were the clothes you were
14 wearing that night that this incident happened at
15 RipTydz?

16 A I believe so, yeah.

17 Q So tell me about RipTydz. Do you remember the
18 incident that brought you here today?

19 A I do.

20 Q October 6 over to the 7th?

21 A Yeah.

22 Q Had you been to RipTydz before then?

23 A I believe it was the night prior to that.

24 Q Had the whole group gone over there?

25 A I don't think it was necessarily everybody.

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TYLER HEMBREE - DIRECT EXAMINATION

1 Q Was Jakkari with you?

2 A I believe he came later, but at first it was me
3 and John, I would say.

4 Q The night before?

5 A Yes.

6 Q So you and John and Jakkari came later?

7 A I believe so.

8 Q So you had been there before?

9 A We were, yeah.

10 Q Now, you go back the next night, which is the
11 night of the October 6th to the early morning of
12 October 7th, was there something special going on
13 that night?

14 A UFC Pay-Per-View.

15 Q Did you all go to see the fight?

16 A Yes.

17 Q What else were you all doing?

18 A Just hanging out.

19 Q Were you drinking?

20 A Yeah, drinking.

21 Q Was everyone drinking?

22 A Yes.

23 Q Including Jakkari?

24 A Yes.

25 Q Did you have some food?

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INDIGENT DEFENSE ONLY!!!**

TYLER HEMBREE - DIRECT EXAMINATION

1 A Yes, we did.

2 Q Did you watch the fight?

3 A We did.

4 Q What happened when the fight ended on the TV, the
5 televised fight?

6 A What happened?

7 Q What happened in the bar when the television
8 fight ended?

9 A Just a big commotion of people shoving and just
10 fights breaking out.

11 Q Now, were you in a position to see how it all
12 started?

13 A Not necessarily how it all started, no. I just
14 remember that there was a big commotion and it led to
15 more and more.

16 Q Right. And do you recall where the fight started
17 and where it went?

18 A I believe it started -- I can't say for sure
19 where it started, to be honest. I remember that --

20 Q Let me change the question. Was there a fight in
21 more than one place?

22 A Yes. Yes.

23 Q Now, where were you standing?

24 A I was in front of our table that we ate at, kind
25 of parallel to the bar.

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TYLER HEMBREE - DIRECT EXAMINATION

1 Q Where were the televisions for the fight?

2 A Up on top of the bar wrapped around.

3 Q So you were in a position to watch those
4 televisions?

5 A Yes.

6 Q So was there any fight to the left of you?

7 A Yes.

8 Q And there was a fight to the right of you later?

9 A Yes. Yes.

10 Q Were they at the same time, or one --

11 A Kind of at the same time, back to back, I would
12 say.

13 Q Back to back?

14 A Yeah.

15 Q Let me show you what is marked as State's Exhibit
16 11 and ask if you recognize the individuals in that
17 photo?

18 A I do.

19 Q Which individuals do you see there?

20 A I see Jeff, Seth, John, me, and that's it on this
21 one -- Eli.

22 Q Is everyone wearing the same clothing they were
23 wearing in the pictures we reviewed from the hotel?

24 A Yes.

25 MR. DeBUSK: At this time, I'll offer State's 11

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TYLER HEMBREE - DIRECT EXAMINATION

1 into evidence.

2 MR. FOX: Without objection.

3 THE COURT: In evidence without objection.7211

4 admitted.)

5 Q (MR. DeBUSK) What did you do while all this
6 fighting was going on?

7 A Stayed out of it, away from all of it.

8 Q Why?

9 A Because I didn't want to get involved in
10 anything.

11 Q Were you up close where you could see what was
12 going on?

13 A For some of it, and then I would say once it got
14 too big to manage, I kind of stepped away.

15 Q When we get towards the end, right before the
16 shooting, were you able to see what was going on then?

17 A No, not necessarily. The gunshot was to my
18 right, and I really couldn't see anything.

19 Q Were there a lot of people in the way?

20 A Oh, yeah, it was a lot of people.

21 Q So there was a gunshot?

22 A Yes.

23 Q What did you do?

24 A I looked towards the direction of the gunshot
25 just thinking where it would have come from, and I

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INDIGENT DEFENSE ONLY!!!!**

TYLER HEMBREE - DIRECT EXAMINATION

1 didn't see anything or anybody. I just grabbed John,
2 who was kind of frozen, I would say, and left, left the
3 bar.

4 Q Where did you go?

5 A To the hotel that we stayed at.

6 Q Let me step back for a moment. When your crew --
7 there was six of you altogether, including John who
8 didn't work for your company, but with you. How many
9 vehicles did you have?

10 A Two.

11 Q What were they?

12 A They were white 250s, I believe, work trucks.

13 Q Toolboxes and all?

14 A Yeah. Yeah.

15 Q What happened when you went back to the hotel;
16 what did you do?

17 A We all met in one hotel room. I don't remember
18 whose room it was.

19 Q Were all six of you there when you first met?

20 A No.

21 Q Who was missing?

22 A Jakkari wasn't there.

23 Q What were you all doing when you met together in
24 the hotel?

25 A Freaking out, really.

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INDIGENT DEFENSE ONLY!!!!**

TYLER HEMBREE - DIRECT EXAMINATION

1 Q Because there was a shooting?

2 A Yeah.

3 Q Did there come a time when Jakkari communicated
4 with you?

5 A There was a phone call or Facetime, I can't
6 really remember, on my foreman's phone. For some
7 reason, I answered it. Jakkari asked what room we were
8 in, and I told him, then he came to the room.

9 Q What happened when he came to the room?

10 A I opened the door and he had just this look on
11 his face, made me just ask him if he had shot him, if
12 he had shot the guy, and he didn't give me like a vocal
13 confirmation, he just fell on the floor crying at that
14 moment.

15 Q What did that lead you to do?

16 A Well, he tried to stay in the hotel room, and I
17 was like, You can't stay here, is what I was saying.
18 It led me to go grab an officer.

19 Q Why were you going for an officer?

20 A Well, I didn't want to be involved in that,
21 because I believe that he shot him; like, that was a
22 confirmation.

23 Q So what did you do next?

24 A After I grabbed the officer?

25 Q After you told him he can't come in. You left

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TYLER HEMBREE - DIRECT EXAMINATION

1 the room?

2 A Yes.

3 Q Where did you go?

4 A Went down to the lobby and flagged over some
5 officers across the street.

6 Q What did you tell them?

7 A I told them where he was, where I saw him.

8 Q Was this outside in the parking lot?

9 A Yeah, the parking lot of the hotel.

10 Q So you indicated to the officers where he was?

11 A Yes.

12 Q When you were inside RipTydz, there was a fight
13 going on, did you feel a need to go in and help?

14 A No.

15 Q Did you hear anyone calling you to help?

16 A No.

17 Q Why didn't you feel it necessary to be in that
18 fight?

19 A I didn't want to be involved and lose my job
20 potentially, things like that.

21 Q Now, did you hear the shot?

22 A I did.

23 Q Did you see the shot?

24 A No.

25 Q Were you too far away to see the shot?

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TYLER HEMBREE - DIRECT EXAMINATION

1 A I wasn't looking in that direction at that time,
2 I guess.

3 Q And, again, you were visible on the video with
4 your camouflage shirt?

5 A Yeah.

6 Q After you indicated to the police where Jakkari
7 was, did you later talk to the police?

8 A I did.

9 Q Give a statement?

10 A Like an initial statement.

11 Q Now, after that, how much longer did you work for
12 Towersite Services?

13 A Maybe five months, somewhere around there.

14 Q So you continued working?

15 A I did.

16 Q Let me step back a minute and ask about Towersite
17 Services in general. When they send out a crew like
18 yourself, you said you had five Towersite Services
19 employees, and one outsider working with you?

20 A Right.

21 Q Was it the same crew you went out with every
22 time, every time you were sent traveling?

23 A Not necessarily, no.

24 Q Would they make up the crews at random?

25 A Yeah. You would show up Monday morning and there

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INDIGENT DEFENSE ONLY!!!**

TYLER HEMBREE - CROSS-EXAMINATION

1 was a huge board, kind of, who you are -- telling who
2 you are working with that week, load up your vehicles,
3 and head out.

4 Q Were you often out-of-town in that job?

5 A Yes.

6 Q And tell me about the foreman, John; was he
7 someone that often worked with you all?

8 A Well, he would show up to sites before us because
9 he did more of, like, civil work, and then -- so not
10 necessarily on the road with us, no, but he would
11 travel, yeah.

12 Q Was this trip to Horry County to Myrtle Beach the
13 first time you traveled?

14 A Yeah, that was the first time we traveled
15 together.

16 MR. DeBUSK: Court's indulgence for a moment.

17 (A brief pause in the proceedings.)

18 Q Since that incident when Jakkari was at the door
19 and you asked him if he shot somebody, have you talked
20 to him?

21 A I have not.

22 MR. DeBUSK: Answer any questions defense may
23 have.

24 MR. FOX: Thank you.

25 CROSS-EXAMINATION

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TYLER HEMBREE - CROSS-EXAMINATION

1 BY MR. FOX:

2 Q There were multiple fights in the bar that night,
3 right?

4 A Yes.

5 Q Excuse me, let me grab my notes. The bar was
6 crowded; RipTydz was crowded?

7 A Yes.

8 Q And you were on the third floor?

9 A We were.

10 Q And that is where you went, and that is where you
11 stayed?

12 A Uh-huh.

13 Q At no time -- so there were multiple fights; how
14 many people would you estimate were involved?

15 A Fifteen, 20, something like that. It was a good
16 bit of people.

17 Q What was going on? Were fist flying? How would
18 you describe it?

19 A It was more of pushing and shoving. There may
20 have been some fists. I didn't necessarily see people
21 swing on each other.

22 Q But it didn't, like, fizzle out, did it?

23 A What do you mean by that?

24 Q In other words, it didn't end. It wasn't like,
25 hey, man, push, push, separated; it was just kind of,

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INDIGENT DEFENSE ONLY!!!!**

TYLER HEMBREE - CROSS-EXAMINATION

1 like, feeding on itself?

2 A Yeah.

3 Q So were there any security or RipTydz employees
4 involved in these scuffles?

5 A Yes.

6 Q Did they help the situation, or seem to make it
7 escalate?

8 A I mean, they tried to de-escalate it and just --
9 I believe everyone was just too intoxicated to let the
10 situation settle.

11 Q You didn't see Jakkari fighting?

12 A I didn't.

13 Q You didn't see John Matthews fighting?

14 A I saw John get pushed up against the wall. He
15 wasn't really fighting, though; it was more of a shove.

16 Q In fact, there were several people on John,
17 right?

18 A Yeah, there was.

19 Q I think you told the police there was like four
20 people?

21 A Yeah.

22 Q So it wasn't like an equal one-on-one fight?

23 A No. He was a bigger guy, yeah.

24 Q Didn't see the -- you didn't see the person who
25 was shot afterwards, did you? You didn't see who that

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TYLER HEMBREE - CROSS-EXAMINATION

1 was?

2 A I didn't see him get shot, but I did see him on
3 the ground.

4 Q Do you recall seeing that person earlier during
5 these fights?

6 A I don't.

7 Q So you didn't see that person throw a bottle
8 during the fight?

9 A I did not.

10 Q Didn't see him punch Jakkari on the side of the
11 head?

12 A I didn't.

13 Q Now, after you hear the gunshot, you grabbed
14 John, Let's get out of here, right?

15 A Yes.

16 Q You went back to Aqua Beach?

17 A Yes.

18 Q How long before Jakkari showed up?

19 A Maybe 10 minutes, something like that.

20 Q And --

21 A I don't know for sure.

22 Q Sure. But you answered the door?

23 A I did.

24 Q And, immediately, he fell to the ground?

25 A Well, after I asked him if he shot him, he went

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INDIGENT DEFENSE ONLY!!!!**

TYLER HEMBREE - CROSS-EXAMINATION

1 to the ground.

2 Q Without saying anything, he fell to the ground?

3 A Yes.

4 Q You described him as hysterical?

5 A Yeah.

6 Q Crying?

7 A Yes.

8 Q Howling like a dog?

9 A Yeah.

10 Q Like a little kid?

11 A Yeah. He was distraught.

12 Q Were you around when Eli put Jakkari in the cold
13 shower to calm him down?

14 A No.

15 Q And Jakkari, during the time you were still
16 there, he was pacing back and forth?

17 A Excuse me?

18 Q Is that right? Was he -- during the time --
19 before you went down to see the police, talk to the
20 police, you are still in the room, Jakkari was pacing
21 back and forth?

22 A No. No.

23 Q Hyperventilating?

24 A Well, he didn't -- he wasn't really in the room
25 -- well, he was in the room, but I don't remember him

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TYLER HEMBREE - CROSS-EXAMINATION

1 walking back and forth hyperventilating.

2 Q I understand. So you decided, I really don't
3 need to be a part of this?

4 A Yes.

5 Q Were the police already outside at that point?

6 A They were -- when I had left the hotel lobby,
7 they were kind of walking towards the hotel, so they
8 were in the street when I called them over.

9 Q Because Aqua Beach is directly across the street
10 from RipTydz?

11 A Yes.

12 Q And it is open; in other words, it is --
13 visually, it is a clear site from one to the other?

14 A Yeah.

15 Q So you already saw -- were they in vehicles, on
16 foot?

17 A They were on foot.

18 Q But several of them?

19 A Two, three that I spoke to.

20 Q Okay. Before you went down, did you tell Jakkari
21 what you were going to do?

22 A I don't believe so.

23 Q Do you know if anyone else -- were you present if
24 anyone else said, hey, you have to tell the police?

25 A Yeah, I believe John, Jeff, and Seth, maybe Eli,

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INDIGENT DEFENSE ONLY!!!!**

TYLER HEMBREE - CROSS-EXAMINATION

1 too. I think they were all in there at that time.

2 Q So Jakkari would have been aware that somebody is
3 going to tell the police where I am?

4 A Yeah. Yeah.

5 Q Would you describe that to RipTydz -- how would
6 you describe -- once the fight started breaking out,
7 you indicated there was multiple fights in multiple
8 locations with 15, 20 people, how would you describe
9 that?

10 A Chaos.

11 MR. FOX: Thank you.

12 REDIRECT-EXAMINATION

13 BY MR. DeBUSK:

14 Q Mr. Fox asked you about some things, if you saw
15 them. Did you see Jakkari punch the victim, the victim
16 that was shot, in the jaw?

17 A I did not.

18 Q So you were not in a position to see that?

19 A I wasn't.

20 Q And John, do you know where he is today?

21 A He's passed away.

22 Q So he's deceased?

23 A Uh-huh.

24 MR. DeBUSK: We ask that he be released from his
25 subpoena.

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DR. ERIC EASON - DIRECT EXAMINATION

1 MR. FOX: Yes, sir.

2 THE COURT: Okay. Call your next witness.

3 MR. OSKIN: State calls Dr. Eric Eason.

4 (DR. ERIC EASON, having been duly sworn,
5 testified as follows:)

6 THE WITNESS: Eric Eason, E-A-S-O-N.

7 DIRECT-EXAMINATION

8 BY MR. OSKIN:

9 Q Good morning, Doctor. How are you doing?

10 A Pretty good.

11 Q Are you a duly licensed physician and surgeon?

12 A Yes.

13 Q And in what states are you licensed?

14 A South Carolina and Illinois.

15 Q How long have you been licensed to practice your
16 profession?

17 A South Carolina, since 1998. Illinois, I got the
18 license in 2013 when I moved there.

19 Q Where did you receive your medical training?

20 A First received my college degree from Clemson
21 University, that was in 1994. It was a degree in
22 biology. My medical degree was from the Medical
23 University of South Carolina, in Charleston, South
24 Carolina, and that was in 1998.

25 Q Has your work included the performance of

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INDIGENT DEFENSE ONLY!!!!**

DR. ERIC EASON - DIRECT EXAMINATION

1 autopsies?

2 A Yes.

3 Q About how many autopsies have you performed?

4 A Close to 3,000.

5 Q And because you do that, is there any area,
6 particular branch of medicine, you specialize in?

7 A Yes. So I'm a forensic pathologist. In order to
8 become a forensic pathologist, you have to undergo
9 training in anatomic and clinical pathology. I did
10 that at the Medical University of South Carolina. I
11 finished that in 2003. I did my sub-specialty training
12 in forensic pathology -- it's one year -- in Atlanta,
13 Georgia, at Emory University through the Fulton County
14 Medical Examiner's Office, from 2001 to 2004.

15 Q Will you tell the jury what pathology is?

16 A So pathology is a specialty of medicine. It is a
17 behind-the-scenes type of specialty. We don't examine
18 patients. We examine bodily fluids and tissue to try
19 to diagnose disease. A branch of pathology is forensic
20 pathology, and that is when we conduct autopsy on
21 someone who has died, and that is in order to determine
22 the cause and manner of death.

23 Q As part of this specialty, are you a member of
24 any specialized groups or associations?

25 A Yes. So I'm a member of the American Academy of

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DR. ERIC EASON - DIRECT EXAMINATION

1 Forensic Sciences. They pretty much specialize in all
2 forensic-type sciences. And then the College of
3 American Pathologists, I'm a member of them as well.
4 They are a group of pathologists with a forensic
5 section that I'm a member of.

6 Q What are the requirements to get that sort of
7 certification or membership?

8 A You have to complete your residency in pathology,
9 and then you apply to become a member. To become a
10 fellow of those organizations, you have to pass your
11 board exams. I did all of that back in 2005 and 2007.

12 Q Okay. And kind of comes with the territory, but
13 as part of that, have you ever testified in a court of
14 law before?

15 A Yes.

16 Q Approximately, how many times?

17 A At least 150 times.

18 MR. OSKIN: At this time, we seek to admit Dr.
19 Eric Eason as an expert in pathology.

20 MR. O'NEIL: No objection.

21 Q (MR. OSKIN) Have you had the opportunity to
22 review the records of the autopsy of Roger Ramos?

23 A Yes.

24 Q But you didn't actually perform that autopsy?

25 A That's correct.

DR. ERIC EASON - DIRECT EXAMINATION

1 Q Who did perform this autopsy?

2 A Edward Proctor performed the autopsy on
3 October 7, 2018.

4 Q Is it your understanding he's not available for
5 testimony?

6 A Correct.

7 Q Have you ever been in this position before? Have
8 you ever testified to findings on an autopsy that you
9 didn't perform yourself?

10 A Yes; several times. It is called "surrogate
11 testimony" where the original physician who did the
12 autopsy is not available or on vacation, or something
13 like that. So what happens is another pathologist,
14 like me, can review the report and the photographs, and
15 as long as I come up with the same conclusions, we can
16 testify in court on their behalf.

17 Q So you know the terms?

18 A Correct. Correct.

19 Q About how many times have you had to do that?

20 A Probably this is the tenth time, maybe 15 times.

21 Q We'll focus on Mr. Ramos' autopsy. Where was
22 that autopsy performed?

23 A I have that that was performed in -- I have the
24 report here. I'm assuming the Conway Hospital; I think
25 that is where it would have been.

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DR. ERIC EASON - DIRECT EXAMINATION

1 Q If I told you Myrtle Beach hospital, would you
2 believe that as well?

3 A Yeah, I would believe that, too.

4 Q What were the external injuries on Mr. Ramos?

5 A His main injury was a gunshot wound, or described
6 as a gunshot wound on the right chin; that is where the
7 entrance wound was. The bullet would have passed
8 through the chin and the neck, and we have an exit
9 wound on the left shoulder area or back area.

10 Q Did that cause internal damage?

11 A Yes. Yes.

12 Q What was those internal injuries?

13 A Dr. Proctor described that the main injuries that
14 occurred is when the bullet went through the left side
15 of the neck, it hit a bunch of blood vessels in the
16 left side, which caused a bunch of bleeding. So the
17 actual cause of the death is bleeding out from the
18 injury sustained to the blood vessels on the left side
19 of the neck.

20 Q Was there any injury to his brainstem?

21 A I do not see that listed anywhere. I see
22 "traumatic brain injury," so that is what Dr. Proctor
23 would have been describing there.

24 Q Okay. I guess that is why I asked. If you could
25 further elaborate. What would define a "traumatic

DR. ERIC EASON - DIRECT EXAMINATION

1 brain injury," a brain injury like that?

2 A I think what happened is when the bullet was
3 passing through the structures, the shock wave from the
4 bullet caused bruising on that part of the brain,
5 because the brain would have been close to that area
6 right there; that is what I'm thinking from reading the
7 report.

8 Q And you described the travel of the bullet?

9 A Yes. The tract went from right to left. It went
10 through the neck structures, including the vascular
11 segments, and then went through the back, and exited
12 the left posterior shoulder/upper back area.

13 Q Did you see any additional information in this
14 report that helped you agree with these findings?

15 A In the actual report itself, the report is the
16 written description of the wound tract. I used the
17 photos as well to correlate with what I found in the
18 report.

19 Q That is what I was getting at; you are not just
20 saying that the report is correct because you read over
21 it and it sounded good?

22 A I verified with the photos, yes.

23 Q So, I guess, as part of any autopsy performance,
24 was Mr. Ramos checked for substances like alcohol or
25 drugs?

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DR. ERIC EASON - DIRECT EXAMINATION

1 A Yes. So blood was obtained during the autopsy
2 and it was submitted to a private lab. I have ethanol,
3 drinking alcohol from beer, wine, or liquor, that was
4 found. I have that Alprazolam, that is Xanax, generic
5 name for Xanax, was found. Metabolites of marijuana
6 were found, the Delta 9 THC. And then the substance
7 called Etizolam, which is a substance similar to Xanax,
8 and a Valium that was found as well.

9 Q I think you said, but Delta hydroxy THC-9, that
10 is commonly known as marijuana?

11 A Chemical in marijuana.

12 Q Is it possible to tell in that report when the
13 marijuana was consumed?

14 A No.

15 Q How about in regards to the other substances?

16 A Same thing. All it means is that he was on these
17 substances at the time he was shot.

18 Q They were in his system, but didn't mean he did
19 it right before he got shot?

20 A Correct.

21 Q I'll take you back to the -- based on that
22 particular autopsy, and within a reasonable and medical
23 certainty as an expert in this field, have you formed
24 an opinion concerning the cause of death of Roger
25 Ramos?

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DR. ERIC EASON - CROSS-EXAMINATION

1 A I have. Dr. Proctor's finding as a gunshot to
2 the head with extensive hemorrhage and traumatic brain
3 injury, and I agree with those findings.

4 Q You agree with those findings?

5 A I do.

6 MR. OSKIN: Court's indulgence.

7 (A brief pause in the proceedings.)

8 Q (MR. OSKIN) You mentioned a level of alcohol is
9 on that report?

10 A Yes. 54 milligrams per deciliter, so that is
11 .05. I think .08 is the limit here in South Carolina
12 to get a DUI, so he was below that.

13 MR. OSKIN: Answer any questions from Mr. Fox or
14 Mr. O'Neil.

15 CROSS-EXAMINATION

16 BY MR. O'NEIL:

17 Q Dr. Eason, you testified earlier, you did not
18 perform the autopsy in this case?

19 A Correct.

20 Q You were going off of the findings of Dr.
21 Proctor, and you agreed with that?

22 A Correct.

23 Q So you never saw the body in this case?

24 A Correct.

25 Q But you looked over the findings, including the

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DR. ERIC EASON - CROSS-EXAMINATION

1 toxicology report?

2 A Correct.

3 Q And you said that in his toxicology he had a .05,
4 around there, of alcohol in his system?

5 A That's right.

6 Q And you said that .08 is DUI level, that is the
7 presumptive DUI level? You can get a DUI with less?

8 A I didn't know that. I just moved back here, so I
9 don't know what the laws are.

10 Q Well, you talked about the other things that came
11 off of toxicology, and one was Alprazolam?

12 A Yes.

13 Q And you said Xanax is the brand name?

14 A That's right.

15 Q Is that a controlled substance?

16 A It is.

17 Q And you know in your practice -- do you come
18 across people using it recreationally?

19 A Yes. Yes.

20 Q Is that a drug you should take when you are
21 taking alcohol?

22 A No. No. No, you should not.

23 Q Because that can have adverse side effects?

24 A It could cause respiratory depression and lead
25 into a coma and possibly dying.

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DR. ERIC EASON - CROSS-EXAMINATION

1 Q And there was Clonazepam?

2 A Yeah, which is actually a metabolite. So you
3 are -- he had taken Clonazepam sometime in the past,
4 because you have the metabolite here.

5 Q Okay. So how fast does that drug metabolize?

6 A I'm not a toxicologist. I can refer to the
7 toxicology sheet; it might be on here. A toxicologist
8 would be better to answer that. It doesn't say how
9 long it takes to clear the body.

10 Q If I told you it was about a week, does that
11 sound about right?

12 MR. OSKIN: Objection, calls for speculation.

13 A I'm not a forensic in tox, so I couldn't answer
14 that.

15 THE COURT: Overruled.

16 Q (MR. O'NEIL) That's fine. And Etizolam was the
17 other drug?

18 A Correct. Yes.

19 Q Did you know if that drug is approved in the
20 United States?

21 A I don't think it is. On the tox sheet, it is
22 referred to a novel psycho-active substance. When I
23 was in Chicago, we would see this drug a lot.
24 Basically, we were told that it is an illicit drug not
25 on the market here. It would have to be bought on the

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DR. ERIC EASON - REDIRECT EXAMINATION

1 street or something.

2 Q So all of these substances, along with the
3 alcohol and THC, were in the system at the time of the
4 autopsy?

5 A That's right. At the time he was shot, right,
6 and found in the tox report from the autopsy, blood
7 taken from the autopsy, yes.

8 Q Thank you.

9 (A brief pause in the proceedings.)

10 Q (MR. O'NEIL) You said Etizolam is like -- a
11 benzodiazepine, it is similar to the other drugs found
12 in the system; would it be unusual to be prescribed
13 all of these drugs together?

14 A No. Especially Etizolam, because I don't think
15 you can prescribe that, to best of my knowledge.

16 MR. O'NEIL: No further questions.

17 THE COURT: Redirect.

18 MR. OSKIN: Briefly.

19 REDIRECT-EXAMINATION

20 BY MR. OSKIN:

21 Q You did see the extensive photos that took place
22 in regards to this autopsy?

23 A Yes.

24 Q You saw the -- we know what autopsy photos
25 entail, no question the cause of death was the bullet

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DR. ERIC EASON - RECROSS-EXAMINATION

1 trajectory from the right side of the chin that exited
2 out the shoulder?

3 A It was.

4 Q You don't know if he had prescriptions for this
5 or not?

6 A No.

7 MR. OSKIN: Nothing further from the State.

8 RECROSS-EXAMINATION

9 BY MR. O'NEIL:

10 Q On that autopsy report, did it state anything
11 about stippling on Roger Ramos' body?

12 A No. And can I explain what stippling is?

13 Q Please.

14 A So when a gun is fired, you have the bullet
15 leaving the gun, but you also have unburned gun powder,
16 soot, from the gun leaving the gun as well. It can
17 deposit itself onto the skin, and that is what you use
18 to determine range of fire. So a gunshot wound is
19 going to have soot deposited on the skin. As you pull
20 the gun a little bit further away, you will have what
21 is called "stippling" or "gun powder tattooing," and
22 that is the unburned gun powder that is going to strike
23 the skin and leave marks or powder tattooing around the
24 wound. As the gun goes to about two-and-a-half feet
25 away, that is just the best guess for like a typical

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SETH COLE - DIRECT EXAMINATION

1 handgun, the soot will not reach the skin, and the
2 stippling will not reach the skin. All you have is a
3 round hole, which is what a gunshot wound looks like.
4 So we call that a distant-range gunshot wound, meaning
5 that the gun was, more than likely, at least
6 two-and-a-half feet away from the body.

7 In this report, I don't see any soot or stippling
8 mentioned, so the best guess is that the gun was at
9 least two-and-a-half feet away when it was fired.

10 MR. O'NEIL: Thank you.

11 MR. OSKIN: State asks that he be released from
12 his subpoena.

13 MR. O'NEIL: No objection.

14 THE COURT: You are excused. Thank you.

15 Call your next witness.

16 MR. OSKIN: State calls Seth Cole.

17 (SETH COLE, having been duly sworn, testified
18 as follows:)

19 THE CLERK: Please be seated and state your full
20 name for the Court.

21 THE WITNESS: Seth Cole.

DIRECT-EXAMINATION

22 BY MR. OSKIN:

23 Q I like your first name. Who is your current
24 employer?
25

SETH COLE - DIRECT EXAMINATION

1 A My current employer, I work for the federal
2 government.

3 Q Move a little closer.

4 A I work for the federal government, military base.

5 Q Who was your employer back in 2018?

6 A Towersite Services.

7 Q What type of work did you do for them?

8 A We did cell tower work, climbed cell towers.

9 When we traveled a week at a time, we would put up a
10 site or tear an old one down and put a new one back up.

11 Q Did you travel as part of that work?

12 A Yes, constantly.

13 Q Did that work bring you to the Myrtle Beach area
14 around October 7, 2018?

15 A Yes, it did.

16 Q Was that in response to storms that occurred
17 here?

18 A Yes.

19 Q Where did you stay while you were in Myrtle
20 Beach?

21 A I don't remember the name of the hotel, but it
22 was right across the street from RipTydz.

23 Q If I told you it was Aqua Beach Inn, does that
24 sound right?

25 A Yeah; that sounds familiar.

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INDIGENT DEFENSE ONLY!!!!**

SETH COLE - DIRECT EXAMINATION

1 Q Who all did you stay with while you were there?

2 A Our whole crew was John, Eli, Jeff, Jakkari, and
3 Tyler; it was our six-man crew.

4 Q As part of your work, you traveled and stayed in
5 hotels that are not that safe?

6 A Yes. Yes.

7 Q But it is hard to remember all of them, but it
8 was Aqua Beach?

9 A Yeah. Because normally it was Hampton or
10 lower-end hotels, yes.

11 Q Did you go out on the night of October 7th,
12 that would have been a Saturday?

13 A Yeah.

14 Q Where did you go?

15 A I remember we did go to RipTydz the night before
16 that stuff happened.

17 Q I understand. We'll get that, but on the night
18 of October 7th, that Saturday night, what bar did you
19 go to?

20 A It was RipTydz.

21 Q Had you been to RipTydz before?

22 A Before? Had we ever gone there before? No.

23 Q You said you were there the night before; had you
24 been to RipTydz more than one time, I guess?

25 A No. The night prior and the night of is the only

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SETH COLE - DIRECT EXAMINATION

1 two times.

