

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Honorable DeAndrea G. Benjamin, Circuit Court Judge

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Apr 20 2020

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ROBERT XAVIER GETER,

APPELLANT

APPELLATE CASE NO 2018-001647

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF RICHLAND) COURT OF GENERAL SESSIONS
 2015-GS-40-2757
 2015-GS-40-2758

3
 4 State of South Carolina,)
 5 Plaintiff,)
 6 vs.) TRANSCRIPT OF RECORD
 7 Robert Geter,)
 8 Defendant.)

9 May 15-17, 2017
 10 Columbia, South Carolina

11
 12
 13 B E F O R E:

14 THE HONORABLE ALEXANDER S. MACAULAY, JUDGE; and a
 15 jury.

16
 17 A P P E A R A N C E S:

18 RICHARD C.R. CATHCART, ASSISTANT SOLICITOR
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 Attorneys for the Plaintiff

20 AIMEE J. ZMROCZEK, ESQ.
 21 Attorney for the Defendant

22
 23
 24 DEBORAH M. McCURDY, RPR
 25 Official Court Reporter

1 substantial question of fact for the jury, and I
2 think you should deny immunity.

3 THE COURT: Any -- let's see, this would be
4 surrebuttal?

5 MS. ZMROCZEK: I'm sorry?

6 THE COURT: Any surrebuttal?

7 MS. ZMROCZEK: No, Your Honor.

8 THE COURT: Argument, rebuttal, reargument,
9 and then now would be surrebuttal if you're going
10 to do your part again.

11 MS. ZMROCZEK: I believe that's all.

12 THE COURT: I do thank you for a well tried
13 petition.

14 I don't remember anybody -- I've been
15 listening for it, but no one has stated the first
16 requirement, as I understand it, under the Section
17 16-11-440(C).

18 And it is quoted in Douglas as to the elements
19 of self-defense, but it is the same in the
20 Subsection (C), A person who is not engaged in an
21 unlawful activity, who is attacked in another
22 place.

23 I think that is perhaps as dispositive, if
24 anything, of course, would be the statement in
25 Douglas. And reflecting Curry in Douglas' case,

1 that did not follow Curry, but in addressing Curry
2 it said:

3 In Curry, our Supreme Court affirmed the
4 Circuit Court's denial of the accused's motion to
5 dismiss pursuant to Section 16-11-440(C), which is
6 the portion of the statute we were relying on. The
7 Court noted that the testimony of the accused and
8 the State's witnesses varied substantially. After
9 reciting the facts of this case, the Court stated
10 appellant's claim of self-defense presents a
11 quintessential jury question.

12 And as both parties have very eloquently
13 stated, that there are substantial various -- the
14 testimony of the witnesses vary substantially.
15 Moreover, I note that the accused presented, as he
16 admitted, some three but various inconsistent
17 accounts of how the attack occurred.

18 But coming back to the initial statement of
19 the statute as well as the law of self-defense, the
20 elements of self-defense, first, the Defendant must
21 be without fault in bringing on the difficulty.

22 Here, whatever the status of the invitee was
23 at the commencement of the time that he was
24 visiting Culler's Restaurant, that status ended
25 after the first altercation when -- the only

1 testimony that we have is that Ms. Culler asked him
2 to leave. So by continuing to be there after, I
3 guess, present as either a victim or as an
4 aggressor created an altercation that was unwanted
5 by the owner, proprietor, and in consideration of
6 her clientele's safety, that that would be an
7 unlawful activity that he continued to stay there
8 against the wishes of the proprietor. In other
9 words, he was not there as an invitee any longer.

10 Now, I can't say it any better than the Court
11 in Curry: Appellant's claim of self-defense
12 presents a quintessential jury question. And I
13 must deny the petition to grant the immunity that
14 the statute provides.

15 Of course, you will be entitled to all the
16 applications of self-defense, but not the statute.

17 All right. So we're going to proceed to trial
18 tomorrow. Oh, gracious, 10:00 o'clock, we will
19 draw a jury. And as far as instruction to the
20 jury, I will look at my charge as to -- prior to
21 any suggestions and make sure I've covered all the
22 elements of the outside information.

23 All right, with that, I will see y'all in the
24 morning at 10:00 o'clock.

25 MR. SHELLENBERG: Thank you, Your Honor.

1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF RICHLAND) COURT OF GENERAL SESSIONS
 2015-GS-40-02757
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3
 4 State of South Carolina,)
 5 Plaintiff,)
 6 vs.) TRANSCRIPT OF RECORD
 7 Robert Xavier Geter,)
 8 Defendant.)

9 April 9 - 12, 2018
 10 Columbia, South Carolina

11
 12
 13 B E F O R E:

14 THE HONORABLE DEANDREA G. BENJAMIN, JUDGE; and a
 15 jury.

16
 17 A P P E A R A N C E S:

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 19 JEREMIAH J. SHELLENBERG, ASSISTANT SOLICITOR
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 25 DEBORAH M. McCURDY, RPR
 Official Court Reporter

1 for opening statements. First you will hear from
2 Mr. Shellenberg, on behalf of the State, and then
3 you will hear from Mr. Schwartz, is that correct,
4 on behalf of the Defendant.

5 MR. SHELLENBERG: Thank you, Your Honor. May
6 it please the Court?

7 OPENING STATEMENT

8 MR. SHELLENBERG: The Defendant would not be
9 disrespected. At Culler's Pool Hall, the Defendant
10 picked a fight with James Lewis, and he lost. And
11 a short time later, he tracked down James Lewis and
12 he attacked him with a knife. He stabbed him in
13 the face, in the arm, and finally a deadly blow to
14 the chest.

15 And when Mr. Clarence Stone tried to break it
16 up, the Defendant stabbed Clarence Stone in the
17 eye.

18 Ladies and gentlemen, that is why we are here
19 today. Because of his actions, the Defendant is
20 charged with murder and attempted murder.

21 In the State of South Carolina, as the judge
22 said earlier, murder is defined as the unlawful
23 killing of any human being with malice
24 aforethought.

25 Attempted murder is with the intent to kill,

1 attempting to kill any human being with malice
2 aforethought, whether express or implied.

3 Now, at Culler's Restaurant -- and you will
4 get to see pictures of it -- James Lewis hung out
5 by the jukebox on the dance floor. That night the
6 Defendant came over and he picked a fight, a
7 one-on-one fight with James Lewis, and he lost. He
8 felt embarrassed. He felt disrespected.

9 And while that fight was going on, Clarence
10 Stone, who was shooting pool in the adjacent room,
11 came over to break it up, because that is what he
12 was doing there. And he grabbed James Lewis and he
13 took him out the back door, away from the fight.

14 Now, Deborah Culler, who owns Culler's
15 Restaurant, was in the kitchen that evening, and
16 she was cooking. The kitchen looks out over the
17 dance floor area.

18 Now, she heard what was going on. She came
19 out and she saw the Defendant and the victim
20 fighting. She saw it get broken up. She saw the
21 Defendant come back after James Lewis again. And
22 finally Mr. Lewis got taken out. And she came out
23 and she told the Defendant that he had to go. But
24 the Defendant had other ideas.

25 Reeshemah Culler, Deborah Culler's daughter,

1 was also there that evening. She was sitting by
2 the dance floor. She saw the fight. She saw it
3 get broken up. She saw the Defendant coming back
4 after James Lewis again and saw James get taken out
5 back by Clarence. But she didn't see the Defendant
6 leave. Instead, what she saw, was shortly after
7 that the Defendant, instead of going out front,
8 turned the corner to head out back where James and
9 Clarence were. And he pulled something from his
10 jacket pocket.

11 Michael Harkness, who was here earlier, was
12 shooting pool, and as the Defendant headed out
13 back, he heard him say something to the effect, I'm
14 going to kill somebody.

15 Now, the Defendant hit the back door. Instead
16 of attacking immediately, he came at James and
17 Clarence under the guise of friendship. He said,
18 We good? We good? We good? And as soon as he got
19 close enough, he attacked. He started stabbing and
20 slashing. And when Clarence Stone tried to break
21 it up, he stabbed him in the eye. As soon as
22 Clarence got stabbed, everything went blurry, he
23 stepped back, and he was out of it. But the attack
24 didn't stop. The Defendant continued to attack
25 James Lewis. And Reeshemah Culler hit the back

1 door just in time to see the Defendant standing
2 over James Lewis's limp body and stabbing him one
3 final time and saying, I do this shit, and then he
4 ran off.

5 They helped James Lewis, whose right ventricle
6 had been severed, through the bar, was bleeding
7 everywhere. They got him to the front stoop, sat
8 him down, tried to comfort him while EMS was
9 coming.

10 He kept complaining, I can't breathe, I can't
11 breathe.

12 EMS finally got there. They transported
13 Clarence and James to the hospital. Clarence was
14 treated for his eye injury. The doctors attempted
15 to save James Lewis's life to the point one of the
16 doctors was manually pumping James's heart to try
17 and save him. The Defendant's actions proved too
18 severe, and James died.

19 While all of this was going on at the
20 hospital, the Defendant went home that night. He
21 went to bed. He got up the next day, realized what
22 he had done, that James was dead, and he went to
23 the Sheriff's Department and turned himself in,
24 wearing the same clothes with James's blood on
25 them, and handed over a knife to Investigator

1 Clarke with James's blood on it.

2 Now, you will get to hear a few calls that the
3 Defendant made where he said, in his own words, he
4 fucked up, that he was a bad boy, and that he had
5 done wrong.

6 And at the end of this trial, ladies and
7 gentlemen, we are going to come back before you and
8 we are going to ask you to hold the Defendant
9 responsible for those wrongs that he admitted to
10 doing. And you find him guilty of murder and
11 attempted murder.

12 Thank you.

13 THE COURT: Thank you.

14 Yes, sir?

15 MR. SCHWARTZ: Thank you, Your Honor. May it
16 please the Court?

17 THE COURT: Yes, sir.

18 MR. SCHWARTZ: Thank you.

19 OPENING STATEMENT

20 MR. SCHWARTZ: Ladies and gentlemen, if y'all
21 were here today to answer the question of whether
22 Robert Geter stabbed James Lewis, that would be an
23 easy question to answer and we wouldn't be here.
24 Not every time that somebody kills somebody is it
25 murder. And not every time that somebody stabs

1 somebody is it a crime.

2 This was not a fight that Robert started.
3 This was not a fight that Robert wanted that night.
4 This was more like a cheetah stalking and attacking
5 its prey or when you watch the Discovery channel, a
6 group of hyenas attacking some prey. The defense
7 here is that Robert fought back. And he was the
8 prey for no other good reason other than
9 accidentally stepping on somebody's shoe.

10 On March 7, 2015, Robert found himself on the
11 floor of Culler's Bar and Pool Hall with James
12 Lewis standing over the top of him. He was being
13 beat up, pummeled with fists, he is being kicked by
14 James Lewis and some of his friends. James Lewis
15 was absolutely beating the crap of Robert Geter for
16 no other reason than he stepped on his shoe.

17 The fight breaks out. At some point Robert is
18 hit in the back of the head with a beer bottle.
19 And James Lewis and his friends continue to pummel
20 him.

21 James, who was 6-foot-2 and a very strong
22 220 pounds, is on top of him. Robert, at 5-foot-7
23 and 125 pounds at that time, was being thrown
24 around like a rag doll. Robert, who is an
25 electrician by trade, had a small pocketknife, a

1 utility knife he has got in his jacket. And while
2 he was on the ground at Culler's Bar with James
3 Lewis standing on top of him beating his face in,
4 he pulls the knife out and he stabbed him one time
5 in the chest.

6 James Lewis was stunned, which gives Robert
7 the ability to get out from under him. But James
8 isn't done yet, and he follows him outside on the
9 back deck. At this point -- and you'll see
10 photos -- Robert's face is swollen almost shut.
11 His eyes are almost swollen shut. He has got blood
12 on his face and his knuckles from defending
13 himself. He can't see who is coming after him
14 swinging. He went out to get away. And James
15 Lewis and Clarence Stone come after him on the
16 deck. And at this point, he has still got the
17 knife in his hand, and they are coming after him,
18 and he is wielding it like this to get them to
19 stop.

20 And we do admit that at some point at that
21 time that Clarence Stone received a cut in his eye
22 and he did lose his eye. But James Lewis isn't
23 dead because Robert stabbed him, James Lewis is
24 dead because of James Lewis's own actions that
25 night.

1 During the beating, the assault, the punching,
2 the kicking, Robert tried to get away. He tried to
3 get away from James and he tried to get away from
4 James's friends. And as you will see this week,
5 the evidence will show the marks and the wounds on
6 Robert were defensive.

7 And you are going to hear testimony that James
8 Lewis was high and drunk that night. And you are
9 going to hear testimony that Robert did what he had
10 to do that night to save himself.

11 After the attack, not knowing he had more than
12 wounded James, Robert gets a ride home from the bar
13 from his brother. He goes home, he sleeps it off.
14 He wakes up in the morning and he finds out that
15 Mr. Lewis had passed away. He doesn't run. He
16 doesn't hide. He turns himself in to the police.
17 And not only that, he brings the knife with him.
18 And he tells them what happened. He said, I was
19 attacked and I was defending myself.

20 In every criminal case there is three things.
21 What happened, who did it, and why. But here this
22 week we are only concerned with why, because we
23 know who did it. And we know what happened.

24 And y'all watch. For the next few days the
25 State is going to go to a great length to prove

1 that Robert was there, that Robert used the knife,
2 that Robert stabbed Clarence and stabbed James.
3 And we'll tell you that he was there, and we will
4 tell you that he did stab them, and he did cut
5 Clarence.

6 The State brought murder and attempted murder
7 charges. But I'm telling y'all right now, y'all
8 watch, as the trial progresses, we believe the
9 State is going to change their strategy because we
10 are going to ask -- we are guessing they are going
11 to ask you to compromise your verdict, because they
12 are not going to be able to prove a key element
13 in this case, and that is malice aforethought.

14 Robert may have defended himself, but he did
15 not murder James or attempt to murder Clarence.
16 Murder requires malice. It is a technical term.
17 It means somebody has a heart fatally bent on
18 mischief, devoid of all conscience, basically that
19 the act was intentional. The only intentional act
20 that night was Robert was defending himself.

21 The law in South Carolina is that
22 self-defense -- the State must disprove beyond a
23 reasonable doubt self-defense. The other thing I
24 want you to know about self-defense in South
25 Carolina is that you don't have to wait for your

1 attacker to get a drop on you. You don't have to
2 wait to be only equal footing. You don't have to
3 wait for him to get a weapon. If you are afraid of
4 death or bodily harm, you have a right to defend
5 yourself.

6 Also in South Carolina, if you are justified
7 in stabbing or shooting or striking somebody one
8 time, you can do it as many times as you need to to
9 end that threat. If Robert hadn't done what he had
10 done that night, he who would have been in the
11 hospital severely beaten more than he was or he
12 would have been dead.

13 And I want to introduce y'all to somebody.
14 This is my client, our client, Robert Geter. He is
15 39 years old. Born and raised in Columbia. He is
16 an electrician by trade.

17 (Defendant stands and is seated.)

18 MR. SCHWARTZ: He has dreams. He has goals.
19 He wants to have a family. He wants to live a
20 peaceful life. But ever since this night, because
21 of Mr. Lewis's actions, he has been branded a
22 murderer.

23 Now, Robert and James and Mr. Stone, they
24 could have traded places. If Mr. Lewis had
25 continued to jump and beat my client, he might be

1 at this table and Mr. Lewis might be at this table
2 with me and Ms. Zmroczek, but fortunately my client
3 was able to defend himself that night and save
4 himself.

5 Robert has got family, but they are not here
6 right now in the courtroom for certain rules. But
7 they are here. And they are thankful for two
8 things. They are thankful for that night that
9 Robert, whether luck or fate, was able to save
10 himself. They are also thankful that y'all are
11 here. They are thankful that -- three years ago
12 their son, their brother, their grandson, and their
13 friend was branded a murderer. But starting today
14 and starting this week, hopefully that cloud, that
15 brand will be lifted, and he will be a free man.
16 He is not guilty of murder. He is not guilty of
17 attempted murder. James Lewis is dead because of
18 what James Lewis did that night. Mr. Stone lost an
19 eye because of what James Lewis did that night.

20 And when you go back in that jury room, when
21 all is said and done, I want to ask you to find him
22 not guilty of murder and not guilty of attempted
23 murder.

24 Thank you.

25 THE COURT: All right. Let me see you all one

1 with the State's case. And I will ask that they
2 call their first witness.

3 MR. SHELLENBERG: Thank you, Your Honor. The
4 State calls Deborah Culler.

5 (Witness approaches.)

6 THE BAILIFF: Come forward, place your left
7 hand on the Bible, raise your right, and face the
8 clerk.

9 (Witness complies.)

10 THE CLERK: Do you swear or affirm the
11 testimony you shall give in this case will be the
12 truth, the whole truth, and nothing but the truth,
13 so help you God?

14 THE WITNESS: I do.

15 THE CLERK: Thank you. Have a seat in the
16 witness stand. State your full name for the
17 record.

18 (Witness seated.)

19 THE CLERK: State your full name.

20 THE WITNESS: Deborah Culler.

21 DEBORAH CULLER,
22 after being duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. SHELLENBERG:

25 Q Good morning, Ms. Culler. How are you?

1 A I'm fine. How are you?

2 Q Doing well. Can you please give me a little bit of
3 your background?

4 A Military retired. And I own several businesses in
5 Columbia.

6 Q How long were you in the military?

7 A Twenty-two years.

8 Q What businesses do you own in Columbia?

9 A Deli Say No More, Monticello Package, Monticello
10 Pool Room, and Columbia Community Outreach.

11 Q Speak up just a tad bit. Try and say it again.

12 A Deli Say No More downtown, Monticello Business on
13 Monticello Road, and Columbia Community Outreach.

14 Q And what is that business on Monticello Road?

15 A It's a pool room, restaurant, and --

16 Q And you own it?

17 A Yes.

18 Q Now, were you there the night of March 7th, 2015?

19 A Yes.

20 Q And what were you doing there that night?

21 A Cooking in the kitchen.

22 Q And was James Lewis there that night?

23 A Yes.

24 Q And was Robert Geter there that night?

25 A Yes.

1 Q And was Clarence Stone there that night?

2 A Yes.

3 Q And was your daughter Reeshemah there that night?

4 A Yes.

5 Q And how do you know James Lewis?

6 A He's a customer and there to protect me, you know,
7 make sure that I don't leave by myself. He's
8 always been a very protective person.

9 Q And how do you know Clarence Stone?

10 A He is my godson.

11 Q And was he working there that night?

12 A Yes.

13 Q And what was he doing there that night?

14 A He just, you know, he kept me make sure everything
15 straight and everything go okay.

16 Q Make sure everything goes okay?

17 A Yes.

18 Q And you knew Robert Geter?

19 A Yes.

20 THE COURT: Hold on one second. We need to
21 move the microphone back. She may just have to
22 speak up. It's not you, ma'am, it's the
23 microphone.

24 BY MR. SHELLENBERG:

25 Q I'm sorry. And did you know Robert Geter?

1 A Yes.

2 Q And how did you know Mr. Geter?

3 A He's a customer too. And I've known him for a long
4 time. He was just a troubled young man trying to
5 get his life together.

6 Q And what were you doing for him?

7 A You know, he -- well, he had started going to
8 church with me, then he had got a job, so he
9 started doing better. That was before this came
10 up.

11 Q So you were taking him to church?

12 A Well, I didn't take him to church, but I invited
13 him to church and he did come.

14 Q Okay. I'm going to show you a few pictures. I'm
15 going to show you what has been marked as State's 1
16 and 3. Do you recognize those?

17 MS. ZMROCZEK: Your Honor, all of these are
18 without objection.

19 THE COURT: All right.

20 BY MR. SHELLENBERG:

21 Q You want to look through them?

22 A Yes.

23 Q Do you recognize those?

24 A Yes.

25 Q And what do you recognize those as?

1 A That's the front of the pool room.

2 Q The front of Culler's?

3 A Yes.

4 Q And is this the night of March 7th, 2015?

5 A Yes.

6 Q I'm going to show you also what has been marked as
7 State's 17, 8, 4, 16, 54, 5, 6, and 15. Will you
8 look at those?

9 A I recognize all.

10 MR. SHELLENBERG: Your Honor --

11 Without objection?

12 MS. ZMROCZEK: Without objection.

13 MR. SHELLENBERG: At this time we move to
14 admit State's 1, 3, 15, 6, 5, 54, 16, 4, 8, and 17
15 into evidence.

16 THE COURT: And that is without objection?

17 MS. ZMROCZEK: That's correct, Your Honor.

18 (WHEREUPON, State's Exhibit Nos. 1, 3-6,
19 8, 15-17, AND 54 were marked for
20 identification and received into
21 evidence.)

22 BY MR. SHELLENBERG:

23 Q What is this a picture of, Ms. Culler?

24 A This is a picture of the pool table near the back
25 door.

1 Q Okay. All right, that was Number. 15. I show you
2 State's 6. Can you explain to the jury what that
3 is a picture of?

4 A That's the pool room also. You can see the back
5 door and the front door from here.

6 Q Is that looking just inside of the front door?

7 A Yes.

8 MR. SHELLENBERG: Court's indulgence, Your
9 Honor.

10 (Pause.)

11 MR. SHELLENBERG: Your Honor, can the witness
12 step down to point some things out on the pictures?

13 THE COURT: As long as she speaks up. Ma'am,
14 when you step down, just make sure you speak up so
15 that the court reporter can hear you. If you need
16 to move the microphone, you can.

17 (Witness steps down.)

18 BY MR. SHELLENBERG:

19 Q Again, can you tell the jury -- this is State's
20 3 -- what this is a picture of?

21 A This is the front of the pool room.

22 Q How big is the pool room? As big as the front of
23 this room maybe?

24 A Yeah, about the size of this room right here.

25 Q And looking -- I'm going to show you State's 5

1 again. And where is this?

2 A This is the front of the pool room. This is going
3 towards the back door of the pool room.

4 Q And what's back on this side?

5 A This is the dancing area to dance in, and that's
6 the restrooms, and then right here is the kitchen.

7 Q And that's where you were that evening?

8 A Yes.

9 Q I'm going to show you State's 54. And is this
10 another view?

11 A Yes, this is looking towards -- from the back door
12 towards the front.

13 Q And is this the entire pool room over here?

14 A This is the entire pool room from here to the back
15 door.

16 Q And this is the front door?

17 A Yes.

18 Q I'm going to show you what has been marked as
19 State's 4. Is that another view?

20 A Yes. That's the back, the back area.

21 Q And what's over on this side?

22 A This is the dancing area, restrooms, and kitchen.

23 Q And I'm going to show you State's 8. And does this
24 show the dancing area?

25 A Yes, right here.

1 Q And is this from the night of March 7th?

2 A Yes.

3 Q And what is on the other side of this wall right
4 here?

5 A This whole wall, all the way to the front door, is
6 the kitchen.

7 Q All right. I'm going to show you what has been
8 marked as State's 2, 7, 9, and 10. Will you look
9 at those? Do you recognize those?

10 A Yes.

11 Q And what do you recognize those as?

12 A The kitchen, the dancing area, the front door, and
13 the pool room area, and the dancing area.

14 MS. ZMROCZEK: No objection, Your Honor.

15 MR. SHELLENBERG: Your Honor, at this time we
16 move 9, 10, 2, and 7 into evidence.

17 THE COURT: All right. 9, 2, 10, and 7 will
18 be entered without objection.

19 (WHEREUPON, State's Exhibit Nos. 2, 7,
20 9, AND 10 were marked for identification
21 and received into evidence.)

22 BY MR. SHELLENBERG:

23 Q So is this a better picture of that back dancing
24 area?

25 A Yes.

1 Q And so where are the pool tables in relation to
2 this picture?

3 A On the other side of this wall.

4 Q Over here?

5 A Yes.

6 Q And what is this a -- what does this door go to?

7 A That's the restroom.

8 Q And I'm going to show you State's 10. See if I can
9 make it a little bigger for you. And what is this
10 a picture of?

11 A That's the kitchen with the top door open.

12 Q And the night of March 7th, was this bottom door
13 open as well?

14 A Yes.

15 Q The whole door was open?

16 A Yes.

17 Q So you could see out to the dance floor?

18 A Yes.

19 Q And was this open that night?

20 A No.

21 Q Okay. And so what's on this side?

22 A That's the restroom on the other side -- on the
23 left side of the sign, and this is the kitchen, and
24 this is the dancing area out here.

25 Q On the back side of this picture is the ATM?

1 A Yes.

2 Q All right. I want to show you now what's been
3 marked as State's 31 -- well, 12, 13, 14, 11 and
4 31. Look at those. What do you recognize those
5 as?

6 A The back area of the pool room inside and the pool
7 room area.

8 MR. SHELLENBERG: Your Honor, at this time we
9 move State's 11, 12, 13, 14, and 31 into evidence.

10 MS. ZMROCZEK: Without objection, Your Honor.

11 THE COURT: All right, those will be entered
12 without objection.

13 (WHEREUPON, State's Exhibit Nos. 11-14

14 AND 31 were marked for identification

15 and received into evidence.)

16 BY MR. SHELLENBERG:

17 Q I show you State's 14. What is that a picture of?

18 A That's the back door of the pool room.

19 Q And what does that back door go to?

20 A It goes to the back door. And there's a balcony on
21 the back.

22 Q Balcony on the back?

23 A Yes.

24 Q A deck?

25 A A deck, yes.

1 Q I show you what is State's 11. Is that the back
2 deck?

3 A Yes.

4 Q And is that the night of March 7th?

5 A Yes.

6 Q 2015?

7 A Yes.

8 Q I'm going to show you what's marked as State's 18,
9 19, and 20?

10 MS. ZMROCZEK: Without objection, Your Honor.

11 THE COURT: Those will be entered without
12 objection.

13 MR. SHELLENBERG: Thank you.

14 (WHEREUPON, State's Exhibit Nos. 18-20
15 were marked for identification and
16 received into evidence.)

17 THE WITNESS: This is the front, the front
18 area.

19 BY MR. SHELLENBERG:

20 Q This is the front door?

21 A Yes.

22 Q I show you State's 18. Is that the night of the
23 incident?

24 A Yes.

25 Q That's what it looked like?

1 A Yes.

2 Q I show you State's 19. Another picture of the
3 front door?

4 A Yes.

5 Q Now, if I ask you to briefly sit back down.

6 (Witness returns to witness stand.)

7 BY MR. SHELLENBERG:

8 Q I'm going to turn your attention back to March 7,
9 2015. You said you were cooking in the kitchen
10 that evening?

11 A Yes.

12 Q Had you been drinking at all?

13 A I don't drink.

14 Q You were just cooking?

15 A Yes.

16 Q And what time did you start cooking that evening?

17 A Probably about 9:00 o'clock.

18 Q And you said the door to the kitchen was open?

19 A Yes.

20 Q And why do you leave the door to the kitchen open?

21 A So the customers can come in and get their beer and
22 they don't have to wait on me.

23 Q While you're cooking?

24 A Yes.

25 Q Just streamlining a little bit?

1 A Right.

2 Q So while you're cooking, did something draw your
3 attention that evening?

4 A Yes. I heard some commotion going on. He just
5 threw a bottle, you know. He just threw a bottle
6 at him, or whatever.

7 Q That's what you heard?

8 A Yes.

9 Q And where was it coming from?

10 A In the dancing area.

11 Q What did you do once you heard that?

12 A I came -- I came out. And I came out. And James
13 and Boo, they were having some kind of
14 confrontation, or whatever.

15 Q Now, who is Boo?

16 A That's what we call him, Boo.

17 Q That's what you call Robert Geter?

18 A Yes, Robert Geter is Boo.

19 Q Okay. So they were having a confrontation just
20 outside -- I'm showing you what is State's 10.
21 That's what you were looking out?

22 A Yes. But the door was open.

23 Q And you were looking out to -- I'm showing you
24 State's 9.

25 A Yes.

1 Q This is the dance floor area?

2 A Yes.

3 Q Where James and Geter were exchanging words?

4 A Yes, but they were -- yes, they was exchanging
5 words. And when I went back in, they started
6 fighting.

7 Q And what -- did you hear anything that they were
8 saying?

9 A All I heard James say, Go ahead on, Man, go ahead
10 on. And Boo kept coming after him. He just kept
11 coming after him. And then the next thing you
12 know, he had jumped on him and they started
13 fighting.

14 Q So Robert Geter was starting the fight?

15 A Yes. Because he asked me -- he kept saying, Go
16 ahead, Man. Just leave me alone. Just go ahead.
17 And he just kept coming after him and he wouldn't
18 leave him alone. So he was on top of -- they were
19 tousling. James was on the top of him.

20 Q Was on top of who?

21 A Boo. Boo, that's what I know him as, Boo. And the
22 guys came from around the corner and broke the
23 fight up.

24 Q Do you remember who came from around the corner?

25 A I think it was Clay and another guy came around and

1 broke the fight up.

2 MS. ZMROCZEK: I'm sorry, I didn't hear her
3 response. What was the name?

4 MR. SHELLENBERG: Clay.

5 BY MR. SHELLENBERG:

6 Q Now, you said James and Robert were tousling?

7 A Yes.

8 Q Was anybody else fighting?

9 A No, just those two.

10 Q Was anybody else kicking Mr. Geter?

11 A No.

12 Q Was anybody else stomping Mr. Geter?

13 A No.

14 Q It was a one-on-one fight?

15 A Yes.

16 Q And what happened after they fought the first time?

17 A James got up and went out the door. And Boo was
18 still standing there. And I said, Get up on out of
19 here, Man. Just get up out of here.

20 Q So James had left the dance floor and gone where?

21 A Outside, I guess the back door.

22 MS. ZMROCZEK: Your Honor, I going to object.
23 She's speculating.

24 THE COURT: Sustained.

25 BY MR. SHELLENBERG:

1 Q But you know he left the dance floor?

2 A Yes.

3 Q And then you spoke to Mr. Geter?

4 A Yes, I asked him to please get up out of here.

5 Q And how long did you talk to him, just briefly?

6 A Yes, just -- it wasn't a long time, just enough to
7 let him know that he needed to go.

8 Q But James was gone at that point?

9 A Yes.

10 Q And what did Mr. Geter say to that?

11 A He didn't say anything, just, you know, he left
12 after -- you know, after I went back in the
13 kitchen, he left.

14 Q He left the dance floor?

15 A Yes.

16 Q And why did you tell Mr. Geter to leave?

17 A Because they had already taken -- I mean, they had
18 already parted the fight and James had gone on out
19 the door, so it was just time for him to go because
20 he was fighting.

21 Q But James -- you didn't need James to leave?

22 A No, James had already gone.

23 Q Okay. After the fight ended on the dance floor,
24 did you see any blood on the floor?

25 A No.

1 Q And when did you see Mr. Lewis again?

2 A I saw Mr. Lewis coming in the back door. He had
3 two people on his side bringing him in, and he was
4 all bloodied up. He was all bloodied up. And they
5 brought him from the back door to the front door
6 and they set him in the front door. And we tried
7 to get him comfortable. We laid him flat. We
8 tried to get him comfortable until the ambulance
9 came to get him. And he was bleeding terribly.

10 Q I'm going to show you what has been marked as
11 State's 13. Where is that?

12 A That's the back door.

13 Q And was Mr. Lewis bleeding everywhere?

14 A Yes.

15 Q And was he bleeding on the floor?

16 A Yes.

17 Q And whose blood is that on the floor?

18 MS. ZMROCZEK: Objection, Your Honor.

19 MR. SHELLENBERG: If she saw him bleeding on
20 the floor, Your Honor, I think she can speak to
21 whose blood it is on the floor.

22 THE COURT: What's the objection?

23 MS. ZMROCZEK: The objection, they have
24 somebody with DNA to come in and testify to that.

25 MR. SHELLENBERG: If she saw him bleeding on

1 the floor --

2 THE COURT: Rephrase the question.

3 THE WITNESS: When James came through, he was
4 bleeding. They had -- he was bleeding. He was
5 dripping blood all over the floor.

6 BY MR. SHELLENBERG:

7 Q Was there blood all over the floor before Mr. Lewis
8 came in?

9 A No. No.

10 Q Okay. And you took -- and do you know who was
11 helping him out? Do you remember who was helping
12 him out to the front?

13 A I remember two guys. I think -- yeah, two guys. I
14 do remember someone on both his sides, but things
15 were happening so fast, but I do know he had a
16 person on both of his sides.

17 Q I'll show you this. And what part is this?

18 A That's the back area.

19 THE COURT: You have got to identify what
20 you're showing her.

21 BY MR. SHELLENBERG:

22 Q I'm showing you Number 4.

23 A That's the pool table from the back door to the
24 front door.

25 Q And what is this on the floor?

1 A That's blood.

2 Q And was that there before Mr. Lewis came back
3 through?

4 A No.

5 Q And you said you took him out to the front porch?

6 A Yes. They set him in the front door. They sat him
7 up. He couldn't hardly breathe, so they had to lay
8 him down and put towels under him so he could
9 breathe.

10 Q Were you putting towels under him?

11 A Yes. I was bloody up trying to help him out.

12 Q I'll show you State's 20. Is that where he was?

13 A Yes.

14 Q Is that while you waited on EMS?

15 A Yes.

16 Q Were you there when the crime scene -- when the CSI
17 people came out?

18 A Yes.

19 Q And did you go back in at some point?

20 A When they asked me to.

21 Q After they came through and --

22 A And did what they had to do, yes.

23 Q And did you have to clean up inside?

24 A We had to clean it up later, yes.

25 Q And did you have to clean up blood?

1 A Yes.

2 Q And was there any blood for you to clean up by the
3 dance floor area?

4 A No.

5 Q The only blood -- was there blood to clean up on
6 the back porch?

7 A Yes. The back porch, the front -- the back, coming
8 in the back door all the way to the front door.

9 Q And then the blood on the front door?

10 A Yes.

11 MR. SHELLENBERG: Beg the Court's indulgence.

12 (Pause.)