2 Q I understand. And who all went with you to
3 RipTydz when you are saying "the night of"?

4 A The night of, that is all of us.

5 Q Who did that include?

6 A That would have been, John, Tyler, myself,
7 Jakkari, Jeff, and Eli.

8 Q Was there fighting going on on the television, or
9 were you watching TV?

10 A It was a UFC fight, yes.

11 Q Do you remember who was fighting, by chance?

12 A I remember Conor McGregor.

13 Q What happened in the bar after the fights on
14 television were over?

15 A I do remember just somebody had a disagreement at
16 the bar in front of us. I don't remember for what or
17 where or why or where it came from.

18 Q So did any altercations start to happen after
19 that?

20 A As soon as that happened, people started shoving
21 each other, and then the bar security, they decided to
22 come in. They were being rough with people, throwing
23 people around. After that, it kind of turned to chaos.

24 Q What did you do once those altercations started
25 happening?

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SETH COLE - DIRECT EXAMINATION

1 A I tried to keep the people in my crew from
2 joining in, you know. Everybody is intoxicated. We
3 had been drinking and stuff, so people do stuff that
4 you won't normally do.

5 Q Was Jakkari one of those persons?

6 A Yes.

7 Q So you saw him during that time?

8 A I did, for a brief amount of time. Then, he went
9 off -- he got sucked into the crowd or got pulled off
10 and started pushing people, too. But I also don't
11 remember where most of the people I was there with
12 were.

13 Q So you weren't able to keep him by you?

14 A No.

15 Q Were you drinking that night?

16 A Yes.

17 Q Were your co-workers drinking that night?

18 A Yes; we all were.

19 Q Did you see Jakkari drinking that night?

20 A Yes.

21 Q Do you remember how much?

22 A No. We had been there for a couple of hours, so
23 it could have been multiple beers. I don't know if
24 anyone was drinking shots or anything.

25 Q Drinking enough to forget how much you had to

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SETH COLE - DIRECT EXAMINATION

1 drink?

2 A Yeah.

3 Q I understand. I'll show you what is entered into
4 evidence as State's 10; do you recognize that photo?

5 A Yes.

6 Q Are you in that photo?

7 A I am.

8 Q How are you able to tell?

9 A I'm wearing the bright neon hat.

10 Q Were you wearing that hat almost all night?

11 A Yes.

12 Q If you could --

13 MR. OSKIN: If he could indicate where he is by
14 placing his initials on it?

15 THE COURT: Yes.

16 Q (MR. OSKIN) Just right above it, or you can put
17 an arrow for contrast.

18 A (Witness complies.)

19 Q I think I asked, but you wore that hat through
20 the duration of the night; is that correct?

21 A Yes.

22 Q So once the altercation escalated, what happened
23 next? What did you see next?

24 A Honest, I don't remember much from then, at that
25 point. I remember fighting all around me. I was

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SETH COLE - DIRECT EXAMINATION

1 trying to keep Jakkari and Eli at one point from
2 jumping in, but, of course, they went on their own.
3 After that, I remember stepping back towards our table.

4 Q Do you remember seeing someone laying on the
5 ground?

6 A After I heard a shot go off, I ended up walking
7 in that direction, and I did see someone on the ground.
8 Even without my lack of corrective lenses, I did see
9 that there was blood on the ground or blood on his
10 person, and he wasn't moving. So my first inclination
11 was, I need to move away from here.

12 Q You mentioned you didn't have your glasses or
13 contacts in; was that true through the whole night?

14 A Right. I didn't have corrective lenses for a
15 couple of months, at that time.

16 Q Are you nearsighted, farsighted? You have a hard
17 time seeing close up or further away?

18 A Farther away.

19 Q So me to you is a little hard if you don't have
20 your glasses on?

21 A Yes.

22 Q But you can see what is in front of you?

23 A Yeah. Within a couple of feet of me, I'm good;
24 anywhere past that, it's blurry.

25 Q So once you got away from the body on the ground,

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SETH COLE - DIRECT EXAMINATION

1 where did you go?

2 A The second I turned around, I noticed one of my
3 co-workers, Jeff, was kind of a little dumbfounded,
4 standing still, so I pushed him towards the door the
5 best I could to get out. I didn't see any of the other
6 co-workers, so I focused on him and me getting out of
7 the building.

8 Q Did you go back to the hotel you were staying at
9 after that?

10 A We went directly there.

11 Q Who did you see once you got there?

12 A I saw our foreman, John, and Tyler briefly
13 standing outside of the doorway, like a little
14 drive-thru area. I ended up standing there for a
15 couple of minutes talking with them. After that, I
16 started making my way back up to our room.

17 Q Did you see the defendant after that?

18 A I did not see him until we were all in one hotel
19 room, and then he came to the door. Anywhere between
20 when the fight broke out to then, I didn't see him at
21 all, no.

22 Q Do you remember how long that was, the time
23 between, if you had to guess?

24 A I don't know.

25 Q If you had to guess.

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SETH COLE - DIRECT EXAMINATION

1 A Maybe ten, 20 minutes, I think.

2 Q Did you know the defendant to carry a gun with
3 him when you traveled?

4 A Yes. While we were traveling, yes.

5 Q How many times did you travel with him before
6 that?

7 A A handful of times. I don't remember how many
8 times. I was on his crew.

9 Q Have you seen the gun he carries?

10 A I have seen it, yes.

11 Q Is there something unique about it?

12 A I just remember it missing the rear sights.

13 Q And did you bring a gun with you on that trip?

14 A No.

15 Q Did anyone else bring a gun in your crew on that
16 trip?

17 A Not that I'm aware of.

18 Q After that 20-minute delay or 20-minute space
19 between RipTydz and seeing the defendant at the hotel
20 room, did you have any communication with him at that
21 time?

22 A No.

23 Q What was he doing when he came to the room?

24 A I remember that he was crying and speaking
25 incoherently.

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SETH COLE - CROSS-EXAMINATION

1 Q Anyone in the crew ask if he shot that guy?

2 MR. FOX: Objection, hearsay.

3 A John did.

4 THE COURT: Sustained.

5 Q (MR. OSKIN) Please answer any questions from
6 Mr. Fox.

7 CROSS-EXAMINATION

8 BY MR. FOX:

9 Q When the fights broke out at RipTydz, best
10 estimate, how many would you say got involved in that?

11 A There could have been easily 15, 20 people.

12 Q How would you describe that once it went off?

13 A Just a brawl, basically. I don't even think
14 anyone knew who was pushing and punching who.

15 Q Right. And your words a moment ago, it turned to
16 chaos?

17 A Uh-huh.

18 Q So there is 15, 20 people; was this all in one
19 area, is it spread out?

20 A Originally, it started right in front of the bar,
21 but then they got pushed off towards like the more open
22 floor, and then it ended up -- once security started to
23 help clear stuff up, it started to come back towards
24 the DJ's booth.

25 Q Let's talk about security. I think you described

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SETH COLE - CROSS-EXAMINATION

1 them as being a bit rough with people, correct?

2 A Yes, sir.

3 Q Do you remember telling the police that you
4 thought they made everything worse?

5 A Yes.

6 Q They were overly aggressive?

7 A Yes.

8 Q Did you see John Matthews involved in any of
9 this?

10 A I did for a small portion of it, and then I lost
11 sight of him.

12 Q What did you see during that small portion?

13 A Somebody was pushing people in front of us, and I
14 think one of them must have hit him or got pushed into
15 him hard, and he shoved them back. He started walking
16 off towards the crowd, and that is when I lost site of
17 him.

18 Q The person -- after you heard the shot, you only
19 heard it, right; you didn't see the actual --

20 A Yes, I only heard it.

21 Q You did see the person on the ground afterwards?

22 A Yes. I didn't see a face or anything.

23 Q Could you see clothing or anything?

24 A It was pinkish, like a salmon.

25 Q That is -- do you remember seeing that person at

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SETH COLE - CROSS-EXAMINATION

1 any time during the fight leading up to the gunshot?

2 A I don't remember that color shirt at all.

3 Q Didn't stand out to you?

4 A No.

5 Q Because it was chaos and hard to keep track of
6 any one person?

7 A Yeah.

8 Q Especially if you didn't already know them?

9 A No.

10 Q Now, when you got back to Aqua Beach, law
11 enforcement was already over there?

12 A When I got to the hotel, I don't remember any law
13 enforcement officers at the hotel, but they were up and
14 down both sides of the strip already, by that point.

15 Q So in a short time it took you to go, basically,
16 across the street?

17 A Right.

18 Q Law enforcement was already on the scene?

19 A Pretty much, yes.

20 Q And visible there on the Boulevard?

21 A Yeah.

22 Q And you went back to the hotel, at least to the
23 room, before Jakkari, correct?

24 A Yes.

25 Q And when you -- you said you didn't have any

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SETH COLE - CROSS-EXAMINATION

1 conversation or speak to Jakkari, correct?

2 A No. In between that time period, no.

3 Q No. I'm -- I'm talking about once you are both
4 back at the hotel room.

5 A When we were both back at the hotel in the room,
6 the only thing I said to him is, I have a wife and kid.
7 If there is anything going on, I don't want any part of
8 it, and then I left.

9 Q And he was crying, incoherent at that time?

10 A Yes.

11 Q You say you weren't aware if any of the other
12 crew members had guns; could they have?

13 A That could have been possible, yes.

14 Q Not uncommon for people in Georgia to carry?

15 A No.

16 MR. FOX: Thank you. That is all I have.

17 THE COURT: Redirect.

18 MR. OSKIN: The State asks that he be released
19 from the subpoena.

20 MR. FOX: No objection.

21 THE COURT: Okay. Call your next witness.

22 MR. DeBUSK: Jamie Franks.

23 (JAMIE FRANKS, having been duly sworn,
24 testified as follows:)

25 THE CLERK: Have a seat and state your name for

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JAMIE FRANKS - DIRECT EXAMINATION

1 the Court.

2 THE WITNESS: Jamie Allen Franks.

3 DIRECT-EXAMINATION

4 BY MR. DeBUSK:

5 Q Mr. Franks, what state do you live in now?

6 A Charlotte, North Carolina.

7 Q How about in October of 2018?

8 A In Conway, South Carolina.

9 Q And when you lived out here, who was your
10 employer?

11 A Kid Norris for Platinum Protection Security.

12 Q What is that, for the jury?

13 A It is a security company that contracts out to
14 different places, just to be there in case anything
15 happens, de-escalate any situations.

16 Q How long had you worked with Platinum Security?

17 A About a year-and-a-half.

18 Q What kind of places would you be assigned when
19 you worked for Platinum?

20 A Different places, like bars, clubs, and special
21 events.

22 Q When you worked at bars and clubs, would you have
23 a uniform?

24 A Yes, sir.

25 Q What was it?

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JAMIE FRANKS - DIRECT EXAMINATION

1 A It was blue and had a badge, and then "Platinum
2 Security" on the back.

3 Q Okay. Did you carry a gun when you worked with
4 Platinum Security?

5 A I didn't. I had a partner with me downstairs at
6 the time; he was armed.

7 Q But you weren't?

8 A No, sir.

9 Q Is that typical to have one security officer
10 armed and one unarmed?

11 A Usually.

12 Q What floor were you assigned to?

13 A I was assigned to the second floor.

14 Q Is that where the bar is or restaurant?

15 A The bar area.

16 Q So that is the top floor?

17 A Top, yes.

18 Q Some people call it the second or third?

19 A Oh, yes, third floor then.

20 Q But you were up on the rooftop?

21 A Yes, sir.

22 Q Did you have a particular section of the rooftop
23 bar where you were working?

24 A Not particularly. I had rotated around the area
25 and just stayed in different spots.

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JAMIE FRANKS - DIRECT EXAMINATION

1 Q Who was the other individual working that floor
2 with you?

3 A It was Zack Norris.

4 Q And you said Zack Norris was armed?

5 A He was armed, and he was downstairs at the time.

6 Q But he was working the third floor?

7 A Yes, he was, with me.

8 Q Why was he downstairs?

9 A There was another person he was dealing with that
10 he had to remove from the premises.

11 Q Were you present when he removed that person?

12 A I was -- I saw him take him to the elevators.

13 Q So there was an accident where Zack took that
14 person to the elevator and was going downstairs?

15 A Yes, sir.

16 Q Leaving you the only security officer from
17 Platinum on the floor?

18 A Yes, sir.

19 Q After he took the individual to the elevator and
20 went down, what happens?

21 A There was a big fight that broke out in the bar,
22 a huge altercation.

23 Q Where was that altercation?

24 A It was close to the elevator.

25 Q Where did it end up going?

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JAMIE FRANKS - DIRECT EXAMINATION

1 A It ended up going in the middle -- right --
2 closest area to the bar.

3 Q Was there a bar there with surfboards on it?

4 A Yes, sir.

5 Q I'll show you State's 23; does that look familiar
6 to you?

7 A Yes. That's exactly where it happened.

8 Q So the fight went on down to the surfboards?

9 A Yes, sir.

10 Q Did there come a time when you became engaged in
11 that fight?

12 A Yes, I saw it happening, and I was just trying to
13 de-escalate the best I could and tried to break it up,
14 and at the time I got my glasses knocked off.

15 Q Your glasses, are they for seeing close up, or
16 far away?

17 A Far away.

18 Q So when you get your glasses off, you couldn't
19 see outside of two or three feet?

20 A It is a little blurry.

21 Q When your glasses got knocked off, what did you
22 do?

23 A I was -- I was still trying to deal with people,
24 but I waited until any chance I could to pick them up.
25 So as soon as I got the chance, I picked them up in

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JAMIE FRANKS - DIRECT EXAMINATION

1 between the fighting.

2 Q Before your glasses got knocked off, did you see
3 any pushing?

4 A Yeah. There was a lot of pushing between a lot
5 of different people.

6 Q Did you see punching?

7 A Yeah.

8 Q Where did that happen?

9 A In the same area with the surfboards.

10 Q Do you know who got punched?

11 A I didn't quite see it. It was too fast for me to
12 see that part.

13 Q But there was a punch, and then you lost your
14 glasses?

15 A Yes.

16 Q You secured your glasses; what did you do with
17 them? Did you put them back on?

18 A Yes, I put them back on.

19 Q And, at that point, could you see what was going
20 on?

21 A Yes.

22 Q What happened then?

23 A Well, the -- right when I picked them up, that is
24 when I saw -- I heard the shot, and I immediately -- it
25 was right behind me, so I immediately looked back and I

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JAMIE FRANKS - DIRECT EXAMINATION

1 saw the victim fall.

2 Q Now, did you see the shot happen, the person
3 shoot?

4 A I didn't see the guy shoot.

5 Q And did you turn around in time to see who shot
6 him?

7 A Didn't get to see it. My attention came to the
8 victim.

9 Q So the victim falls on the floor right behind
10 you, so you have to turn around to see him?

11 A (Witness nods head.)

12 Q What did you do then?

13 A I kind of was just trying to survey my
14 surroundings and see what I could see, and then I was
15 trying to find my partner, because I wasn't sure where
16 he was.

17 Q That was the partner downstairs, Zack, I think
18 you said?

19 A Yes.

20 Q When all of this happened and the shot was fired,
21 Zack wasn't there, right?

22 A Right.

23 Q It was just you and the bar personnel?

24 A (Witness nods head.)

25 Q At that time, did you have a beard?

JAMIE FRANKS - DIRECT EXAMINATION

1 A Yes, sir.

2 Q Did you know the victim that was shot, Roger
3 Ramos?

4 A No, I didn't know him.

5 Q Did you see who shot Ramos?

6 A I didn't get to see it.

7 Q So it basically happened behind you when you were
8 busy securing your glasses?

9 A Uh-huh.

10 Q And after that, did you leave the scene to find
11 your partner?

12 A Yes. It was too much going on. I didn't get to
13 see -- as soon as it happened, there was a big crowd,
14 so I didn't really get to see who it was that did it,
15 so I was trying to find my partner and see where he
16 was.

17 Q And, of course, you are unarmed?

18 A Yes.

19 Q And there was a shot, so you went to find the
20 armed partner?

21 A (Witness nods head.)

22 Q When you -- did you try to intervene in the
23 fight, separate people?

24 A Yes, I tried a little bit. There was a lot of
25 people altogether just altercating.

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JAMIE FRANKS - DIRECT EXAMINATION

1 Q What happened to you?

2 A I was just -- I got knocked in the face, that's
3 is when my glasses fell off.

4 Q Was it a punch, push, elbow?

5 A More like an elbow, I would say.

6 Q Not intentional, but accidental?

7 A Yeah. Probably, yeah.

8 Q So, basically, during the crux of that fight, you
9 were trying to find your glasses to be effective again.
10 After the fight was over, you went to get your armed
11 partner?

12 A Yes, sir.

13 Q Once again, you did have a uniform on and it was
14 blue and said "security" on the back?

15 A Yes, sir.

16 Q And you had a beard at the time?

17 A Yes.

18 Q Did you carry a radio?

19 A Yes, sir.

20 Q Where was the radio?

21 A It was wrapped around my back.

22 Q You had a mic to speak on, and then a main radio
23 on your back?

24 A Yes, sir.

25 Q So you did have a radio, beard, and blue security

SETH COLE - CROSS-EXAMINATION

1 shirt on?

2 A Yes, sir.

3 MR. DeBUSK: Thank you. Answer any questions
4 defense may have.

5 CROSS-EXAMINATION

6 BY MR. FOX:

7 Q Mr. Franks, you were readily identifiable as a
8 security person that evening?

9 A Yes, sir.

10 Q With the shirt of a certain color, which
11 literally said "Platinum Security" on the back, and a
12 radio or mic?

13 A Yes, sir.

14 Q At one point -- how many people would you say
15 were involved in this scuffle at the point you were,
16 sort of, in the middle of it?

17 A I would have to say like ten people, at least, if
18 I had to guess.

19 Q I'll refer you back to State's 23, correct?

20 A Correct.

21 Q That is the area of the bar where you were?

22 A Yes, sir.

23 Q And looking back at the wall with the surfboards,
24 the only way out of that area, at that end, is by the
25 door right there in the middle, correct?

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SETH COLE - CROSS-EXAMINATION

1 A Correct.

2 Q That is where it leads to the bathrooms -- or
3 some bathrooms?

4 A Yes, sir.

5 Q And then at the end of the bar, looking at the
6 end near the wall, that's like the service area for the
7 waitstaff at RipTydz, correct?

8 A Correct.

9 Q So it's not like a passage for people to go back
10 through, for the public to use to get from one side of
11 the bar to the other?

12 A Correct.

13 Q So if you are standing at that wall, at the back,
14 your options to get out of there are either to go
15 towards the restrooms, go behind the bar, and that is a
16 narrow passage behind the bar?

17 A Yes, sir.

18 Q Probably not more than, like, arm's outstretched
19 width, or to come back across the main floor there into
20 the rest of the bar area, right? The bar ends at the
21 other end and it is kind of a more open area, and you
22 can continue on from the outside?

23 A Yes, sir.

24 Q In other words, that is like a dead-end back
25 there?

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SETH COLE - CROSS-EXAMINATION

1 A Basically.

2 Q So you were back there near that wall. There is
3 a bunch of people pushing, scrapping, you see punches
4 thrown, and you end up, in fact, trying to restrain
5 somebody or get between a couple groups, right?

6 A Right.

7 Q And while you are -- you are right up close to
8 the person -- the person ends up being shot, right? I
9 mean, you were right next to him a few moments before
10 he was shot?

11 A Correct.

12 Q He reached, literally, around you -- over your
13 shoulder, I mean, you were face-to-face, and threw a
14 bottle; did you see that?

15 A I missed that.

16 Q But you were right there. You know what I'm
17 talking about; the fellow in the pink shirt, the fellow
18 you saw a few moments later on the ground bleeding,
19 unfortunately, right?

20 A Right.

21 Q And you tried to stay in between the fight going
22 on behind you?

23 A Right.

24 Q And he, in fact, kind of stepped back a little
25 bit, but then he went back towards that fight, didn't

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SETH COLE - CROSS-EXAMINATION

1 he?

2 A Yes.

3 MR. DeBUSK: Objection, leading.

4 MR. FOX: Cross-examination, Your Honor.

5 THE COURT: He can lead all he wants.

6 Q (MR. FOX) When he went back, did you see what he
7 did when he went back towards the fight?

8 A I didn't see it.

9 Q At that point, your glasses were knocked off?

10 A Yes, sir. I didn't see it.

11 Q So, I mean, you were literally down on the ground
12 trying to get those?

13 A Correct.

14 Q There is no question, for a few seconds there,
15 that you were trying to keep that man in the pink shirt
16 out of the fight that was going on, correct?

17 A Correct.

18 Q Did you receive any training when you started
19 working for Platinum?

20 A Yes, sir.

21 Q Did they train you in crowd control?

22 A Yes. They just spoke of different scenarios and
23 tried to say what to do.

24 Q To try to diffuse situations?

25 A Yes, sir.

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SETH COLE - CROSS-EXAMINATION

1 Q De-escalate?

2 A Correct.

3 Q Is that another word for "diffuse"? Was there
4 anything in that training where it was recommended that
5 you take a glass bottle and heave it into the direction
6 of someone causing the disturbance?

7 A No, sir.

8 Q Are you allowed to drink on the job?

9 A No, sir.

10 Q Why not?

11 A Because you are not supposed to be under the
12 influence.

13 Q Right. Are you allowed to consume controlled
14 substances while on the job?

15 A No, sir.

16 Q Are you allowed to combine those un-prescribed
17 controlled substances with alcohol on the job?

18 A No, sir.

19 MR. FOX: Thank you.

20 THE COURT: Redirect.

21 MR. DeBUSK: Nothing further. We ask that the
22 witness be excused.

23 MR. FOX: No objection.

24 THE COURT: Have a good day.

25 Jurors, let's take a 15-minute break. Do not

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NICHOLAS BLAKE - DIRECT EXAMINATION

1 discuss the case.

2 (The jury exits at 11:07 a.m., and the
3 following is heard out of the presence of the jury.)

4 THE COURT: 15 minutes.

5 MR. DeBUSK: Thank you, Your Honor.

6 (A recess is taken.)

7 THE COURT: Be seated. Let's go ahead and bring
8 in the jury.

9 (The jury enters at 11:30 a.m., and the
10 following is heard in the presence of the jury.)

11 THE COURT: Call your next witness.

12 MR. OSKIN: State would call Nick Blake.

13 (NICHOLAS BLAKE, having been duly sworn,
14 testified as follows:)

15 THE CLERK: State your name for the court?

16 THE WITNESS: Nicholas Blake.

17 DIRECT-EXAMINATION

18 BY MR. OSKIN:

19 Q Some people don't talk loud enough. You can back
20 up a little bit (laughing).

21 Mr. Blake, who is your current employer?

22 A I work for a family business currently.

23 Q And where did you work back in October of 2018?

24 A RipTydz.

25 Q What was your position there, sir?

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NICHOLAS BLAKE - DIRECT EXAMINATION

1 A Did a little bit of everything. I served and
2 bartended and somewhat managed a little bit, helped out
3 with whatever I could.

4 Q It might be an obvious question, when people
5 order drinks at RipTydz, do they stay there and drink
6 them?

7 A Oh, yeah.

8 Q Were you working October 7, 2018?

9 A Uh-huh.

10 Q Nick, how do you remember that night?

11 A It is hard not to remember. It was a really bad
12 night. It started out really good, and then things
13 escalated pretty quickly.

14 Q What part of the bar were you working that night?
15 You may have said that, p I'm sorry?

16 A I originally was on second floor, and then the
17 third floor, they were so busy, they needed a little
18 help; so when the second floor was pretty much done,
19 they told me to go upstairs and help out.

20 Q Second floor is more of a casual bar compared to
21 rooftop?

22 A Yep.

23 Q Was there an event going on on the third floor?

24 A Uh-huh.

25 Q Which event was that?

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NICHOLAS BLAKE - DIRECT EXAMINATION

1 A The Conor McGregor fight. There was no cover
2 charge, so there was quite a bit of people there.

3 Q So what was going on when you got to the third
4 floor?

5 A Basically, it was extremely busy. It was
6 extremely busy. All of us bartenders and staff were
7 just having a good time, because we knew we would make
8 money. There was people that we knew there. The fight
9 happened. It was kind of quiet. We stopped serving
10 alcohol while the fight was going on because everyone
11 was trying to pay attention, and after the fight
12 happened, just all hell broke loose.

13 Q So were there altercations going on after that
14 final television fight was done?

15 A Yes.

16 Q As an employee of RipTydz, did you approach
17 anyone as this was happening?

18 A Yes.

19 Q Why did you do that?

20 A Just because my job is to make sure, you know, it
21 is customer service. I wanted to be sure everyone was
22 having a good time. There was a lot of women up there
23 and stuff, and I didn't want anyone to get hurt. A lot
24 of the girls I worked with were up there, and I was
25 trying to make sure they would be safe, too.

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NICHOLAS BLAKE - DIRECT EXAMINATION

1 Q Did you start slinging bodies, or de-escalate?

2 A I tried to de-escalate things. There was a point
3 in time where I grabbed a gentleman and pushed him back
4 because he was getting a little too irate.

5 Q Explain to this jury the characteristics of that
6 gentleman, size, shape, build?

7 A He was a bigger guy. So I grabbed him and pushed
8 him back, and he was right next to the defendant and
9 stuff, too.

10 Q What color was that guy?

11 A The guy that I grabbed?

12 Q First guy that you pushed back.

13 A He was white, Caucasian.

14 Q Did you push him towards -- I think there is
15 surfboards on that one wall?

16 A Yes.

17 Q Did that end your interaction with him?

18 A The security guard grabbed him, and then him and
19 the general manager got him in the elevator -- or a
20 gentleman in the elevator. After I helped him get them
21 to the elevator, I walked back, and there was another
22 fight going on, and that is when that happened.

23 Q You keep -- at any point that night, did you come
24 into contact or have interactions with the defendant?

25 A Yes.

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NICHOLAS BLAKE - DIRECT EXAMINATION

1 Q Do you remember what the person was wearing that
2 night?

3 A Yes.

4 Q What was he wearing?

5 A Red shirt.

6 Q Why did you approach him?

7 A Well, the first fight that broke out, I went up
8 and I came around the bar. I do specifically remember
9 saying, I work here, please don't do anything stupid.
10 And then --

11 Q Was that in hopes of -- a threat or?

12 A Yeah. I was just -- because I could tell like it
13 was going to get worse, and I didn't want to get hit.

14 Q Words matter. It was a threat, or don't do
15 anything stupid because you were hoping?

16 A Just don't do anything stupid.

17 Q Well, how -- did he respond to you when you said
18 that?

19 A I couldn't remember. That was the first incident
20 where I ran into the gentleman. The second incident is
21 when I was --

22 Q Where did that first interaction occurred?

23 A Right before I grabbed the bigger guy and pushed
24 him back towards the surfboards.

25 Q What area in the bar?

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NICHOLAS BLAKE - DIRECT EXAMINATION

1 A Like, literally, right in front of the DJ booth.

2 Q How close is that to the service bar?

3 A Like right there.

4 Q So you had a second interaction in the --

5 A Uh-huh. After the security guard got one
6 gentleman in the elevator, I came back, and that is
7 when he and Roger were arguing.

8 Q What did you do at that time?

9 A I was going like this trying to separate
10 everything.

11 Q Did you say anything to him?

12 A I was trying -- I put my hand on his shoulder --
13 I'm a touchy person. I'm going to look at you in the
14 eye, Hey, calm down, everything will be okay.

15 Q What happened next? Did he say anything to you?

16 A Am I allowed to say?

17 Q Whatever he said, say.

18 A He said, I'm going to fuck you up, and then --

19 Q Anything else?

20 A I put my hands up and I walked away, and then he
21 swung.

22 Q So you are walking away from the wall with the
23 surfboards?

24 A Uh-huh.

25 Q Did you hear anything else after that?

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INDIGENT DEFENSE ONLY!!!!**

NICHOLAS BLAKE - DIRECT EXAMINATION

1 A No, just a bunch of fighting. And then a girl I
2 worked with, I was really close with, she was actually
3 with me standing there trying to de-escalate
4 everything, and when I walked away, I was like, Man, if
5 she stays right there, she's going to get hit. So when
6 I started coming back, that is when the gunshot went
7 off.

8 Q What did everyone do after the gunshot?

9 A Oh, my gosh, it was insane. Bottles were flown
10 everywhere, tables tipped over everywhere. I fell like
11 three times.

12 Q Getting out of there?

13 A Yeah. Well, from all of the beer and stuff over,
14 I slipped and fell numerous times, and I do remember
15 being lodged in the chair.

16 Q That all occurred after shots were fired?

17 A Yeah.

18 Q Were you able to leave the actual bar?

19 A Yeah. So I kind of -- after that happened, I
20 blacked out because I was so scared, because I didn't
21 know what was going to happen next. So I ran out onto
22 the turf area, and there was a back door to go -- an
23 employee staircase that only we're allowed to take, and
24 I told everyone to go down there and leave. I called
25 911, and then I came back upstairs, and the police

NICHOLAS BLAKE - DIRECT EXAMINATION

1 showed up.

2 Q Part of RipTydz -- you are familiar they have a
3 camera system?

4 A Oh, yeah.

5 Q Do they have one on the rooftop bar?

6 A Everywhere.

7 Q Would it have captured everything that happened
8 there?

9 A One hundred percent.

10 Q If you had those interactions you just said you
11 did, would it be captured on video?

12 A Yes.

13 Q Would you be able to identify yourself if you
14 were on there?

15 A Yes.

16 MR. OSKIN: Court's indulgence. The State asks
17 to publish Exhibit 4. It's already in evidence. Can
18 we have the witness leave the stand and identify
19 himself for the jury?

20 THE COURT: All right. You may step down.

21 THE WITNESS: Yes, sir.

22 MR. OSKIN: Everybody see?

23 THE COURT: You are fine.

24 Q (MR. OSKIN) Do you see yourself there?

25 A Yep, right here.

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NICHOLAS BLAKE - DIRECT EXAMINATION

1 MR. OSKIN: Is this the first play from the
2 beginning. Pause it, and I'll tell you when to resume
3 it. Start from the beginning.

4 A I'm right here.

5 Q (MR. OSKIN) Is that your first interaction with
6 the defendant that you are describing to the jury?

7 A Second time. Before was right here (indicates.)?

8 Q So you said the second time is in that area. Is
9 this the first time you spoke to the defendant wearing
10 the red shirt?

11 A No. I spoke to him right before all of this
12 happened. There was an altercation right here
13 (indicates); that is when I came around the bar here.
14 When the altercation was going on, I went to
15 (indicates).

16 Q Where are you at now?

17 A I'm here.

18 Q Play it, please.

19 A I'm right here trying to separate it.

20 Q Put your hands up?

21 A Put my hands up and walk away.

22 Q Why did you put your arms in the air?

23 A I was scared. I knew he was about to do
24 something. Like I said, he said, I'm going to fuck you
25 up. I just realized that I wouldn't be able to

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NICHOLAS BLAKE - DIRECT EXAMINATION

1 de-escalate it. So I walked away, and then I came back
2 (indicates). Rachel was standing right here.

3 MR. OSKIN: Your Honor, the State wishes to
4 publish Exhibit 3 so the witness can identify himself
5 on that video.

6 THE COURT: Okay.

7 MR. OSKIN: I apologize, it is State's 4.

8 (State's Exhibit 4 published to the jury.)

9 A Right there.

10 Q (MR. OSKIN) Where are you?

11 A Right there.

12 Q Are you involved in this at all?

13 A No, not yet.

14 Q Tell the jury when you see yourself.

15 A I'm right here as this is going down, and then
16 I'm over here. One of the other co-workers, we're just
17 trying to separate it. So they are getting a guy in
18 the elevator right now.

19 Q Where are you now?

20 A I should be walking back -- yeah, right here. I
21 told them to stop, like, you know, done and over with.

22 MR. OSKIN: Back up a little bit. Not the film,
23 Mr. Blake, physically, I apologize.

24 A So I was like whatever. I'm going to go back to
25 work now, and then he pushed him after I told him to

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NICHOLAS BLAKE - DIRECT EXAMINATION

1 calm down previously.

2 Q (MR. OSKIN) Where are you?

3 A Right here. So rewind it a little bit.

4 MR. OSKIN: Just pause it.

5 Q (MR. OSKIN) Can you see yourself here?

6 A Yeah. Start right there. So I'm going to come
7 back around the bar and go up to him, and I pretty
8 much, Hey, I work here, don't do anything stupid.

9 Q (MR. OSKIN) Where?

10 A Right there.

11 Q Is this individual here the person?

12 A That's the person that I eventually grabbed in a
13 few moments and pushed him back towards the surfboards.

14 MR. OSKIN: All right. Play.

15 Q (MR. OSKIN) Okay.

16 A So there I grab him, and I'm shoving him to the
17 wall because he wouldn't stop, and he is a big dude.

18 MR. OSKIN: Pause it.

19 Q (MR. OSKIN) Have you -- so do you have any
20 interactions with the defendant at this time?

21 A Honestly, just like trying to separate
22 everything, and then that's when --

23 MR. OSKIN: Okay. Play it.

24 A Yep. Right there, I'm trying to stop everything.

25 Q (MR. OSKIN) Still see yourself on screen?

NICHOLAS BLAKE - DIRECT EXAMINATION

1 A Yeah. No one is listening. Yep, chairs flipped
2 over.

3 Q Last time. Back it up to where he walks away.
4 We need been to clear.

5 A Yep.

6 Q Now that you've seen that, you understand --
7 streamline your altercations with the people in the
8 bar; is that correct?

9 A Yes.

10 Q Now, this is -- do you see yourself in this
11 video?

12 A Yep, I'm right here (indicates).

13 Q Okay.

14 A Yep.

15 Q I'll ask the questions. Do you see yourself
16 putting your hands up in the air, you walked away?

17 A Yes, sir.

18 Q Why did you do that?

19 A Because he said, I'm going to fuck you up, and I
20 could tell by his hand motions that he would do
21 something, so I put my hands up and walked away.

22 Q All right. Please return to your seat. Thank
23 you for your clarity.

24 Did you -- you walked away. Did you see anybody
25 on the floor or not, or did you not see that?

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NICHOLAS BLAKE - CROSS-EXAMINATION

1 A No.

2 Q But did you know Roger Ramos?

3 A Yes.

4 Q About how long did you work with him or did you
5 work with him?

6 A Oh, yeah.

7 Q How long?

8 A I couldn't really tell you how long, but it was
9 well over a year, I would say.

10 Q You would describe him as a good co-worker?

11 A Oh, yeah.

12 Q Did you get along with him?

13 A Oh, yeah. He was a very genuine person. All of
14 us that worked there, we were family, you know. He
15 meant a lot to me.

16 MR. OSKIN: Please answer any questions Mr. Fox
17 may have.

18 CROSS-EXAMINATION

19 BY MR. FOX:

20 Q When you turned and walked away, did you see
21 where Roger was?

22 A Say that again.

23 Q When you turned and walked away, do you see where
24 Roger was in that moment?

25 A No. I was -- everything happened so fast.

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NICHOLAS BLAKE - CROSS-EXAMINATION

1 Q Had you seen him previously?

2 A Roger? Yeah. Yeah.

3 Q And, specifically, when these fights broke out,
4 did you see where he was and what he was doing during
5 all of that?

6 A Yes.

7 Q What was he doing?

8 A I mean, I could tell an altercation was going on,
9 so I was trying to de-escalate and separate it.

10 Q I understand, but what specifically was Roger
11 doing?

12 A I guess he was trying to -- well, originally,
13 whenever -- I do remember when I went over there to
14 separate everything, after I pushed, I remember him
15 coming up to me and trying to help separate it, and
16 then when I was trying to separate everything, that is
17 when he was -- yeah, him and Roger were yelling at each
18 other, and he said, I'm going to fuck you up, so I put
19 my hands up and walked away.

20 Q What did Roger say to that?

21 A I don't remember.

22 Q So there is this chaotic fight going on involving
23 numerous people to the point you need to intervene,
24 tried to intervene?

25 A Uh-huh.

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NICHOLAS BLAKE - CROSS-EXAMINATION

1 Q He is a big guy that you got to kind of push and
2 manhandle out of the way, not Mr. Brown, but a big,
3 white fellow, and one person already has been taken
4 out, right?

5 A Yes, sir.

6 Q And, obviously, not Mr. Brown, because he was
7 still there afterwards. Another fellow you had -- you
8 see is enough of an instigator or problem, you have to
9 get him hopefully out of the way, that is the fellow
10 you push to the surfboards?

11 A Uh-huh.

12 Q You need to answer out loud for the court
13 reporter?

14 A Yes.

15 Q That's okay; just so she can take it down. And
16 so things -- I think in your words, things are kind of
17 crazy and, you know, chaotic. In the middle of that,
18 there is a confrontation, you say, between Mr. Brown
19 and Roger, correct?

20 A Yes.

21 Q Your friend, Roger?

22 A Yes.

23 Q You feel like he's family?

24 A Uh-huh.

25 Q Co-worker?

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INDIGENT DEFENSE ONLY!!!!**

NICHOLAS BLAKE - CROSS-EXAMINATION

1 THE COURT: Is that a yes?

2 A Yes. Yes.

3 Q (MR. FOX) And according to you, Mr. Brown
4 threatens him?

5 A Yes.

6 Q And you turn and walk away at that point?

7 A Yes.

8 Q Left Roger behind?

9 A Yes.

10 Q Afterwards, you hear a shot?

11 A Yes.

12 Q Didn't see the gunshot?

13 A Yes.

14 Q And, understandably, you and many other people,
15 like, cleared out?

16 A Yes.

17 Q Where did you go after you cleared the third
18 floor?

19 A I went downstairs. I ran downstairs, and I was
20 yelling to everyone that I work with down there, Hey,
21 everyone stay down here, hide, you know, there was a
22 shooting. And I do remember calling 911, and then I
23 went back upstairs, and then the police showed up and
24 went from there.

25 Q Where in there did you black out out of fear;

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NICHOLAS BLAKE - CROSS-EXAMINATION

1 where did that come in?

2 A Right after the shot, when I was running. I like
3 -- I believe I somewhat fell in the front of the bar,
4 and I was lodged in between a couple of chairs.

5 Q So law enforcement showed up?

6 A Yes, sir.

7 Q Quickly?

8 A Very quickly.

9 Q Did you speak with them?

10 A When they came in, they did have guns drawn and
11 told us to get down. I had my hands up and said, I
12 work here, I'm sorry, you know.

13 Q That was it?

14 A Yeah. I mean, that I can really remember.

15 Q What point -- how did you come to the Solicitor's
16 attention to be here as a witness today?

17 A I have been there -- I mean I was right there.

18 Q Did you reach out to them?

19 A No, I did not reach out to them.

20 Q Solicitor's Office reached out to you?

21 A Yes, sir.

22 Q Do you remember who?

23 A Seth.

24 Q Mr. Oskin?

25 A Yes.

NICHOLAS BLAKE - CROSS-EXAMINATION

1 Q The person who just questioned you awhile ago?

2 A Yes.

3 Q That was when?

4 A Last week.

5 Q Last week? As in June of 2021?

6 A Uh-huh -- well, I was -- I do know a couple of
7 people that got subpoenaed, and I was waiting to hear
8 from -- to get one, but I don't believe I got one in
9 the mail or anything.

10 Q So from October of 2018?

11 A Uh-huh.

12 THE COURT: Is that a yes?

13 A Yes.

14 Q (MR. FOX) All through 2019, all through 2020,
15 all through the first six months of this year, at any
16 time did you let law enforcement or the Solicitor's
17 Office know that you were present at a fatal shooting,
18 that you were a witness to the events surrounding it,
19 and that you heard the man accused of this act of
20 violence supposedly threatening the man who was shot;
21 you never told anyone that until last week?

22 A The night of the shooting, when the officers were
23 questioning, they were mainly talking to -- her name
24 was CeeCee. They mainly talked to her. I did mention
25 to them my name and stuff, and that was it. But, yes,

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INDIGENT DEFENSE ONLY!!!!**

NICHOLAS BLAKE - REDIRECT EXAMINATION

1 sir, other than that, I didn't hear anything until last
2 week.

3 Q Okay. Back to the fights that were going on, you
4 were pointing out that you were right there at one
5 point near or between Mr. Brown and Mr. Ramos, correct?

6 A Yes. Yes, sir.

7 Q Did you see Mr. Ramos throw a bottle at
8 Mr. Brown?

9 A No.

10 Q Punch him on the side of the head?

11 A I didn't see him punch him in the side of the
12 head.

13 Q Or punch him at all?

14 A Yeah, I didn't see that. Because, at that point,
15 I was looking at him and I was -- I got scared, so I
16 put my hands up and walked away.

17 Q Thank you.

18 REDIRECT-EXAMINATION

19 BY MR. OSKIN:

20 Q You told this jury that you were around CeeCee;
21 do you know her real name?

22 A Honestly, I couldn't even tell you. Last name is
23 Edwards.

24 Q Is that Ciaralyn?

25 A Yeah, that sounds like it. She always went by

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MOTIONS

1 CeeCee; that is what we all called her.

2 MR. OSKIN: That is all I have. Thank you.

3 I ask that he be released from his subpoena.

4 MR. FOX: No objection.

5 THE COURT: You are excused.

6 Call your next witness.

7 MR. DeBUSK: One moment, Your Honor. At this
8 time the State rests.

9 THE COURT: Members of the jury, let's take a
10 lunch. We have to take motions up at this time. Be
11 back at 1:15. Do not discuss the case or research.

12 (The jury exits at 12:01 p.m., and the
13 following is heard out of the presence of the jury.)

14 THE COURT: Any motions at this time?

15 MR. FOX: Yes, Your Honor, we move for directed
16 verdicts on all four indictments. Some are more
17 specific. I don't believe the State has proven beyond
18 a reasonable doubt the elements in each and every one
19 of the four charges. But with regard to murder,
20 though, I don't believe that there is any showing of
21 malice. The inference -- the use of a weapon can no
22 longer be inferred. Showing malice, I don't believe
23 there has been any evidence of malice. There is no
24 testimony about the use of the firearm under the
25 influence. With regard to use of a firearm under the

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MOTIONS

1 influence, the only testimony I'm aware of and
2 evidence has been Mr. Brown and people he was with
3 consumed alcohol, but there is no evidence that he was
4 under the influence consuming alcohol. Consuming
5 alcohol is not enough. I think they have to make some
6 showing that he was drunk, inebriated, not in his
7 right mind. So we would say the State has not met its
8 burden of proof, and ask for directed verdicts on all
9 four accounts.

10 THE COURT: Would State like to reply?

11 MR. DeBUSK: Yes, Your Honor. As to the murder,
12 there is testimony on the record that right before the
13 shooting the defendant said to the victim, I'm going
14 to F you up. He punched him, and when the victim
15 punched him back, he shot him in the face. That is a
16 prima facie showing of malice.

17 As for the use of a weapon under the influence,
18 we have testimony that he was drinking with his
19 codefendants. They said they were all drunk --
20 co-workers, sorry, drinking as much as they were,
21 drinking shots and beer. There is plenty of evidence.
22 This is a bar where alcohol is served for on-site
23 consumption. There is both his testimony to the
24 officers at the time of the arrest that the gun was
25 the one he had in the bar, and that he used it to

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MOTIONS

1 shoot Roger Ramos. He identified himself as the
2 shooter, and I think there is sufficient evidence on
3 all counts.

4 THE COURT: I'll deny the motion.

5 MR. FOX: Judge, during the break I would like to
6 discuss that further with him and have Your Honor
7 address that. There is one point that may influence
8 how I advise him, and I want to clarify. My
9 understanding is, at this point, that his statement to
10 law enforcement -- we had a Jackson v. Denno hearing
11 on Monday in connection with the stand-your-ground,
12 and you ruled it is inadmissible. It is marked as
13 State's 1, but my understanding is that that was
14 specifically for the stand-your-ground hearing, and
15 not at this time in evidence at trial; is that
16 correct?

17 MR. DeBUSK: Yes, that's correct.

18 MR. FOX: I thought that was the case.

19 THE COURT: Yes.

20 MR. FOX: If we could use the time during the
21 break to discuss that.

22 THE COURT: Do you want me to go over his rights
23 and you can talk about it and let me know?

24 MR. FOX: That would be fine, yes.

25 THE COURT: Mr. Brown, if you would like to

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MOTIONS

1 testify, you can come over here and be sworn in and
2 testify any way that you and your lawyer sees fit.
3 However, I want to let you know if you do testify, you
4 may be cross-examined on any and all relevant issues
5 in connection with your case. Furthermore, if you had
6 a criminal record and it involves crimes of dishonesty
7 or false statements or crimes that carry a punishment
8 more than one year, and the Court determines that the
9 probative value is substantially outweighed by the
10 risk, your criminal record will be introduced to
11 attack your creditability; do you understand that?

12 MR. BROWN: Yes, sir.

13 THE COURT: Do you understand you don't have to
14 testify. You have a Constitutional right to remain
15 silent. If you chose to exercise that right, I would
16 tell the jury they can't use that against you in any
17 way. I would even go so far to tell the jury they
18 can't even discuss that fact in the jury room. You
19 understand those rights?

20 MR. BROWN: Yes, sir.

21 THE COURT: Talk with your lawyer at break and
22 let me know what you want to do.

23 MR. BROWN: All right.

24 MR. FOX: Thank you, Your Honor.

25 THE COURT: Anything else?

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MOTIONS

1 MR. DeBUSK: No, Your Honor.

2 THE COURT: See you at 1:15. Do you want to take
3 a charge real quick or wait?

4 MR. DeBUSK: Yes, sir.

5 (A lunch recess was taken.)

6 THE COURT: Thank you. You can be seated.

7 Mr. Fox, have you talked to your client?

8 MR. FOX: I have, and he informs me he does wish
9 to testify.

10 THE COURT: All right. We'll proceed with your
11 case at this time, and then we'll come back to the
12 charge conference and talk about that in greater
13 detail.

14 MR. FOX: Yes, sir.

15 THE COURT: Go ahead. Bring out the defendant.
16 (whereupon, Mr. Jakkari Brown enters the courtroom.)

17 THE COURT: I find that Mr. Brown made his
18 decision to testify was made freely and voluntarily
19 and on the advice of two good lawyers.

20 Bring them in.

21 (The jury enters at 1:26 p.m., and the
22 following is heard in the presence of the jury.)

23 THE COURT: Defense, call your first witness.

24 MR. FOX: Thank you, Your Honor. Defense calls
25 Jakkari Brown.

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JAKKARI BROWN - DIRECT EXAMINATION

1 (JAKKARI BROWN, having been duly sworn,
2 testified as follows:)

3 THE CLERK: Please be seated and state your name
4 for the Court.

5 THE WITNESS: Jakkari Brown.

6 DIRECT-EXAMINATION

7 BY MR. FOX:

8 Q How do you spell Jakkari?

9 A J-A-K-K-A-R-I.

10 Q How old are you, Jakkari?

11 A 26.

12 Q Where are you from?

13 A Toccoa, Georgia.

14 Q Where is that?

15 A Northeast part of Georgia.

16 Q Everyone in South Carolina knows Atlanta; how
17 close to Atlanta?

18 A About an hour-and-a-half.

19 Q Is Toccoa a big place, small place?

20 A Small.

21 Q More country-type of place?

22 A Yes, sir.

23 Q Now, in October of 2018, you were employed; where
24 were you working?

25 A Yes, sir.

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - DIRECT EXAMINATION

1 Q Who were you working for?

2 A Towersite Services.

3 Q Slow down a little bit. It sounds like you are a
4 little nervous and talking fast. Towersite Services?

5 A Yes, sir.

6 Q What did you do for Towersite Services?

7 A I was in the telecommunication field, building
8 towers, construction.

9 Q What kind of towers?

10 A Cell phone towers.

11 Q So building them?

12 A Yes, sir.

13 Q Repairing them?

14 A Yes, sir.

15 Q Where did you do that work?

16 A Anywhere we have a contract.

17 Q When did you start working for TSS?

18 A February 27, 2018.

19 Q So about eight, nine months before you came to
20 Myrtle Beach?

21 A Yes, sir.

22 Q And what -- tell me some of places you went?

23 A For Towersite?

24 Q Yes, sir.

25 A Alabama, Tennessee, Carolina and Georgia.

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - DIRECT EXAMINATION

1 Q Would you do that by yourself?

2 A No; we have a crew.

3 Q How many people on a crew?

4 A It depends; four to five, sometimes six, seven.

5 Q So when you go out of state, how long would you
6 typically be at a certain place?

7 A Like a week.

8 Q Same crew?

9 A No.

10 Q Well, in that location. So if you go down to
11 Alabama, you go with a crew?

12 A Oh, yeah. Yeah.

13 Q Would it be the same people that stay all week?

14 A Yes, sir.

15 Q So you saw -- you were in court this morning --
16 Tyler Hembree and Seth Cole?

17 A Yes, sir.

18 Q You worked with them?

19 A Yes, sir.

20 Q When you came to Myrtle Beach in October how long
21 were you here?

22 A Almost a week.

23 Q Who came with you on that crew?

24 A When we arrived?

25 Q Yeah.

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JAKKARI BROWN - DIRECT EXAMINATION

1 A Me, Eli, and Jeff, we came from Savannah; and
2 then me, Tyler, Seth, and John out here.

3 Q John is John Matthews?

4 A Yes, sir.

5 Q He was like the crew chief or leader?

6 A Foreman.

7 Q Foreman, okay. Describe some of your duties with
8 TSS, some of the things you would typically do?

9 A Putting up the fiberoptics -- anything, really.
10 Just building the towers, working on the ground, flying
11 up mountains, it depends.

12 Q Did you ever have to climb the towers?

13 A Yes, sir.

14 Q So you work -- you are talking about cell phone
15 towers?

16 A Correct.

17 Q And they could be several hundred feet tall?

18 A Correct.

19 Q Basically, anything that needed to be doing; that
20 was your job?

21 A Correct.

22 Q So you came to Myrtle Beach early October of
23 2018?

24 A Right.

25 Q Where were you all staying?

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - DIRECT EXAMINATION

1 A Aqua Beach Inn.

2 Q And that is located where?

3 A On the Boulevard.

4 Q Is this the first time you had been to Myrtle
5 Beach?

6 A This is my second time here.

7 Q So you are staying at Aqua Beach on the
8 Boulevard, and that was with Jeff, Tyler, Eli, John,
9 and Seth?

10 A Yes, sir.

11 Q We were talking about RipTydz this week; had you
12 been to RipTydz earlier in the week?

13 A The night prior.

14 Q So you had been on the third floor?

15 A Yes, sir.

16 Q A moment ago, you came in two separate crews?

17 A Correct.

18 Q How many vehicles?

19 A Two.

20 Q Did you drive?

21 A No.

22 Q Who drove?

23 A Jeff Bailey.

24 Q So they had the keys?

25 A Yes, sir.

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JAKKARI BROWN - DIRECT EXAMINATION

1 Q Did you ever have the keys?

2 A No, sir.

3 Q When -- on the night of October 6, the night
4 we've been talking about all week; do you remember that
5 night?

6 A Yes, sir.

7 Q And did you all go back to RipTydz?

8 A Yeah, we went back that night.

9 Q Who all went?

10 A The whole crew.

11 Q Did you go at the same time, separately?

12 A Separately.

13 Q Who did you go with?

14 A I believe it was Eli. Me and Eli was roommates.

15 Q How many room did you have at Aqua Beach?

16 A Three or four -- four. I believe it was four.

17 Q Couple people to a room?

18 A Yes, sir, two bedrooms.

19 Q Do you recall what time you arrived at Aqua
20 Beach?

21 A No, sir. It was late in the night of Tuesday
22 early Wednesday morning.

23 Q Was it like supper time, or after?

24 A It was after supper.

25 Q Was there a specific reason to go over, or just

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - DIRECT EXAMINATION

1 to go and hang out?

2 A To RipTydz?

3 Q Yeah.

4 A Oh, yeah, we went to watch the fight.

5 Q What fight is that?

6 A The Conor McGregor fight.

7 Q Did you know what time that fight started?

8 A No, sir.

9 Q Had you been there long before it started?

10 A Maybe 20, 30 minutes before it started.

11 Q Stayed through the whole fight?

12 A Yes, sir.

13 Q And, again, you were up on the third floor of

14 RipTydz?

15 A Correct.

16 Q Inside or out?

17 A Both. We were back and forth.

18 Q I got you. Were there TVs both places?

19 A Yeah.

20 Q There are TVs all over the place, right?

21 A Except the outside.

22 Q So that was my question: When you were watching
23 the fight, you would have been inside?

24 A Yes, sir.

25 Q Now, did you get anything to eat?

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JAKKARI BROWN - DIRECT EXAMINATION

- 1 A Not me, personally. Seth ordered fried pickles.
- 2 Q Were you eating any of it?
- 3 A Yes.
- 4 Q Were you drinking?
- 5 A Yes, sir.
- 6 Q Drinking alcohol?
- 7 A Yes, sir.
- 8 Q Do you remember what you drank?
- 9 A Few beers, couple shots.
- 10 Q And that was over what kind of time period?
- 11 A The whole night, basically.
- 12 Q How long would you -- I know it was three years
- 13 ago, but the best you can remember; two, three hours?
- 14 A Two hours, two-and-a-half.
- 15 Q Did you -- from the time you got there up until
- 16 just as the fight was ending, did you have any
- 17 difficulties with any of the people in the bar?
- 18 A Not me, personally.
- 19 Q I'm talking about right up until the fight ends,
- 20 so --
- 21 A Oh, no. No.
- 22 Q What about anyone else on your crew?
- 23 A No.
- 24 Q Did that change at some point?
- 25 A Yes, sir.

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - DIRECT EXAMINATION

1 Q What happened?

2 A Well, John said he was in an argument with
3 somebody.

4 MR. DeBUSK: Objection, hearsay.

5 Q You can't say what someone else said.

6 A Right.

7 Q You can say what you responded as a result what
8 you saw.

9 A Well, I didn't see nothing.

10 Q Okay. So, at that point, you did not see any --

11 A No.

12 Q But John -- okay.

13 Did you see John getting in any kind of
14 altercation at any point?

15 A No, sir.

16 Q Never saw him pushing anybody?

17 A I didn't see him push anybody.

18 Q Did you see him -- did you see any fights in the
19 bar?

20 A Yes, sir.

21 Q Tell me what you saw.

22 A I saw a lot of pushing and shoving; basically,
23 that was really it.

24 Q Was anybody you knew at any point -- let me start
25 with this. When you get off the third floor of

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - DIRECT EXAMINATION

1 RipTydz, off the elevator on the third floor, where
2 were you all?

3 A We were -- we were at a table like right at the
4 bar -- right across the bar, rather.

5 Q I'll show you State's 23; do you recognize what
6 that shows?

7 A Yeah, I remember that. We was at this table.

8 Q So there is -- on the right side of that picture
9 there is a booth and a table; is that right?

10 A Correct.

11 Q Is that where you were?

12 A Correct.

13 Q This would have been around the corner when you
14 come off elevator, turn to the right?

15 A You can see it when you get off the elevator.

16 Q So that is where you all were going?

17 A Yes.

18 Q Where were the people where you said a fight
19 began or a disagreement started; where were they,
20 roughly?

21 A They were at the bar area.

22 Q Close to you?

23 A Not really close, but close enough.

24 Q Okay. What happened with that?

25 A It was just the first altercation that had

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JAKKARI BROWN - DIRECT EXAMINATION

1 nothing to do with us at all; neither one of them,
2 really. But they got rid of that guy, and then shoving
3 and pushing started again, and that's when John got
4 involved.

5 Q So, at first, when you said a minute ago that you
6 didn't see John, you were talking about the first
7 fight?

8 A Yeah.

9 Q And then how did that get sorted out?

10 A I didn't see. You know, they got the guy out of
11 there, but I didn't see it.

12 Q That was over and done?

13 A Yeah, it was over and done.

14 Q Okay. And then what happened after that?

15 A Then the pushing and shoving started again, and
16 then that's when I kept getting pushed, and I told
17 people, Don't f'ing touch me.

18 Q At that time, could you tell -- could you see
19 yourself that John was involved in anything?

20 A Not at that moment that I was saying that.

21 Q But when this second fight starts -- I'm talking
22 generally. So something else starts, the first guy is
23 taken out, that is done. And you said something starts
24 again, different people, right?