13 BY MR. SHELLENBERG:

14 Q Could you please point out in the courtroom who you
15 call Boo, Robert Geter?

16 A In the middle.

17 MR. SHELLENBERG: Your Honor, let the record
18 reflect she identified the Defendant, Robert Geter.

19 THE COURT: So noted.

20 BY MR. SHELLENBERG:

21 Q And when you saw them fighting originally on the
22 dance floor, did you see a knife?

23 A No.

24 Q Did you see any weapons?

25 A I didn't see any weapons, just them tousling on the

1 floor.

2 Q And it was Mr. Lewis who left the dance floor
3 first?

4 A Yes.

5 Q Was he bleeding when he left?

6 A No.

7 MR. SHELLENBERG: No further questions. Thank
8 you.

9 THE COURT: All right. Please answer any
10 questions that Ms. Zmroczek may have.

11 MS. ZMROCZEK: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MS. ZMROCZEK:

14 Q Good morning, Ms. Culler.

15 A Good morning.

16 Q I just have a few questions for you. I want to
17 start out by just clarifying a little bit of what
18 the State showed you. Now, Pictures 9 and 10, they
19 weren't taken that evening, were they?

20 A Were they taken that evening?

21 Q Uh-huh, were they taken that night?

22 A You mean after the fight?

23 Q Well, whenever somebody was taking pictures, yes?

24 A I can't tell you what pictures they took.

25 Q Okay. So you don't know. So you don't know that

1 this is what it looked like that night?

2 A Yes, that's what it looked like.

3 Q Okay. So that's what it looked like that night?

4 Just like this?

5 A I imagine so.

6 Q Okay. And so you have two -- I'm showing you

7 State's 6 -- there are two pool tables that you

8 have, right?

9 A Yes.

10 Q And State's 6 shows the pool table that is closest

11 to the back door?

12 A Both pool tables are at the back door. It's a

13 wall -- there's a wall where the jukebox is that

14 separates the dancing area from the pool room.

15 That wall right there on the right.

16 Q Okay. So I'm showing you 54. All right. So is

17 the one where my finger is, the bigger pool

18 table --

19 A Closer to the front door.

20 Q This is closer to the front door?

21 A Yes.

22 Q And this one?

23 A No, no. That's -- the one in the front is closer

24 to the front door.

25 Q Okay.

1 A That one.

2 Q The one where my finger is --

3 A Back door.

4 Q -- is closest to back door, right?

5 A Yes.

6 Q And so State's 8 they showed you, that was taken
7 that evening, right?

8 A Yes.

9 Q Okay. And you say you didn't have to do any
10 clean-up in the dance room area?

11 A No.

12 Q Okay. So whatever is on the floor is just on the
13 floor?

14 A Yes.

15 Q Okay. You don't know what that is, right?

16 A No.

17 Q Okay. Nobody tested that and you have no
18 recollection of what it is, right?

19 A No.

20 Q Okay. I want to show you some other pictures, but
21 first --

22 (Pause.)

23 BY MS. ZMROCZEK:

24 Q I'm showing you what's been marked as Defense 25
25 and ask if you recognize what that is?

1 A I don't recognize that.

2 Q Okay. So you don't recognize that at all?

3 A I don't recognize that.

4 Q Okay. What about this?

5 A Yes, I recognize that.

6 Q Okay. You recognize the picture?

7 A Yes.

8 Q Okay.

9 MS. ZMROCZEK: Your Honor, at this --
10 actually, let me amend this.

11 BY MS. ZMROCZEK:

12 Q So you recognize the photo. And what do you
13 recognize the photo to be?

14 A The dancing area.

15 Q Is dancing area. All right. What I would like for
16 you to do, using this pink marker, is place on
17 there where you saw them tousling.

18 A Okay. Now, this picture here --

19 Q No, wait, wait, don't show it to the jury yet.
20 You've got to mark it first.

21 A What I'm saying is this is not the picture that was
22 taken the night of the fight.

23 Q Right.

24 A This is not the picture.

25 Q Do we have any pictures that were taken the night

1 of the fight of the dance floor?

2 A Yes, we do.

3 Q Okay. Where -- which picture is that?

4 A The picture that they showed me in the beginning.

5 Q Okay. So you couldn't see them fighting --

6 A This is not the picture.

7 Q I understand this is not the picture, but does this
8 not show the dance area?

9 A It shows the dance area, yes.

10 Q Okay. Were they fighting in the dance area?

11 A Yes, they were.

12 Q Okay. Is it on here where they were fighting in
13 this area?

14 A Yes.

15 Q Okay.

16 A But right there in that corner where the ATM
17 machine was?

18 Q Right.

19 A It was stolen, so there is no ATM machine anymore
20 there.

21 Q Okay. That's fine. But can you still mark where
22 you saw them fighting?

23 A Yes.

24 Q Okay.

25 A (Witness complies.)

1 Q All right, so I'm going to write fighting on there,
2 okay? Is that accurate?

3 A Yes.

4 Q Okay.

5 MS. ZMROCZEK: Your Honor, at this time we
6 would move Defense 25 into evidence.

7 THE COURT: Any objection?

8 MR. SHELLENBERG: No objection, Your Honor.

9 THE COURT: Entered without objection.

10 (WHEREUPON, Defendant's Exhibit No. 25
11 was marked for identification and
12 received into evidence.)

13 BY MS. ZMROCZEK:

14 Q So State's 25, the only difference is there was an
15 ATM machine, right, kind of here where this yellow
16 --

17 A No, no, where you see that pink at.

18 Q Where the pink is at, that was where the ATM
19 machine was?

20 A Yes.

21 Q Somebody stole that, right?

22 A Yes.

23 Q Okay. So they were fighting right there?

24 A Yes.

25 Q All right.

1 A On the floor.

2 Q And you said that Clay and someone else came and
3 broke it up?

4 A Yes.

5 Q All right.

6 MR. SHELLENBERG: I am going to object to
7 this, Your Honor.

8 THE COURT: Which one is that?

9 MS. ZMROCZEK: I'm going to mark it.

10 (WHEREUPON, Defendant's Exhibit No. 43
11 was marked for identification only.)

12 MS. ZMROCZEK: Your Honor, it's Defense 43.

13 BY MS. ZMROCZEK:

14 Q Do you recognize the sketch?

15 A No.

16 Q Okay. You don't -- this doesn't look familiar to
17 you at all?

18 A No.

19 Q Okay.

20 MS. ZMROCZEK: I'm going to leave it marked as
21 ID, Your Honor.

22 BY MS. ZMROCZEK:

23 Q So describe the kitchen area for the jury. Tell
24 them about the kitchen area. First of all, how
25 many square feet is the bar total?

1 A I don't know.

2 Q How long have you owned the bar?

3 A Thirty-three years.

4 Q Thirty-three years. And you have no idea how big
5 it is?

6 A No.

7 Q Okay. So let's describe the kitchen. How big is
8 that? Is it bigger or smaller than the jury box?

9 A A little -- about the same size.

10 Q About the same size as the jury box?

11 A From the front to the back.

12 Q From the front to the back?

13 A Uh-huh.

14 Q And what kind of things do you have in there?

15 A We have a stove, a refrigerator, a cooler where you
16 keep the beer, a table at the front where you serve
17 the food.

18 Q Okay. So the stove is where in relation to -- and
19 I'm showing you State's 10. The stove is where?

20 A Where you see it there, right next to the
21 refrigerator.

22 Q Okay. So it's straight -- it's straight back if
23 you're looking in?

24 A Yes.

25 Q Right?

1 A Yes.

2 Q So if you're cooking, your back is to the dance
3 floor area, correct?

4 A If you're cooking, yes, if you're cooking.

5 Q If you're cooking on the stove, right?

6 A Right. But you don't have to sit there and look at
7 food just cooking. I'm at a table preparing food.

8 Q All right. So the table for preparing food is in
9 front of the stove, right?

10 A Right.

11 Q And it has two fryers on the right side of it,
12 right?

13 A Right.

14 Q And then there's a little prep area, correct?

15 A Right, but you don't have the door open.

16 Q Okay. So I get that. We'll get to that point. So
17 you're behind the table?

18 A Yes.

19 Q Right?

20 A Yes.

21 Q And the door is open?

22 A Yes.

23 Q The whole door is open that night?

24 A Right.

25 Q So people can just come in and take beer, right?

1 A To get their beer.

2 Q Okay. And where do they pay?

3 A Right there.

4 Q Okay.

5 A The cash register is on the other side. Where you
6 see the stove, the cash register is on the other
7 side of the stove.

8 Q All right. And who was collecting money that
9 night?

10 A I was.

11 Q So you were prepping food and collecting money?

12 A Yes.

13 Q And you're looking out the door and the door was
14 open, I get that. We don't have any pictures of
15 that night, though, right?

16 A I don't know what you have.

17 Q Okay. Have you seen any pictures of that night?

18 A I haven't seen any.

19 Q Okay. So -- and at the end of the table, you stand
20 obviously behind it to prep, right, so that you can
21 see out?

22 A Right.

23 Q And then there's a little, a kind of a little walk
24 area, and then there's some coolers with beers and
25 --

1 A Yes.

2 Q And wine, right?

3 A Yes.

4 Q Okay. You can only sell beer and wine at Culler's
5 Pool Hall, right?

6 A Yes.

7 Q And so there's also a bathroom right outside the
8 door, correct?

9 A Yes.

10 Q Okay. And did you see anybody come outside of that
11 bathroom that night?

12 A Yes, I did. I saw Boo come out the bathroom.

13 Q You saw Boo come out the bathroom?

14 A Yes.

15 Q And then what -- and then you said you heard
16 tousling?

17 A I heard a commotion. I heard some -- I heard James
18 saying -- you know, telling Boo to, Go ahead on,
19 Man, go ahead on. That's what I heard.

20 Q Okay. And you said that James was not related to
21 you, but he always kind of stayed around and was
22 your muscle, right?

23 A Right. He helped out.

24 Q Okay. He's a big guy, six-one, six-two?

25 A He was a small guy, but he was just tall.

1 Q He was a small guy, but just tall?

2 A Uh-huh.

3 Q Okay. And he had muscles, right?

4 A He had what?

5 Q Muscles. He was in shape, fit?

6 A I don't know about the muscles. I just know he was
7 tall.

8 Q All right. So but he -- you used him as
9 protection?

10 A No, I didn't use him, that was something he did on
11 his own.

12 Q Okay. So he protected you on his own?

13 A Yes.

14 Q Okay. And you said that you heard someone say he
15 hit him with a bottle, right?

16 A I heard someone saying he hit him with a bottle,
17 something about a bottle.

18 Q Okay. And you don't know who said that?

19 A No, I just heard --

20 Q And you don't know who hit whom?

21 A Right.

22 Q Okay. So all you heard was someone was hit with a
23 bottle?

24 A Right.

25 Q Okay. So who cleaned up that bottle? Who

1 collected that bottle?

2 A I can't say who collected it. I didn't see a
3 bottle. I didn't see a bottle.

4 Q Y'all sell bottles?

5 A Yes, we sell Corona and Heineken. Those are in
6 bottles.

7 Q Okay. So the Corona and Heineken. But you don't
8 know who cleaned up that bottle?

9 A I didn't see a bottle.

10 Q Okay.

11 A So I can't say it was cleaned up.

12 Q Okay. And then you said they were fighting, and
13 correct me if I'm wrong, but you said that James
14 was on top of Boo? That's what you said, right?

15 A Yes, he got -- they were tousling.

16 Q Okay.

17 A And James got the best of him. He got on top of
18 Boo. He got the best of him.

19 Q So he was on top of him?

20 A Yes.

21 Q And he was hitting him?

22 A Yes. They were tousling, yes.

23 Q Okay. Right.

24 A They were fighting.

25 Q Okay, they were fighting. I mean, they weren't

1 just slapping each other, right, this was a fight?

2 James was on top of him?

3 A Right.

4 Q Okay. And he was --

5 A They were fighting.

6 Q All right. And what was Robert wearing that
7 evening? What was Boo wearing that evening?

8 A Camouflage -- a camouflage jacket.

9 Q Okay. And you said that James got the best of him,
10 right?

11 A Right.

12 Q And you talked to him after -- so the fight just
13 stops for whatever reason, right?

14 A It didn't stop for whatever reason, it was broken
15 up.

16 Q Okay. It was broken up?

17 A Yes.

18 Q And you said Clay?

19 A And another gentleman, I don't know exactly who he
20 was, but they pulled the fight apart.

21 Q How many people were in the club that evening?

22 A It was a lot of people.

23 Q A lot of people?

24 A Probably about 40.

25 Q Forty?

1 A Thirty, 40.

2 Q Okay. So there was a lot of people, right?

3 A Yes.

4 Q And then you had a conversation with Boo, right?

5 A Yes. I asked him -- after the fight and
6 everything, James had gone on out, I asked him to
7 get -- I said, Get on up out of here, Man, just get
8 up on out of here.

9 Q So you got to see his face when he was standing up,
10 right?

11 A Yes, I saw his face.

12 Q And he was beat up, wasn't he?

13 A No, he was -- they fought. They were beat up the
14 same.

15 Q Okay. They were beat up the same?

16 A Yes. Both of them tousled.

17 Q Okay.

18 A Both of them fight.

19 Q So what injuries did you see on Boo?

20 A None.

21 Q You didn't see not one injury on him?

22 A I didn't see any scratches, no blood, none of those
23 things.

24 Q No nothing?

25 A No.

1 Q Okay. So you tell him to leave. And, in fact, you
2 told Officer Marum that he, Boo, left out the front
3 door. Remember when he talked to you that evening?

4 A I told him -- I told what?

5 Q You told Officer Marum that Boo left out the front
6 door?

7 A I don't remember saying none of that.

8 Q Okay. You don't have any recollection?

9 A No.

10 Q All right. In fact, you told him he was escorted
11 out the front door?

12 A I don't remember any of that.

13 Q Don't remember that?

14 A No.

15 Q Okay. I want to talk a little bit about the bar,
16 kind of set-up. So we saw -- from the picture, we
17 saw a picture of the door with the Culler's, Best
18 Cheeseburger Basket. Next to that, connected to
19 that building is what?

20 A You have a liquor store on the left and you have a
21 pool room on the right, and there's a wall that
22 separates the businesses.

23 Q So you own the liquor store?

24 A No.

25 Q Who owns that?

- 1 A Loretta Harkness.
- 2 Q Okay. Who?
- 3 A Loretta Harkness.
- 4 Q Loretta Harkness?
- 5 A Yes.
- 6 Q And is she related to you?
- 7 A No.
- 8 Q Okay. Are you related to Michael Harkness?
- 9 A Yes.
- 10 Q How?
- 11 A Those are my stepsisters and brothers.
- 12 Q Okay. And he's your stepbrother?
- 13 A Yes.
- 14 Q Okay. So you're related to him?
- 15 A And her.
- 16 Q And her. Okay. And they own the liquor store?
- 17 A Yes.
- 18 Q And you work there sometimes?
- 19 A No.
- 20 Q Does Reeshemah work there?
- 21 A Sometimes.
- 22 Q Sometimes Reeshemah. And who's Reeshemah? Tell
- 23 the jury.
- 24 A That's my daughter.
- 25 Q Okay. So Reeshemah's your daughter. But you run

1 the pool hall?

2 A Yes.

3 Q And Reeshemah helps you with that?

4 A Yes.

5 Q Okay. And you said Clarence helped you with that?

6 A Yes.

7 Q Okay. And Clarence's job was what?

8 A He just helped make sure that these things didn't
9 occur, you know, fighting, keep fighting and things
10 down.

11 Q Okay. So he was there to make sure that everything
12 was -- no fighting, right?

13 A If he saw it.

14 Q If he saw it. Okay. And did you see Clarence on
15 the dance floor break up that fight?

16 A I'm not going to say I saw him, but I'm thinking
17 Clarence helped. But I know it was two people
18 pulled them apart, I do remember that.

19 Q There were two people, but -- and you remember
20 Clay, but not the other person?

21 A No.

22 Q Okay. And you remember the police talking -- I
23 know you don't remember what they wrote down, but
24 you remember them coming back to you that evening
25 or early that morning and asking you to write a

1 statement, right?

2 A They didn't come to me. We went to the police
3 department and did a statement.

4 Q Okay. So you went to the police department at
5 6:10 a.m. on that same morning, correct?

6 A It was early in the morning.

7 Q Okay. It was early in the morning. And who did
8 you go with?

9 A The officer -- let me see. We drove -- me and my
10 daughter. My daughter and I.

11 Q You and Reeshemah went to the police station
12 together?

13 A Yes.

14 Q And then they asked you to write a statement?

15 A Yes.

16 Q And they asked you in that statement to make sure
17 that you put down all the details?

18 A Yes.

19 Q Because that way you're doing it just a few hours
20 after that happened, right?

21 A Yes.

22 Q Everything is fresh in your mind, right?

23 A Yes.

24 Q At that time. And so -- and they asked you some
25 questions and then you answered them, right?

1 A Yes.

2 Q And then you told them, you know, that you heard a
3 commotion, right?

4 A Yes.

5 Q Then you said you saw them tousling and they get
6 pulled apart?

7 A Yes.

8 Q Okay. You also said that -- you didn't say
9 anything about any blood or anything at that point,
10 right, in that statement?