25 A Correct.

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JAKKARI BROWN - DIRECT EXAMINATION

1 Q Okay. Was John in any way involved in that part?

2 A Yes, sir.

3 Q Okay. What did you see with regard to him?

4 A Well, I seen John getting choked. It was a few
5 people, like three, four people surrounding him.

6 Q Did you know who those people were?

7 A No, sir.

8 Q Did any of them have -- did you see security
9 people there that night on the third floor?

10 A Yes, sir.

11 Q Do you remember what they were wearing?

12 A Blue shirts and black pants.

13 Q Any writing on the shirts?

14 A Not to my knowledge.

15 Q But they were -- you had -- did you have any
16 trouble identifying them as security?

17 A No, sir.

18 Q The people that were on John pulling and choking
19 him, were any of those security?

20 A No, sir.

21 Q Again, you didn't know any of these people?

22 A No.

23 Q What did you do at that point?

24 A At that point, I went over there to try to get
25 them off of him at this time.

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JAKKARI BROWN - DIRECT EXAMINATION

1 Q How did you do that?

2 A Well, I pushed a guy.

3 Q Did that work?

4 A It freed John up, and he stood up.

5 Q So he wasn't standing up at the time?

6 A No, sir. He was kind of bent backwards.

7 Q Was he on the ground?

8 A No.

9 Q But not able to be upright?

10 A Correct.

11 Q Do you recall what the person that you struck was
12 wearing?

13 A Pink shirt and, I want to say, cargo shorts.

14 Q What was he doing?

15 A He had him in like a chokehold.

16 Q In front of him, behind him?

17 A Behind him.

18 MR. FOX: If the witness may step down and show
19 on me?

20 Q Pretend you are the man in the pink shirt, which
21 way was John facing?

22 A John was like this (indicates).

23 Q What was the pink shirt guy doing?

24 A He had him like that (indicates).

25 Q You can sit down.

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JAKKARI BROWN - DIRECT EXAMINATION

1 Now, do you recall -- we'll get to this in a
2 minute, but later that evening -- I'll jump forward a
3 little bit. You were arrested by the police?

4 A Yes, sir.

5 Q And then after you were there awhile, you came
6 and had an interview with two law enforcement officers?

7 A Correct.

8 Q Detective Amos behind the Solicitor table with
9 the beard; do you recall talking with him?

10 A Yes, sir.

11 Q And do you recall how you described your
12 interaction at that moment with the man in the pink
13 shirt?

14 A Correct.

15 Q Do you recall saying you gave a lick and you took
16 a lick?

17 A Yes, sir.

18 Q In other words, you made contact, your intent --
19 what was your intent?

20 A My intent was to get him off of John so we could
21 leave.

22 Q Did you strike him?

23 A It wasn't like a full potential strike; it was
24 more of a graze, if anything.

25 Q What was your intent? Were you trying to get

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JAKKARI BROWN - DIRECT EXAMINATION

1 him --

2 A No, I was just trying to get him off John.

3 Q So if it was a full strike, was that okay with
4 you, if that is what it took?

5 A If that's what it took to free John.

6 Q Okay. I got you. Now, John was able to stand up
7 back inside RipTydz?

8 A Correct.

9 Q What happened after John stood up?

10 A That is when a bottle comes zooming past my face.

11 Q Let me stop you there. Let's go back to State's
12 23. At this point, where on here in the bar are you,
13 roughly?

14 A We are over here by these surfboards.

15 Q So you are closer to the wall at the end, over
16 here?

17 A Yes, sir.

18 Q What's that door there; do you know?

19 A No.

20 Q What is this way? When you see the bar, what is
21 at the end of the bar; do you remember?

22 A I remember it being like a little passageway to
23 the other side where there is like little tables facing
24 the beach.

25 Q But not like the main area like this here?

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JAKKARI BROWN - DIRECT EXAMINATION

1 A No.

2 Q Did you have any idea how many people were back
3 at the end of the bar at that time?

4 A It was a huge crowd; probably 20, 25.

5 Q You testified that three or four of them were
6 specifically on John?

7 A Correct.

8 Q And then you struck the man choking John wearing
9 the pink shirt?

10 A Correct.

11 Q So you are still at that end of the bar now?

12 A Correct.

13 Q You started to tell me, but what happened at that
14 point? John is able to stand up. Has the fight
15 stopped?

16 A No.

17 Q What happens at that point?

18 A At that point, like I was saying, when John stood
19 up, a bottle comes zooming past my face, close enough
20 where the mist hit me, and I did this (indicates).

21 Q Could you see where it came from?

22 A From my right side.

23 Q Was it like -- would you say it was in your
24 peripheral vision, kind of at the side of your eyes?

25 A You could say that.

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JAKKARI BROWN - DIRECT EXAMINATION

1 Q Did you know what it was at the time it came
2 flying by?

3 A I knew it was a bottle.

4 Q Did it hit you?

5 A No, sir.

6 Q Do you know if it struck anybody?

7 A Not to my knowledge.

8 Q What happened after that?

9 A After that, that is when I pulled out my firearm,
10 but didn't point it at anybody. It was still pointed
11 towards the ground.

12 Q Let's go back to that. So start with what kind
13 of firearm was it?

14 A A Taurus 9-millimeter.

15 Q And you have seen that is in evidence. It was --
16 I'll show you State's 35; is that the firearm in that
17 box?

18 A Yes, sir.

19 Q Do you recognize it?

20 A Yes, sir.

21 Q What is it?

22 A It's mine.

23 Q Okay. And that is the one you had. Where was
24 it?

25 A It was in my waistband.

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - DIRECT EXAMINATION

1 Q Was it under your shirt?

2 A Yes, sir.

3 Q Did you go to RipTydz with that weapon?

4 A Yes, sir.

5 Q So after the bottle gets thrown at you -- step
6 back a minute for me. You started to say a few moments
7 ago that when all of this pushing and shoving was going
8 on, you were saying something?

9 A Yes. I told him not to f'ing touch me.

10 Q Who was that directed at?

11 A Everybody.

12 Q Everybody? And why did you feel you needed to
13 tell people to not to f'ing touch you?

14 A There was too much going on at one time and too
15 much aggression.

16 Q Were people touching you?

17 A Yeah. It was people touching everybody, really.

18 Q So this was before you had struck the man in the
19 pink shirt?

20 A Yes, sir.

21 Q Did you say that to him?

22 A No, sir.

23 Q I'll go back now and go forward a few minutes or
24 seconds. The bottle has been thrown past your head?

25 A Correct.

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JAKKARI BROWN - DIRECT EXAMINATION

1 Q What happened after that? You started to
2 describe what you were doing with the gun?

3 A Well, when that happened, I was like -- I pulled
4 my gun out and was like, What the fuck. That is when I
5 saw the guy trying to charge at me.

6 Q Were there still people around you at that point?

7 A Yes, it was a lot of people.

8 Q Do you know where John was at that point?

9 A John was like -- he was more to my 1 o'clock,
10 2 o'clock, between me and the guy.

11 Q So you mean 1 o'clock, 2 o'clock, straight in
12 front of you a little bit?

13 A Probably how you are now.

14 Q Just a little bit to one side. Okay. What was
15 he doing?

16 A Who?

17 Q John?

18 A Well, John, he was like -- he had me like this
19 (indicates), and the guy kept charging at me, and I'm
20 like showing him my firearm, like back the fuck up.

21 Q Did you say anything like that to him?

22 A No.

23 Q Was there anyone between you and the fellow
24 trying to charge you?

25 A John, and I believe a security officer.

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - DIRECT EXAMINATION

1 Q A security officer. So one of the fellows in
2 blue shirts?

3 A Yes. Yes.

4 Q And did the -- how far apart would you say you
5 were from the man in the pink shirt at that point?

6 A Maybe --

7 Q When I walk towards you, tell me when to stop.

8 A Maybe right here, or a little closer.

9 Q So he's thrown the bottle?

10 A Right.

11 Q And mist, you could feel whatever was in it on
12 your face?

13 A Right.

14 Q And did he take any steps back?

15 A Yes, sir.

16 Q So he actually stepped away from you a second,
17 two steps?

18 A A couple. Probably two after I showed him my
19 firearm, though.

20 Q And, again, back to State's 23; you are still
21 down here by the surfboard wall?

22 A Yes, sir. We are probably a little bit back in
23 there.

24 Q Again, the point he's taking a couple steps back
25 that you described, roughly, is the man with the pink

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INDIGENT DEFENSE ONLY!!!**

JAKKARI BROWN - DIRECT EXAMINATION

1 shirt?

2 A He's still like in this area (indicates).

3 Q I got you. So he stepped back a step or two; did
4 he do anything after that?

5 A He came back towards me after he took a step for
6 the security guard. I don't know. I think he went
7 missing or something. He came back towards me, so I
8 raised my firearm a little higher.

9 Q Did he stop?

10 A He backed up again. That is when I turned to
11 leave, and I get struck on the side of my face.

12 Q Do you know who struck you?

13 A I believe it was the guy.

14 Q Where did he strike you?

15 A Like the side of my head.

16 Q Did he slap you?

17 A No.

18 Q Closed fist?

19 A Yeah.

20 Q Did it stagger you?

21 A Yes, sir.

22 Q Did you fall all the way down?

23 A No, sir. It was like a lot of people around, so.

24 Q Knock you off balance?

25 A Yes, sir.

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - DIRECT EXAMINATION

1 Q What happened?

2 A And then that's when I fired.

3 Q Fired at anyone in particular?

4 A At the guy that was attacking me.

5 Q So this man who had been choking John Matthews,
6 your crew chief --

7 A Correct.

8 Q -- you pushed, struck, hit him to get him off of
9 John Matthews; is that right?

10 A That's right.

11 Q You all separated at that point?

12 A Yes, sir.

13 Q And after that, he threw a bottle at you?

14 A That's right.

15 Q And came at you a second time and punched you in
16 the head?

17 A Correct.

18 Q When the bottle was thrown at you, what were you
19 feeling?

20 A Fear.

21 Q Why?

22 A Because I know what a bottle will do to someone
23 that gets hit with one close range.

24 Q Did you have personal experience with that?

25 A Not personally, but I witnessed.

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - DIRECT EXAMINATION

1 Q What did you witness?

2 A Well, my friend, he got hit in the head with a
3 bottle one night and knocked a chunk out of his head.

4 Q Hold your hands to the jury how big --

5 A Probably like that (indicates).

6 Q That was from a glass bottle?

7 A Yes, sir.

8 Q So the bottle has come by your head, and that
9 scared you?

10 A Correct.

11 Q Did anything this man did in the pink shirt --
12 tell me how you were feeling from that point on. So
13 the bottle was thrown; that's a scary thing. Tell me
14 from there to the end?

15 A I just wanted to get out of there after that
16 happened. I just wanted to get my foreman and just
17 leave, because I was like -- like I was saying, I was
18 in fear. I just wanted to get up out of there.

19 Q Did it make any impression on you that this
20 person would come at you a second time?

21 A After I showed him my firearm, I didn't think he
22 was going to come toward me again.

23 Q At that point, did you raise it up and point it
24 at him?

25 A No, sir.

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - DIRECT EXAMINATION

1 Q At some point you did, though, didn't you?

2 A Yeah, when I shot.

3 Q Now, all of this happened very quickly, didn't
4 it?

5 A Yes, sir.

6 Q I mean, I'm talking from the beginning of the
7 second fight that starts, from that, to the end where
8 you leave?

9 A Right.

10 Q It's probably, what, 12, 15 seconds?

11 A If that.

12 Q It reflected on the --

13 MR. DeBUSK: I'll object to the continuing
14 leading.

15 Q Have you seen -- had a chance to review the
16 videos from RipTydz that was shown to the jury today?

17 A Have I viewed them?

18 Q Yeah. Have we had a chance to look at those?

19 A Yes. Yes, I have.

20 Q Would that be reflected -- the time, the
21 timestamp is on there; is that right?

22 A Yes, sir.

23 Q Do you think that would be an accurate reflection
24 of how long this all happened?

25 A Yes, sir.

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JAKKARI BROWN - DIRECT EXAMINATION

1 Q So after -- let me step back. It seems obvious
2 at this point, but you had your gun with you when you
3 went into RipTydz that night?

4 A Yes, sir.

5 Q How long have you had that gun?

6 A How long have I had a firearm?

7 Q That firearm?

8 A Two years.

9 Q Two years before this shooting?

10 A Yes, sir, two years.

11 Q Where did you get it?

12 A LA Armor.

13 Q What is that?

14 A Gun store.

15 Q Where?

16 A Lavonia, Georgia.

17 Q And you are -- are you a person prohibited from
18 owning a firearm?

19 A No, sir.

20 Q Firearm was lawfully purchased?

21 A Yes, sir.

22 Q You did a background check and all of those
23 things?

24 A Yes, sir.

25 Q Did you have, in October of 2018, a South

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JAKKARI BROWN - DIRECT EXAMINATION

1 Carolina Concealed Weapons Permit?

2 A No, sir. I don't live here.

3 Q Were you a resident of South Carolina?

4 A No, sir.

5 Q Did you have a permit to carry a concealed
6 weapons in Georgia?

7 A No, sir.

8 Q Why not?

9 A Because of the Second Amendment, and in Georgia
10 you can open carry.

11 Q Can you, in Georgia, just carry any ole' place?

12 A As in?

13 Q I mean, can you take the gun anyplace you wanted,
14 or there are certain restrictions?

15 A I don't know.

16 Q What do you mean by Second Amendment, what does
17 that mean to you?

18 A I have a right to bear arms.

19 Q You are talking about the Second Amendment to the
20 United States Constitution?

21 A Yes, sir.

22 Q Did you take that gun with you when you would
23 work around different states?

24 A Yes, sir. I live on the road more than I live at
25 home.

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JAKKARI BROWN - DIRECT EXAMINATION

1 Q Ever been made aware that you might not be able
2 to legally be permitted to do that; in other words,
3 ever in Alabama did anyone tell you you have to have a
4 permit to carry that?

5 A No.

6 Q Or Tennessee or South Carolina, anyplace else?

7 A No, sir.

8 Q When you spoke with Detective Amos, did he ask
9 you about having a concealed weapons permit; do you
10 remember?

11 A I remember I said something about me having the
12 right because of my Second Amendment, but I don't know
13 if he came out and asked me.

14 Q But you remember saying that what you basically
15 just said here today, correct?

16 A Correct.

17 Q That was the evening that this shooting happened?

18 A Uh-huh.

19 Q Or the next morning?

20 A Right.

21 Q Now, back to October 6, 2018 at RipTydz. You
22 fired your gun; did you see what happened? Did you see
23 the result?

24 A No.

25 Q Did you wait to see the result?

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JAKKARI BROWN - DIRECT EXAMINATION

1 A No.

2 Q What did you do?

3 A I ran. I panicked.

4 Q Did you see Mr. Ramos hit the ground?

5 A No, sir.

6 Q So you ran; where did you go?

7 A I ran to our room across the street, Aqua Beach.

8 Q Anyone with you as you were going?

9 A No.

10 Q Do you know what John and Eli and the rest of
11 them were doing at that moment?

12 A No, sir.

13 Q When you got back to Aqua Beach, what did you do?

14 A Well, I went in the room and I was -- matter of
15 fact, I couldn't get in the room because I didn't have
16 my key. So when I went up to, I believe it was, the
17 fifth floor, I was in -- I seen I didn't have my key,
18 so I put my firearm in the trashcan, because I seen
19 people downstairs. I went downstairs to get another
20 key before I approached the desk, and I seen Eli.

21 Q Let me step back. You saw people downstairs;
22 what people?

23 A I guess they were trying to get a room.

24 Q You mean just persons?

25 A Yes.

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JAKKARI BROWN - DIRECT EXAMINATION

1 Q Not law enforcement?

2 A No.

3 Q Again, why did you put your gun in the trashcan?

4 A Because I seen the people down there and I didn't
5 want to freak nobody out, already what I was.

6 Q And you were just involved in a shooting?

7 A Correct.

8 Q So you went downstairs?

9 A Well, I seen Eli, and I was like, Bro, do you
10 have your key? I was kind of hysterical. He was like,
11 Yeah. We were quiet on the ride up, and when we got in
12 the room, I broke down. I was, like, Bro, I'm sorry,
13 you know what I'm saying. I didn't know the
14 circumstances of what happened, but I know I fired my
15 gun. So I'm like, I'm in trouble for firing my gun. I
16 was crying, and he threw me in the shower, but I --

17 Q Who did?

18 A Eli.

19 Q Threw you in the shower with your clothes on?

20 A No.

21 Q So you at least stripped down --

22 A Yeah.

23 Q And why was that?

24 A Because he did it to calm me down.

25 Q You were wearing that burgundy and maroon shirt

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - DIRECT EXAMINATION

1 in evidence?

2 A Right.

3 Q You got out of the shower and got dressed?

4 A Yes.

5 Q Did you put that burgundy shirt back on?

6 A No, sir.

7 Q Why not?

8 A Put on cleaner clothes, I guess. I don't know.

9 Q But you changed at that point?

10 A Right.

11 Q How were you feeling now?

12 A Bad, still scared, it was just crazy.

13 Q Without telling me what anyone said, who are you
14 with -- when you get back out of the shower, you are in
15 your room?

16 A Yes, sir.

17 Q Who is there with you?

18 A No one.

19 Q No one. Did you meet back up with any of your
20 crew people after that?

21 A Yes. I called John's phone to see where everyone
22 was.

23 Q And where were they?

24 A I believe it was five or six, if I'm not
25 mistaken.

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JAKKARI BROWN - DIRECT EXAMINATION

1 Q And you were in what room?

2 A 504.

3 Q Just down the hall?

4 A Right.

5 Q Did you go to them, or they came to you?

6 A I went to them.

7 Q Who was in there?

8 A The crew.

9 Q Everybody?

10 A Everybody.

11 Q Now, don't say what anybody said, but do you
12 remember if there was any conversation about you
13 turning yourself into the police?

14 A Yes.

15 Q And was anybody advising you to turn yourself
16 into the police?

17 A Yes.

18 Q At that point, did you have keys to either of the
19 trucks?

20 A No, I didn't have the keys the whole time we were
21 there.

22 Q Did you at any point get the keys?

23 A No, sir.

24 Q Did you ever ask anyone for the keys to the
25 truck?

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JAKKARI BROWN - DIRECT EXAMINATION

1 A No, sir.

2 Q That is how you got to Myrtle Beach from Georgia,
3 right?

4 A Correct.

5 Q Would you have even known how to leave Myrtle
6 Beach if you wanted to?

7 A Not without GPS.

8 Q You had a phone, though, right?

9 A Yes, I did.

10 Q Now, you were aware that at least a couple of
11 members of your crew were saying you need to turn
12 yourself in?

13 A Yes.

14 Q And did any of them go downstairs looking for law
15 enforcement?

16 A They did. But at the time, not to my knowledge.

17 Q So what did you do? You got dressed, put on a
18 different shirt?

19 A Right.

20 Q What did you do?

21 A Well, I know John was telling me, like, Bro, you
22 need to turn yourself in.

23 Q Don't say what anyone else said.

24 A Right. And I'm like, I am. I don't plan on
25 running. Like, I ain't have nowhere to go.

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JAKKARI BROWN - DIRECT EXAMINATION

1 Q All right. Did he leave the room before you did?

2 A I can't really....

3 Q Okay. Did you stay in the room, or at some point
4 did you leave?

5 A I had left and got my -- got the gun, because I
6 got it out of the trashcan, put it in my book bag, put
7 my shirt in my book bag and went downstairs.

8 Q Was there anything else in your book bag?

9 A Personal items that I packed up to be on the
10 road, like lotion.

11 Q So stuff like a travel bag that you already had
12 things in?

13 A Right.

14 Q How about the magazines in that box with the gun,
15 where were those?

16 A They were in the book bag. I put them in the
17 book bag.

18 Q Were either one of those magazines in the gun
19 when you carried it to RipTydz?

20 A Yes.

21 Q Which one?

22 A The extended one.

23 Q Why the extended mag?

24 A Because of the way I was carrying it. It wasn't
25 full, though.

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - DIRECT EXAMINATION

1 Q How many bullets does that hold?

2 A It was standard in my clip of 12.

3 Q How about the extra one?

4 A Twelve.

5 Q Do you know how many were in it at the time?

6 A Twelve.

7 Q So it being extended, that caught on your

8 waistband and made it easier to stay?

9 A It's like a clip will rest -- the magazine will
10 rest on my thigh, so it won't fall, kind of.

11 Q How many -- inside RipTydz, how many times did
12 you fire that gun?

13 A Once.

14 Q So back to Aqua Beach. You put these things in
15 your book bag, what did you do?

16 A I went downstairs and I seen a lot of officers
17 like circling around, so I bent down, took the gun out
18 of my book bag so I wouldn't get shot, because I was
19 turning myself in.

20 Q What was that -- be more specific. Why was that
21 a concern? Why were you worried about that?

22 A Because, really, honestly, the reason is officers
23 shootings, really, going on in the world. I didn't
24 want to approach them and be considered armed and
25 dangerous, and I didn't want someone to be trigger

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JAKKARI BROWN - DIRECT EXAMINATION

1 happy.

2 Q At this point, were you aware you were likely a
3 suspect?

4 A More than likely.

5 Q And you did not wish to approach law enforcement
6 while armed?

7 A Correct.

8 Q After you put the gun and the ammunition there
9 under the bush, what happened?

10 A Well, when I come up, some officer was like,
11 Freeze, and I just (indicates), I froze.

12 Q Did he give you any instructions in terms of what
13 to do? Freeze, did he give you a series of
14 instructions?

15 A He just told me not to move.

16 Q Did he handcuff you?

17 A I don't know if it was him, but someone did.

18 Q But you were handcuffed?

19 A Yes, sir.

20 Q Did they have to tell you to put one arm behind
21 your back?

22 A Yeah.

23 Q Did you do that?

24 A Yeah.

25 Q And then the other arm behind your back?

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JAKKARI BROWN - DIRECT EXAMINATION

1 A Yes.

2 Q Did you do that?

3 A Yes, sir.

4 Q Make any effort to run?

5 A No, sir.

6 Q Make any effort to struggle with them?

7 A No, sir.

8 Q Did they -- the officer's -- how many officers
9 would you say was there at that point?

10 A I think it was like a hundred, in my mind.

11 Q More than one?

12 A More than one.

13 Q Did any of them find your gun?

14 A Yes, sir.

15 Q While you were still there?

16 A Yes, sir.

17 Q Did you say anything about the gun to the
18 officers?

19 A No, sir, I didn't have time.

20 Q Did you say at any point -- did they ask or did
21 you tell them anything about who owned that gun?

22 A Yes, sir.

23 Q What did you say?

24 A I told them it was mine, everything with it was
25 mine.

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JAKKARI BROWN - DIRECT EXAMINATION

1 Q Now, in October of 2018, did you look the same,
2 about the same, physically, as you are today?

3 A No; I gained a hundred pounds.

4 Q In jail?

5 A Yes, sir.

6 Q So the person that is very clearly in these
7 videos, you are the heavier version of that person?

8 A Yes.

9 Q Do you think that based on what you can remember
10 from the man in the pink shirt, who we now know is
11 Roger Ramos, that he was bigger than you?

12 A Yes; I thought so. He was kind of taller.

13 Q But that would be something the video would show?

14 A Yeah.

15 Q When you were taken into custody there at the
16 Aqua Beach, you are handcuffed, not free to leave
17 anymore, and they put you in a patrol car. I assume
18 they took you to Myrtle Beach jail; is that correct?

19 A Correct.

20 Q So, at that point, you knew you had been
21 arrested?

22 A Yes.

23 Q Did they tell you the charge at that point?

24 A No, sir.

25 Q Were you aware that Mr. Ramos had died?

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JAKKARI BROWN - DIRECT EXAMINATION

1 A No, sir.

2 Q When was it that Detective Amos and Curry came to
3 interview you?

4 A It was like the next day it happened, probably.

5 Q At that point, did anyone inform you that
6 Mr. Ramos had died?

7 A No, sir.

8 Q Had anyone told you that you will be charged with
9 murder?

10 A No, sir.

11 Q So when you had that interview with the
12 detectives, you knew you fired your gun in the bar?

13 A Yes, sir.

14 Q But you didn't know the outcome?

15 A No, sir.

16 Q Or what the charge was going to be?

17 A No.

18 Q Do you remember speaking with those detectives?

19 A Yes, sir.

20 Q Do you remember telling them nine different times
21 that you were scared?

22 A Yes, sir.

23 Q Is that true?

24 A Yes, sir.

25 MR. FOX: One moment, Your Honor.

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JAKKARI BROWN - DIRECT EXAMINATION

(A brief pause in the proceedings.)

1
2 Q Just in terms of the fight and the whole
3 sequence, once the fight starts, that second fight, the
4 first one was over and the guy was taken out, so really
5 the second altercation or fight that you ended up
6 involved in, that's what I'm talking about. Do you
7 recall how you described that to Detective Curry?

8 A Yes.

9 Q How did you describe it?

10 A Crazy, basically. I was very scared at that
11 point.

12 Q At the moment, both right before and up to when
13 you shot your gun, do you recall how you described that
14 to the detectives?

15 A No, sir.

16 Q Was it clear in your mind what was going on?

17 A It wasn't clear, but I knew it was trouble.

18 Q Did some time seem to slow down while it was
19 happening?

20 A No. It all happened like real, real fast (snaps
21 fingers).

22 Q Did you have time to stop and think about what
23 was going on?

24 A No, sir.

25 Q You said it was like a blur?

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JAKKARI BROWN - CROSS-EXAMINATION

1 A Yeah, I would say it is more of a blur.

2 Q Is that the word you used to describe to
3 detectives?

4 A Yes, sir.

5 MR. FOX: Thank you, Your Honor. Answer any
6 questions the State may have.

7 CROSS-EXAMINATION

8 BY MR. DeBUSK:

9 Q You sat and watched everyone's testimony?

10 A Yes, sir.

11 Q So you know what everybody said before you got up
12 here?

13 A Yes, sir.

14 Q So you worked for Towersite Services for about
15 seven months?

16 A Rights.

17 Q And the crews you were going out with each time,
18 they were different?

19 A Yes, sir.

20 Q So this wasn't the same crew you worked with for
21 seven months?

22 A I worked with Eli ever since I had been with the
23 company.

24 Q But, in fact, you never went out with John before
25 that day?

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JAKKARI BROWN - CROSS-EXAMINATION

1 A Yes, sir.

2 Q You had gone out with John?

3 A I worked with John before.

4 Q You met him, but have you been on the road with
5 him?

6 A Yes, sir.

7 Q How many times?

8 A It was this time, and one time in Atlanta.

9 Q So you were afraid of bottles because you saw a
10 friend in a bar fight?

11 A I wouldn't say it was a bar fight.

12 Q Where was it?

13 A In a club.

14 Q So a club fight?

15 A Yes, sir.

16 Q At that club, did they serve alcohol?

17 A Yes, sir.

18 Q So it was a bar. It was a bar fight where your
19 friend got hit with a bottle?

20 A I mean, it wasn't a bar fight and 80 other
21 people; it was with him and one other dude.

22 Q And he got hit in the head with a bottle?

23 A Yes, sir.

24 Q And you are afraid of bottles?

25 A I'm afraid of anything sharp. I've been cut

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JAKKARI BROWN - CROSS-EXAMINATION

1 myself.

2 Q So why did you go into a bar fight?

3 A I went to help my friend.

4 Q This guy you have been out with twice?

5 A I know him. We all -- John has his own company,
6 but we worked together, eat together, weekends off and
7 week days off.

8 Q So let me get this right. You are afraid of
9 bottles, afraid of bar fights, but went to a place
10 where you felt you needed a gun, not just a gun, but a
11 gun with an extended magazine, and jumped in a bar
12 fight for a guy you worked with less than seven months
13 with?

14 A Well, we're together. I expect them to do the
15 same thing for me.

16 Q What did you see? You went to RipTydz the night
17 before?

18 A Correct.

19 Q What did you see that that made you think you
20 needed a gun at RipTydz?

21 A I didn't see nothing. Like I said, I take my
22 firearm everywhere I go.

23 Q Would a responsible gun owner know the gun laws?

24 A Yes, sir.

25 Q Did you ever check the gun laws in the State of

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - CROSS-EXAMINATION

1 Georgia?

2 A Yes, sir.

3 Q And the gun laws in the State of Georgia say to
4 carry a gun openly, you need a permit?

5 A No.

6 Q They do. Isn't it true the State of Georgia
7 requires a permit to open carry?

8 A You can open carry.

9 Q With a permit.

10 A No, sir.

11 Q Okay. Did you ever bother to check the laws in
12 South Carolina?

13 A No, sir. I don't live here.

14 Q But you were here?

15 A I was working.

16 Q Did you ever check the laws?

17 A No, sir; I didn't think I had to.

18 Q Did you check to see if it was legal to carry a
19 gun in the bar?

20 A No, sir. I really thought it applied everywhere.

21 Q You never checked?

22 A No, sir.

23 Q But a responsible gun owner would know the gun
24 laws, right?

25 A You can say.

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JAKKARI BROWN - CROSS-EXAMINATION

1 Q So you were acting irresponsible.

2 You said you pushed somebody in the face, guy in
3 the pink shirt?

4 A That's correct.

5 Q 12 hours after that shooting, when you talked to
6 Detective Amos, you told him you punched him, didn't
7 you?

8 A Took a lick, threw a lick; same thing.

9 Q It's on the tape?

10 A It is.

11 Q You also told Amos you didn't see who punched
12 you, didn't you?

13 A That's correct.

14 Q But do you say it was the guy in the pink shirt?

15 A I seen the shirt.

16 Q So you said you saw the guy in the pink shirt?

17 A More than likely, anyone that hit me was --
18 obviously, I was their target, which to -- it seemed
19 like I was his target. He kept coming at me.

20 Q You told Amos specifically that the punch came
21 from your blind side; you didn't see who punched you?

22 A I don't recall.

23 Q You don't recall?

24 A I don't recall exact words.

25 Q Let's talk about bottles. Did you see who threw

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JAKKARI BROWN - CROSS-EXAMINATION

1 the bottle?

2 A Yes, sir.

3 Q Who threw the bottle?

4 A Guy in the pink shirt.

5 Q Didn't you testify 10 minutes ago you didn't see
6 who threw the bottle?

7 A It was over here.

8 Q But you said you didn't see who threw it, and now
9 you said you did?

10 A I never said I didn't see who threw it.

11 Q Okay. After the bottle was thrown, why didn't
12 you duck?

13 A Why didn't I duck?

14 Q Why didn't you duck, if bottles were coming at
15 you?

16 A I did (indicates).

17 Q Because you saw where the bottles came from,
18 right? You saw who threw the bottle, that is why you
19 put your hand up?

20 A It was a reflex; what can I say.

21 Q You said you pulled your gun out and showed it to
22 the victim, right?

23 A Correct.

24 Q Now, you talked to Detective Amos for a little
25 over an hour, right?

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JAKKARI BROWN - CROSS-EXAMINATION

1 A You can say.

2 Q Did you ever tell him that you pulled out that
3 gun before you pulled it out and shot it?

4 A I can't recall if I did or didn't.

5 Q Isn't it true that you told him that you didn't
6 pull that gun out until you fired the shot that killed
7 Roger Ramos?

8 A I can't recall if I said it or not.

9 Q And that is 12 hours after it happened, right?

10 A Right. We were all drinking.

11 Q So what you told Detective Amos would be fresher
12 in your mind because it would have been 12 hours after
13 the shooting; so what happened that day, would be
14 fresher in your mind, wouldn't it?

15 A I mean, it would be a blur because I was
16 drinking.

17 Q So it was a blur then, and clear now?

18 A It's been a blur.

19 Q Okay.

20 A I'm telling you what I know.

21 Q Your testimony today is that you pulled the gun
22 out and showed it to him multiple times?

23 A Twice.

24 Q Twice. Okay. The punch, you told Detective Amos
25 you didn't see where the punch came from, right?

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JAKKARI BROWN - CROSS-EXAMINATION

1 A Like I said, I can't recall.

2 Q And you told him it didn't hurt?

3 A I was drunk, but I staggered.

4 Q You said it didn't hurt?

5 A I staggered.

6 Q Did you tell Detective Amos that the punch didn't
7 hurt you?

8 A Probably.

9 Q And, most importantly, you told Detective Amos
10 that you didn't shoot anyone in particular, you just
11 fired your gun to clear people away from you?

12 A Yes, sir.

13 Q That wasn't true, was it?

14 A No, sir.

15 Q So you are telling a different story today, this
16 week, than you told 12 hours after it happened?

17 A At that time, I didn't know the circumstances
18 going on, and I was in fear. I was scared.

19 Q Why would it make a difference? Why would you
20 lie then?

21 A I wouldn't say it was a lie. I would say I was
22 in fear.

23 Q You are saying now that you shot Roger Ramos
24 intentionally because he was threatening you?

25 A I'm not saying intentionally, like I'm cold

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JAKKARI BROWN - CROSS-EXAMINATION

1 hearted.

2 Q But told him you didn't shoot at any one in
3 particular, you just fired?

4 A Correct.

5 Q So both of those can't be true, can they? You
6 got at good look at Roger when you pulled your gun and
7 showed it to him. You could tell he didn't have
8 anything in his hands?

9 A He threw a bottle. I didn't know what was going
10 on.

11 Q After he threw the bottle, his hands were empty?

12 A I didn't see his hands.

13 Q You didn't see his hands, and you were afraid of
14 him?

15 A It's a bottle. There so much going on.

16 Q I'm talking when he was standing in front of you,
17 after the bottle was thrown, when you pull your gun out
18 and showed it to him, did you see his hands?

19 A No, sir, but he was charging --

20 Q Where was his hands?

21 A Your guess is better than mine.

22 Q So you are afraid of a man with no hands?

23 A He had his hands.

24 Q You told Detective Amos when you talked to him 12
25 hours after this that you fired 5- to 600 rounds from

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INDIGENT DEFENSE ONLY!!!**

JAKKARI BROWN - CROSS-EXAMINATION

1 that gun?

2 A Target practice, yes, sir.

3 Q So you are very familiar with that weapon?

4 A Correct.

5 Q You said you were afraid of a police shooting?

6 A Yes, sir.

7 Q Why did you take the gun with you?

8 A Take it where?

9 Q When you went to see the police, you claimed you
10 turned yourself in; why didn't you leave the gun in the
11 room?

12 A Because I didn't want anyone else to get ahold of
13 it. I didn't want anyone to act like I was trying to
14 hide or run, so I took it with me.

15 Q Or you could have left it in the trashcan?

16 A No.

17 Q Why not?

18 A Because it is still in a public area.

19 Q You weren't worried about it when you put it in
20 the trashcan and left it?

21 A I came back and got it.

22 Q Yes, you did, but you didn't worry about it being
23 taken then, did you?

24 A I didn't leave it.

25 Q You left it for awhile. Is there any doubt --

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - CROSS-EXAMINATION

1 when you look at the video, you will see you put that
2 gun in the trashcan, walk away, and come back later,
3 after going downstairs, and then getting that gun?

4 A Probably not even a minute.

5 Q It will say. It's on the tape?

6 A It's on the tape.

7 Q You testified Monday under oath?

8 A Correct.

9 Q And I asked you directly: Why did you take the
10 gun with an extended magazine to RipTydz, and you
11 didn't have an answer, did you?

12 A I didn't. Still don't.

13 Q Didn't you just tell the jury the reason you took
14 it was because it held in your pants better?

15 A Yes, sir.

16 Q So from Monday to now, you came up with a story
17 where that explains that magazine?

18 A I didn't come up with anything.

19 Q Why didn't you tell that story Monday when I
20 asked that question?

21 A You asked it in a different way.

22 Q How did I?

23 A You asked it like why would I carry a gun with an
24 extended magazine to a bar.

25 Q And you didn't say "because it fits in my -- held

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INDIGENT DEFENSE ONLY!!!**

JAKKARI BROWN - CROSS-EXAMINATION

1 in my pants better"?

2 A I didn't.

3 Q You didn't answer at all.

4 A I did.

5 Q Because sometime between then and now, you made
6 up that answer, didn't you?

7 A I didn't make up an answer.

8 Q If you are going to turn yourself into the
9 police, why did you leave the Aqua Beach through the
10 side door instead of the front door?

11 A That is where I always entered. I never had been
12 through the front door.

13 Q You are denying that you were on video going
14 through the front door when you came back from RipTydz?

15 A I didn't come through the front of the building.

16 Q It's on video. After the shooting, did you
17 not -- after the shooting, you entered Aqua Beach Inn
18 through the front door right here?

19 A Not to my knowledge.

20 Q It's on video. So your claim is you always used
21 the side entrance?

22 A Yes, sir.

23 Q And you didn't go through the front door multiple
24 times on video?

25 A No, sir, not to my knowledge.

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INDIGENT DEFENSE ONLY!!!!**

JAKKARI BROWN - CROSS-EXAMINATION

1 Q Isn't it true when the police came to arrest you,
2 they had guns?

3 A Yes, they did.

4 Q That is why you didn't fight and didn't run?

5 A I wasn't going to run anyway.

6 Q Now, when you were interviewed by Detective Amos,
7 you told him you used to box?

8 A Correct.

9 Q So you had been punched many times before?

10 A Sure.

11 Q And you told him you were an adrenaline junkie?

12 A I told him I like adrenaline.

13 Q You told him you like to ride dirt bikes?

14 A Yes, sir.

15 Q Played football?

16 A Yes, sir.

17 Q So you are not fazed by someone pushing you
18 around or punching you?

19 A Yes, I will.

20 Q So you did box at one time?

21 A Yes.

22 Q How many years?

23 A I was a child.

24 Q Everything was a blur two-and-a-half-years ago is
25 now clear?

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JAKKARI BROWN - REDIRECT EXAMINATION

1 A Still a blur. I told exactly what I told today
2 that I know what I did, my actions.

3 Q So you are telling this jury what you told
4 Detective Amos 12 hours after this happened is exactly
5 what you told him today?

6 A Not exactly.

7 Q Why are there differences?

8 A Because I was scared then, and I was scared of
9 the trouble.

10 Q You are not scared of trouble now? There is no
11 incentive to -- if there is incentive to lie then to
12 stay out of trouble, is there not one now, now that you
13 are on trial?

14 A I've been in jail for three years.

15 Q And you are not afraid of going to jail anymore?

16 MR. DeBUSK: Nothing further, Your Honor.

17 THE COURT: All right.

18 MR. FOX: Briefly, Your Honor.

19 REDIRECT-EXAMINATION

20 BY MR. FOX:

21 Q So you used to box?

22 A Yes, sir, briefly.

23 Q Like organized boxing, tournaments or whatever?

24 A (Indicates.)

25 Q You did your hand --

JAKKARI BROWN - REDIRECT EXAMINATION

1 A It was more of backyard.

2 Q Are there -- if you play backyard football, are
3 there rules?

4 A No.

5 Q No rules?

6 A Not really.

7 Q So you can just take off and run whenever you
8 want in backyard football?

9 A No. No.

10 Q Can you close-line somebody?

11 A No.

12 Q I mean, there is rules?

13 A Right. Some people do it, but.

14 Q You play backyard football, how many downs for a
15 first down?

16 A Fourth down touchdown.

17 Q All right. So there is rules?

18 A Yes.

19 Q When you are boxes someone in the backyard, are
20 you allowed to hit someone in between the legs?

21 A No.

22 Q So there are rules?

23 A Correct.

24 Q Anyone throw bottles at you when you were boxing?

25 A No.

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JAKKARI BROWN - REDIRECT EXAMINATION

1 Q Anyone throwing bottles when you played football?

2 A No.

3 Q You played organized football?

4 A Yeah, I played high school.

5 Q There are rules when you played in high school?

6 A Correct.

7 Q Can't jump off sides?

8 A No.

9 Q Get the ball over goal line for touchdown?

10 A Right.

11 Q Can't run out of bounds and come back in?

12 A Correct.

13 Q Any rules in this bar fight?

14 A No.

15 Q Could you be mistaken about coming in or out of
16 the front door versus the side door?

17 A I could.

18 Q Didn't see Roger Ramos' hands; did you have time
19 to stop and say, Hey, show me your hands?

20 A No. No.

21 Q Were you under oath when you spoke to Detective
22 Curry?

23 A No.

24 Q You weren't aware you were charged with murder?

25 A No.

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JAKKARI BROWN - REDIRECT EXAMINATION

1 Q Weren't aware that Roger Ramos was dead?

2 A No.

3 Q Are you under oath today?

4 A Yes, sir.

5 Q And in your own words, what does "open carry"
6 mean as it applies to Georgia?

7 A Well, just carry a firearm, basically.

8 Q Any place, any time?

9 A Yes, to me.

10 Q You now know that that is not correct, correct?

11 A Yes, sir.

12 Q What is the Second Amendment? What do you
13 believe the Second Amendment gives you the right to do
14 with respect to carrying your firearm, or at least what
15 did you think back in 2018?

16 A Well, I don't have felonies, never been in any
17 trouble, and that is why I thought you could just carry
18 a firearm.

19 Q I think you said in response to Mr. DeBusk's
20 question that you carried that gun, kind of, always?

21 A Yes.

22 Q So in your mind, when you carry the gun, does
23 that mean you expect trouble?

24 A No.

25 Q You have been here all week?

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JAKKARI BROWN - REDIRECT EXAMINATION

1 A I have been here three-and-a-half years.

2 Q I'm talking about in the courtroom.

3 A Oh.

4 Q Right next to me in that chair?

5 A Yes, sir.

6 Q So you've heard every witness testify?

7 A Yes, sir.

8 Q Did you have any choice about when you testified?

9 A Yeah, I -- talking about today?

10 Q No. When?

11 A Oh, no. No. No.

12 Q Would you have testified first thing yesterday
13 morning if you wanted to?

14 A Yes, sir.

15 Q Did you have to wait for the State to present?

16 A I thought you asked me if I wanted to.

17 Q No. No. The order of the witnesses --

18 A Oh, no, sir.

19 Q Is that determined by you?

20 A No, sir.

21 Q Did you have any choice?

22 A No, sir.

23 Q Do you have a right to be present at your own
24 trial in a courtroom?

25 A Yes, sir.

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MOTIONS

1 Q Was there any way to sit here and be a
2 participant in your own trial without hearing what the
3 other witnesses would say?

4 A No, sir.

5 MR. DeBUSK: Object, leading.

6 MR. FOX: I'm done.

7 THE COURT: Sustain. Recross.

8 MR. DeBUSK: No, Your Honor.

9 THE COURT: You may step down.

10 MR. FOX: Your Honor, defense rests.

11 THE COURT: Come up here and let's talk about
12 scheduling real quick.

13 If you would, step out of the jury room for just
14 a moment. We have to take up motions, and then we'll
15 be with you.

16 (The jury exits at 2:32 p.m., and the
17 following is heard out of the presence of the jury.)

18 THE COURT: Defense rested. Any motions?

19 MR. FOX: We'll renew our motions for directed
20 verdict at this point as to each indictment.

21 THE COURT: State would like to reply?

22 MR. DeBUSK: Your Honor, based on the prior
23 argument and the inconsistencies with the defendant's
24 testimony, we feel there is plenty of evidence to take
25 this case to the jury.

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JUSTIN AMOS - DIRECT EXAMINATION

1 THE COURT: I'll deny the motions.

2 Anything further?

3 MR. DeBUSK: There will be a rebuttal. It would
4 be the statement we did with the Jackson v. Denno on.

5 THE COURT: And how about scheduling, do you want
6 to finish this up in the morning, after that?

7 MR. DeBUSK: Yes, Your Honor, I think.

8 MR. FOX: Yes, sir. I think if they play the
9 full statement, that is about an hour, and I prefer
10 not to start at 3:30.

11 THE COURT: Let's bring the jury back in.

12 MR. DeBUSK: Yes, sir. We prefer to argue and
13 charge tomorrow.

14 (The jury enters at 2:36 p.m., and the
15 following is heard in the presence of the jury.)

16 THE COURT: Any rebuttal from the State?

17 MR. DeBUSK: Yes, Your Honor. State calls
18 Detective Justin Amos.

19 (JUSTIN AMOS, having been duly sworn,
20 testified as follows:)

21 DIRECT-EXAMINATION

22 BY MR. DeBUSK:

23 Q Detective Amos, who is your employer?

24 A City of Myrtle Beach Police Department.

25 Q How long have you been with the City of Myrtle

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JUSTIN AMOS - DIRECT EXAMINATION

1 Beach?

2 A About 14 years.

3 Q What are your duties at this time?

4 A Sergeant over the Investigative Unit. I
5 supervise approximately 15, 16 officers in
6 investigations.

7 Q How about in October of 2018?

8 A My assignment was in investigations. I was a
9 major crimes detective, so working homicides, sexual
10 assaults, such as that.

11 Q Did you respond to RipTydz Bar and Grille on
12 October 7th of 2018?

13 A I did.

14 Q What was the nature of the call?

15 A There was shooting. We had one detective on the
16 scene requesting additional officers, and I think I was
17 second or third on the scene in investigations.

18 Q What did you do when you arrived at the scene?

19 A I met with some officers that were standing on
20 the roadway. I was directed to some witnesses that
21 were inside -- or standing right outside of the Aqua
22 Beach that needed to be interviewed, so I started with
23 the interviews with them.

24 Q Did you go up to the third floor bar where the
25 shooting happened?

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JUSTIN AMOS - DIRECT EXAMINATION

1 A I did later in the night.

2 Q Was the victim already transported?

3 A He was already transported.

4 Q How many people do you think you interviewed?

5 A On scene, I interviewed two for sure, maybe
6 three.

7 Q Where did you go after the scene?

8 A After I left the scene, I believe we went back to
9 one of our police department's annex buildings and
10 began reviewing videos and helping other detectives.

11 Q Did there come a time when Myrtle Beach Police
12 arrested a suspect?

13 A They arrested the suspect prior to me arriving on
14 scene.

15 Q Who was that?

16 A Jakkari Brown.

17 Q Did there come a time when you conducted an
18 interview with Mr. Jakkari Brown?

19 A Yes.

20 Q Where did that interview occur?

21 A In one of our interview rooms at the police annex
22 building. We have multiple ones throughout the city,
23 but it was one that investigations was housed at the
24 time.

25 Q Was the interview recorded?

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JUSTIN AMOS - DIRECT EXAMINATION

1 A Yes, sir. It was audio and video recorded.

2 Q Who was present?

3 A Detective Andrew Curry was my partner; at the
4 time he was with me.

5 Q Did you and Detective Curry inform Jakkari Brown
6 of his rights?

7 A Yes, sir, I did.

8 Q How did you do that?

9 A Myrtle Beach Police Department has a standard
10 form that we fill out, and it includes the Miranda
11 rights and get the defendants to sign it at the bottom.

12 Q Let me show you what is marked as State's Exhibit
13 2 and ask if you recognize that?

14 A Yes, sir. This is the Miranda rights form that I
15 read to Mr. Brown before the interview took place.

16 Q Did he indicate that he heard those rights?

17 A Yes, sir.

18 Q Did he indicate he understood those rights?

19 A Yes, sir.

20 Q Did he indicate he read those rights and waived
21 those rights and was ready to speak?

22 A Yes, sir.

23 Q Did you give him anything he asked for, in terms
24 of water or food?

25 A Prior to the interview, he was provided with a

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INDIGENT DEFENSE ONLY!!!!**

JUSTIN AMOS - DIRECT EXAMINATION

1 bottle of water. He didn't request anything else.

2 Q Did you coerce him or force him in any way to
3 give the statement?

4 A No, sir.

5 Q Did he willingly give a statement?

6 A Yes, sir.

7 Q And is that statement on video?

8 A It is.

9 Q I'll show you what was marked for identification
10 as State's 1; do you recognize this?

11 A Yes, sir. This is a video/audio recording of the
12 interview with Mr. Brown.

13 Q How do you recognize it?

14 A It has my initials on it, and I reviewed it prior
15 to today.

16 Q Is it a fair and accurate copy of the interview
17 you conducted?

18 A Yes, it is.

19 Q What time did that interview occur?

20 A Approximately, 1 o'clock p.m.; so the afternoon.
21 The shooting occurred approximately 1 o'clock in the
22 morning, so the next afternoon.

23 Q About 12 hours later?

24 A Approximately, 12 hours.

25 MR. DeBUSK: We move State's 1 and 2 into

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JUSTIN AMOS - DIRECT EXAMINATION

1 evidence.

2 MR. FOX: No objection.

3 THE COURT: State's 1 and 2 admitted without
4 objection.72s 1 and 2 admitted.)

5 MR. DeBUSK: At this time, we will publish
6 State's Exhibit 1. For the Court's information, for
7 some reason, it is four parts, but it is all the same
8 interview, so we'll do them sequentially.

9 THE COURT: All right. Yes, sir.

10 JUROR: I apologize, we cannot understand what is
11 being said. The volume is a little loud.

12 THE COURT: All right. Let's see if we can turn
13 it down and make it clearer.

14 (Published to the jury.)

15 MR. DeBUSK: That's the end of the first clip,
16 Your Honor. We'll go onto the second clip video.

17 (Published to the jury.)

18 Q After you got the statement, what else did you
19 do?

20 A Sorry.

21 Q After you took the statement, what else did you
22 do?

23 A I took lead. I was assigned the lead by one of
24 our investigation supervisors. I put the case file
25 together and reviewed the case and presented it to the

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JUSTIN AMOS - DIRECT EXAMINATION

1 Solicitor's Office for prosecution.

2 MR. DeBUSK: Thank you.

3 MR. FOX: If I can impose a five-minute break?

4 THE COURT: Sure. Let's take a 10-minute break,
5 and we'll come back and wrap up this witness. Do not
6 discuss the case.

7 (The jury exits at 3:55 p.m., and a recess was
8 taken.)

9 MR. DeBUSK: We have a brief matter of law before
10 we bring the jury in; it is a minor thing. We would
11 like -- ask that you take judicial notice that Georgia
12 code requires a permit to carry -- open carry a
13 handgun. I have the --

14 THE COURT: Yeah, I know that. Does defense --

15 MR. FOX: Well, I'll leave that in your
16 discretion, Your Honor. I would say that they had an
17 opportunity to introduce that in evidence during their
18 case in chief, or even in rebuttal, and have not done
19 so.

20 MR. DeBUSK: It didn't become an issue until the
21 defense case.

22 MR. FOX: Well, it was something that
23 potentially --

24 THE COURT: I mean, someone has to testify to get
25 it in.

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JUSTIN AMOS - CROSS-EXAMINATION

1 MR. DeBUSK: Being it a statute, Your Honor, we
2 move to bring it in for judicial notice. We can bring
3 in law by judicial notice.

4 THE COURT: I'll hear from you.

5 MR. FOX: I would have to research that point,
6 Judge. So I would, for the record, object again. I
7 think there is a way they can probably do it, but I
8 would ask you not to take judicial notice until they
9 have testimony or something to support that fact.

10 THE COURT: I'm inclined not to take judicial
11 notice. He did have to have a permit here. Whether
12 he needed one in Georgia or not, it is still breaking
13 the law here.

14 MR. DeBUSK: That's true. It is just a point of
15 impeachment is all, Your Honor.

16 THE COURT: All right. Thank you.

17 (The jury enters at 4:22 p.m., and the
18 following is heard in the presence of the jury.)

19 THE COURT: All right. Cross.

20 MR. FOX: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. FOX:

23 Q Detective, we just saw you interview Mr. Brown
24 along with Detective Curry; is that correct?

25 A Yes, sir.

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JUSTIN AMOS - CROSS-EXAMINATION

1 Q And, at that particular time, he had not been
2 served with his warrant; is that right?

3 A That's correct.

4 Q That was done at the end of the interview?

5 A Afterwards, yes, sir.

6 Q And when you came into the interview room,
7 Mr. Brown was already in there?

8 A Yes, sir.

9 Q You can see from the video there that he was kind
10 of leaning up against the wall weepy?

11 A Yes, sir.

12 Q Upset?

13 A Correct.

14 Q And he continued to be that way, at least in the
15 early part of the interview, emotional?

16 A Sure.

17 Q You read him his rights again?

18 A Yes, sir.

19 Q And he agreed to speak with you?

20 A Yes, sir.

21 Q And, of course, one thing you told him is, hey,
22 you don't have to talk to me if you don't want to, but
23 he agreed to speak with you and answer all of your
24 questions?

25 A Yes, sir.

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JUSTIN AMOS - CROSS-EXAMINATION

1 Q And did so. He told you -- you asked him --
2 talked a lot about gun he had, and he told you, I take
3 that gun everywhere?

4 A That's right.

5 Q Right?

6 A Yes, sir.

7 Q It wasn't just, oh, I carry it to RipTydz out of
8 fear; it was, I take it to work, I carry it kind of
9 wherever I go?

10 A I took it to mean he always had it with him when
11 he went places.

12 Q Right. And he seemed to genuinely believe that
13 the Second Amendment allowed him to do that?

14 A That's what he said.

15 Q Yeah. He even thought he was able to do that in
16 his home state Georgia?

17 A That's what he thought, yes, sir.

18 Q Over and over again during that interview, he
19 told you he didn't mean to hurt anyone?

20 A Yes, sir.

21 Q And he told you over and over again how chaotic
22 and crazy it was in there?

23 A Yes, sir.

24 Q In RipTydz?

25 A He did.

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JUSTIN AMOS - CROSS-EXAMINATION

1 Q That was sort of your own description as well, a
2 big tussle, a mosh pit, those were words that you and
3 Detective Curry -- or similar words -- used to describe
4 what happened at RipTydz that night?

5 A Which we gathered from the videos.

6 Q Right. And the video speaks for itself; you
7 would agree?

8 A Yes, sir.

9 Q And you said yourself it looked like there was
10 several fights going on, or a big tussle, those were
11 the words you used to describe?

12 A That's right.

13 Q And over and over again he told you -- in fact,
14 nine times -- that he was scared?

15 A He did tell me. I don't know the exact count.

16 Q More than once?

17 A Yes. sure.

18 Q And many times he used words describing the
19 moment when he shot the gun, and the gun went off, he
20 used words like "reflex," correct?

21 A Can I look at my notes?

22 Q Of course.

23 A Yes, sir, he did; used the word "reflex."

24 Q He described things happening so quick and
25 snapped his finger at one point, snapped his finger?

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JUSTIN AMOS - CROSS-EXAMINATION

1 A Yes, sir.

2 Q Or a blur, was another word he used to describe
3 those moments?

4 A He did.

5 Q You were -- he used the word -- I don't know if
6 it is the proper phrase, but he was lead detective in
7 this case?

8 A Yes, sir.

9 Q And as such, among your responsibilities, is to
10 basically coordinate between -- we've heard many
11 officers testify here today for their different roles?

12 A Yes, sir.

13 Q And you are sort of -- fair to say, you are sort
14 of the hub of the wheel that all roads kind of lead
15 back to you; is that fair to say?

16 A Right. Each officer would have an assignment,
17 and whatever they gathered from their assignment, be it
18 viewing video, interviewing witnesses, whatever, it
19 comes back to myself and Detective Curry for us to
20 disseminate.

21 Q So it is one of your responsibilities to be
22 familiar with kind of everything?

23 A Yes, sir.

24 Q And that would include witnesses that were
25 interviewed, whether by yourself or any other officers

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INDIGENT DEFENSE ONLY!!!!**

JUSTIN AMOS - CROSS-EXAMINATION

1 involved?

2 A Yes, sir.

3 Q And, in fact, you testified about some of the
4 individuals that you interviewed yourself?

5 A Yes, sir. Yes, sir.

6 Q Okay. You, yourself, did not interview Nick
7 Blake?

8 A I'm not sure which one he is.

9 Q He was the gentleman that testified this morning
10 who said -- he claimed that Jakkari said, I'm going to
11 F you up.

12 A No, sir, I did not speak to that gentleman.

13 Q Do you know if anyone from Myrtle Beach Police
14 Department spoke to him?

15 A I don't believe so.

16 Q Do your notes reflect any time between
17 October 2018 and this week that he approached or
18 contacted anyone from the police department about what
19 he had heard?

20 A I do not have anything in my notes reflecting
21 that, no, sir.

22 MR. FOX: Thank you. That is all the questions I
23 have.

24 REDIRECT-EXAMINATION

25

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JUSTIN AMOS - REDIRECT EXAMINATION

1 BY MR. DeBUSK:

2 Q You didn't serve the warrants before the
3 interview, but you and also Detective Curry multiple
4 times asked him about the guy he shot, correct?

5 A Yes.

6 Q So he knows that that guy would have been either
7 living or dead, correct?

8 A Yes.

9 Q So he knew he was facing murder or attempted
10 murder?

11 A Yes, sir.

12 Q So that was both serious charges, right?

13 A Sure.

14 Q He told you over and over again, didn't he, that
15 he didn't see where the punch -- when he was hit, he
16 didn't see where the punch came from?

17 A He did say that.

18 Q And he didn't see where the bottle came from?

19 A He said that as well.

20 Q And he told you over and over again that he
21 punched someone, and it was in the jaw?

22 A He did.

23 Q And he told you specifically without equivocation
24 that he didn't pull that gun out until he pulled it out
25 and shot it?

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INDIGENT DEFENSE ONLY!!!!**

JURY CHARGE CONFERENCE

1 A That is what he said.

2 Q He never had it out until he pulled it out and
3 shot it?

4 A Right.

5 MR. DeBUSK: Thank you.

6 THE COURT: Anything further?

7 MR. FOX: No, Your Honor.

8 THE COURT: You may step down.

9 Anything else from the State?

10 MR. DeBUSK: Nothing.

11 THE COURT: Defense?

12 MR. FOX: No, sir.

13 THE COURT: Members of the jury, come back at
14 9:30 in the morning and we'll finish the case. Do not
15 discuss or research the case.

16 (The jury exits at 4:30 p.m., and the
17 following is heard out of the presence of the jury.)

18 THE COURT: All right. Come back to the charges
19 again. I'll charge murder, voluntary manslaughter.
20 In regards to self-defense, have you read the State v
21 Slater case?

22 MR. FOX: I have, Your Honor?

23 THE COURT: Can you show me anywhere in that case
24 from this fact scenario, other than different people,
25 different time, but it is almost exactly the same.

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JURY CHARGE CONFERENCE

1 MR. FOX: Well....

2 THE COURT: Show me the difference.

3 MR. FOX: Small distinctions can be critical. I
4 think in Slater -- number one, Slater didn't hand out
5 a universal rule that illegal behavior is --
6 possession of a firearm was just, per se, illegal
7 activity that would bar an instruction on
8 self-defense. They said might be, can be. Factually,
9 in Slater, he took -- openly took a loaded cocked gun
10 into a fight.

11 THE COURT: It is a semi-auto. It is cocked.

12 MR. FOX: I would say he had it -- I admit, all
13 through this there is conflicting testimony, but when
14 -- Slater, he was armed, it was opened, it is out at
15 the point that he enters, whatever fray that was.