11 A Did I say anything about blood?

12 Q Right.

13 A Well, I didn't have to, they saw it all, they were
14 there.

15 Q And you told them you were in the kitchen?

16 A Yes.

17 Q All right. I'm going to show you what has been
18 marked -- or is being marked --

19 (WHEREUPON, Defendant's Exhibit No. 26
20 was marked for identification only.)

21 BY MS. ZMROCZEK:

22 Q -- as Defense 26. Okay. Do you recognize those
23 pictures? Without showing the jury.

24 MS. ZMROCZEK: Your Honor, if I may stand
25 here?

1 THE WITNESS: That's the table.

2 BY MS. ZMROCZEK:

3 Q Okay.

4 A And these pictures were not taken the night of the
5 fight. Because we just got this grill.

6 Q Okay.

7 A So that was not taken the night of the fight.

8 Q Right. They weren't taken the night of the fight?

9 A No. No.

10 Q But have the walls moved?

11 A The walls haven't moved.

12 Q And have the doors moved?

13 A No, they haven't.

14 Q Okay. So other than the stove being there, does
15 that fairly and accurately represent what the
16 kitchen looked like that night?

17 A That's what the kitchen looked liked.

18 MS. ZMROCZEK: Your Honor, at this time we
19 would move in Defense 26.

20 THE COURT: Any objection?

21 MR. SHELLENBERG: Can I see it real quick?

22 MS. ZMROCZEK: Sure.

23 (Pause.)

24 MR. SHELLENBERG: No objection.

25 THE COURT: Entered without objection.

1 (WHEREUPON, Defendant's Exhibit No. 26
2 was admitted into evidence.)

3 BY MS. ZMROCZEK:

4 Q All right. So I'm going to hold it because I'm a
5 little clumsy with equipment. Thank you. All
6 right. So Defense 26, you said the only thing
7 that's different, and I'm pointing to this
8 silver --

9 A Okay. That -- that -- you see that yellow and
10 white box you have on the floor there, that's on
11 the floor?

12 Q Yes.

13 A It wasn't there, because the door was open more.

14 Q Okay. And then this is different, right?

15 A Right.

16 Q Okay. So those are the only two things that are
17 different?

18 A Exactly.

19 Q And you were standing --

20 A Right there at the table.

21 Q This is the prep table?

22 A Yeah, and you can see right out there. That's
23 where the fight was right there.

24 Q So you were standing here looking that way?

25 A Yes.

1 Q Okay. And it was about 2:00 in the morning?

2 A I can't remember what time it was, but it was in
3 the morning.

4 Q It was in the morning. How many lights do you have
5 on that dance floor?

6 A You have the jukebox light. That's all we have is
7 the jukebox light.

8 Q The jukebox light, which is in that corner?

9 A Yes.

10 Q And has the jukebox moved from Defense 25?

11 A No, the jukebox is still there.

12 Q The jukebox is still there. Okay. And you were
13 standing behind this table, so behind this table
14 and looking out?

15 A Yes.

16 Q And you say that there is a little -- right here,
17 this little box right here?

18 A The door was open more.

19 Q So the door was open more, but these coolers and
20 these beers are still there, they were there that
21 night, right?

22 A Yes.

23 Q Well, not the same beers. But the cooler and
24 everything, those haven't moved, right?

25 A The cooler on the left?

1 Q Uh-huh.

2 A Right there where you see that over here -- you're
3 not even showing the cooler. You're not really
4 even showing the cooler. The cooler is gray. It's
5 a gray cooler. So you're not even showing that.

6 Q All right. So there was another cooler there?

7 A No, it's still there. You don't have it in the
8 picture.

9 Q Okay. But this is the table, right? This here is
10 the table?

11 A Yes, that's the table.

12 Q And this was taken from behind the table looking
13 out?

14 A Yes.

15 Q Okay. You also said everything was happening very
16 fast, right?

17 A Yes.

18 Q About how long time-wise did this transpire?

19 A About 10, 15 minutes.

20 Q Ten, 15 minutes?

21 A Probably.

22 Q Okay.

23 MS. ZMROCZEK: Beg the Court's indulgence.

24 (Pause.)

25 MS. ZMROCZEK: I have no further questions.

REDIRECT EXAMINATION

BY MR. SHELLENBERG:

Q Now, Ms. Zmroczek talked about James being your protection?

A Yes.

Q What did you mean by protection?

A Well, he just basically, you know, like people come in the pool room -- and he's not the only one -- they just -- the guys are just protective. They been like that. It's like a -- they just protective, just making sure everything is going okay and make sure that when I leave out that I'm not going out by myself, or whatever. It's just that type of protection.

Q So he wasn't in there fighting people?

A No, never had any problems with him.

Q I'm going to show you State's 10. That's not how it was that night, correct?

A No.

Q The door was completely open?

A Yes.

Q And you said that you didn't have to do any clean-up on the dance floor?

A No. I mean, we cleaned up the pool room, but we didn't have to clean up --

1 Q There was no blood on the dance floor?

2 A We didn't have to do any mopping blood up or
3 anything.

4 Q No mopping blood up? I want to go back to your
5 statement. Do you remember what -- following when
6 you said that the guys got pulled apart, what you
7 said next?

8 A What did I say after the guys got pulled apart?

9 Q From your statement on the night of the incident?

10 A The only thing, when they got pulled apart, James
11 had left the dancing floor and Boo was still
12 hanging around. And I just told him, I said, Get
13 up out of here, Man. Get up out of here.

14 Q If I showed you your statement, would it help
15 refresh your memory?

16 A Yes.

17 MR. SHELLENBERG: Your Honor, may I show her
18 the statement?

19 THE COURT: Yes.

20 BY MR. SHELLENBERG:

21 Q Would you please read your answer down?

22 A You want me to read the last statement is what you
23 want me to read?

24 Q Yes, ma'am. If you can read --

25 MS. ZMROCZEK: I think, Your Honor, it's

1 proper that he refreshes her recollection, takes it
2 back, and then she can then respond.

3 THE COURT: Yes.

4 THE WITNESS: I was in the kitchen. I heard
5 --

6 THE COURT: Hold on. Hold on. You've got to
7 ask the question.

8 BY MR. SHELLENBERG:

9 Q What was the rest of your answer?

10 A You want me to read it out loud or --

11 Q Yes.

12 THE COURT: No, no, no. I think you need to
13 ask her the question, and then if she needs to
14 refresh her memory. Ask her the question you want
15 to ask, and then she can refresh her memory.

16 BY MR. SHELLENBERG:

17 Q What was the rest of your answer to that question?

18 A I saw both of them tousling. The guys pulled them
19 apart. Robert kept going after him. James got
20 away and went out the back door. I saw Robert go
21 out the back door too.

22 Q So you actually said in your statement that you saw
23 Robert go out the back door too?

24 A Yes.

25 Q After you saw James go out the back door?

1 A After I asked him to leave. After I asked him to
2 get out, he went out the back door too.

3 Q And you said Robert kept coming after him?

4 A Yes, he kept coming after him, coming after James.
5 And James said, Man, get away, go ahead. You know,
6 kept telling him to go away, to leave him alone.

7 Q And that's --

8 A And that's when the tousling --

9 Q I'm sorry.

10 A That's when the tousling start.

11 Q And that's in the statement you gave police the
12 night of the incident?

13 A Yes.

14 Q Now, after the fight, was James complaining of
15 being stabbed?

16 A No.

17 Q And he wasn't bleeding?

18 A No.

19 Q And you didn't see a knife?

20 A No.

21 Q And how many people were fighting out there?

22 A Two.

23 Q And who was it?

24 A James and Boo.

25 Q Nobody else --

1 A No.

2 Q -- hit Robert?

3 A No.

4 Q Or Boo?

5 A No.

6 Q Nobody else kicked Boo?

7 A No.

8 Q And were most of the people in the bar out on the
9 deck?

10 A A lot was on the deck and they both -- they were
11 shooting on both pool tables.

12 Q I do want to ask you about Defense's 26. Were you
13 at the bar when they came to take these pictures?

14 A No.

15 Q Did they ask you where you were standing at any
16 point while you were in the kitchen?

17 A No. I wasn't even there when they took those
18 pictures.

19 Q Did they take any pictures from standing in front
20 of the refrigerator?

21 A From that picture, they probably were standing in
22 front of the refrigerator taking those pictures.
23 If they were on the inside of the kitchen, they had
24 to be near that.

25 Q And did you stop cooking when you heard -- or stop

1 cooking when you heard the commotion?

2 A No. Everything was still cooking, but being
3 prepared.

4 Q Did you physically stop cooking?

5 A I physically came out, yes.

6 Q So you came out to see what was going on?

7 A Yes.

8 Q So you actually left the kitchen?

9 A Yes.

10 MR. SHELLENBERG: Court's indulgence, Your
11 Honor.

12 (Pause.)

13 BY MR. SHELLENBERG:

14 Q And it was a little bit darker on the dance floor
15 than it was in the kitchen, correct?

16 A Yes.

17 Q When you came out to talk to Boo, it was a little
18 darker on the dance floor?

19 A It's a little darker, but you still can see because
20 you have the jukebox, and the jukebox has lights
21 that's always on.

22 MR. SHELLENBERG: Thank you very much.

23 THE COURT: Yes, ma'am.

24 MS. ZMROCZEK: Just very briefly.

25 RECROSS-EXAMINATION

1 BY MS. ZMROCZEK:

2 Q In your statement, you said that you saw James go
3 out the back door?

4 A I saw him go around the corner.

5 Q Okay. So you don't know where he went?

6 A He had to go out the back door, that's the only
7 door -- that's the only door back there if you go
8 around the front.

9 Q But you didn't see him go?

10 A Yes, I did see him go, but I didn't see him open
11 the door physically.

12 Q Okay. And did you see Boo open the door
13 physically?

14 A I saw both of them go around the same corner, but
15 at different times.

16 Q Okay. And you remember giving testimony in a
17 previous hearing that we had, right?

18 A Yes.

19 Q And you remember in that hearing saying that Robert
20 or Boo went out the door first?

21 A I remember saying James went out the door first.

22 MS. ZMROCZEK: Your Honor, may I approach?

23 THE COURT: Yes.

24 BY MS. ZMROCZEK:

25 Q Would it refresh your recollection to -- I don't

1 want you to read it out loud, just read it to
2 yourself, okay?

3 A What do you want me to read?

4 THE COURT: What page?

5 MS. ZMROCZEK: Sorry. Twenty-seven, Your
6 Honor.

7 THE COURT: Which line?

8 MS. ZMROCZEK: Beginning at Line 13 through
9 20.

10 BY MS. ZMROCZEK:

11 Q Does that refresh your recollection?

12 A Okay. I also remember that my sugar had gone down
13 to 20 something and they took me upstairs, because
14 when my sugar go down, I get discombobulated. So I
15 may have said wrong names, or whatever. And that's
16 what happened.

17 Q So you did say, though, that James left first?

18 A If you have that on that paper, that's what I said.
19 But James left first.

20 Q Okay. And then they kept asking you about pictures
21 and were you there when these were taken, right?

22 A I wasn't there.

23 Q You weren't there. Has the State ever asked for
24 you to show you or take pictures from where you
25 were standing inside the kitchen?

1 A That night?

2 Q Right. Do you have any of those?

3 A I don't have any pictures.

4 Q Okay. Nobody has taken any -- nobody has provided
5 you any of those?

6 A They've let me see pictures, but I don't have
7 pictures physically. They didn't physically give
8 me pictures.

9 Q But you've seen pictures from inside the kitchen
10 looking out that evening?

11 A No.

12 Q Thank you.

13 MS. ZMROCZEK: Thank you, Your Honor.

14 THE COURT: All right, ma'am, you may step
15 down.

16 (Witness steps down.)

17 THE COURT: Call your next witness.

18 MR. CATHCART: Your Honor, we probably have a
19 matter outside the jury's presence.

20 THE COURT: All right.

21 Ladies and gentlemen of the jury, at this time
22 we will take -- we'll go ahead and take our morning
23 break. And there is a matter of law I need to take
24 up outside of your presence with the attorneys, so
25 I'll send you all out for about a 5- or 10-minute

1 (Witness seated.)

2 THE WITNESS: Michael Harkness.

3 THE BAILIFF: Talk loud enough for that last
4 juror up there to hear you, okay?

5 THE WITNESS: Yes, sir.

6 MICHAEL HARKNESS,
7 after being duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. CATHCART:

10 Q Mr. Harkness, do you know Culler's Pool Hall and
11 Restaurant?

12 A Yes, sir.

13 Q And how do you know of it?

14 A That's my sister.

15 Q That's your sister?

16 A Yes, sir, my older sister.

17 Q I'm going to have to ask you --

18 MR. CATHCART: May I approach, Your Honor?

19 THE COURT: Yes.

20 MR. CATHCART: To see if we can do something
21 with this.

22 BY MR. CATHCART:

23 Q You have to speak up kind of loud.

24 A That's my oldest sister.

25 Q Who is?

1 A Ms. Culler, Deborah Culler.

2 Q Deborah Culler?

3 A Yes, sir.

4 Q And her daughter is?

5 A Reeshemah Culler.

6 Q Reeshemah Culler?

7 A Yes, sir.

8 Q And how long have you been going to Culler's?

9 A Half my life. She's had it 32 years.

10 Q It's been there how long?

11 A Thirty-two.

12 Q Thirty-two years?

13 A Yes, sir.

14 Q Okay. And were you there back on March the 7th of
15 2015?

16 A Yes, sir.

17 Q Okay. Do you recall what you were doing that
18 night?

19 A Shooting pool.

20 Q Shooting pool?

21 A Yes, sir.

22 Q What table were you shooting pool on?

23 A The first table, where the 1 at.

24 Q Let me show you what's been marked and entered as
25 State's Exhibit Number 54. Could you point out

1 which pool table that is?

2 A The one right there by the window.

3 Q By the window?

4 A Yes, sir.

5 Q That's by the front door also?

6 A Yes, sir.

7 Q If you're standing at that pool table -- let me let
8 you take a look at State's Exhibit Number 8 -- can
9 you see into the dance floor as well?

10 A Yes, sir. The dance floor is right there.

11 Q The dance floor is right there?

12 A Yes, sir.

13 Q And then you can also see to the back door,
14 correct?

15 A Yes, sir.

16 Q And while you were playing pool, what, if anything,
17 out of the ordinary happened that night?

18 A Mr. Geter and Mr. James start fighting.

19 Q Do you recall -- did you see them start the fight?

20 A By the time I got around there, they had done broke
21 it up. Then the second time it started again, I
22 seen the second fight.

23 Q Okay. Well, who started the second fight?

24 A Mr. Boo Geter.

25 Q Mr. Boo Geter?

1 A Yes.

2 Q You talking about the Defendant sitting over
3 there --

4 A Yes.

5 Q -- at the table?

6 A Yes, sir.

7 Q When you say started the fight, what was he doing?

8 A Stepping on his foot. He asked him not to step on
9 his foot no more.

10 Q Was there anything about Mr. Lewis's foot that
11 was --

12 A He just had surgery on it.

13 Q He just had surgery on his foot?

14 A Yes, sir.

15 Q That was the same foot this man was stepping on?

16 A Yes, sir.

17 Q Picking a fight?

18 A Yes, sir.

19 MS. ZMROCZEK: Objection, Your Honor.

20 Characterization of the question.

21 THE COURT: Sustained. Please rephrase.

22 BY MR. CATHCART:

23 Q Did you see the purpose for him stepping on his
24 foot?

25 A No, sir, I didn't see that.

1 Q As he stepped on his foot, what was Mr. Lewis
2 trying to do?

3 A He was telling him don't do it no more, that's all.

4 Q Okay. And did Geter continue?

5 A Yes, sir.

6 Q Okay. And then what happened?

7 A They got in a fight.

8 Q Did you see who won that fight?

9 A No, sir, I didn't see who won. I know they broke
10 it up two times.

11 Q Okay.

12 A After they broke it up the second time, asked him
13 to leave, and Mr. James, he left out the back door.

14 Q Okay. When you say he left out the back door?

15 A Yes, Mr. James left first.

16 Q That's the door --

17 A Back door.

18 Q I show you State's Exhibit Number 4. You're
19 standing here at this pool table, correct?

20 A Yes, sir.

21 Q And that's the back door right there?

22 A Yes, sir.

23 Q That back door leads where?

24 A To the back porch.

25 Q Back porch?

1 A Yes, sir.

2 Q Okay. After Mr. James left out the back porch,
3 what did you observe?

4 A Mr. Geter went behind him.

5 Q Went behind him?

6 A Yes, sir.

7 Q Okay.

8 A Went on the back porch and got in a fight and
9 that's when Mr. James came in bleeding.

10 Q Did Mr. Geter say anything before he left out to go
11 to the back porch?

12 A He said, I'm going to kill me somebody tonight.

13 Q And that was after the fights?

14 A Yes, sir. After they broke it up two times.

15 Q That is after Mr. Lewis already left?

16 A Yes, sir.

17 Q Mr. Geter, you heard him say what again?

18 A I'm going to kill me somebody tonight.

19 Q And then where did he go?

20 A On the back porch behind him.

21 Q Behind Mr. Lewis?

22 A Yes, sir.

23 Q Did you see Mr. Geter again that night?

24 A No, not after that.

25 Q Did you see Mr. Lewis later that night?

1 A He came back in after he got stabbed.

2 Q Okay. And when he got stabbed, how did he come
3 back in? Came back in where?

4 A Back in the pool hall.

5 Q And how long after you saw Mr. Geter go out into
6 the back did you see Mr. Lewis come back in?

7 A Probably about 10 or 15 minutes after that.

8 Q Okay. When he came back in, he was --

9 A Bleeding.

10 Q -- different than he was when he went back out,
11 correct?

12 A Yes, sir.

13 Q And how was he different?

14 A He was bleeding.

15 Q Okay. When he walked out from the first fights,
16 those first two fights, was Mr. Lewis bleeding?

17 A No, sir. Nobody wasn't bleeding.

18 Q Nobody was bleeding?

19 A No, sir.

20 Q Did anybody yell, I see a knife?

21 A No, sir, I didn't hear that. I wasn't on the back
22 porch.

23 Q I'm talking about those first two fights on the
24 dance floor?

25 A Yes, sir.

1 Q Nobody -- did you see a knife?

2 A No, sir, I never seen a knife.

3 Q Did you hear any indication of a knife?

4 A No, sir, I didn't hear that.

5 Q Mr. Lewis, was he bleeding in any way as he left
6 from the first -- those fights at dance floor?

7 A No, sir, he wasn't. No, sir.

8 Q He was not -- he was uninjured?

9 A Yes, sir.

10 Q When you saw him come in, you say he was bleeding.
11 What was going on then?

12 A I seen blood just shooting. And he just kept
13 asking for help.

14 Q And did he -- came in and where did he go?

15 A Out the front door.

16 Q Out the front door?

17 A Waiting on the ambulance, yes, sir.

18 Q So when he went out the front door, was he
19 completely outside or where?

20 A He was completely outside. Some girls walked him
21 out the door.

22 Q Okay. Let me show you what has been marked State's
23 Exhibit Number 18 and 19. This would be 18. Do
24 you see what this is a picture of?

25 A Yes, sir.

1 Q What is that?

2 A That's blood.

3 Q Where is it?

4 A Front door.

5 Q That's the front door?

6 A Yes, sir.

7 Q Is that where they sat him down?

8 A Yes, I think that where they set him at. I don't
9 know if he sat down or not. I left after seeing
10 all that.

11 Q Okay. And, again, 19, that would be the front door
12 as well?

13 A Yes, sir.

14 Q And covered in blood?

15 A Yes, sir.

16 Q When Mr. Lewis left out the door --

17 A Yes, sir.

18 Q -- was he with anybody?

19 A No, sir. He was by hisself.

20 Q Okay. And when James followed after him, how
21 long -- after the fight got broken up at the dance
22 floor, how long after that did you hear Robert
23 Geter say, I'm going to kill somebody tonight?

24 A Probably about two or three minutes later.

25 Q Okay. And that's when you saw him go after

1 Mr. Lewis?

2 A Yes, sir, out the back door.

3 MR. CATHCART: Please answer any questions
4 from Defense counsel. Thank you.

5 CROSS-EXAMINATION

6 BY MS. ZMROCZEK:

7 Q Mr. Harkness, you've been in a little bit of
8 trouble yourself, right?

9 A Yes, ma'am.

10 Q In fact, you have a conviction for stalking, right?

11 A For who? For what now?

12 Q For stalking.

13 A I don't -- stalking who?

14 MS. ZMROCZEK: Your Honor, may we -- we have a
15 matter of law apparently.

16 THE COURT: Hold on. Let me see you all.

17 (WHEREUPON, a bench conference was held
18 in the presence of the jury but out of
19 the hearing of the jury.)

20 MS. ZMROCZEK: I'll rephrase the question.

21 BY MS. ZMROCZEK:

22 Q Mr. Harkness, in 2013, if your rap sheet says you
23 have a conviction for stalking, is that accurate?

24 A I guess. I don't know.

25 Q And you said -- I want to talk a little bit

1 about -- you said that you left. He asked you
2 where Mr. James Lewis was sitting when he came back
3 through, and you said you left, right?

4 A Yes, after he came back in the door.

5 Q I'm sorry?

6 A After he came back in the back door.

7 Q After he came back in the door, you left?

8 A Yes, after I seen all the blood.

9 Q Where did you go?

10 A I went home.

11 Q You went home?

12 A Yes, ma'am.

13 Q When did you speak to the police?

14 A About two or three weeks later.

15 Q Okay. About two or three weeks later?

16 A After they called me.

17 Q They called you?

18 A Yes, ma'am.

19 Q And did you write a statement?

20 A Yes, ma'am, I told them what I knew.

21 Q Okay. You didn't write a statement, though?

22 A No, ma'am.

23 Q In fact, the first time that you ever testified or
24 anything about Mr. Geter saying that was the
25 beginning of last year, right?

1 A Yes, ma'am.

2 Q That was the first time. And you said your sister
3 is Deborah Culler?

4 A Yes, it is.

5 Q Who is Loretta Harkness?

6 A That's my sister.

7 Q That's your other sister?

8 A Yes, ma'am.

9 Q Okay. And you were playing pool -- and this is
10 State's 54. You're playing pool --

11 A At the front table.

12 Q Is that where my finger is pointing?

13 A Yes, ma'am.

14 Q At the front table?

15 A Yes, ma'am.

16 Q Right?

17 A Yes.

18 Q And who were you playing with?

19 A Somebody, I don't know who I was playing with. I
20 was playing with somebody in the pool hall.

21 Q Okay. Don't remember who. How many people were in
22 the bar that night?

23 A It was kind of crowded.

24 Q Okay. More than 10?

25 A Yes, more than 10.

1 Q More than 40?

2 A I don't know if it was more than 40, I just know it
3 was crowded that night.

4 Q Okay. All right. And so after -- did you see the
5 fight on the dance floor?

6 A Yes, I seen them.

7 Q Okay. I'm going to hand you what's been marked
8 Defendant's 66.

9 MR. CATHCART: No objection, if he recognizes
10 it.

11 BY MS. ZMROCZEK:

12 Q Do you recognize Defendant's 66?

13 A Yes.

14 Q Okay. Is that the dance floor?

15 A Yes, that's the dance floor.

16 Q Okay. What I'm going to ask you to do is to take
17 this little sticker and put on here where you saw
18 the fight.

19 A (Witness complies.)

20 Q Okay.

21 MS. ZMROCZEK: Your Honor, at this time we
22 would move Defendant's 66 in.

23 THE COURT: Any objection?

24 MR. CATHCART: I didn't see exactly. No
25 objection.

1 (WHEREUPON, Defendant's Exhibit No. 66
2 was marked for identification and
3 received into evidence.)

4 BY MS. ZMROCZEK:

5 Q So you see the fight, right?

6 A Yes, ma'am.

7 Q And you said that you saw Mr. Geter step on
8 Mr. Lewis's foot?

9 A Yes, ma'am.

10 Q Okay. And he had just had surgery. You knew that,
11 right?

12 A Yes, ma'am.

13 Q And you knew why he had surgery on his foot, didn't
14 you?

15 MR. CATHCART: I ask that he be allowed to
16 finish his answer.

17 THE COURT: Yes, please let him answer the
18 question.

19 MS. ZMROCZEK: Thank you.

20 BY MS. ZMROCZEK:

21 Q And you knew why he had surgery on that foot?

22 A No, I do not know why he had surgery. I just know
23 he had surgery. I do not why he had surgery.

24 Q You don't know why?

25 A No, ma'am.

1 Q All right. But Mr. Lewis was at the bar frequently
2 as you were, right?

3 A Yes, ma'am.

4 Q Okay. And, in fact, he always kind of stood in the
5 same place, didn't he?

6 A He did, he always stand in the same place, by the
7 door.

8 Q By which door?

9 A Bathroom door.

10 Q By the bathroom door, right?

11 A Yes, ma'am.

12 Q And so when the bathroom door swings open, that's
13 where he stands, right?

14 A Yes, ma'am.

15 Q So he's on the other side where the bathroom door
16 is?

17 A Yes, ma'am.

18 Q Okay. And he's always there?

19 A That's where he stand at.

20 Q Okay. And you said that you -- when you saw both
21 of them leave, that neither one of them had a mark
22 on them?

23 A No. That I seen no, ma'am.

24 Q You didn't see anything on them?

25 A No, ma'am.

1 Q Nobody was bleeding?

2 A No, ma'am, I ain't seen nobody bleeding.

3 Q What was Mr. Geter wearing?

4 A I couldn't even remember.

5 Q Okay. And so instead of staying there and talking
6 to the police and saying, Hey, let me tell you what
7 Robert Geter said, you go home?

8 A Yes. Yes, ma'am.

9 Q Okay. And then last year for the first time you
10 get up and testify about that, right?

11 A Yes, ma'am.

12 MS. ZMROCZEK: Okay. I have no further
13 questions, Your Honor.

14 THE COURT: All right. Anything else from the
15 State?

16 MR. CATHCART: No, ma'am. Thank you.

17 THE COURT: Sir, you may step down.

18 Any objection to this witness being excused.

19 MS. ZMROCZEK: None from the Defense.

20 MR. CATHCART: None from the State, Your
21 Honor.

22 (Witness steps down and is excused.)

23 THE COURT: Call your next witness.

24 MR. CATHCART: The State calls Reeshemah
25 Culler.

1 (Witness approaches.)

2 THE BAILIFF: Place your left hand on the
3 Bible, raise your right, and face the clerk.

4 (Witness complies.)

5 THE CLERK: Do you swear or affirm the
6 testimony you shall give in this case will be the
7 truth, the whole truth, and nothing but the truth,
8 so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Thank you. Please have a seat in
11 the witness stand, and state full name for the
12 record.

13 (Witness seated.)

14 THE WITNESS: Reeshemah Culler.

15 REESHEMAH CULLER,
16 after being duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. CATHCART:

19 Q Ms. Culler, where are you employed?

20 A Deli Say No More or Monticello Pool and Game Room.

21 Q And Monticello what?

22 A Culler's Restaurant, Monticello Pool and Game Room.

23 Q And that's the place we're talking about today the
24 incident occurred on March 7th of 2015?

25 A Yes, sir.

1 Q Were you there that night?

2 A Yes, sir.

3 Q Was your mother there that night?

4 A Yes, sir.

5 Q And what was your mama doing that night?

6 A She was in the kitchen.

7 Q Is that what she normally does?

8 A Yes, ma'am.

9 Q And does she drink anything in the kitchen?

10 A No, sir.

11 Q Does she drink at all?

12 A Not at all.

13 Q Were you drinking that night?

14 A No, sir.

15 Q Okay. And what were you doing there that night?

16 A I had some friends that came from out of town that
17 particular night.

18 Q Uh-huh.

19 A And they wanted to come down and see my family.

20 Q Okay. They came from where?

21 A Florida.

22 Q And so y'all showed up -- basically go there
23 because that's a family place?

24 A Yes.

25 Q And y'all got there about when, do you know?

1 A It was around --

2 MS. ZMROCZEK: Your Honor, I would ask that he
3 ask the question and allow her time to answer.

4 Maybe I just didn't hear the question.

5 THE COURT: I think he did. Go ahead.

6 THE WITNESS: It was around 10:00.

7 BY MR. CATHCART:

8 Q And --

9 A P.M.

10 Q Okay. And you were with your friend?

11 A Yes.

12 Q And doing what?

13 A Just mingling.

14 Q Mingling? Was the place crowded?

15 A Yes.

16 Q Where do most people stay when they're there?

17 A Outside.

18 Q Outside?

19 A Yes.

20 Q Outside on the --

21 A On the deck.

22 Q The deck is in the back?

23 A Yes, in the back yard, outside in the back yard.

24 The deck is in the back, and they mainly be on the
25 deck or just outside.

1 Q And parking is where?

2 A In the back.

3 Q In the back as well?

4 A Yes.

5 Q Let me show you what has been marked State's
6 Exhibit Number 2. Is that --

7 A That's the front.

8 Q That's the front?

9 A Yes.

10 Q Is there anywhere to park really in front?

11 A About two spaces, like you got to park in front --
12 because we have a sign in front of the store too.
13 A park on that side, a park on that side, and
14 probably a couple parks right there. But it's
15 mostly in the back.

16 Q Mainly that's the road right there, Monticello?

17 A Yes.

18 Q And where were you when you were hanging out?

19 A Inside the pool room.

20 Q Okay. Were you mingling around or sitting any
21 particular place or everywhere for some --

22 A At one point I was everywhere, but at one point I
23 was just sitting.

24 Q Okay. And when you were just sitting, where were
25 you sitting?

1 A I was sitting at this one chair that's right here
2 on the corner by a wall.

3 Q Okay. Let me show you what's marked State's
4 Exhibit Number 7. Do you see that chair or that
5 place in this picture?

6 A Yes, uh-huh.

7 Q Could you please show the jury where that is?

8 A That chair right there, very first one.

9 Q This chair right in the corner or the one beside
10 it?

11 A The one in the corner.

12 Q The one in the corner?

13 A Yes.

14 Q So at your right shoulder is the corner to the
15 dance floor?

16 A Yes.

17 Q So if you look over your head, you're looking into
18 the dance floor?

19 A As I look to the side, like this is the dance
20 floor.

21 Q And you were just sitting there?

22 A Just sitting.

23 Q What, if anything, occurred that night when you
24 were sitting there in that chair?

25 A You said what if?

1 Q What, if anything, occurred that night that drew
2 your attention?

3 A Oh, the commotion. And I heard -- I don't know who
4 said it, I just heard someone say, Oh, shit, Boo
5 just hit James with a bottle.

6 MS. ZMROCZEK: Objection, Your Honor.
7 Hearsay.

8 THE COURT: Sustained.

9 BY MR. CATHCART:

10 Q And when you heard the commotion, what did you do?

11 A I jumped up.

12 Q Okay. And did what?

13 A I was just looking because they were fighting. And
14 --

15 Q Who was fighting?

16 A Boo -- well, do I say the nicknames or the whole
17 name? Robert Geter and James Lewis was fighting.

18 Q And you know Robert Geter as what? What's his
19 nickname?

20 A Boo.

21 Q Boo?

22 A (Nods affirmatively.)

23 Q Most everybody knew him as Boo?

24 A Yes.

25 Q Is Mr. Geter here in the courtroom today?

1 A Yes, sir.

2 Q Would you please point him out?

3 A He's right there.

4 Q You talking about the one in the --

5 A The guy sitting in the middle with dreads with the
6 black shirt on with the tie.

7 MR. CATHCART: Let the record reflect she's
8 identified Mr. Robert Geter.

9 THE COURT: Yes, sir.

10 MR. CATHCART: Thank you.

11 BY MR. CATHCART:

12 Q Robert Geter, and you saw James Lewis?

13 A Yes, sir.

14 Q What was going on?

15 A They were fighting. And Mr. Lewis got the best of
16 him.

17 Q Okay.

18 A And there was several guys that was trying to break
19 it up. And every time they would break the fight
20 up, I would see Mr. Geter come back at Mr. Lewis.
21 I would see Robert Geter come back at Mr. James
22 Lewis. And every time he came back at him,
23 Mr. James Lewis overpowered him, but every time
24 they would fight, they were breaking it up.
25 Everybody was trying to break the fight up.

1 Q Was anybody else fighting?

2 A No.

3 Q Was anybody else hitting anyone other than these
4 two guys?

5 A No. They was just trying to break the fight up.
6 Basically everybody was trying to break the fight
7 up.

8 Q Okay. How were they doing that? How were they
9 trying to break it up?

10 A Trying to pull them apart.

11 Q Nobody punching anybody, kicking anybody?

12 A Nobody punched anybody. The only person that was
13 doing the punching and the fighting was Boo Geter
14 and -- Robert Geter and James Lewis.

15 Q Okay. And when they separated, you say Robert
16 Geter was doing what? When they separated, Robert
17 Geter did what?

18 A He would go back at him and fight him again.

19 Q Was James Lewis going back at him?

20 A No. Robert Geter was going back to Mr. James
21 Lewis. And every time he would go back to provoke
22 the fight, James Lewis would get the best of him.

23 Q Okay. And that's when they finally separated?

24 A When they finally separated, Mr. James Lewis got up
25 and he went on outside, outside to the -- he went

1 around the corner through the back door and went
2 outside in the back.

3 Q When you observed these fights, did you see a
4 knife?

5 A I didn't see a knife, no, sir.

6 Q Did you hear anything about a knife?

7 A No, sir.

8 Q Did you hear anybody say, Oh, my God, I got
9 stabbed?

10 A No, sir.

11 Q Did see you any blood flying in the air?

12 A No, sir.

13 Q James Lewis went out to the back door?

14 A Yes, sir.

15 Q Okay. And then what happened?

16 A At that point, when Mr. Lewis went outside to the
17 back door, my mom was telling Mr. Geter to leave.

18 Q Where was your mom?

19 A She was right there in the dance floor where I was.

20 Q So she came out the kitchen?

21 A Yes, she came out the kitchen.

22 Q When all this fighting was going on, she was --

23 A Yeah, like, you know --

24 Q Just like everybody else --

25 A -- what's going on, like frantic --

1 MS. ZMROCZEK: Your Honor, I can't understand
2 when --

3 THE COURT: Hold on one second. And neither
4 can the court reporter.

5 THE WITNESS: Okay.

6 THE COURT: Just ask the question and let her
7 respond.

8 THE WITNESS: Okay. Yeah, she was out in the
9 dance floor area. She was basically frantic, you
10 know, What's going on, what's going on, you know,
11 when they were breaking the fight up and
12 everything. Yes, sir.