16 Mr. Brown, whether he took it out later or kept
17 it and showed it, his testimony was that I had it in
18 my waistband, I showed it by lifting my shirt and
19 pulled it up, by that point, the difficulty had long
20 started. And I think that is true whether the
21 difficulty broader -- I would argue that the
22 difficulty is the entire bar fight. That there is an
23 incident that occurs that he comes into, or he is
24 brought into, and that Mr. Ramos comes into, certainly
25 of his own volition, and that is there before

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JURY CHARGE CONFERENCE

1 Mr. Brown, before he becomes a part of that
2 altercation.

3 Even if you look at it between Mr. Brown and
4 Mr. Ramos, Mr. Brown goes to assist his boss, Mr.
5 Matthews. The gun is there, but it is not out, unlike
6 Mr. Slater. It is not being presented, and it is not
7 until there has been that altercation, which I would
8 argue was not Mr. Brown's fault. There is a
9 separation. It goes a few feet over. Mr. Brown stays
10 in one place, and Mr. Ramos comes to him twice. It is
11 not until after the first time Mr. Ramos goes at him
12 and throws a bottle that the weapon comes out.

13 So, certainly, in terms of the overall brawl, it
14 is not out, distinguishable from Slater. And even
15 between Mr. Ramos and Mr. Brown there is -- it
16 starts -- whoever is in lane -- and, again, not
17 Mr. Brown, but it starts, things happen, there is an
18 altercation, bottles are thrown, and it is only at
19 that point that it comes out.

20 So in Mr. Slater's case, it is at the
21 commencement, very beginning. In Mr. Brown's case, it
22 certainly is out, and we know it is out. There is a
23 gunshot, but that comes after things have happened.
24 So it still may be separately that the jury would
25 determine that he is not without fault, Mr. Brown is

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JURY CHARGE CONFERENCE

1 not without fault on bringing on the difficulty, but I
2 don't think he is barred on the front end by his
3 undeniably illegal possession of the firearm.

4 THE COURT: So the nuance to you is that in
5 Slater the defendant had the gun out?

6 MR. FOX: Yes.

7 THE COURT: When he went to the fight. In his
8 case, he did not have the gun out when he went to the
9 fight, but that is the only difference?

10 MR. FOX: But I think it is a critical
11 difference.

12 THE COURT: I'll hear from the State.

13 MR. DeBUSK: There is evidence on the record from
14 at least one person that saw the gun, even described
15 the extended magazine, when he was on the other side
16 of the bar. Slater stands, if you read it, the
17 reasoning in it, they are distinguishing Slater's
18 situation from a situation arming themselves for
19 self-defense; that is, the violent circumstances
20 precedes in arming himself, where he sees here is a
21 robber, let me grab my gun.

22 This is one where he went willingly in an armed
23 fray, and that is the exact case that Slater stands
24 for. The unlawful possession of a weapon was the
25 proximate cause, not merely unlawful possession of a

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JURY CHARGE CONFERENCE

1 weapon, but he carried it cocked and in open view into
2 an already violent attack in which he had no prior
3 involvement.

4 THE COURT: All right. That's what he is saying
5 the difference is; he didn't have it pulled out, but
6 that is the only difference.

7 MR. DeBUSK: That is a distinction without a
8 difference. This is a case where he went in armed.
9 The reason he went already armed, he went into a
10 violent offense and, therefore, is the proximate
11 cause. It fits squarely into the law of Slater. Here
12 it was not just an unlawful carry, it was unlawful
13 carrying, unlawful carrying where alcohol was served,
14 unlawful carrying while buying alcohol and using a
15 gun.

16 THE COURT: I agree.

17 MR. DeBUSK: Thank you.

18 THE COURT: I agree with both of you. The
19 question is: Do you want to risk it down the road?
20 Because that is the only difference that I can see.

21 MR. FOX: Yeah.

22 THE COURT: Other than that, they are 99 percent
23 exactly alike.

24 MR. FOX: I don't think you can divorce it from
25 the general proposition that there is any evidence at

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INDIGENT DEFENSE ONLY!!!!**

JURY CHARGE CONFERENCE

1 all of self-defense, even if it is disputed, that
2 there this is any evidence.

3 THE COURT: Yeah, but you have to be without
4 fault; that's the key.

5 MR. FOX: That is a fact. And I would say that
6 is a classic jury question.

7 THE COURT: I understand.

8 MR. DeBUSK: Your Honor, I'll argue at some point
9 you have to draw a line to what becomes illegal
10 activity. When you carry a gun in this situation, and
11 it becomes the reason someone dies, that is being
12 engaged in unlawful activity, besides what Slater is
13 saying caused you to be at fault that brings on the
14 difficulty.

15 THE COURT: I understand both of you. I'm trying
16 to get it right the first time so we don't have to
17 worry about it again. Other than that, it is exactly
18 the same. Why don't I think about it overnight. I'll
19 think about it some more.

20 But other than that, everything else in the
21 charge stays the same?

22 MR. FOX: For the record, Judge, and after now
23 we've heard from -- Mr. Brown's statements to the
24 police, and his statements that this was out of fear
25 over and over again, that it was -- he used the word

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JURY CHARGE CONFERENCE

1 "reflex," "blur," snaps his fingers. Without saying
2 the word "accidental," he comes very, very close. I
3 think involuntary manslaughter is warranted now that
4 he -- now that that is in evidence, and there is
5 certainly -- I think it is Knoten, K-N-O-T-E-N, and
6 I'm not positive I have the right case, but if you
7 decide that self-defense is warranted, the involuntary
8 manslaughter charge and self-defense are not mutually
9 exclusive. They can be inconsistent, but, again, if
10 there is evidence at all to support that, and I
11 recognize that is contradicted, some of it by
12 Mr. Brown himself in his testimony here in court, but
13 we now have evidence that it was, basically,
14 accidental, that we have an unlawful killing of
15 another without malice with criminal negligence. A
16 lawful act which can be arming yourself in
17 self-defense with a reckless disregard for the safety
18 of others. So I think there is evidence in the record
19 that is what happened. It would be a jury issue.

20 THE COURT: Of course the charge says:
21 "Unintentionally killed the victim without malice, but
22 while engaged in an unlawful activity not naturally
23 tending to cause death or great bodily harm."

24 BY MR. FOX:

25 Q That is the first part. Or -- or lawful act

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JURY CHARGE CONFERENCE

1 being arming yourself in self-defense. Again, jury
2 issue. Again, you can have -- Judge, believe me, I've
3 gone back and forth. It is as convoluted. You can
4 have an involuntary charge without self-defense, but a
5 lawful act done with reckless disregard for safety of
6 others. So he describes not aiming at anyone
7 personally.

8 THE COURT: He's breaking the law by not having a
9 permit, carrying it into a bar, and consuming alcohol.
10 So how can it be lawful activity?

11 MR. FOX: If he is lawfully armed in
12 self-defense, and there are cases that make what is a
13 very narrow distinction between becoming armed in
14 self-defense, and acting in self-defense. Being armed
15 is what it sounds like; "I am preparing." Acting is
16 literally intentionally acting, actively pulling the
17 trigger with the intent. It seems like a subtle
18 distinction, but it is an important one that our
19 courts made. With his testimony and through his
20 interview with the police, that when anyone in
21 particular -- it was quick. It was a blur. It was a
22 reflex. I was thinking like when a doctor hits your
23 knee with a hammer, you have no choice, it goes up;
24 that is what a reflex is. That is what he describes
25 in his interview. I'm punched, and there was a shot;

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1 it was a reflex.

2 THE COURT: All right.

3 MR. DeBUSK: One, the defendant told two
4 different stories, both of which involve him
5 intentionally firing a firearm while carrying it
6 legally in a bar, while drinking, which is illegal to
7 carry a firearm. He did not arm himself in
8 self-defense. He went there armed when there wasn't a
9 threat. He was standing in that bar drinking when
10 there was no threat. He was talking to the other
11 people on his team, armed. There is no threat. And
12 then he intentionally went into a violent
13 confrontation knowing he was armed. He was the
14 threat. There is no basis for involuntary
15 manslaughter.

16 THE COURT: I will think about self-defense.
17 Thank you. You all have a good night.

18 (WHEREUPON, THE PROCEEDINGS FOR JUNE 9, 2021
19 CONCLUDED. THE FOLLOWING WAS HAD ON JUNE 10, 2021.)

20 THE COURT: Good morning. Anything before
21 closing statements

22 MR. OSKIN: What was your decision on the
23 self-defense?

24 THE COURT: Out of an extreme abundance of
25 caution, I'm going to charge it and let those people

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1 figure it out.

2 MR. DeBUSK: As to the closing, are we going to
3 do State closes in full, defense in full, and State
4 rebuttal?

5 THE COURT: That's right.

6 MR. FOX: In terms of the charge, I have one
7 small request to add. On your voluntary manslaughter
8 charge, I request that you add language that under the
9 Clanton case (phonetic), 429 S.C. 108, that the burden
10 of proving is on the State beyond a reasonable doubt
11 that any unlawful carrying of a firearm is, in fact, a
12 proximate cause that was -- would take him out of
13 self-defense, the proximate cause of the incident. In
14 other words -- let me start back and make it more
15 clear.

16 Obviously, self-defense, one of the elements we
17 have to establish before the State has to rebut, is
18 that the defendant was without fault, and that was the
19 discussion we had yesterday whether you would charge
20 self-defense. I would say the State has to show that
21 the activity of being in unlawful possession of a
22 firearm, they must show beyond a reasonable doubt that
23 that is the proximate cause of the underlying event,
24 which would, therefore, be Mr. Brown bringing on the
25 difficulty or being at fault and, therefore, him not

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CLOSING STATEMENT - MR. DeBUSK

1 being entitled to claim self-defense.

2 THE COURT: I'm not 100 percent I follow you.

3 MR. DeBUSK: I don't follow him either, Your
4 Honor. I don't think that rises to the level of
5 instruction.

6 THE COURT: How would you put it in the
7 instructions? Where would you write that in there?

8 MR. FOX: It would be in the section on "bringing
9 on the difficulty."

10 THE COURT: Why don't the two of you look at it
11 and see if maybe you can agree on something.

12 (Whereupon, a bench conference was had.)

13 THE COURT: All right. State ready to proceed?

14 MR. DeBUSK: Yes, Your Honor.

15 THE COURT: Defense ready to proceed?

16 MR. FOX: Yes, sir.

17 THE COURT: Bring in the jury.

18 (The jury enters at 9:45 a.m., and the
19 following is heard in the presence of the jury.)

20 THE COURT: Good morning.

21 State is recognized for your closing statement.

22 MR. DeBUSK: Thank you, Your Honor. Ladies and
23 gentlemen, Roger Ramos paid the ultimate price for
24 what happened on October 7, 2018 on the RipTydz'
25 rooftop, and now it is your decision to find if the

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1 defendant should be responsible for what happened
2 there. You don't have to judge the defense entirely,
3 just look at what happened on the morning of
4 October 7, 2018. You have to decide did the
5 defendant, Jakkari Brown, murder Roger Ramos.

6 You've heard all of the testimony here from the
7 stand. You've heard several points of view. Let's
8 start with Ciaralyn, the lady that testified first,
9 "CeeCee" to her friends. Ciaralyn, the tall lady that
10 testified first, she said that she was standing right
11 by the defendant when he shot Roger. She saw him pull
12 out the gun in one motion and stand there for just a
13 minute, What now, and then run away.

14 You heard from Constable Stouch, the police
15 officer from Pennsylvania. He said that he was there
16 enjoying the night at RipTydz. RipTydz isn't a bar,
17 it is a place like Constable Stouch would hang out.
18 Nice, clean tourist place. He saw the defendant
19 holding the gun, even though he didn't see him shoot.
20 Then he immediately tried to help save the victim.

21 You heard from a lot of people that handled the
22 shell casing; state's Exhibit 37. You heard the chain
23 of custody of that shell casing until it got to the
24 SLED analyst, Mr. Green, who said that shell casing
25 was fired by the defendant's gun. You heard from John

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1 Brach, the man there hanging out with his friends who
2 managed RipTydz. He said when the fight broke out, he
3 stood there trying to keep people from getting in the
4 fight. The defendant approached him and said, Don't
5 touch me, and showed him the gun. You know he saw the
6 gun because he described the extended magazine, very
7 uncharacteristic thing for most guns.

8 You heard from James Franks. He was the security
9 officer. He was the guy that jumped into anything.
10 He was a much bigger man and tried to restrain him,
11 but, unfortunately, he lost his glasses and lost his
12 effectiveness at that point. When you can't see, you
13 can't help people.

14 You heard from Tyler Hembree and Seth Cole, two
15 members of the Towersite crew. They told you they
16 didn't want any part of that. They stayed out of the
17 fight. They didn't want to be around people like
18 that. They told you other important things as well.
19 Seth Cole said he tried to hold him out of the fight.
20 It was a favor to the defendant that he, not so
21 politely, declined.

22 You heard from Nick Blake, the bartender. He was
23 brave enough to restrain John. You could see the
24 video. He was brave enough to do that, but when he
25 became face-to-face with the defendant, Jakkari Brown,

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1 he said something made him scared so much that he
2 backed off, walked across the room. You watch the
3 video. He wiped his brow. He was clearly shaken. He
4 said what that was, was "I will F you up." You can
5 tell by his reaction.

6 You heard from the defendant himself on tape when
7 Officer Ammons arrested him and gave him his Miranda
8 warnings. He said he shot that gun in the bar, and
9 that is the gun in the bush that was used, and that is
10 the shirt in the bag that he wore when he did it. You
11 also heard two completely different stories about what
12 happened, and they both came from the defendant. He
13 told one story sitting up here, and another story to
14 the police when they questioned him just 12 hours
15 after the shooting happened. I'm not going to belabor
16 those differences. Those differences are many and
17 obvious, but I'll go over a few.

18 For instance, in court, he said the guy in the
19 pink shirt punched him. But when he talked to the
20 police, he said I didn't see who was punching me, I
21 was blindsided. He said he shot the guy who punched
22 him. When he talked to the police, he said I didn't
23 shoot anyone in particular, just trying to clear
24 everything out. If that was true, there probably
25 would be a bullet hole in the ceiling at RipTydz, not

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CLOSING STATEMENT - MR. DeBUSK

1 a bullet hole in Roger Ramos. But two different
2 stories, completely different.

3 In court, he said he left Aqua Beach to turn
4 himself into police. On video, he talked to the
5 police 12 hours after it happened and he said he
6 changed shirts and left Aqua Beach -- he said, I
7 changed my clothes because I wanted to leave.

8 Now, of course, if he was going to turn himself
9 in, he wouldn't have taken that gun with him. If he
10 walked out there and the police were there and he had
11 the gun in his hands, they might have shot him. He
12 could have left it in the trashcan you saw him put it
13 into on the Aqua Beach video, but he said he was
14 afraid his co-workers would find it. If you watch the
15 Aqua Beach video, you'll see it. When he took that
16 gun out, his co-worker was standing right there; so he
17 wasn't worried about the danger.

18 As well as the differences between the two
19 statements, each statement had some internal
20 inconsistencies; things in the statement that don't
21 fit. For instance, when he testified here in court,
22 he said, I always use the side exit to Aqua Beach; I
23 never use the front entrance. Yet, you saw the video
24 yourself from Aqua Beach where he used the front
25 entrance three times coming back from where he shot

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CLOSING STATEMENT - MR. DeBUSK

1 Roger Ramos. He knew where the police were.

2 Now, you remember, RipTydz is over here. You see
3 the turf area that they talked about in the testimony,
4 and Officer Fox said he was parked there in the median
5 of Ocean Boulevard. So he walked right by the police.
6 He knew where the police were. They were right
7 outside the front door, but he didn't use the front
8 door; he used the side door. He was trying to avoid
9 the police. That's an internal inconsistency in some
10 testimony.

11 Also, blue lights all over the place at RipTydz,
12 because every police officer from Myrtle Beach
13 responded over there. They even brought in traffic
14 officers, if you remember. "All hands on deck" I
15 think is what they said. And going out the side might
16 have worked, but Mr. Hembree was standing out the
17 front door, and when the police came, he said, He's
18 over there. If it wasn't for Tyler Hembree, he might
19 have gotten away. Went to the bus station. He had
20 his phone. You heard it ringing when he was arrested.
21 He asked if he could answer it, and the officer said
22 no. He could have called an Uber.

23 Inconsistency in the statement he gave to the
24 police. He testified about the security guys there;
25 you remember him testifying, Mr. Franks. He said he

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1 remembers a guy. He had a blue shirt on, "security"
2 written on the back. He had a radio on his back.
3 Even remembered that he had a beard. You heard
4 Mr. Franks' testimony, he only came in when the other
5 officer took someone out and went down the elevator.
6 So the only chance the defendant had a chance to see
7 him was over by the surfboards. So at a momentary
8 glance, he remembered he had a beard.

9 At the same time, he claims he doesn't remember
10 the guy who punched. He just says something red or
11 orange, no details. He remembers from a momentary
12 glance that he had a beard, but he didn't remember the
13 guy that he punched in the face and was face-to-face
14 with and shot? You know he was looking at Roger. You
15 can tell when you see the video. Watch carefully,
16 after Roger gets hit, he staggers back, has a bottle,
17 picked up that bottle and throws it. Before he
18 released that bottle, the defendant is already putting
19 his arm up to fend it off, because he was watching
20 Roger. He was watching his hands. That is what you
21 do when you are in a fight with someone, you watch
22 their hands and eyes. He knew his hands were empty
23 after he threw that bottle. A full nine seconds
24 passed before he shot him. You could see Roger
25 squaring up with empty hands. That is why the hands

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1 are important. Both hands are out in front of him;
2 you can see it on the video. They were empty. He
3 knew he was no threat for anything except a fist
4 fight.

5 Then, the biggest difference of all between the
6 two statements. In his testimony here today, he said
7 when he was standing over there by the bar, he pulled
8 his gun out and let it there for Roger to see, held it
9 up twice before he shot him. When he talked to the
10 police, he said he just pulled that gun out and shot
11 in the same motion. Those are two completely
12 different things. We know which one of those is true,
13 because CeeCee, to her friends, Ciaralyn, the tall
14 lady was standing right next to him when she saw him
15 pull out in one motion and shoot Roger.

16 I could go on for two hours on differences in the
17 statements, but that is not what we're here about. I
18 will argue that neither one of the statements is the
19 truth. Each one is him saying what he thought he
20 needed to say at the time to escape culpability for
21 what he did. The truth lies elsewhere. It reminds me
22 of an old line from a Marx Brothers movie: "Either
23 you believe me, or your lying eye." This all happened
24 on the video. So I'll go through that.

25 First, I need to talk about the law. The charge

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CLOSING STATEMENT - MR. DeBUSK

1 here is murder. Murder is the killing of a person
2 with malice aforethought, expressed or implied. The
3 judge is going to instruct you on the law, so you go
4 with what the judge says. I have to give you an idea
5 of what the law is, because that is my burden.

6 Killing is obvious. You heard Dr. Eason say the
7 bullet shot into Roger; that's what killed him.
8 Roger, of course, was a person. That brings us to
9 malice aforethought, expressed or implied. Expressed
10 is by words or actions that clearly are malicious.
11 Implied is looking at all of the facts surrounding the
12 situation and implying malice from it. I argue that
13 both are present in this case. Malice aforethought.
14 Malice is the wrongful intent to injure another,
15 ill-will. It is wanting to harm someone. It doesn't
16 mean premeditated. Premeditation can be one of the
17 things you look at to determine malice, but it just
18 means that you had that malice at the time the shot
19 was fired. Again, expressed is a clear impression of
20 malice, and you can imply malice in certain
21 circumstances. If there is a killing with malice, it
22 is murder.

23 There is another charge that is called a "lesser
24 included offense." It is a little less than murder,
25 but it is included within the indictment; that is

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1 called "voluntary manslaughter." Voluntary
2 manslaughter is killing, again, of a person without
3 malice. Remember, if there is malice, it is murder.
4 If it is malice, it is murder. If you find there
5 isn't malice, and there is heat of passion, and
6 sufficient legal provocation, then you can have this
7 lesser included offense.

8 Of course, it is malice, it is murder even if
9 there is heat of passion and sufficient legal
10 provocation. Heat of passion renders the mind of an
11 ordinary person incapable of cool reflection. That is
12 a state of anger or an emotion so high that the person
13 can't really stop and think about it. Uncontrollable
14 pulse to do violence. Again, uncontrollable. It is a
15 very intense feeling.

16 Self-defense is another thing the judge is going
17 to charge you on. Self-defense is a complete defense,
18 but there are several elements of that charge, and the
19 first, and most important, is the person claiming
20 self-defense has to be without fault in bringing on
21 the difficulty. If they did something to bring on the
22 fight to end up in the murder, they can't claim
23 self-defense.

24 Mutual combat, if they willingly enter into
25 mutual combat. They enter a fight wanting to be a

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1 part of it, then they are at fault in bringing on the
2 difficulty and can't claim self-defense.

3 Contentious language. If they say something that
4 is such fighting words before -- at the beginning of
5 the fight, they are at fault for bringing on the
6 difficulty.

7 The next element is there must have been actual
8 imminent danger of losing life or sustaining serious
9 bodily injury, or must have believed they were in such
10 danger. You will hear testimony about that, a lot
11 from the defendant himself. He said that he was
12 punched in the face, but it didn't hurt. You can see
13 him on the video face-to-face, for at least nine
14 seconds, Roger, with his hands up, so he knew there
15 was nothing in his hands. You have to decide could he
16 seriously have thought he was in danger?

17 The third one is if that defense is based on a
18 belief of actual danger, belief of imminent danger,
19 must show that a reasonably and prudent person of
20 ordinary firmness and courage would have so believed,
21 and that the circumstances were such as would warrant
22 a person's ordinary prudence, firmness, and courage to
23 strike the fatal blow in order to save himself from
24 serious bodily injury or loss of life. That is a long
25 way of saying you have to -- the situation has to be

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1 such that a reasonable person would have believed they
2 were in danger. A lot of words to say a simple idea.

3 Finally, the defendant has no probable means of
4 avoiding the danger. There is a duty to retreat. Was
5 there something that the defendant could have done to
6 avoid getting in a fight?

7 If he fails in any one of these, he can't claim
8 self-defense. That is, if he was not at fault on
9 bringing on the difficulty, but the other three are
10 present, he can't claim self-defense. If he had a
11 means of retreat, but others are present, he can't
12 claim self-defense.

13 That's the law you are going to look at here. As
14 I said before, everything that happens is on video, so
15 we're looking at the video and looking at it closely.
16 take your time, because that is the crux of the case.
17 Like high school football, you have to go in there and
18 watch the films after the game to see what you did
19 right and what you did wrong. The whole thing was
20 recorded. Careful examination of this shows us what
21 happened. First, there was the prelude to the fight.
22 I would argue that the fight started, and you will see
23 on the video, where big John, the foreman, pushed
24 someone in anger. But there was another part of the
25 fight and, really, you heard people talking about

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1 chaos and fights all over the place. If you look at
2 the video very carefully, there was really only one
3 fight. It started over from the bar and carried on,
4 carried back, went to the surfboard wall, but the same
5 people involved the whole time. It was a group that
6 started by the bar, group from Towersite Services, and
7 the staff of RipTydz trying to stop the fight between
8 them. It happened in several parts.

9 Part 1: The prelude. Let's get it playing. It
10 might take just a moment. You have pictures of how
11 everyone was dressed, the clothes they had on. You
12 have the video so can you look up close. You will
13 recognize John, the foreman, here. Tyler Hembree is
14 in the camouflage shirt here. There is this group
15 over here having discussions -- sorry, the tape is
16 playing kind of funny. But John approaches this group
17 over here and starts talking to them. Don't know what
18 is said. John has passed away, so we don't have him.
19 But there is an interaction between these individuals
20 and John. They talk for a few minutes. In a moment
21 John is going to walk away and go back to where you
22 heard testimony, the table. You see right here the
23 yellow hat is Seth. You have these videos in
24 evidence. The quality is much better at the original
25 video, but you can see over here at the table, Seth.

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1 Here, John is talking to him and walks away. You
2 heard the defendant tell the police John came to the
3 table and said, These guys are trying to start
4 something. Actually, John went over there to start
5 something. You see he walked back over here at the
6 table. That is the prelude to the fight. Don't know
7 what happened, but those two groups interacted. What
8 is important is this group here interacted with the
9 Towersite Services guys.

10 Next is the peacemaker. After that -- after that
11 discussion, John goes to his table. One of those guys
12 goes over here to say something to John; gets right up
13 in his face. That prompted one of his friends to come
14 up there and pull him away. We don't know what he's
15 saying, but clearly he is separating John and this
16 guy, who is his friend. I call him the "peacemaker."
17 He's the African-American male wearing a gray shirt
18 and gray hat.

19 Next, something happened. Security removed the
20 peacemaker. Now, you see security came over here and
21 talking to the group. Maybe they thought they were
22 causing problems. They talked to the guy in gray, and
23 for some reason, they start a fight with the security.
24 The other guy takes the peacemaker out. He is the
25 fellow carried down in the elevator. We'll see that

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1 from another angle. This is another angle. You can
2 see the bar over there. It all started over there.
3 You see them coming over here, and you can see as they
4 come out.

5 You heard the general manager, Mr. Goodbread,
6 talk about it. They took that person, who had been in
7 the fight, out. That also removed the armed security
8 guy, so there was no more armed security guy there.

9 Then, "Don't touch me." After they carried the
10 man in gray out, the peacemaker out, something
11 happened over there. You actually have a picture of
12 it in the exhibits here. State's Exhibit 10 shows you
13 the video, but because it is blurred -- I'll hold it
14 up for you. You see, John Brach testified about it.
15 You can see in the pictures from Aqua Beach what the
16 defendant is wearing, a burgundy shirt, a burgundy
17 hat. He described it in his own testimony to the
18 police. You can see him there in his burgundy shirt
19 and hat face-to-face with John Brach. That is when,
20 as John Brach testified, he said, "Don't touch me" and
21 showed him the butt of his gun. Remember, this is the
22 defendant, Jakkari Brown, doing this.

23 They are over here. You can see the burgundy
24 hat, burgundy. You see John back here face-to-face
25 talking. Lights come up. John Brach acting a little

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1 defensive -- remember, he didn't work there, he was
2 just trying to keep peace for his buddy, the manager,
3 Dave Goodbread. He backs up.

4 If you watch carefully, remember Seth with the
5 yellow hat and John, the guy with the striped jersey,
6 the guy with the big beard, that is Eli. They have to
7 remove Jakkari Brown, the defendant, from that
8 situation. There was some faceoff they felt they had
9 to remove him from. That is when he was face-to-face
10 with John Brach saying, Don't touch me.

11 So just to review the group over here, Towersite
12 Services, John talked to them, peacemaker removed, his
13 friend back over here, somehow gets in an argument
14 with the security guy, and the peacemaker is removed.
15 Towersite Services guys end up over here where the guy
16 was removed, and Jakkari Brown ends up face-to-face
17 with John Brach, shows him the gun, don't touch me.

18 Then this is a push. If you watch, this is when
19 they are coming back over here. John and Seth, and
20 then this guy in glasses comes over here and tries to
21 talk to Jakkari. John inserts himself, and this is
22 someone in a black shirt, looks like a RipTydz worker.
23 You can't see it very well because of the video, but
24 John pushed the guy in glasses.

25 Play it a little more smooth this time. Guy in

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1 glasses trying to argue with Jakkari. John comes up.
2 He says something he doesn't like, and John pushes
3 him. You can see Jakkari Brown is right behind John
4 when he pushed him. You saw John make that aggressive
5 move, and that move is at the beginning of the fight
6 where it actually became physical. Before that, the
7 only physicality was between the security guard and
8 the peacemaker, who was taken out. Everything else
9 was just words.

10 All the sudden, this fight is physical. You
11 heard testimony about what the policy of RipTydz is;
12 you are supposed to call a manager and diffuse the
13 situation. You saw one of the guys in black standing
14 between them and diffuse the situation. Goodbread had
15 gone down the elevator with the security guard, and
16 the other manager, the one who picked up the casing
17 and gave it to the officer, he was out on the green
18 grass desk area, the turf area. So there wasn't a
19 manager present. He was trying to diffuse it; that
20 doesn't work because John pushes the guy with the
21 glasses. So now they have a fight on their hands.
22 What are they going to do? They have physical blows.
23 What do they do? At that point, you remember Nick,
24 the bartender, he decides that we have to separate
25 these people so they can't fight anymore. So they

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1 restrain big John. Here -- see here pushing big John
2 against the wall. Notice the guy with short hair on
3 the sides, that is Nick, the bartender. He testified
4 that was him pushing John back against the wall.

5 What else could they do? Let them stand there
6 and fight? They had to separate them somehow, and
7 that is what they did. At this point, there are
8 several RipTydz people restraining John. You can
9 watch the video. You have the video, and you can
10 watch it. We'll see a closer-up version in a moment.
11 But they are not hitting John. They are not choking
12 John.

13 The victim, Roger Ramos, was off duty. He comes
14 up to help his RipTydz family. He's there, too. He
15 has his arm on the shoulder of big John, a very big
16 guy. You see his elbow in the video. He just has his
17 hand on his shoulder, not in a chokehold. He was
18 trying to keep him from going back over there, and
19 John is struggling and pushing these guys around.