13 Q And then you said after Mr. Lewis left --

14 A Yes.

15 Q -- out the back?

16 A After Mr. Lewis left --

17 Q Uh-huh.

18 A -- Mr. Geter was standing there. And the pool room
19 just kind of got empty. And Mr. Geter was standing
20 there and my mom was asking him to leave, and he
21 was telling her that he didn't do anything, he
22 didn't do anything. So finally he did leave, but I
23 was watching him because my mom was talking to him,
24 so I was watching him. And I saw him put his hand
25 in his coat, but I can't say if he pulled anything

1 out of it or not, I just saw him put his hand like
2 in his coat. And he went around the same corner
3 towards the back door where Mr. James Lewis went.

4 Q I'm going to show you what's been marked State's
5 Exhibit Number 7.

6 A Yes, Mr. Robert Geter was right in this area. I
7 was kind of behind that wall.

8 Q And that's when your mother was talking to him?

9 A Yes.

10 Q And when you say around the corner, which corner
11 are you talking about?

12 A Beyond this line right here where this -- that's a
13 little wall.

14 Q When you say he went around the corner --

15 A Oh, I'm sorry, around this way, going towards the
16 back door.

17 Q Okay. And you watched him do that?

18 A Yes, sir.

19 Q And you said you saw him do what?

20 A Before he went around the corner, I saw his hand go
21 in his coat.

22 Q Okay.

23 A And that's when he went around the corner. And
24 after that, that's when you heard the commotion. A
25 lot of people started running, Oh, he got a gun, he

1 got a gun.

2 Q Okay.

3 A So I saw any uncle. His name is Michael Harkness.

4 Q Who's your uncle?

5 A Michael Harkness. I saw him run in. I also saw

6 his girlfriend. Her name is Meka. She ran in.

7 And a lot of other people ran in. All you heard

8 was people shouting, He got a gun, he got a gun.

9 So everybody was running.

10 Q Uh-huh.

11 A And at that time, I went around the same corner --

12 do I need to show you -- towards the back door.

13 And there was a lot of people standing in the door.

14 But when I got towards the back door, I heard

15 someone say, Oh, no, they fighting, they fighting,

16 they fighting again.

17 So at that time, I told everybody to move. So

18 when I separated everybody that was standing at the

19 back door, I saw Mr. James Lewis on the ground. So

20 my thought was Well, dang, Boo beating J up now.

21 Like that's what we call Mr. James Lewis. Boo

22 beating J up now. Because when I went to the back

23 door and separated everybody, I saw Mr. James

24 Lewis, he was on the ground. And at that time,

25 Mr. Robert Geter was standing over him. But how he

1 was standing over him, he had him, and he was kind
2 of like, you know, jerking him around, but I'm
3 thinking -- well, I said to myself, is he beating
4 Mr. Lewis up now, but then when I seen him punch
5 him, when he punched him, that's when I seen blood
6 spatter.

7 Q All this was out where exactly?

8 A On the back deck.

9 Q Okay.

10 A Right outside the back door, soon as you walk
11 outside the back door.

12 Q Okay. And how was Mr. Geter on top of him? What
13 you mean he was on top of him?

14 A He was --

15 MR. CATHCART: Your Honor, may the witness
16 come down and --

17 THE COURT: Yes.

18 MR. CATHCART: -- demonstrate how they were
19 standing?

20 (Witness steps down.)

21 BY MR. CATHCART:

22 Q Okay. How was Mr. Lewis?

23 A Okay. I have to get on the ground.

24 MR. CATHCART: May I take my jacket off, Your
25 Honor?

1 THE COURT: Yes, sir.

2 MR. CATHCART: She's going to demonstrate how
3 he was positioned.

4 THE WITNESS: He was definitely facing this
5 way.

6 BY MR. CATHCART:

7 Q He was on the ground?

8 A Yes, Mr. Geter was over him and he was just -- and
9 I'm in the back, so I seen Mr. Geter and his back
10 was turned --

11 Q His back was turned?

12 A Yes. I --

13 THE COURT: Ma'am, so she can hear you, make
14 sure you speak up.

15 THE WITNESS: Okay. I'm standing in the door
16 just looking. And I seen Mr. Geter over Mr. Lewis.
17 He had him and he just dragged him around. I seen
18 him punch at him. When he punched at him, I seen
19 blood spatter. And every time he would punch him,
20 I would see blood spatter. But the last -- and he
21 couldn't -- Mr. Lewis couldn't do anything. He was
22 like lifeless. It was like --

23 COURT REPORTER: I'm sorry, I couldn't hear
24 you.

25 THE WITNESS: Mr. Lewis couldn't do anything.

1 He was like lifeless, like no point of return.
2 Like he was just very weak, like he was basically
3 just trying to guard himself from getting kicked or
4 stabbed anymore.

5 And the last one, he slung him again, his head
6 hit the bottom of the pool room back door, the
7 bottom of the door. And he picked him up again,
8 just like that, stood over him and he took the
9 knife and he hit him right there in his chest. And
10 he pulled it up and he snatched it out and said, I
11 do this shit, Nigga, and throwed him down, and he
12 went down the back doorsteps of the deck. And I
13 haven't seen him since.

14 BY MR. CATHCART:

15 Q Okay.

16 (Witness returns to witness stand.)

17 A I'm a little nervous because I don't like to relive
18 it, but after that happened -- excuse me, I'm
19 sorry.

20 Q Take your time. Do you care for some water?

21 A Yeah, because I don't like to relive it. There was
22 two girls, Meka -- Tomeka -- and Yolanda, they kind
23 of helped him up because he was very weak. And
24 when he got up, that's when I seen gashes
25 everywhere. I mean, I seen gashes everywhere. He

1 did get up and he made his way from the back door
2 to the front door, and that's where he sat down at.
3 And he sat there until the paramedics got there.
4 And he was getting weaker and weaker and he was
5 crying out for help. There was nothing you could
6 do for him. It was -- it was just a sad night. I
7 hate I was even there that night.

8 Q When you say you saw gashes, where was he cut?

9 A I seen like big gashes in his head, looked like
10 there was a big gash in his head. And just the
11 punches, you know, seeing the blood spatter and the
12 punches and that last one where he hit him right
13 here in his chest and brought it back up. And I
14 couldn't do nothing. All I could do is just look
15 at him. Like somebody please help him, somebody
16 please help him. There was nothing you could do.

17 Q When you say he put the knife in him and pulled up,
18 the knife -- where was the knife when he was
19 pulling it?

20 A Right here in his chest.

21 Q In his chest?

22 A Right up in here. Right in this area.

23 Q Let me show you --

24 A And that was the last hit right here. That was the
25 last one.

1 Q I show you what has been marked State's Exhibit
2 Number 30, 22, 23, 25, 24, 28, 27, 26, and 29.

3 MS. ZMROCZEK: No objection, Your Honor.

4 (WHEREUPON, State's Exhibit Nos. 22-30
5 were marked for identification and
6 received into evidence.)

7 BY MR. CATHCART:

8 Q If you would take a look at those and see if you
9 recognize them, please.

10 A This is the back door. This is the back deck.
11 This is also the back deck. This is also the back
12 deck where I seen -- that's the back deck. That's
13 the back door. That's the blood where he hit his
14 head on the door.

15 Q That's where he was laying when -- the final stab
16 wound?

17 A Uh-huh, yes, sir. That's the back of the deck.
18 That's me.

19 Q What were you doing at this point?

20 A Showing the investigator or officer, whoever I was
21 talking to, showing him what happened, showing him
22 what I saw that took place. Doing the same thing
23 on this one, back deck. Doing the same thing on
24 this one at the back deck.

25 Q What were you pointing to basically?

1 A I'm pointing just showing him how he slung him
2 around. I was doing hand gestures. That's on the
3 back deck. I was, I guess, going out to show them.
4 That's the back door.

5 MR. CATHCART: May the witness step down,
6 please?

7 THE COURT: Yes, sir.

8 (Witness steps down.)

9 THE BAILIFF: Watch your step down. Face this
10 way and keep your voice up.

11 BY MR. CATHCART:

12 Q State's Exhibit Number 22?

13 A This is the back door and this is the back deck.
14 And that's me.

15 Q That's you?

16 A Yes.

17 Q What is all this stuff that's on the deck?

18 A That's blood.

19 Q Whose blood?

20 MS. ZMROCZEK: Objection, Your Honor.

21 THE COURT: What's the objection?

22 MS. ZMROCZEK: Again, he's asking her to
23 characterize -- make a scientific --

24 THE WITNESS: That's the blood.

25 THE COURT: The objection is overruled. She

1 can --

2 THE WITNESS: That's blood. That's Mr. --
3 that's blood. That's James Lewis's blood.

4 BY MR. CATHCART:

5 Q And that's what you saw that was splattered each
6 time Mr. Geter hit him?

7 A At the time he hit him, I seen blood spatter in the
8 air.

9 Q Was it in that area?

10 A Yes.

11 Q Again, let me show you what has been marked as
12 State's Exhibit Number 23.

13 A That's the back deck. That's more blood.

14 Q State's Exhibit Number 25?

15 A That's the back deck right by the -- as you come
16 out the door, the back. They got stairs right
17 here, and that's more blood.

18 Q And stairs are?

19 A Here.

20 Q Goes where?

21 A Down.

22 Q Is that where Mr. Geter left?

23 A Yes.

24 Q He ran off after he finished the last stab?

25 A Yes.

1 Q State's Exhibit Number 24?

2 A Back deck also.

3 Q Again?

4 A Blood.

5 Q And that is pointing it out to the police?

6 A Yes, sir. That's the back deck full of blood.

7 Q That is the --

8 A That's the back door.

9 Q It's closed at this point?

10 A Yes, at that point. That's the back door.

11 Q And is this where you said Mr. Lewis --

12 A Hit his head on the bottom of the door.

13 Q Right there? That is State's Exhibit Number 29.

14 Let me show you State's Exhibit Number 28. Can you
15 describe what that is?

16 A He grabbed him up and he slung him again, and when
17 he slung him, his head hit the bottom of that door
18 right there.

19 Q And that's where you were pointing out to --

20 A Yes.

21 Q -- law enforcement?

22 A Yes. He was basically being thrown around like a
23 rag doll. He was lifeless. He couldn't do
24 nothing.

25 Q And you indicated some of the gashes were up in his

1 face as well?

2 A Huh?

3 Q You said some of his cuts -- he was bleeding from
4 his face?

5 A Yes, when he got up, yes, Uh-huh.

6 Q And, again, blood where his head is?

7 A Yes, when his head hit the bottom of that door.
8 His head his the bottom of that door.

9 Q Before Mr. Geter followed him out, was Mr. Lewis
10 bleeding anywhere?

11 A No. No, sir.

12 Q Let me show you State's Exhibit Number 12. Do you
13 recognize what that's a picture of?

14 A Back door. The back pool table. And this blood
15 here is when he came in trying to work his way to
16 the front.

17 Q State's Exhibit Number 14?

18 A Back door, back pool table, and the trail of blood
19 leading to the front door.

20 Q State's Exhibit Number 18?

21 A That's the front door where he sit at. That's
22 where he was. That's where he made his way to,
23 that's where he sit down to. Everybody was
24 hovering over him trying to help him. Mom was
25 giving him towels. He was just -- he was pleading

1 for help.

2 Q Take your seat, please.

3 (Witness returns to witness stand.)

4 BY MR. CATHCART:

5 Q As you pointed out to the jury, blood was on the
6 back deck?

7 A Yes, sir.

8 Q And there was a trail of blood?

9 A Leading from the back door to the front door, yes,
10 sir.

11 Q Was there any blood on the dance floor?

12 A No, sir.

13 MR. CATHCART: Please answer any questions
14 Defense counsel would have.

15 CROSS-EXAMINATION

16 BY MS. ZMROCZEK:

17 Q Ms. Culler?

18 A Yes, ma'am.

19 Q You called 9-1-1?

20 A Yes, ma'am.

21 Q And we'll play that in just a little bit, but I
22 want to ask you some questions first.

23 A Yes, ma'am.

24 Q You said you had friends in town that night?

25 A Yes, I did.

1 Q Who were they?

2 A Her name was Veronica Goodwin, and Veronica
3 Goodwin's friend that was with her.

4 Q All right. And did they witness what happened?

5 A Yes, ma'am.

6 Q Okay. How many people witnessed what happened?

7 A I can't tell you how many people witnessed what
8 happened.

9 Q How many people were in the bar that night?

10 A I can't tell you how many people was in the bar
11 that night.

12 Q Do you recall giving prior testimony about how many
13 people were in the bar that night?

14 A No, ma'am. I told you it was a lot of people
15 there.

16 Q Okay. When you say a lot of people, more than 10?

17 A I can't give you a number, but it was more than 10
18 people, ma'am. It was a lot of people in the pool
19 room.

20 Q What's the capacity?

21 A The capacity is 60.

22 Q Sixty. All right. Were y'all close to capacity?

23 A Yes, ma'am, it was a lot of people in the pool
24 room. It was a lot of people in the pool room and
25 it was a lot of people outside.

1 Q So outside, they just weren't on the deck, right?

2 You said they were in the yard as well?

3 A I can't tell you that. I was on the inside. I

4 can't tell you where everyone was standing at.

5 Q Okay. You know -- you call him J, you know

6 Mr. Lewis?

7 A Yes, ma'am.

8 Q His nickname is J?

9 A Yes, ma'am.

10 Q And how long have you known him?

11 A A lot of years.

12 Q Okay.

13 A I can't give you a specific number, but I been

14 knowing him for a lot of years. Our business --

15 the business has been down there 34 years.

16 Q All right. How long do you think he's been going
17 down there?

18 MR. CATHCART: Objection. Asks for

19 speculation.

20 THE WITNESS: I can't tell you that.

21 THE COURT: Sustained.

22 BY MS. ZMROCZEK:

23 Q I'm going to show you what has been marked as

24 Defendant's Exhibit 67 and ask if you recognize

25 that picture?

1 A Yes, ma'am.

2 MS. ZMROCZEK: Your Honor, at this time we
3 would move 67 into evidence.

4 THE COURT: Any objection?

5 MR. CATHCART: No objection from the State.

6 (WHEREUPON, Defendant's Exhibit No. 67
7 was marked for identification and
8 received into evidence.)

9 BY MS. ZMROCZEK:

10 Q Tell the jury what they're looking at here.

11 A That's Mr. James Lewis.

12 Q It's Mr. James Lewis, right?

13 A Uh-huh.

14 Q He's tall?

15 A Yes.

16 Q Six-one, six-two?

17 A I couldn't tell you that.

18 Q But he's tall?

19 A He's taller than Geter.

20 Q Okay. Taller than Geter, right?

21 A Yes, ma'am.

22 Q And, in fact, that was taken inside of Culler's,
23 right?

24 A Yes, ma'am.

25 Q Okay. And so Mr. Lewis -- not that night, you

1 don't know when this -- this wasn't taken that
2 night, right?

3 A That was a Christmas party we were having that
4 night.

5 Q That was a Christmas party?

6 A Yes, ma'am.

7 Q So was Mr. Geter at the Christmas party?

8 A No, I don't think so.

9 Q Okay.

10 A Not that I can remember.

11 Q All right. And so you testified on direct that Mr.
12 Lewis kept getting the best of him, of Mr. Geter?
13 That James was getting the best of Boo, right?

14 A It's the truth, yes, ma'am.

15 Q That's the truth, right?

16 A Yes, sir.

17 Q And he was beating the crap out of him?

18 A I wouldn't say he was beating the crap out of him,
19 but he was getting the best of him.

20 Q He busted his eye open?

21 A No.

22 Q All right. So you didn't see any cuts on
23 Mr. Geter?

24 A I didn't see any cuts on Mr. Geter.

25 Q Okay. Then how --

1 A At the time.

2 Q -- did you know Mr. Lewis was getting the best of
3 him?

4 A Because I saw him. He was on top of him.

5 Q He was on top of him, right?

6 A Yes.

7 Q And he was getting him?

8 A Hey, he was hitting him, he was fighting back. He
9 was defending himself.

10 Q Right, on top of him, and he was defending himself,
11 right?

12 A He was defending himself on top of him, yes, ma'am,
13 he sure was.

14 Q All right. And I am going to show you what has
15 been marked as Defendant's 69 and ask if you
16 recognize this picture?

17 A That's a picture that your investigator took
18 Friday.

19 Q Okay.

20 A After three years. That floor is totally
21 different, the ATM machine is gone, and everything.

22 Q Right, the ATM is gone?

23 A Yes, but you have a picture before that one.

24 Q Is the chair there that you were sitting in?

25 A It's a chair there. I can't tell you if that's

1 that same particular chair, but it's a chair there.

2 Q Is the chair there that you were sitting in?

3 A That's not the picture from that night, ma'am.

4 Q I understand.

5 A Okay.

6 Q But besides the ATM and the floor being changed --

7 THE WITNESS: Do I have to answer that
8 question, Your Honor? Because that's not the
9 picture from that night.

10 THE COURT: Okay. I think you answered that
11 part of it, ma'am.

12 THE WITNESS: Yes.

13 THE COURT: You just have to answer the
14 question. And you can't ask her questions, she
15 gets to asks questions and you have to answer.

16 THE WITNESS: Yes, ma'am.

17 BY MS. ZMROCZEK:

18 Q Aside from the ATM and the floor being different,
19 is everything else the same?

20 A Stuff is different, ma'am.

21 Q Okay. So it's not the same, you're saying?

22 A No, ma'am, that's three years later.

23 Q Okay. You saw them fighting where?

24 A In the dance floor area.

25 Q Closer to the ATM, closer to the jukebox, where?

1 A They went from the ATM to the jukebox.

2 Q Okay.

3 A In the dance floor area.

4 Q In the whole dance floor area?

5 A In the dance floor area.

6 Q Okay.

7 A The square footage is very small. It's not a big
8 place.

9 Q Okay.

10 A Yes, ma'am.

11 Q All right. And then they just stopped, you said?

12 A No, I didn't say that.

13 Q Okay. What happened?

14 A I said Mr. Geter kept going back at Mr. Lewis and
15 --

16 Q Even though he was getting the worst of it?

17 A Yes, ma'am.

18 Q Okay.

19 A And every time he go back at him, he get the best
20 of him again. I guess he kept trying.

21 Q Okay. And then the fight just stopped?

22 A They broke the fight up that last time. It
23 stopped, and Mr. Lewis went outside the back door.

24 Q And who is they?

25 A I know one guy, his name is Zachary, and he works

1 for the City of Columbia.

2 Q Uh-huh.

3 A The rest of the guys, I don't know who -- I can't
4 tell you their names, but they were breaking the
5 fight up.

6 Q Okay.

7 A Yes, ma'am.

8 Q And you said -- we'll come back to this, but you
9 said that there were -- after the fight on the
10 deck, that Mr. Lewis was brought by two girls?

11 A Yeah, they helped him up, they helped him come to
12 the front.

13 Q Who were the guys that helped him up?

14 A I didn't tell you any guys helped him up off the
15 deck. I said the girls -- there were two girls
16 that I saw help pick him up. Her name was Tomeka
17 and another girl's name was Yolanda and they
18 helped -- they kind of walked him, slowly walked
19 him to the front door.

20 Q Okay.

21 A That's what I said.

22 Q All right. Did you see Keita Haynes there that
23 night?

24 A That night I didn't know who Keita Haynes was, so I
25 don't know -- I didn't see her there that night.

1 Q Okay. How about Daryl?

2 A I don't know who Daryl is, ma'am.

3 Q How about Rosalyn Graves?

4 A I know who Rosalyn Graves is.

5 Q Okay. And did you see her there that night?

6 A I can't recall seeing Ms. Graves there that night.

7 Q Okay. Who gets to decide who comes in and out of
8 your mama's bar?

9 A Me.

10 Q You?

11 A Or my mom.

12 Q Or your mom, right?

13 A Uh-huh, yeah.

14 Q Okay. And you can -- you get to decide if people
15 don't get to come any more, right?

16 A If they act up, if they cause disturbance, if they
17 do anything that can harm someone, we get to decide
18 whether they come or not. And if they don't leave
19 on our command, we call the police and we get a
20 trespass notice against them.

21 Q Speaking of trespass notice --

22 MR. CATHCART: Objection, Your Honor.

23 THE COURT: What's the objection?

24 MR. CATHCART: She basically, I'm assuming,
25 trying to back-door into something that has already

1 been stated she would not go into.

2 THE COURT: Let me see you all.

3 (WHEREUPON, a bench conference was held
4 in the presence of the jury but out of
5 the hearing of the jury.)

6 THE COURT: The objection is overruled.

7 BY MS. ZMROCZEK:

8 Q In fact, you had put Mr. Michael Harkness on
9 trespass notice, right?

10 A Did I put Michael Harkness on --

11 Q He had been on trespass notice?

12 A I didn't put him on there.

13 Q Huh?

14 A I didn't put him on there.

15 Q Right. Right.

16 A Right.

17 Q But somebody did?

18 A I can't answer that.

19 Q Okay.

20 A Okay.

21 Q How long did all of this happen?

22 A What do you mean?

23 Q How long did the fight last for?

24 A I don't know, ma'am. I can't give you a time
25 limit.

1 Q Okay. You said that you heard that there was more
2 commotion -- without telling me what other people
3 said, you heard there was more commotion on the
4 back deck, correct?

5 A I said that the people were running in the pool
6 room.

7 Q Okay.

8 A Saying --

9 Q Don't tell me what they said, but you heard people
10 running in the pool room saying that there was a
11 disturbance?

12 A I saw people running in the pool room.

13 Q Okay. Okay.

14 A Okay.

15 Q From the deck, right? So that means that they were
16 running in the pool room, so something was
17 happening on the deck, right?

18 MR. CATHCART: Objection --

19 THE WITNESS: If I can tell you exactly how it
20 happened. You can't make me --

21 THE COURT: Hold on, hold on, ma'am. One
22 second. Whenever they object, I need you to stop
23 talking.

24 THE WITNESS: I'm sorry, okay.

25 MR. CATHCART: Speculation, Your Honor.

1 THE COURT: Okay.

2 MR. CATHCART: Speculation, Your Honor.

3 THE COURT: All right. What was the question
4 again?

5 MS. ZMROCZEK: I can't remember.

6 MR. CATHCART: She asked if basically people
7 coming in, therefore something going on outside,
8 and asked her to speculate what was occurring.

9 MS. ZMROCZEK: I'll rephrase the question.

10 THE COURT: Thank you. Sustained.

11 BY MS. ZMROCZEK:

12 Q Did you see the fight start on the deck?

13 A No, ma'am.

14 Q Okay. So you can't say what happened on the deck
15 before you got out there?

16 A I can't say what happened on the deck before I got
17 out there, no, ma'am.

18 Q Okay. When you did get out there, can you -- I'm
19 going to show you what has been marked as
20 Defendant's 68.

21 A Okay.

22 Q And ask if you recognize this photo?

23 A That's the back deck.

24 Q Okay. Can you put a sticker where you saw the
25 fighting on the back deck?

1 A Okay. (Witness complies.)

2 Q So that's right by the door, right?

3 A Yes, ma'am.

4 MS. ZMROCZEK: Your Honor, at this time we'd
5 move Defendant's 68.

6 THE COURT: Any objection?

7 MR. CATHCART: No objection.

8 THE COURT: Admitted without objection.

9 (WHEREUPON, Defendant's Exhibit No. 68
10 was marked for identification and
11 received into evidence.)

12 BY MS. ZMROCZEK:

13 Q So when you -- by the time you got out and opened
14 the door -- or did you have to open the door or was
15 it propped open?

16 A No, ma'am, I didn't have to open the door. The
17 door was already open and people was standing in
18 the door.

19 Q Okay. And that's where -- and by the time you got
20 out there, you said Mr. Lewis was already on the
21 ground?

22 A Yes, ma'am, he was on the ground.

23 Q Okay. And he was sitting on the ground?

24 A Yes, ma'am.

25 Q Or laying?

1 A He was -- at that -- when I saw him, he was kind of
2 like sitting like in a position like he was
3 protecting himself.

4 Q Okay. And then you said --

5 MS. ZMROCZEK: Your Honor, it's a fake knife
6 for any court security issues. In fact, it's a
7 retractable knife so nobody can get hurt.

8 BY MS. ZMROCZEK:

9 Q So if I'm doing it wrong, you tell me. But you
10 said that you saw Boo standing over him plunge the
11 knife and then jerk it up, right?

12 A The last hit.

13 Q The last hit?

14 A That was his last hit. But the hits before that,
15 when I realized that he was getting stabbed with an
16 object, when he punched him, that's when I saw
17 blood splattering.

18 Q Okay. So did he punch him or did he stab him?

19 A Whatever he had in his hand, he punched him. But
20 whatever he was punching him with in his hand, I
21 guess he was stabbing him.

22 Q Okay.

23 A He had to be stabbing him, ma'am, he was getting
24 stabbed.

25 Q All right. And that was a repetitive motion,

1 right?

2 A He was getting stabbed, ma'am.

3 Q Okay.

4 A Yes, ma'am.

5 Q You said you saw blood spurting, right, your word?

6 A When he hit, blood splattered, yes, ma'am.

7 Q And he is standing over him or right in front of
8 him, right?

9 A Oh, he was standing over him. He had him. He was
10 dragging him. He was dragging him and he was
11 punching him.

12 Q He was dragging him. To where did he drag him?

13 A When I walked to the back door, ma'am -- when I
14 walked to the back door and tell everybody to move
15 over, he had him. And he was kind of throwing him
16 around. I mean, just right in that area, just
17 right in that area. I didn't see anything that
18 went on to the corner, back in the corner of that
19 deck, but I can only tell you what I saw when I got
20 to the door. And what I saw when I got to the
21 door, Mr. Lewis was on the ground, Mr. Geter was
22 over him, and I thought they was just fighting.
23 But when I seen him punch him, I saw the blood
24 spatter and I knew then he was getting stabbed with
25 something.

1 Q Okay.

2 A And I just hollered out, Oh, Lord, somebody please
3 help him, he getting stabbed. And he punched him
4 again and he punched him again and he punched him
5 again. He would punch him and throw him and punch
6 him and throw him. And that last time he throwed
7 him around, he hit his head on the bottom of that
8 door. He brought him back up, and that's when he
9 took that object, not that object, right, but there
10 was an object and he stuck it right here and he
11 pulled it up --

12 Q Pulled it up?

13 A And he brought it out.

14 Q Brought it out?

15 A Not like you are doing, ma'am. He had it all the
16 way up.

17 Q Come show me.

18 A I got to get on the ground?

19 Q Absolutely.

20 A All right.

21 (Witness steps down.)

22 BY MS. ZMROCZEK:

23 Q All right. So am I low, high, what?

24 A Stuck him right there, ma'am.

25 Q And then what?

1 A Brought it up, jerk it out, and said, I do this
2 shit, Nigga.

3 Q Then punched him back down?

4 A Yes.

5 Q So he -- when he was pulling that knife up, it was
6 still inside of him, right?

7 A Yes, ma'am.

8 Q Okay.

9 (Witness returned to witness stand.)

10 Q And you called 9-1-1. We talked about that
11 already, right?

12 A Yes, ma'am.

13 MS. ZMROCZEK: And, Your Honor, at this time,
14 we are going to move to enter Defendant's Exhibit
15 1.

16 THE COURT: Any objection?

17 MR. CATHCART: 9-1-1 tape? No objection.

18 MS. ZMROCZEK: And, Your Honor, I am going to
19 publish it as well.

20 (WHEREUPON, Defendant's Exhibit No. 1
21 was marked for identification and
22 received into evidence.)

23 MS. ZMROCZEK: Your Honor, if I may plug it
24 in. I will plug it in right here.

25 (9-1-1 tape is played for the jury).

1 BY MS. ZMROCZEK:

2 Q So, Ms. Culler, when you called 9-1-1, you told
3 them you think he has been stabbed or something,
4 right?

5 A Ma'am, I was so frantic that night, I don't -- I --
6 I -- I -- I don't know.

7 Q Okay.

8 A I was very frantic that night.

9 Q Okay. And what time did you leave the bar?

10 A I don't know.

11 Q Before or after?

12 A It was -- it was afterwards because I know I talked
13 to an officer when he got there. And I left and
14 took my friends home.

15 Q So you talked to the officer when he got there?

16 A (Nods affirmatively.) And the ambulance had made
17 it there. I was there long enough for the
18 ambulance left because Mr. Lewis kept asking them
19 to turn him on his side because he couldn't breathe
20 on his back, and they were, you know, trying to
21 tend to him and they was, you know. I was there
22 long enough for -- I don't know what time I left,
23 ma'am.

24 Q Okay. But you came back at some point, right?

25 A I came back because I was called back.

1 Q Okay. So you were called back?

2 A I was called back, because I had to come down and
3 the investigator and everybody was down there. I
4 had went home and went to bed.

5 Q So you went home, went to bed, and then came back?

6 A I came back because I was called back, yes, ma'am.

7 Q And --

8 A I was called to come back.

9 Q Right. But you were there for the whole watching
10 him plunge the knife and pull it up and take it out
11 and say what he said, right?

12 A Yes, ma'am.

13 Q Okay. And at that point, you said two people
14 brought him back to the front?

15 A I said they helped him, yes, ma'am.

16 Q Everybody else was doing what? What was everybody
17 else doing?

18 A I don't know, ma'am. I was frantic. I don't know
19 what everybody else was doing. I was frantic. I
20 was nervous. I was scared for what I saw. I was
21 sad because I couldn't help him. I don't know. I
22 was in a very frantic state of mind at that time.

23 Q Okay. And then you talked to the police. Did you
24 go down to the police station with your mom?

25 A Yes, ma'am.

1 Q Okay. And that was earlier that morning, right?

2 A Yes, ma'am.

3 Q Okay. And prior to that, you said you spoke with
4 an officer?

5 A The officer that came on the scene before I left
6 the pool room period.

7 Q That was Officer Marum, right?

8 A I don't know what the officer --

9 Q What did he look like?

10 A I don't know, ma'am. I can't recall.

11 Q But you remember talking to an officer?

12 A I remember talking to an officer, yes, ma'am.

13 Q And, in fact, when you were talking to that
14 officer, you told him that in the corner of the ATM
15 machine that someone was hit with a bottle and that
16 there was blood around that area, right?

17 A No, I did not tell him that, ma'am.

18 Q Did not tell him that at all?

19 A No.

20 Q And then you told him that Marum -- that after
21 James went outside that Boo reached into his pocket
22 and everybody scattered because they thought he had
23 a gun?

24 A I told him what I told y'all here, yes, ma'am.

25 Q And was that inside or outside?

1 A Which one?

2 Q When you said he had a gun or somebody said he had
3 a gun?

4 A They were running inside.

5 Q Okay.

6 A I was inside. But the people were running inside
7 saying, They got a gun, they got a gun.

8 Q So you never saw him reach into his pocket?

9 A I told you I saw him reach into his coat, but I
10 could not tell you what was in his coat.

11 Q And did you see him reach inside or outside?

12 A He was on the inside standing at the dance floor.
13 My mother was telling him to leave.

14 Q Okay. And you know Boo, you know he's about
15 five-seven, five-eight, right?

16 A (Nods affirmatively.) I know, yes, ma'am, I know
17 Boo.

18 Q He's smaller than Mr. Lewis?

19 A He's shorter than Mr. Lewis.

20 Q Okay. And it's your testimony that he was dragging
21 him around the back deck, right?

22 A Oh, he was doing that, ma'am.

23 Q Okay.

24 A Mr. Lewis was very helpless. He couldn't do
25 anything. So, I mean, he did that, yes, ma'am. He

1 was very overpowering at that point.

2 Q At that point, right?

3 A Oh, he was very overpowering, yes, ma'am.

4 Q But before, all the times before, who was getting
5 the best of Boo?

6 A Mr. Lewis was getting the best of Boo. I guess
7 that was -- it was a hand fight, it was no weapons
8 involved.

9 Q All those times before, it was Mr. Lewis. It was a
10 fight, right?

11 A It was a fight and Mr. Lewis was protecting
12 himself. He was being hit, so he was protecting
13 himself.

14 MS. ZMROCZEK: I have no further questions,
15 Your Honor.

16 THE COURT: Yes, sir?

17 REDIRECT EXAMINATION

18 BY MR. CATHCART:

19 Q You've known Mr. Geter for a long time, correct?

20 A Yes, sir.

21 Q You know his family?

22 A I'm very close friends with his family, and I
23 actually date one of his cousins.

24 Q And you've seen him at the bar before?

25 A Yes, sir.

1 Q Seen him in the community before?

2 A Yes, sir.

3 Q You know him?

4 A Yes.

5 Q You know Mr. Lewis?

6 A Yes, sir.

7 Q And when they had -- when he picked a fight and
8 they had a fight together, Mr. Lewis --

9 A He won. He overpowered him. He was the better
10 fighter.

11 Q Better fighter two times?

12 A Three times.

13 Q Three times. What did it take Mr. Geter to get --
14 finally win a fight with Mr. Lewis?

15 MS. ZMROCZEK: Objection, Your Honor.
16 Speculative.

17 BY MR. CATHCART:

18 Q When you saw --

19 THE COURT: Sustained.

20 MR. CATHCART: I'll rephrase it.

21 BY MR. CATHCART:

22 Q When you saw Mr. Geter on the fourth interaction
23 between them --

24 A Yes, sir.

25 Q -- with each other, he was winning, wasn't he?

1 A He was winning.

2 Q What did he have in his hand at that point?

3 A It was a sharp -- it was some type of sharp object
4 because he was stabbing him. I can't tell you
5 whether it was a knife, a shank, or whatever. It
6 was a sharp object. I don't know what --

7 Q And that was after they had been separated?

8 A Yes, after they had been separated that third time
9 inside the pool room.

10 Q In fact, Mr. Lewis was in a different -- left the
11 building?

12 A Mr. Lewis left the building.

13 Q Mr. Geter went after him?

14 A He went outside.

15 Q Reaching in his jacket?

16 A He put his hand in his jacket, yes, sir.

17 MR. CATHCART: Thank you. No further
18 questions.

19 MS. ZMROCZEK: Briefly, Your Honor.

20 RECROSS-EXAMINATION

21 BY MS. ZMROCZEK:

22 Q So when he -- he asked you about who started the
23 fight. You don't know who started the fight?

24 A I don't.

25 Q The fight had already happened when -- was already

1 in progress once you saw it, right?