20 What happens next is sort of a counter-attack.
21 You have the RipTydz guys holding big John, and then
22 you have three of the Towersite Services guys come in
23 there and counter-attack. You have the guy in the
24 striped jersey, black male with striped jersey. That
25 is Jeff. The guy with the big beard here, that is

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CLOSING STATEMENT - MR. DeBUSK

1 Eli, with the decal on the back. And then the man
2 with the burgundy shirt, burgundy hat. What is very
3 important is before the counter-attack, right here,
4 yellow hat on, Seth Cole was holding him in the corner
5 trying to keep him from getting in the fight, keep him
6 from joining the counter-attack. So before the
7 counter-attack, it was not a fight. There were no
8 punches thrown, just restraining a rowdy customer.

9 You can also see it from the reverse angle, but
10 it is behind those bottles so you can't see much. So
11 I'll play through it, but it is visible. Back here
12 the whole thing goes past, and they push John back
13 over to the surfboard wall over here. You can see it
14 from this angle. The push happens here, and then you
15 see them pushing John back against the wall. You can
16 see the tall lady with the hair up, that is CeeCee.
17 She described her hair up in a bun.

18 Then, the first part, the defendant enters the
19 fight. Again, I told you RipTydz personnel had John
20 against the wall because he just pushed somebody.
21 They are restraining him. Seth tried to hold the
22 defendant back against the wall, but he pushed by him.
23 You even heard, if you listen closely to the interview
24 with the police, he said, I just told Seth to get the
25 F off of me, and he went in there and he punched

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CLOSING STATEMENT - MR. DeBUSK

1 Roger. Just before the punch, remember, that is when
2 Bartender Nick said he walked up there and the
3 defendant got face-to-face trying to say, Hold on,
4 let's not do this. He says something like, I'm going
5 to F you up, and then Nick, the bartender, puts his
6 hands up, backs away, and wipes his brow because he's
7 just escaped. He probably saved his own life because
8 he might have been the one that got shot.

9 Again, watch his reaction. Is that the reaction
10 you would expect if you didn't believe what was said
11 to him? I'll stop here for a second and go to the
12 close-up video that I talked about here. You can see
13 Roger come up and join in restraining John, who was
14 giving them quite a fight. You can see the striped
15 jersey, round decal, and beard. Then the defendant
16 coming up in a counter-attack. There were no punches
17 until they came up. Watch right here when Nick, the
18 bartender, goes up to the defendant and puts his hands
19 on him. Notice the reaction and how he walks away.
20 He wants no part of that. Keep watching. As he comes
21 back over here, just escapes, withdrew. Go back and
22 you can see -- watch the punch.

23 Again, here is the defendant behind Seth. Seth
24 is trying to talk to him from going to that fight,
25 goes right past him and gets in a fight anyway. He

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CLOSING STATEMENT - MR. DeBUSK

1 tries to restrain him from being part of the
2 counter-attack. He goes up, watching the defendant
3 now with the burgundy cap. You can see the decal on
4 the back of his shirt. Nick goes up, backs out.
5 Watch what he does. He punches Roger right in the
6 face. Roger falls back. Then he throws his bottle.

7 This is a different angle. Now, when we go back
8 to the main video, you watch, right by the door there
9 it is a guy jumping up and down like he's excited
10 about the fight. Watch through that door there.
11 Right here, door is going to open a little more in a
12 second. You can see the pink -- see the pink shirt go
13 by? That was Roger flying back from the punch to his
14 face. Then you see that guy jumping up and down right
15 by the door there? Look at that one more time. Watch
16 what happens when Roger is punched. See how far he
17 flies back. That was quite a lick to the face.

18 Then, Roger returned the punch, and the defendant
19 shoots him. Here it is in the main video. You see
20 this all happened back here. You see Roger and he
21 approaches him, punches the defendant, and the
22 defendant pulls out a gun.

23 Go back to that close-up video.

24 Again, I slowed this down for playback just so
25 you can see things a little clearer. Here you see the

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CLOSING STATEMENT - MR. DeBUSK

1 Towersite Services guy going in there, counter-attack.
2 Here comes the defendant. There goes Nick, the
3 bartender. Look here, this is Roger. This is big
4 John. You can see where his elbow is across the top
5 of his shoulder. He has his arm on him. It is not a
6 chokehold. It's the only way you can when you are
7 behind someone; put your hand over their shoulder.
8 The other hand is down his back. There is no
9 chokehold.

10 Then the punch. Roger flies back. Mad at being
11 punched, he throws his bottle. Watch that. That
12 bottle was thrown not at .11, 11 seconds. He threw
13 that bottle at 11 seconds. If you look closely, as I
14 told you before, the defendant's arm is up to defend
15 off the bottle before the bottle is even out of his
16 hand. He's watching Roger's hands. Here's Roger back
17 here. The security guards gets away, pats him on the
18 back. He is looking at the defendant. The defendant
19 is looking at him. He's looking at the defendant
20 calling him out, come on. Roger comes on with his
21 hands in front of him, empty. He punches the
22 defendant. Defendant pulls out his gun, just like
23 CeeCee says, and shoots him. This is an actual
24 exhibit you have, State's Exhibit 5. What is
25 important is if you look close on State's Exhibit 5,

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CLOSING STATEMENT - MR. DeBUSK

1 you can see the defendant's hand with a gun. You can
2 see the extended magazine sticking out of the gun,
3 that is when he pulled the gun out and shot Roger in
4 freeze frame.

5 Right there you see the gun, the extended
6 magazine. The crowd reacts to the shot after the
7 shot. Watch what the crowd does. You see everyone
8 runs. They run for the hills. There's the shot and
9 everyone running.

10 This angle, this was behind the bar. Watch the
11 reaction of the people over the bar. They duck down.
12 You see people crawling under tables here. None of
13 them want to get shot because, quite frankly, RipTydz
14 is not that kind of place. General reaction action,
15 here is the guy jumping up and down, what happens when
16 the shot goes off. Runs like a scared mouse.

17 This is the same thing, so we'll skip that.
18 After the shooting, the defendant begins his flight.
19 Watch right here for the burgundy shirt. There he
20 goes, runs out behind the bar.

21 This one you can't see the color of people's
22 shirts, so we have -- excuse me. Watch here. There
23 you go. No longer has his hat, but you see the decal
24 on the back. He's holding his hands up with the other
25 hand. You see the rest of that on the Aqua Beach

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CLOSING STATEMENT - MR. DeBUSK

1 videos when he runs in the front door, goes up in the
2 room, hides his gun in the trash barrel for awhile,
3 changes shirts, and goes out the side door.

4 Remember, at the end he goes out at the side
5 door, not the front door, because the police are out
6 the front door. Out the side door is potential
7 escape, until Tyler Hembree told them.

8 There it is. All of the tapes all in evidence,
9 so don't feel like you have to remember. You can
10 watch them carefully when you go back in the jury
11 room.

12 I want to sum things up with an analogy. It is
13 Jakkari Brown was like a hammer looking for a nail.
14 That goes back to something called "Kaplan's Law."
15 There was a philosopher named Abraham Kaplan in the
16 early '60s. He proposed an idea. He said if you give
17 a small child a hammer, that child will find
18 everything he encounters needs a pounding. In words
19 you heard before: If you have a hammer, everything
20 looks like a nail. That was Jakkari Brown with that
21 gun. Every fight looked like an opportunity to use
22 that gun.

23 Look at all of the evidence. Look at what he did
24 when he went around that bar. I would say you can
25 imply malice from what he said to people, the way he

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CLOSING STATEMENT - MR. DeBUSK

1 acted, the way he had to be restrained. You can imply
2 malice from everything he did. Look at his encounter
3 with John Brach, shows him the gun, don't touch me.
4 Fortunately, John Brach didn't. He was probably the
5 most reluctant witness you saw up there. He was
6 answering things curtly. You could tell he didn't
7 want to here. He wasn't a part of the RipTydz family,
8 just there with his friend, Dave Goodbread, the
9 manager. He stood there saying, Come on, let's calm
10 down. His buddies take somebody out. It's over. He
11 is approached by the defendant. Defendant looked at
12 him eye to eye, and you can see it on video. John
13 Brach said he said, Don't touch me, and showed him the
14 gun. Again, you know, he saw it because he saw the
15 gun; he said it had a longer magazine.

16 You can see the malice with his encounter with
17 Nick, the bartender. I'll F you up. I think Nick
18 said it was directed towards Roger, the victim, but it
19 was enough. There was enough malice in the eyes of
20 the defendant when he said it. When Nick saw it and
21 heard it, he said I'm not in for that, walked away,
22 walked across the room. Again, expressed malice: "I
23 will F you up."

24 You can imply from the behavior of the tape that
25 Seth had to restrain him from going back to where John

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1 Brach was. They had to push him across the room.
2 That is when John pushed the man with glasses. At
3 that point, just words going into a physical fight
4 forcing the RipTydz personnel, who didn't have a
5 manager present to do something, to separate them.
6 That is when Nick came in to separate John from the
7 man he just pushed. Again, that is when you heard him
8 say, "I'll F you up."

9 The fact is, Jakkari Brown had a chip on his
10 shoulder the whole time. He was the hammer looking
11 for the nail. He had a point of courage. You heard
12 him tell the police officers he had four or five
13 beers, and four or five shots. Not just shots, but
14 large shots. He said they poured large shots down
15 here. So he previously told him that he was drunk;
16 far from sober. He was so drunk, he didn't see the
17 flash of fire out of his gun.

18 Voluntary intoxication is not a defense. You are
19 still liable for whatever you do when you are drunk,
20 but alcohol does lower your inhibitions, takes away
21 your good judgment. If you were sober, you would have
22 good judgment and say, I am not doing that; but you do
23 it when you drunk. That is when Jakkari Brown, on
24 ordinary days, is just a regular working man. When
25 he's drunk, he has his gun, he is belligerent.

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CLOSING STATEMENT - MR. DeBUSK

1 I can't speak for the legislature, but I imagine
2 that is why they said it is legal to use a gun when
3 you are drinking and illegal to have a gun in a bar.
4 The defendant admitted he was drinking. He admitted
5 he was in a bar with a weapon. He admitted he brought
6 that dangerous weapon to a bar. So he was drunk,
7 looking for trouble, belligerent. Fortunately for
8 John Brach, he backed away, or he might have been the
9 nail that got pounded. Fortunately for the fellow
10 with glasses trying to talk to Jakkari, big John
11 pushed him out of the way when he started with the
12 physical fight. Fortunately for Nick Blake, when he
13 approached the defendant and put his hands on him to
14 make peace and the defendant spoke, he saw malice in
15 his eyes and he backed off today, or he might have
16 been shot. Unfortunately for Roger, when he got
17 punched in the mouth, his anger put him in danger. He
18 was drinking, too. He had some Xanax in his system.
19 It is a tranquilizer, but not enough to tranquilize
20 when you are punched in the face. So Roger got angry.
21 Roger wasn't even on the clock. He was going in there
22 to help the other RipTydz personnel. Like I think it
23 was Nick Blake that said they are like a family. Go
24 in there and help his brothers restrain this rowdy
25 patron. It was the jobs of the people there of

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CLOSING STATEMENT - MR. DeBUSK

1 security. You saw the security guard in there trying
2 to hold John back and the other RipTydz people to stop
3 that fight. Once John made it physical, it was the
4 job to stop the physical fight so peace could be made.

5 So they were doing their duty, and even though he
6 was off the clock, Roger felt it was his duty to help
7 his friends keep them from getting hurt.

8 Unfortunately, when this counter-attack happened, the
9 Towersite Services came in and started forming punches
10 at the guy that was restraining John, it got Roger,
11 and ended his life. The preference will always be --
12 and you heard the manager say -- to always diffuse the
13 situation before it got physical, and that would have
14 been preference.

15 You saw the black shirt, RipTydz guy, standing
16 with the guy in glasses trying to make peace, but
17 wasn't able to keep them apart. The preference would
18 be to diffuse it, but it was too late. It was
19 physical, and it was made physical by John's push.

20 Look at the weapon itself. He brought it into a
21 bar, and it was a bar with armed security. It a safe
22 place. It is a safe place where an elected constable
23 would go to watch a Pay-Per-View fight and have
24 drinks. This is not an unsafe place. It makes no
25 sense to take a gun in there, and less to take one

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CLOSING STATEMENT - MR. DeBUSK

1 with an extended magazine.

2 He told you that he uses that extended magazine
3 because it stuck in your pants better, but it also
4 stuck out to make it less concealable, and it also
5 held more bullets. I would argue just the act of
6 bringing a gun into a bar, you are at fault of
7 bringing on the difficulty. If he hadn't brought that
8 gun in, this wouldn't have happened. It would have
9 been a fist fight, and the worse thing he would look
10 at is simple assault. But he brought a gun into a
11 bar, took a gun into a fist fight. I argue just the
12 argument of bringing that gun to the bar indicates
13 malice.

14 Remember, if there is malice, if all of these
15 things -- what he said to John Brock, what he said to
16 Nick Blake, his inability to be held back by his
17 friends, punched in the face by the victim, all of
18 that is malice, and it is murder. If there is malice,
19 there is murder.

20 You heard me talk about the elements of voluntary
21 manslaughter, heat of passion. This was a bar fight,
22 passions are up. You could maybe find heat of
23 passion. There might be an urge of violence. Roger
24 did punch the defendant in the face, returning the
25 punch he received. You might see that as sufficient

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CLOSING STATEMENT - MR. DeBUSK

1 provocation, but even if he attacked him and
2 sufficient provocation is proper, if there is malice,
3 it is murder. Manslaughter is the killing without
4 malice; and murder is killing with malice.

5 This isn't self-defense. Remember, again, all of
6 those elements have to be present or self-defense, and
7 in this case, I argue that none is present. First of
8 all, the defendant was clearly at fault in bringing on
9 the difficulty. He brought the gun to the fist fight.
10 Whatever moved over to the surfboards in the end,
11 pushed John over there, it started on this side where
12 he was in a face-to-face encounter with John Brach.
13 The fight became physical when John pushed the guy
14 with glasses, and Jakkari Brown, you see on the video
15 was standing next to him when he did that. He knew
16 John started that fight. He had no right to defend
17 John from a fight if he started it. I would argue
18 before the Towersite Services got involved, it was
19 just a bunch of guys trying to hold someone back.
20 Before the defendant punched Roger in the face to
21 enter into that fight, he entered the words of malice,
22 "I'll F you up." This is mutual combat; that puts you
23 at fault in bringing in the difficulty. When you
24 enter a fight that is going on out of your volition --
25 Roger was not attacking, just hand over shoulder. His

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CLOSING STATEMENT - MR. DeBUSK

1 elbow was still back here over the shoulder. It
2 wasn't the fight until Jakkari Brown punched Roger in
3 the face, and at that point, Roger fell. Roger had
4 mutual combat because he was punched in the face, but
5 there is no doubt that the defendant was at fault in
6 bringing on that fight.

7 Also, the defendant was never in danger. He
8 admitted himself when he talked to the police; he
9 said, That punch didn't hurt me. You see it on the
10 video when he punches Roger, Roger stands back,
11 looking at his hands, because he put his hands up to
12 defend the bottle before it is out of his hands. He
13 can see Roger's hands are empty. He knows Roger is no
14 threat. He tells himself that punch didn't hurt. He
15 says there was no blood, no broken nose, just a punch
16 to a guy that used to box. He wasn't in fear of his
17 life or great bodily injury. He would not have
18 received -- a reasonable person would not have
19 perceived that he was in danger of his life under
20 those facts.

21 He could have listened to Seth and stayed out of
22 it, but he didn't. He could have walked away. Again,
23 you watch those tapes carefully. As Roger backs up
24 and throws the bottle, and those nine seconds past
25 after throwing the bottle, and when he got shot. John

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CLOSING STATEMENT - MR. DeBUSK

1 is over here. Everyone is off, and he walks away.
2 Jakkari could have walked right behind him and walked
3 out of there. John was all the way near the table
4 where the DJ was when the shot happened. John wasn't
5 even in the fight anymore. He could have walked away
6 with John.

7 Finally, he could have turned around and walked
8 through that gap in the door. Yeah, it probably
9 wasn't a wide gap, 3 to 6 feet the testimony said, but
10 there is nothing behind that to stop you from walking
11 there, except CeeCee, and CeeCee wasn't going to stop
12 him. She was standing behind him, he could have
13 walked right passed her. He always had a path of
14 retreat. So none of the elements of self-defense
15 stand in this case. It was not self-defense. Even
16 though it was heat of passion and the punch to the jaw
17 you could interpret as provocation, there is also
18 malice, and the killing with malice is always murder.
19 It is not voluntary manslaughter.

20 In the end, it comes down to this: If you can
21 walk up to someone, punch them in the face, and then
22 shoot them when they punch you back, there would be a
23 lot of murders in the State of South Carolina.
24 Punching someone and shooting them when they punch you
25 back, it is not morally, nor legally, self-defense; it

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CLOSING STATEMENT - MR. DeBUSK

1 is murder. Even throwing the bottle doesn't change
2 that.

3 Again, the defendant saw him throw the bottle, he
4 watched close enough that he put his hand up to fend
5 it off. He saw Roger with a clear path in front of
6 him with his hands empty for nine seconds before he
7 shot him. That bottle didn't cause him to shoot
8 Roger. He knew Roger didn't have any more bottles.
9 He knew that he wasn't a threat. It was just a fist
10 fight that Jakkari himself started by punching Roger
11 in the jaw. A fist fight; then into a gun fight.

12 It was his chance to use his hammer on the first
13 nail. Jakkari Brown had knowledge when he walked in
14 that bar with the gun. He had malice when he showed
15 him that gun. He had malice when he said, I'll F you
16 up. He had malice when he pushed by Seth Cole and
17 said, Get the F off of me. He had malice when Roger
18 stepped into his challenge of mutual combat in
19 punching him in the chin.

20 What the defendant didn't have is a justification
21 of shooting Roger Ramos. He had malice, but no
22 justification. Before the shooting, he was
23 belligerent. After the shooting, he was scared, yes,
24 he was. At that point, you heard CeeCee say he stood
25 there, like "now what". When he got back over to the

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CLOSING STATEMENT - MR. DeBUSK

1 Aqua Beach, his friends asked him, Did you shoot that
2 dude? When he asked him about the guy you shot, he
3 knew he shot somebody. He probably figured he was
4 dead, but maybe didn't know for sure. But he knew he
5 was in trouble, and that is why he was scared. It
6 wasn't fear from a bottle throwing at a bar fight;
7 that fear is from the consequences of his actions.
8 Too scared, he wasn't too scared to go to Roger and
9 punch him. He wasn't too scared to say, Don't touch
10 me. He wasn't too scared to push by Seth Cole and get
11 in the fight himself. He wasn't too scared to leave
12 that fight and walk away when John walked away. He
13 wasn't too scared to climb towers. Wasn't too scared
14 to ride dirt bike, play football. He wasn't too
15 scared to pull the gun that he had his hand close to
16 and shoot Roger when Roger punched him back; when
17 Roger made himself the nail to pound.

18 Justice demands that the defendant be held
19 accountable. He was the person that brought the gun
20 to the fist fight. He was the one drunk looking for
21 trouble. He was the one that turned restraining of an
22 unruly patron from a fist fight into a gun fight. He
23 scared off John Brach and Nick Blake with his
24 malicious statements, and he is the one that should
25 face the consequences of the murder of Roger Ramos.

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CLOSING STATEMENT - MR. FOX

1 THE COURT: Take a 10-minute break and we'll come
2 back with the defendant's closing statement. Do not
3 discuss the case.

4 (The jury exits at 10:44 a.m., and a recess
5 was taken.)

6 THE COURT: Everyone have a seat. Bring in the
7 jury.

8 (The jury enters at 11:02 a.m., and the
9 following is heard in the presence of the jury.)

10 THE COURT: Defense is recognized.

11 MR. FOX: May it please the Court, Your Honor.

12 THE COURT: Yes, sir.

13 MR. FOX: Good morning, ladies and gentlemen. We
14 are very close to the point where this case will be
15 handed over to you all to make your determination.
16 You are the finders of fact, and that simply means
17 that as best you can, after the fact, you determine
18 what happened on October 6th into the early morning
19 hours of October 7, 2018 at RipTydz on the Boulevard
20 in Myrtle Beach.

21 Absolutely a tragic event any time there is a
22 human being whose life is lost, but the question for
23 you to decide is: Was this murder? As the Solicitor
24 correctly told you, and the Judge will tell you,
25 murder requires malice. No malice; no murder. There

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CLOSING STATEMENT - MR. FOX

1 is no malice here. Jakkari Brown did not have malice
2 when he walked through the door of RipTydz. He did
3 not have malice in the legal sense at the time all of
4 this happened. The Solicitor conceded near the end of
5 his statement that this was a heat of passion
6 situation based on the things happening in the moments
7 before the shooting occurred. I agree with the
8 Solicitor.

9 It would be fruitless to go witness by witness
10 line-by-line on something that lasted three days. You
11 have been here and paid close attention. Take your
12 notes, your collective memory, and I trust you can
13 sort out what witnesses said or didn't say. The
14 evidence you will have, the pictures, videos,
15 photographs speak for themselves.

16 With regard to the video, I would urge you to
17 make your own determination. You will have the
18 ability to watch and rewatch it, if you need to, these
19 videos and make your own determination. I would
20 encourage you that at that point look at the one in
21 real speed, because to get a true sense of what was
22 going on that night when these fights broke out, you
23 don't see -- it is useful and helpful to have the
24 slowed-down version with the spotlights, but there is
25 a lot of people, a lot of emotion. It's very helpful

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CLOSING STATEMENT - MR. FOX

1 to say, Here is this person. Here is that person, and
2 slow it down. But to get a sense of what was going on
3 and to see it as best you can from Mr. Brown's point
4 of view, watch it in real time. Watch it at real
5 speed. Pay attention. It is aggravating that the
6 overhead view looks like a circle, fish-bowl look, but
7 once you know where you are looking and who you are
8 looking for, it is easier. That is the one that gives
9 you the sense of what every witness that described it;
10 whether they be friends of Roger Ramos, co-workers of
11 Jakkari, every single one said, "Chaos;" that was the
12 word they all used. Even the officer said it was a
13 big tussle, multiple fights. The only way you see
14 that is when you look at the original, because in that
15 view, you are kind of centered in the bar. You can
16 see behind the bar. You can see the length of it.
17 You can see left and right.

18 On the version that was highlighted, they,
19 understandably, focused where the incident was between
20 Mr. Ramos and Jakkari took place, right. That is what
21 they were interested in. And I don't have any problem
22 with that view. It's not inaccurate, but it only
23 shows part of it. I think you need to see the entire
24 picture, and you need to see just how fast all of this
25 happened, particularly those last 10 seconds or so.

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CLOSING STATEMENT - MR. FOX

1 Make your own determination what it is you see.

2 I think with Jakkari, it is very obvious. You
3 had a chance to watch him and listen to him yesterday,
4 observe him from the witness stand. You also had the
5 chance to see an hour-long-plus interview he did with
6 law enforcement the night of the shooting. What you
7 see is what you get with Jakkari Brown, all right.
8 The person you see on the witness stand is the person
9 that his co-workers described. There is no malice in
10 that man.

11 It was suggested he might have a motive to lie
12 because he is a defendant. As much as I respect
13 Mr. DeBusk and work on the opposite of the courtroom
14 for a long time of him, that is one of the most
15 cynical views I can think of in a criminal courtroom.

16 Jakkari Brown is a defendant. He is accused of
17 the worse thing you can be accused of. Does he want
18 to go to prison? No. Would that give him a motive to
19 lie? I suppose, but if you start at that point and
20 say, well, he's accused, I'm not even going to pay
21 attention to what he says because he has a reason to
22 lie, then you have just stood the Constitutional and
23 the entire judicial system on its head. Because you
24 would be saying, I'm not paying attention to you.
25 Rather than judge what he said and whether it is

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CLOSING STATEMENT - MR. FOX

1 believable, you start with, well, don't believe him
2 because he is the defendant. So I trust you not to do
3 that, and you have sworn under oath not to do that,
4 and I believe you won't do that.

5 His demeanor. Is everything he said absolutely
6 accurate across all his statements? No. Imagine for
7 a moment that within a few hours of the most traumatic
8 event in your life, you're in custody, in cuffs, in a
9 police station being questioned by two law enforcement
10 officers, no matter how respectful they were being --
11 I mean, it is clear they weren't beating him with
12 rubber hoses or yelling. He is in custody, in jail.
13 He ain't leaving. He's in the orange suit. He's in
14 cuffs. It is a very traumatic thing that has
15 happened, and he's asked to remember things knowing
16 that how he answers could affect the rest of his life.
17 It is the same thing.

18 So now imagine two-and-a-half years have passed,
19 and now the most important event of your life is
20 occurring, the trial, to determine whether you will be
21 a free man, or a prisoner for a substantial chunk of
22 your life, if not the rest of your life. Imagine the
23 pressure of Mr. Brown two-and-a-half years ago in the
24 middle of the night or early morning hours after this
25 traumatic event. You said this, and now you said

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CLOSING STATEMENT - MR. FOX

1 something slightly different. Who among us can be
2 perfectly consistent? And I suggest that any
3 differences are not material. Are there some? Yes;
4 small things, like, did he go in the front door or
5 side door. I think I always go in the front door. I
6 asked him, Could you have been mistaken? Yeah, I
7 might have been mistaken. Clearly, he used the front
8 door. We got that -- at least after the shooting he
9 did, because we could see it. Well, yeah, maybe I was
10 mistaken. They are not major things.

11 How was he with the police? He told them
12 everything, right? Yes, I shot that gun. Yes, I had
13 the gun. The gun is mine. There it is. They found
14 it; yeah, that's me. That's my shirt in there. Gun
15 is mine. Magazine is mine. I'm the guy that shot.
16 I'm the guy you are looking for. That was on the
17 scene. He told them again at the police station.
18 Imagine how different this trial may have been if he
19 clammed up and said, Don't know nothing. That gun,
20 that's not mine. I'm near it, but not my gun. The
21 ballistics, actually, are inclusive with the bullet
22 that was found with Roger Ramos at the hospital,
23 right? The bullet on scene, they could say that
24 matches that gun, the bullet at RipTydz, the bullet
25 from Mr. Ramos. The SLED agent said I could not match

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CLOSING STATEMENT - MR. FOX

1 that bullet to that gun. Imagine if Jakkari didn't
2 say, That's my gun. Yep, I had an altercation with
3 that guy, but it was somebody else that shot. Don't
4 know who shot that gun. Look at the video. Would it
5 be plausible to make an argument that that is another
6 arm, another hand? I mean, there your body parts all
7 over. We know it is Jakkari that fired, because he
8 said so; but imagine if he hadn't. Very different
9 trial we would have.

10 So things that matter, things that are important,
11 he's telling the truth. It was no different when he
12 was on the witness stand yesterday. I submit that on
13 everything he was truthful. Did he get some things
14 wrong or some things not consistent with what he said
15 two-and-a-half years ago? I would be amazed if there
16 weren't. I guarantee you, if he had said it word for
17 word, line for line like he did two-and-a-half years
18 ago, then we would hear, well, you rehearsed it. You
19 listened to that interview with your lawyer again,
20 didn't you, and memorized what you said before,
21 because you have a motive to lie. You can't win for
22 losing. But that is not what this trial is about.

23 He said over and over again, from the beginning,
24 from the jump when he's talking to law enforcement in
25 2018, right up through yesterday, "I was scared. I was

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CLOSING STATEMENT - MR. FOX

1 in fear," over and over and over again. His
2 co-workers all say he came back to the hotel, that he
3 was hysterical. He was howling like a dog, bawling
4 like a little kid. This is not a man with malice in
5 his heart or that recently had malice in his heart.
6 This is a man that is consumed with guilt that he had
7 a part in shooting somebody. At this point, he
8 doesn't know if the man is alive or dead. This is a
9 man who was overwhelmed with remorse from the very
10 beginning, and it continues the next day when he's in
11 with law enforcement, and continues here today. He
12 doesn't break down and howl on the stand.

13 His behavior after the shooting is somehow
14 suspicious? If you've never been involved in
15 something like that, and Jakkari has not. He is no
16 felon, not a person prohibited from owning a firearm.
17 He lawfully purchased it. He went through a
18 background check as is required. If you have never
19 been involved in that situation, how do you think you
20 would react? You can't possibly know. Was he scared?
21 Did he want to be caught? I'm sure he didn't. He
22 clearly put the gun in the trashcan and then got it
23 back. But, again, when it mattered -- and he knew, by
24 the way, that law enforcement would be down there.
25 They were on scene right across the street. You can

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CLOSING STATEMENT - MR. FOX

1 see RipTydz from Aqua Beach. They were on the scene
2 within minutes. His co-worker said, We're going down
3 to tell the police where you are. You need to turn
4 yourself in. It will be worse if you run. You need
5 to turn yourself in. By the way, I'm going down
6 there. Tyler and John Matthews, who could not be here
7 because he's passed away in the interim, but Jakkari
8 knew that they were going to be there telling the
9 police where he was, and sure enough they were.

10 I'll go back to malice for a minute. I don't
11 agree at all that the mere act of carrying a gun is
12 malice, all right. He should have had a weapon
13 permit; that is the right way to do it. But it goes
14 back to his genuineness. He told the police when they
15 asked him that night, well, I thought the Second
16 Amendment. I just thought I could take it everywhere.
17 Wherever I go, I take it on the job, state to state,
18 job to job; that is just what I do. He doesn't strike
19 me like Yosemite Sam type; like, Yahoo, I'm going to
20 shoot my gun any place I can. He is a country boy who
21 target practices behind the woods, behind his house,
22 and he takes his gun. It is not uncommon. He did it
23 the wrong way. But, I mean, think about his demeanor
24 when he was talking to law enforcement. He was kind
25 of, like, I mean, the Second Amendment says I can,

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CLOSING STATEMENT - MR. FOX

1 that's why I did it. He genuinely believed that that
2 was okay. There is no malice in carrying a gun.
3 There might be ignorance. There is ignorance. He's
4 responsible for his ignorance, but it is not malice.

5 Now, talking about specific witnesses. Nick
6 Blake and Ciaralyn Edwards, these were employees of
7 RipTydz and self-described friends, and in
8 Ms. Edwards' situation, childhood friends, of
9 Mr. Ramos. The judge will tell you with any witness
10 that you can examine any bias or motive they might
11 have. Maybe they lie or be less than truthful, and
12 that can include, hey, there is a person I feel
13 friendlily towards, a family member, a co-worker, or
14 that is a person I have a beef with and have for a
15 long time. I'm not suggesting that is the case with
16 Jakkari, because they never met him before, but they
17 are friends and co-workers. They are critical for the
18 State because they are the only evidence of actual
19 malice in this case; everything else is implied and.
20 You may think, yes, I think Mr. Brown went in the bar
21 and that implies he has malice when all of this
22 happened. But the only evidence of direct malice
23 comes from Edwards and Blake.

24 Ciaralyn Edwards said didn't see the shooting,
25 but I heard it, and I looked and saw Mr. Brown

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CLOSING STATEMENT - MR. FOX

1 standing over and look down, stare down on Roger
2 Ramos. Interesting, as we went frame by frame through
3 the videos a few moments ago that we didn't stop on
4 that part. We stopped at the punches and people
5 interacting and walking away and the peacemaker going
6 out, but we didn't stop it at a point where Jakkari is
7 supposedly standing over the body of Roger Ramos and
8 staring him down with a wicked, evil heart. That is
9 what malice is; a wicked, evil heart. I don't think
10 you will see that. Look at the video you didn't see
11 that, because it didn't happen.

12 You saw the part where he boogied the hell out of
13 the club scared out of his mind, but he didn't stand
14 over the body like an assassin. Decide if Ciaralyn
15 Edwards is telling the truth. Where was that before?
16 This week we heard it.

17 Mr. Blake was even more problematic. Mr. Blake,
18 who claims to have heard Jakkari say, I'm going to F
19 you up. Mr. Blake, don't know where he's been the
20 last two-and-a-half years. Well, I gave my name to
21 law enforcement. Okay. They probably should have
22 followed up with him, but if you had just been on the
23 scene of a shooting, and the person who pulled the
24 trigger a few moments ago had said to you, and the
25 person who got shot, or anyone else, "I'm going to F

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CLOSING STATEMENT - MR. FOX

1 you up," don't you think that is information you
2 should share and would share? Of course it is. To
3 wait two-and-a-half years and, oh, sounds like
4 something is happening now, oh, over here. Come on.
5 That is just not credible. That is a tale that lies
6 somewhere between fabrication and hallucination, but
7 it ain't fact, but they have to have it. They have to
8 have Edwards and Blake, because without it, they don't
9 have malice, and without malice, it is not murder;
10 simple as that.

11 With regard to charges. Voluntary manslaughter
12 is an intentional killing, intentional killing, but
13 without malice. It is basically murder without
14 malice. There does need a provocation and sufficient
15 heat of passion, emotion. Fear can be that heat of
16 fashion, okay. Kind of like the classic law school
17 example of voluntary manslaughter is catching your
18 spouse in bed with another person and just losing it.
19 That is a classic example, but fear can be that thing.
20 Jakkari told the police nine different times during
21 his interview, a little over an hour, "I was afraid, I
22 was scared." Is that reasonable? Why was he afraid
23 and scared? Well, because Roger Ramos had taken a
24 bottle at close range and whizzed it by his head, and
25 after separation, after he said, You better back off,

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CLOSING STATEMENT - MR. FOX

1 dude, and by gesture, You better back off. Jamie
2 Franks, the security guard, security, blue shirt with
3 words across the back, radio, unmistakable, trying to
4 hold him back. In fact, he threw the bottle around
5 Mr. Franks. That wasn't played for you in slow
6 motion.

7 There was this altercation. Yes, Jakkari, but
8 they are separated. They move, right. There are
9 things going on around when Mr. Ramos chooses to go
10 back into it, to reach around Jamie Franks, the
11 security guard, and throw a glass bottle as hard as he
12 can close range, probably as close as I am to you, and
13 then step back. Mr. Franks, stay back, stay back,
14 several feet away, 8 to 10 feet away, and then go back
15 into it and sucker punch Jakkari on the side of the
16 head.

17 I think that you got to speculate as to whether
18 Jakkari can see what is in his hands because, clearly,
19 his head is turned and he gets hit, and turned his
20 head more. But, clearly, he is looking away at that
21 moment. But Roger Ramos, one of the reasons Jakkari
22 said I'm afraid is this dude chucked a dangerous
23 object, potentially deadly object, something that
24 inflict bodily injury, like my friend whose skull got
25 a chunk this big out of it, from someone hitting him

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CLOSING STATEMENT - MR. FOX

1 with a bottle, or putting an eye out, but serious
2 bodily injury, and he did it despite someone holding
3 him back, and he came at me again. He had that fear.
4 That fear was the heat of passion that led to the
5 involuntary.

6 We talk about self-defense, and I absolutely
7 think it is self-defense, but it is absolutely not
8 murder. With regard to self-defense, I think you have
9 it -- the reason why I want you to look at the
10 original video and the one that shows everything, is
11 that I don't agree that in terms of looking at
12 bringing on the trouble, that you just look at
13 Mr. Brown and Mr. Ramos. They certainly had their
14 interaction and involvement, their altercation and
15 fight, but the problem here and the trouble starts
16 after the McGregor fight. It is not clear with who,
17 but it is not Jakkari.

18 Things happen, and everyone says there is
19 multiple people pushing and shoving. You see that
20 better on the original video, circular video, because
21 you can see on the right side of the bar much more
22 clearly -- I won't dig through these -- but more
23 clearly. There is turmoil over there. It continues,
24 and Jakkari's boss, John Matthews, is in the middle of
25 it.

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CLOSING STATEMENT - MR. FOX

1 What does Mr. Henry, Mr. Cole, agree? That the
2 security at RipTydz make it worse. Their action -- I
3 think the peacemaker video, very interesting to me,
4 because the one person probably, from what I just saw,
5 who probably shouldn't have been run out of there was,
6 was that guy, quote, the peacemaker. So that tells me
7 the judgment of RipTydz is less than perfect, but they
8 got that guy out of there because, God forbid, he was
9 holding his friend back.

10 But there is trouble. It is a problem long
11 before Jakkari and Mr. Ramos get involved. In fact,
12 there is one blow-up, fight, that pops up that is an
13 issue, and then it ends before another starts. I
14 think you have to look at the big picture. Are people
15 trying to say, Jakkari, get out there? Everyone is
16 mad.

17 I think you also have to imagine what it must
18 have sounded like, right. We don't have sound on this
19 thing, but imagine. You can see how many people are
20 in there. Think of any bar. Forget when people are
21 angry with each other, but a crowded bar on a weekend
22 night. You have to talk loud to be heard, right; even
23 with people right there with you, right. Now, imagine
24 people are mad and upset and drunk. It wasn't quiet.
25 That is one other reason why I questioned whether

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CLOSING STATEMENT - MR. FOX

1 Jakkari even said "I'll F you up." I know Mr. Blake
2 said that, but I'm wondering if that wasn't Jakkari
3 saying, "Don't f'ing touch me." That is a very
4 different thing. You get the swear word, but I
5 seriously wonder if it wasn't that, rather than "I'll
6 F you up."

7 Imagine what that was like with the sound, number
8 of people, et cetera. Expecting anyone -- anyone in
9 that crowd -- to parse out and divide up, now, this
10 guy is a threat now, and this guy said this, and this
11 is the guy that touched me, but not that series of a
12 touch, but that one is -- but, wait. You know, that
13 is not just from Jakkari's point of view, that is all
14 of them, right. How do you separate that out in the
15 case of that scene? I don't know how you do it.
16 Watch it in real time.

17 I believe that Jakkari was without fault in
18 starting the entire thing, clearly. And I think that
19 is where the trouble starts that leads down this path.
20 I don't know how you separate Jakkari Brown and Roger
21 Ramos and take it out of context. It is nice to have
22 them highlighted to know where they are, but you can't
23 just say it's only between them, and everything else
24 is irrelevant. That is ridiculous.

25 Mr. Ramos clearly -- does he have Mr. Matthews in

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CLOSING STATEMENT - MR. FOX

1 a chokehold like that? No, he did not. Does he have
2 his arm up high and Mr. Matthews' head in the crook of
3 his elbow? He sure does it. Is it down around the
4 neck? Can't tell. It is surely there, and, again, in
5 a chaotic moment, I don't think it is at all
6 unreasonable to think, man, he's trying to hurt my
7 friend or going too far, getting that way. It would
8 have been better if everyone stepped back. But,
9 again, watching it in real time, it is a very
10 different picture.

11 Now, I do think there is a few things that are a
12 little bit -- you know, you can see, obviously, the
13 round figure is a little distorted. I think one of
14 the things that is a little deceptive is the depth
15 perception with the elbow on the man's neck, but there
16 are certain things we know. If you look at that video
17 and slow it down, when you see the gunshot, you can
18 see the flash, and you can see the reaction from
19 Mr. Ramos. You can see the gun up. It sure looks on
20 the video like it is this, right up against him, very
21 malicious. But we know from the medical testimony it
22 was at least a couple feet apart, right? Because
23 there is no stippling on Mr. Ramos' face. So we know
24 Jakkari was at a minimum two-and-a-half feet away,
25 maybe further. That is not a huge point, but I point

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CLOSING STATEMENT - MR. FOX

1 that out, really, more to say when you are watching
2 these videos, be aware that it is a perspective, and
3 there are some distortions in angles.

4 Think about it. If you've ever watched a
5 football game, the inevitable replays, right. Did the
6 guy get to the 20-yard line, first down, or not? You
7 look at it one way and you say, oh, yeah, he's there
8 easily. And then you see it from the other side or
9 slightly different angle or above, and you go, oh, no,
10 not even close. Same cameras. They are not lying,
11 but you get a different look. Again, I don't think
12 there is anything dramatic not shown or shown
13 incorrectly, but keep that in mind. It looks like the
14 gun is right up on Mr. Ramos' face, and we know it is
15 not the case.

16 So without fault in bringing on the trouble. A
17 duty to retreat. Everyone agreed, and from the video
18 and pictures, the area we're talking about is very
19 tight when you go to the end of the bar where the
20 surfboard wall is. It is probably not much wider from
21 the front of the jury box to the court reporter's box,
22 a little bit, but very close. Once you are back in
23 here -- the witness stand is the surfboard wall -- the
24 only way to leave is either to your left, the bathroom
25 door where Mr. Ramos is. He is between Jakkari and

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CLOSING STATEMENT - MR. FOX

1 that door. Can't go that way. Back across the bar
2 where everyone else is, still in plain sight from
3 Mr. Ramos who is throwing bottles, and/or behind the
4 bar. Well, look, there is people all around Jakkari.
5 The pathway is narrow back there. Could he have
6 perhaps gone back there? Maybe. But it wasn't like
7 he had an open path to retreat in. So you are not
8 expected to keep yourself exposed to danger in order
9 to retreat. It has to be a realistic option. I don't
10 think he had a realistic option to get out of there.

11 You have the right to act on appearances. My
12 grandmother would say, When someone shows you who they
13 are, believe them. So when a man is throwing a bottle
14 as hard as he can at you from close range, has
15 resisted attempts to stay away from you to be
16 restrained, has come back up at you and sucker punched
17 you, I don't believe you are required to wait to see
18 what he will do for the third act. He's shown himself
19 to be violent and intent to harm you, and you are not
20 required to wait and see what the third move will be.

21 Do we have a right to act on appearances? Then,
22 would a reasonable person in his position have felt in
23 fear of serious bodily injury or death? I don't think
24 he felt in fear of dying, but he absolutely said I
25 fear bodily injury based on what I had seen before

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CLOSING STATEMENT - MR. FOX

1 with my friend, or permanent disfigurement. Maybe
2 your eyes being put out, loss of your eyes. If you
3 question that, then I invite you in the jury room to
4 request a glass bottle and take volunteers to stand
5 against a wall and let someone heave that bottle at
6 them 3, 4 feet away as hard as they can. I imagine
7 everyone would be afraid in that situation.

8 I'm almost done, ladies and gentlemen. You've
9 listened all week to other people talk. You swore an
10 oath to duly try the facts in this case. You have no
11 friends to reward, no enemies to punish. I'm asking
12 you to do a very, very difficult thing. I'm not
13 asking you to ignore Mr. Ramos' death. It is a
14 horrible, horrible thing. But I'm asking you to duly
15 apply the law as the judge gives it to you, the facts
16 and evidence, and see that this, in fact, was
17 self-defense. If it is self-defense, then the only
18 verdict you can return is not guilty, as hard as that
19 may be. But that is the oath you swore. That is the
20 obligation you took on.

21 I would be remiss in my job if I didn't address
22 the alternative. I do believe it should be voluntary
23 manslaughter, because even voluntary manslaughter is
24 an intentional killing, and I don't believe this was
25 an intentional act at all. There certainly is no

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CLOSING STATEMENT - MR. DeBUSK

1 malice. There is no malice, implied or otherwise.
2 The only evidence you have of actual malice is a
3 highly suspect -- the witnesses, I just don't think
4 are credible. From Ms. Edwards, she's contradicted by
5 the video, and, Mr. Blake, because of the
6 circumstances of coming to court and saying what he
7 said just are not there. If you don't believe
8 self-defense, I urge you to find manslaughter rather
9 than murder, because there is simply no malice. I
10 thank you.

11 THE COURT: Mr. DeBusk.

12 MR. DeBUSK: Thank you. Let's talk about witness
13 credibility. I don't have much when I say I'll be
14 brief, but one thing Mr. Fox talked about is small
15 differences between what the defendant told the police
16 and what he told on the stand. Those are not small
17 differences; they are completely different character.
18 He is saying here he held the gun up as a warning.
19 When he talked to police, he said he pulled it right
20 out and shot. That is completely different. He said
21 when he talked to police, he said I didn't shoot
22 anyone in particular. When he testified here, he said
23 I shot at the man who punched me. When he talks to
24 the police, he said I didn't see who punched me. When
25 he talked here, he said the guy with the pink shirt

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CLOSING STATEMENT - MR. DeBUSK

1 punched me. Like Mr. Fox said, we've worked with each
2 other a long time, and I'm pretty sure he knows what a
3 sucker punch is. When you see the punch coming, that
4 is not a sucker punch. Sucker punch is when Jakkari
5 hit him on the jaw when Roger wasn't looking; that is
6 a sucker punch, and that is the part he didn't talk
7 about, because that is what brought Roger Ramos into
8 that encounter. He said the bottle came from a guy in
9 the pink shirt. The differences between what he said
10 here and what he told the police are large, huge,
11 numerous, and completely different statements.

12 Was he scared? He said he was scared many times,
13 and I guarantee when he got to Aqua Beach, he was
14 scared. When he was arrested, he was scared. When he
15 talked to the police, he was scared, because he was
16 scared of the consequences of his actions. But look
17 at the way he acted in RipTydz. He was not scared.
18 He got face-to-face with John Brach. He wasn't
19 scared. He had to be held in the corner by his
20 friends. He wasn't too scared to go face-to-face with
21 Mr. Blake and say something to him and make him back
22 up and leave. He wasn't too scared to punch Roger
23 Ramos in the jaw. Fear is what he had afterwards. He
24 was not scared at RipTydz.

25 Did he have malice? Yes, he had malice. It was

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CLOSING STATEMENT - MR. DeBUSK

1 long lasting. Look at the encounter with Mr. Brach.
2 He showed him the gun and said, Don't touch me. He
3 had malice there. He had malice when his friends
4 pushed him across the wall. He had malice when he
5 pushed past Seth and went to where they were
6 restraining John. He had malice when he said
7 something to Nick. He had malice when he punched the
8 victim in the jaw and when he faced him down. Yes, he
9 had malice, long-lasting malice.

10 Look at the video. You can see from Aqua Beach
11 when he leaves his room, after he changes shirts and
12 gets his bag, you see him. He hurries out. You
13 barely see him sneak around the corner to the back
14 exit. He acts completely different than when he
15 changed his shirt, before he knew his friends would
16 tell the police on him. Once he thought he was safe
17 in Aqua Beach, he was acting different. He used a
18 separate entrance and took the evidence with him, and
19 ran out the side door. He was in flight. He had been
20 to RipTydz before. He knew what that place was like.
21 He knew that wasn't the kind of place he needed a gun.
22 He knew that is the kind of place where elected
23 constables would take his wife to have a few drinks
24 and watch an event on TV. He knew it wasn't a
25 dangerous bar.

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CLOSING STATEMENT - MR. DeBUSK

1 There is direct evidence of malice. What he said
2 to John Brach is direct evidence. The video, that is
3 direct evidence. What he said to the bartender, Nick,
4 that was evidence of malice. Most of all, when he
5 shot someone in the face because he punched him back,
6 not even a sucker punch, a direct punch after he
7 sucker punched that same person, that is direct
8 evidence of malice.

9 Watch the video. It is in evidence. Watch them
10 fast, slow, watch the full fish bowl, watch the close
11 up, the videos from Aqua Beach. They are all in
12 evidence, and show the same thing: Malice.
13 Two-and-a-half feet, it's like that (indicates), that
14 is pretty darn close. That is close enough for Roger
15 to see it coming.

16 Duty to retreat. Yes, he had a duty to retreat
17 and he had two routes to retreat. John, the foreman,
18 he retreated. He walked right out of there. He
19 walked after everyone was taken away. He walked away.
20 When the shooting happened, he was past the DJ booth
21 near the table where the rest of his friends were.
22 The defendant could have done that too. Or the
23 defendant could have turned around and walked behind
24 that bar and left. Nothing to stop him there. CeeCee
25 wasn't going to stop him. He could have walked right

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1 out of there. Fact is, he brought on that difficulty.
2 He was not in danger of serious bodily injury. He did
3 not think he was. He knew Roger's hands were empty.
4 He had just punched, and used the same punch that he
5 had given to Roger, except Jakkari Brown saw his punch
6 coming. Roger didn't see Jakkari's punch coming.
7 There is an ability to retreat, and there is not
8 self-defense. Because there is malice, even in the
9 heat of passion or sufficient legal provocation, if
10 there is malice, it is murder. I argue that that is
11 the proper verdict in this case. Thank you.

12 THE COURT: Members of the jury, it is my duty to
13 instruct you on the law applicable to this case. It
14 is your duty as jurors to accept and to apply the law
15 as I now state it to you. Furthermore, it is your
16 exclusive duty to decide all of the issues of fact in
17 this case and to determine the effect, value, and
18 weight of the evidence presented.

19 Both the State and the defendant have a right to
20 expect that you will carefully consider and evaluate
21 the evidence and apply the law of this case to it, so
22 that in the end, the State of South Carolina and this
23 defendant will have a fair and impartial trial.

24 I want you to understand that when I use the word
25 "defendant," I'll refer to Jakkari Brown. The State

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1 in this case alleges several different offenses
2 against the defendant. The charges are: One, murder;
3 two, possession of a weapon during the commission of a
4 violent crime; three, use of a firearm while under the
5 influence; and, four, unlawful consumption of alcohol
6 while carrying a concealed weapon.

7 Each charge is a separate and distinct offense.
8 You must decide each charge separately on the evidence
9 and the law applicable to it uninfluenced by your
10 decision as to any other charges. The defendant may
11 be convicted or acquitted on any or all of the
12 charges. You will be asked to write a separate
13 verdict of "guilty" or "not guilty" on each charge.

14 To these charges, the defendant has entered a
15 plea of not guilty. These pleas of not guilty places
16 a burden of proof on the State to prove that the
17 defendant is guilty beyond a reasonable doubt on each
18 charge. It is viable to understand the defendant is
19 presumed under the law to be innocent of the charges.
20 It is a fundamental rule of our law that the
21 defendant, regardless of the seriousness of the
22 charges against him, is always presumed innocent of
23 the crimes for which he is charged, unless and until
24 his guilt has been proven by evidence that satisfies
25 you beyond a reasonable doubt.

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1 The presumption of innocence is not a mere legal
2 theory or legal phrase. The presumption of innocence
3 is very important, and you need to understand that
4 this presumption accompanies the defendant from the
5 time of his arrest and appearance in this court, and
6 continues with the defendant even after you retire to
7 the jury room to deliberate. In other words, the
8 defendant receives the benefit of the presumption of
9 innocence until the very end of this trial when you,
10 the jury, will deliberate upon the evidence and decide
11 whether the State has proved his guilt on each and
12 every charge beyond a reasonable doubt.

13 Proof beyond a reasonable doubt is proof that
14 leaves you firmly convinced of the defendant's guilt.
15 There are a few things in this world that we know with
16 absolute certainty. So even in a criminal case, the
17 law does not require proof that overcomes every
18 possible doubt. However, if based on your
19 consideration of the evidence, you are firmly
20 convinced that the defendant is guilty of the crimes
21 charged, you must find him guilty. If, on the other
22 hand, you think there is a real possibility that he is
23 not guilty, you must give him the benefit of the doubt
24 and find him not guilty. Please understand that
25 reasonable doubt may arise from evidence which has

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1 been presented in this case, or from the lack of
2 evidence presented in this case. It is your
3 responsibility to determine whether or not reasonable
4 doubt exists as to the guilt of this defendant for
5 each and every charge. I charge you that the
6 defendant is entitled to every reasonable doubt
7 arising in the whole case. If upon any issue of fact
8 essential to conviction and a verdict of guilty you
9 have a reasonable doubt as to how that issue would be
10 resolved, it is your duty to resolve that reasonable
11 doubt in favor of the defendant. Thus, in summary, it
12 is important to understand that the defendant is not
13 required to prove his innocence. Instead, the State
14 is required by law to prove every essential element of
15 the charges against the defendant by evidence which
16 satisfies you of his guilt beyond a reasonable doubt.
17 Only then can you convict the defendant and find him
18 guilty.

19 During this trial, you and I have separate duties
20 to perform. As the trial judge, it my responsibility
21 to preside over this trial; therefore, I have the duty
22 to rule upon the admissibility of the evidence offered
23 during trial. In that regard, you are to consider
24 only the testimony which has been presented from this
25 witness stand together with any exhibits submitted

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1 into the record of this case. Furthermore, I have the
2 additional duty to charge you on the law applicable to
3 this case. In that regard, it is your duty to accept
4 and apply the law as I now state it to you.

5 In this trial you are the sole and exclusive
6 judge of the facts; and in turn, I am the judge of the
7 law. Do not infer that I have any opinion about the
8 facts in this case from anything I have said during
9 the course of this trial. In this regard, the law
10 simply does not permit me to have an opinion about the
11 facts. As jurors, it is your duty alone to determine
12 the effect, value, and weight of the evidence
13 presented during the course of this trial.

14 Furthermore, it is your job as jurors to determine the
15 credibility and believability of the witnesses who
16 have testified in this case. You must evaluate the
17 evidence and determine which evidence convinces you.

18 In determining the believability of witnesses who
19 have testified in this trial, you may believe one
20 witness over many, or many over one. You may believe
21 part of the testimony of a witness, and reject the
22 remaining part. You may believe the testimony of a
23 witness in its entirety, or reject it in full. You
24 must consider whether the witness has an interest in
25 the result of the trial, whether the witness is

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1 credulous to either party, the opportunity for the
2 witness to have seen the matter and things which the
3 witness may testify, and the way the witness acts on
4 the witness stand.

5 Evidence may be direct or circumstantial. Direct
6 evidence is testimony by a witness about what the
7 witness personally saw or heard or did.

8 Circumstantial evidence is indirect evidence; that is,
9 it is proof of one or more facts in which you can find
10 another fact. You are to consider both direct and
11 circumstantial evidence equally.

12 A statement alleged to have been made by the
13 defendant has been admitted into evidence in this
14 case. While the Court has determined that the
15 statement is admissible, I instruct you that you make
16 the ultimate decision on whether or not the defendant
17 made the statement. If the defendant did make a
18 statement, you must determine whether the statement
19 was made by the defendant voluntarily and of his own
20 free will; that this statement was not caused by
21 pressure, force, fear, threats, coercion, or
22 intimidation, or by hope or promise of leniency, or
23 reward of any kind.

24 In determining whether the statement was
25 voluntary, you should consider both the

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1 characteristics of the defendant and the details of
2 the State. Some of the factors that you must consider
3 are: The age of the defendant, the defendant's
4 education or lack of education, the defendant's mental
5 ability or capacity, the defendant's IQ or
6 intelligence, the defendant's background and
7 environment, the place and length of detention, the
8 nature of questioning, any advice or lack thereof to
9 the defendant of his constitutional rights, including
10 but not limited to the right to remain silent; that
11 any statement could be used against you in a court of
12 law; the right to have a lawyer present; that if he
13 cannot afford a lawyer, a lawyer would be appointed to
14 represent him without any cost; and that he could stop
15 making a statement at any time. You must carefully
16 consider all of the surrounding circumstances before
17 you give any weight to the alleged statement.

18 The State has the burden of proving beyond a
19 reasonable doubt that the alleged statement was
20 voluntary. If you determine it was, you may give the
21 statement any further consideration that you deem
22 proper. You must decide what weight, if any, should
23 be given to the alleged statement. If you determine
24 the alleged statement was not a freely and voluntary
25 statement of the defendant, you should not consider

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1 the statement at all.

2 The Rules of Evidence ordinarily do not permit
3 witnesses to testify to opinions or conclusions. An
4 exception to this rule exists with witnesses we call
5 "expert witness." A witness who by education and
6 experience may state an opinion as to the relevant and
7 material matter in which the witness claims to be an
8 expert, and may also state the reasons for the
9 opinion. You should consider any expert opinion
10 received in evidence in this case, and like any other
11 evidence, give it the weight you think it deserves.

12 If you decide that the opinion of the expert is
13 not based on sufficient education and experience, or
14 if you conclude that the reasons given in support of
15 the opinion are not sound, and that the opinion is
16 outweighed by other evidence, you may disregard the
17 opinion entirely.

18 The defendant is charged with murder. The State
19 must prove beyond a reasonable doubt that the
20 defendant killed another person with malice
21 aforethought. Malice is hatred, ill-will, or
22 hostility towards another person. It is the
23 intentional doing of a wrongful act without just cause
24 or excuse, and with the intent to inflict an injury,
25 or under circumstances that the law would infer

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1 illegal intent.

2 Malice aforethought does not require that malice
3 exists at any particular point of time before the act
4 is committed, but malice must exist in the mind of the
5 defendant just before and at the time of the act is
6 committed. Therefore, it must be a combination of the
7 previous ill intent and the act. Malice aforethought
8 may be expressed or implied. These terms "expressed"
9 and "implied" do not mean different kinds of malice,
10 but merely the manner in which malice may be shown to
11 exist; that is, either by direct evidence or inference
12 from the facts and circumstances which are proved.

13 Expressed malice is shown when a person speaks
14 words which express hatred or ill-will for another, or
15 when the person prepared beforehand to do the act
16 which was later accomplished; for example: Lying in
17 wait for a person, or any other acts of preparation
18 going to show that the deed was within the defendant's
19 mind with the expressed malice. Malice may be implied
20 from conduct showing a total disregard for human life.
21 If you find that the State has failed to prove beyond
22 a reasonable doubt that the defendant committed
23 murder, you may consider whether the State has proved
24 beyond a reasonable doubt that the defendant committed
25 voluntary manslaughter. To prove voluntary

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1 manslaughter, the State must prove beyond a reasonable
2 doubt that the defendant took the life of another, in
3 the sudden heat of passion, based on sufficient legal
4 provocation. Both heat of passion and sufficient
5 provocation must be present at the time of the killing
6 to constitute voluntary manslaughter.

7 Sudden heat of passion may for a time affect a
8 person's self-control and temporarily disturbs a
9 person's reasoning. The sudden heat of passion must
10 be the type that would make an ordinary person unable
11 to coolly reflect on his actions and produce an
12 uncontrollable impulse to do violence. Sufficient
13 legal provocation must be the type that would make a
14 person of ordinary reason and caution become enraged
15 and lose control temporarily. The provocation needed
16 for voluntary manslaughter must come from some act of
17 or related to the victim.

18 Words alone, however vulgar or insulting, are not
19 enough to be legal provocation. Whether death is
20 caused by the use of a deadly weapon, the words must
21 be accompanied by some overt threatening act, which
22 would have produced the heat of passion.

23 The exercise of a legal right, no matter how
24 offensive it is to another, is never sufficient legal
25 provocation for voluntary manslaughter. In the heat

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