2 A You talking about outside?

3 Q I'm talking about every single time?

4 A When I was on the inside, I mean, I have to tell
5 you what --

6 Q Unless you saw it or heard it.

7 A I saw the fight, ma'am. I saw the fight. I saw
8 the fight.

9 Q Did you see it start?

10 A I can't tell you exactly how it started, but I can
11 tell you that I saw the fight.

12 Q Okay. That's fine.

13 A And I can tell you that I saw Mr. Geter, Mr. Geter
14 every time they would break the fight up. I can
15 tell you that I saw him going back at Mr. Lewis, I
16 can tell you that.

17 Q And you can tell this jury that you saw Mr. Lewis
18 getting the best of Mr. Geter on top of him every
19 time?

20 A Yes, he won the fight. It was a fair fight.

21 Q Okay.

22 A It wasn't a weapon fight, it was a fair fight. I
23 mean, he kept going back at him. And he was
24 protecting himself as if someone would -- if
25 someone would hit you, you would try to protect

1 yourself, you would try to fight if someone is
2 fighting you.

3 Q Right. If someone is fighting you, you fight back,
4 right?

5 A Yes. Mr. Geter is a wild man. He's a wild man.

6 Q Okay. You said that -- and so you don't know what
7 happened outside because you came in at the end,
8 right?

9 A I don't know what happened in --

10 Q Before you got --

11 A -- that corner, but --

12 Q Right.

13 A -- whatever happened back there, I can tell you
14 what I saw.

15 Q Okay. And that's been asked and answered. We got
16 that.

17 A Okay.

18 Q And then when the police come and you talk to them,
19 then they clear out the place. And nothing happens
20 after that, or nobody's allowed inside of it after
21 that, until the police clear it, right?

22 A Oh, the place was cleared. Nobody was allowed
23 inside. Once the police got there, that was it.
24 That became a crime scene.

25 Q All right. Thank you.

1 A Yes, ma'am.

2 MS. ZMROCZEK: No further questions.

3 THE COURT: All right, you may step down.

4 (Witness steps down.)

5 THE COURT: Let me see you all one second.

6 (WHEREUPON, a bench conference was held

7 in the presence of the jury but out of

8 the hearing of the jury.)

9 THE COURT: All right, ladies and gentlemen of
10 the jury, our next witness may take a little bit
11 longer, and so we are going to go ahead and take
12 our lunch break.

13 I remind you that you are not to discuss this
14 case. You are not to do any independent research,
15 and you definitely can't go by the scene.

16 So have a wonderful lunch, and we'll see you
17 back at 2:00 o'clock.

18 Keep those -- I didn't tell you this
19 yesterday, but keep those badges on, especially if
20 you are going to be around Main Street, just
21 because you may run into one of the lawyers or
22 witnesses in the case, and we do not want to
23 discuss the case in front of you.

24 So please keep on your badges so that anyone
25 that may be around you will know that you are on

1 CLARENCE STONE,
2 after being duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. SHELLENBERG:

5 Q Good afternoon, Mr. Stone.

6 A All right.

7 Q Where are you living? Where do you live?

8 A [REDACTED] Harden Street.

9 Q And what do you do for work?

10 A I was working for a company called CCS.

11 Q What is CCS?

12 A Stripping wax floors.

13 THE COURT REPORTER: I'm sorry, what?

14 THE WITNESS: Stripping wax floors.

15 BY MR. SHELLENBERG:

16 Q And back in 2015, where were you working?

17 A The same company.

18 Q Did you do any other work?

19 A Yes.

20 Q What else did you do?

21 A Down at the pool room, Culler's.

22 Q Can you scoot back a little bit?

23 A Down at the pool room, Culler's.

24 Q And what did you do for the Cullers?

25 A I watched over the place, I cleaned up, sometimes I

1 cooked in the kitchen.

2 Q And were you in there on March 7th, 2015?

3 A Yes, sir.

4 Q And what were you doing in there that night?

5 A Basically watching over the place.

6 Q And what does watching over the place entail?

7 A Making sure there wasn't no fighting going on, no
8 arguing, or none of that.

9 Q And do you remember that night Deborah Culler being
10 there?

11 A Yes, sir.

12 Q Do you remember Reeshemah being there?

13 A Yes.

14 Q Do you remember James Lewis being there?

15 A Yes.

16 Q Do you remember Robert Geter being there?

17 A Yes.

18 Q And did you -- how did you know James Lewis?

19 A I met -- I met James through another friend
20 about -- I been knowing James like 13, 14, years.

21 Q And did you know Robert Geter from before that
22 night?

23 A Yes.

24 Q How did you know Robert Geter?

25 A I met him through a friend also.

1 Q Okay. And now I'm going to direct your attention
2 back to that evening. What were you doing?

3 A Actually, I was shooting a game of pool by myself.

4 Q I'm going to show you what is marked as State's 4.
5 Do you recognize that?

6 A Yes, sir.

7 Q And what pool table were you at?

8 A The pool table right here close to the back door.

9 Q This one right here?

10 A Yes, sir.

11 Q Shooting a game of pool by yourself?

12 A Yes, sir.

13 Q Did something draw your attention?

14 A Yeah, when I seen the crowd move out of the -- it's
15 a wall that's split and the pool table --

16 Q I'm going to show you what's marked as 6. Does
17 this show the wall?

18 A Yes, where the pool sticks are hanging.

19 Q So this was the wall that was dividing --

20 A Me.

21 Q -- I guess the pool room from --

22 A The dance floor.

23 Q -- the dance floor?

24 A Yes, sir.

25 Q And you saw people coming out?

1 A Coming out of there that area.

2 Q Coming this way?

3 A Uh-huh.

4 Q Okay. And then what happened?

5 A And then I laid the pool stick down, looked around
6 the wall, and I saw Mr. Lewis and Mr. Geter.
7 Mr. Lewis was on top. They was in between the ATM
8 machine and the bathroom wall. Mr. Lewis on top.
9 Before I even touched him, I let him know it was
10 me. And I picked him up off the top of Mr. Geter.
11 I took him out the back on the back deck. And I
12 would say a couple more minutes later, I was about
13 to return back inside to go get the rest of Mr.
14 Lewis's chain that he was trying to go back inside
15 and get, and I told him to stay here --

16 Q Let me stop you right there. Now, when you picked
17 up Mr. Lewis, what was Mr. Geter doing?

18 A He was still on the floor. And I don't recall who
19 else grabbed him to hold him back for those couple
20 of minutes, but we out on the back deck. Next
21 thing I know, the back door comes open and there's
22 Mr. Geter.

23 Q How long were you on the back deck?

24 A A couple of minutes.

25 Q So you got out there. And what did you and

1 Mr. Lewis do?

2 A We was on the back porch talking, and he was trying
3 to go back inside to get his chain. And I told him
4 to stay right here, I'd go get it for him. By the
5 time I turned around to the back door, the back
6 door comes open and it's Mr. Geter. So he looked
7 to his left, he seen us standing there. He asked
8 Mr. Lewis, Are we good, we good? He start walking
9 towards him. He gets closers, he swings.

10 Q What do you mean by, We good?

11 A Basically trying to see if he okay or trying to
12 peace the fight.

13 Q So you at that time thought everything was --

14 A I thought --

15 Q -- was okay?

16 A I thought everything was good.

17 Q You thought everybody was calm at that point?

18 A Yes, sir.

19 Q And then what did Mr. Geter do?

20 A When he got closer, he swung and they got to
21 fighting again on the back deck.

22 Q And what did you do went they got to fighting?

23 A They got to fighting and then when they start
24 swinging and they was against the post on the back
25 deck, that's when I came in and tried to break it

1 up once again. That's when I got caught.

2 Q Now, when you came inside, let me back up a minute,
3 and picked Mr. Lewis up off Mr. Geter, was anybody
4 else fighting?

5 A No. That was one-on-one.

6 Q Did you kick Mr. Geter?

7 A No, sir.

8 Q Did you hit Mr. Geter?

9 A No, sir.

10 Q Did anybody else besides James --

11 A No, sir.

12 Q -- hit Mr. Geter or kick Mr. Geter?

13 A No, sir.

14 Q You took him outside and you were standing there
15 and you said Mr. Geter did what next?

16 A He was asking was he good, was he okay. Next thing
17 I know, he got closer and he swung.

18 Q He started the fight again with Mr. Lewis?

19 A Yes, sir.

20 Q And did anybody also jump in that fight?

21 A No, sir.

22 Q Just Mr. Lewis?

23 A One-on-one.

24 Q Just Mr. Geter?

25 A That's it.

1 Q And then you attempted to break it up?

2 A Yes, sir.

3 Q And what happened at that point?

4 A I thought I got hit in the nose. Then,
5 unfortunately, I was stabbed in the eye and I got
6 caught right here across the pinky.

7 Q I'm going to show you what has been marked as
8 State's 53, 33, and 32.

9 MS. ZMROCZEK: Without objection, Your Honor.

10 THE COURT: They will be entered without
11 objection.

12 MR. SHELLENBERG: Thank you, Your Honor.

13 (WHEREUPON, State's Exhibit Nos. 32, 33,
14 AND 53 were marked for identification
15 and received into evidence.)

16 BY MR. CATHCART:

17 Q Let me show you State's 32. Do you recognize that?

18 A Uh-huh.

19 Q What is this a picture of?

20 A Me. My right eye.

21 Q Is that before or after you had surgery on it?

22 A That was after.

23 Q How is that eye today?

24 A I still don't have no vision.

25 Q I'm going to show you what's been marked as State's

1 33. Do you recognize that?

2 A Yes, sir.

3 Q And what is that?

4 A My pinky wrapped up.

5 Q How did you get that injury?

6 A It was cut.

7 Q While you were breaking up the fight?

8 A Yes, sir.

9 Q Now I'm going to show you 53.

10 A Uh-huh.

11 Q Another picture from after you had surgery?

12 A Yes, sir.

13 Q And how did you get cut in the eye?

14 A Breaking the fight up.

15 Q And who stabbed you?

16 A Mr. Geter.

17 Q Can you point him out?

18 A He's sitting right there in the middle.

19 MR. CATHCART: Your Honor, please let the
20 record reflect he has pointed out the Defendant.

21 THE COURT: Yes, sir. So noted.

22 MR. CATHCART: Court's indulgence, Your Honor.

23 (Pause.)

24 BY MR. SHELLENBERG:

25 Q So you did have a cut on your hand as well as the

1 cut to your eye?

2 A Yes, it was right on my pinky.

3 Q And, Mr. Stone, you have got just a little bit of a
4 record. You've got a 2002 strong armed robbery?

5 A Yes, sir.

6 Q And a 2014 stolen pistol?

7 A Uh-huh.

8 Q Does that affect -- have anything to do with what
9 happened that night?

10 A No, sir.

11 Q Have anything to do with your testimony today?

12 A No, sir.

13 Q Who stabbed you in the eye that night?

14 A Mr. Geter.

15 MS. ZMROCZEK: Your Honor, asked and answered.

16 THE COURT: All right. The objection is
17 overruled.

18 MR. SHELLENBERG: No further questions, Your
19 Honor.

20 THE COURT: Yes, ma'am?

21 CROSS-EXAMINATION

22 BY MS. ZMROCZEK:

23 Q Mr. Stone, you saw Mr. Geter when he came outside?

24 A Yes, I did.

25 Q In fact, you said you saw the fight going on

1 inside?

2 A I didn't see the fight inside.

3 Q I'm sorry?

4 A I didn't see when the fight started.

5 Q You didn't see when it started, right?

6 A Right.

7 Q But you broke it up?

8 A Yes, I did.

9 Q Did you see what Robert looked like after James had
10 been on top of him?

11 A No, I seen it after the fact, on the news, yeah.

12 Q You saw his face, right?

13 A After.

14 Q After the fight?

15 A On the news, yeah.

16 Q Yes. And he was beat up, right?

17 A Yes.

18 Q I mean, James was getting him, right?

19 A They were fighting.

20 Q Yes. I mean, he was getting him about his head and
21 face, right?

22 A Yeah, you can say that.

23 Q And Robert was bleeding?

24 A Not that I seen that night.

25 Q Okay. But when did you see that? When did you see

1 him getting beat up?

2 A I seen the injuries after the fact on the news,
3 when I saw his picture on the news.

4 Q And so you say when y'all went outside -- and to
5 make sure, I want to -- you got caught, you thought
6 it was -- you got hit in the nose. You were just
7 trying to break up the fight, right?

8 A Exactly.

9 Q That's all you were trying to do?

10 A That's it.

11 Q Okay. And then after that, you never saw any
12 plunging of any knife or anything like that or
13 anybody being dragged around?

14 A Well, like I said, once I got hit, I thought I got
15 punched in the nose, but the actual fact was I got
16 stabbed in the eye. I didn't see anything,
17 everything was blurry, so I couldn't --

18 Q So you didn't see anything after that?

19 A No, I didn't.

20 Q Okay. So once you were just in the middle of
21 breaking up that fight, you got took that shot to
22 the face, then you just couldn't see anything else?

23 A Yes.

24 MS. ZMROCZEK: Okay. No further questions.

25 THE COURT: Thank you.

1 MR. SHELLENBERG: Your Honor, just briefly.

2 REDIRECT EXAMINATION

3 BY MR. SHELLENBERG:

4 Q Mr. Stone, do you remember James saying anything to
5 you when you got out to the back deck?

6 A Yes, I do.

7 Q What did he tell you?

8 A The first thing he said was, Y'all let him steal
9 off from him.

10 THE COURT REPORTER: Let him what?

11 THE WITNESS: Steal off from him.

12 BY MR. SHELLENBERG:

13 Q And what does steal off --

14 A Basically swinging.

15 Q It means swing?

16 A Swing or hit him.

17 Q And how was he acting when he was out there?

18 A He was calm. When I broke up the fight, took him
19 out the back, he was calm. He said that, and then
20 he was trying to come back on the inside to get the
21 rest of his chain that he had done lost. I told
22 him to stay there on the back deck, I would get it
23 for him.

24 Q So he wasn't trying to fight at that point?

25 A No, he wasn't.

1 Q Did you ride to the hospital with him?

2 A Yeah, we rode in the same ambulance.

3 Q And what did you to when you were in the ambulance?

4 A I was originally trying to talk to him because he
5 just kept telling the EMS that he couldn't breathe,
6 to turn him over on his side. And he wasn't being
7 cooperative with them, so I was trying to get him
8 to cooperate a little bit. So we got to the
9 hospital. That's when they separated us.

10 Q So you were just trying to keep him calm, keep him
11 comforted?

12 A (Nods affirmatively.)

13 Q And were you stable at that point?

14 A Yes.

15 Q So were they focused on James then?

16 A Yeah, they was more focused on him because he had
17 more trauma, I guess.

18 MR. CATHCART: Beg the Court's indulgence.

19 (Pause.)

20 MR. CATHCART: No further questions. Thank
21 you.

22 MS. ZMROCZEK: Just one follow-up.

23 RECROSS-EXAMINATION

24 BY MS. ZMROCZEK:

25 Q You said he wanted to go inside to get his chain,

1 but you said you never made it back inside, right?

2 A No, because when I turned back towards the back
3 door, the back door came open, and Mr. Geter was
4 coming out.

5 Q And what happened to that chain?

6 A What happened? I don't know. He had a piece of it
7 in his hand and the rest of it that was inside, I
8 guess someone else picked it up.

9 Q Thank you.

10 A I couldn't tell you.

11 MS. ZMROCZEK: Thank you.

12 THE COURT: All right, sir, you may step down.

13 (Witness steps down.)

14 MR. SHELLENBERG: The State calls Kelly
15 Gatlin.

16 (Witness approaches.)

17 THE BAILIFF: Place your left hand on the
18 Bible, raise your right hand, and face the clerk.

19 (Witness complies.)

20 THE CLERK: Do you swear or affirm the
21 testimony you shall give in this case will be the
22 truth, the whole truth, and nothing but the truth,
23 so help you God?

24 THE WITNESS: Yes.

25 THE CLERK: Thank you. Please have a seat on

1 the witness stand, and state full name for the
2 record.

3 (Witness seated.)

4 THE WITNESS: Kelly Gatlin, paramedic for
5 Richland County EMS.

6 KELLY GATLIN,
7 after being duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. SHELLENBERG:

10 Q Ms. Gatlin, what do you do as a paramedic for
11 Richland County?

12 A Respond to 9-1-1 calls.

13 Q And back on March 7th, 2015, did you respond to a
14 9-1-1 call?

15 A Yes.

16 Q And would it help you refresh your memory if you
17 look at your reports?

18 A Yes.

19 Q And where did you respond?

20 A We were responding to like a bar and grill. We got
21 there, and there were multiple agencies on scene
22 already. We found a male individual laying outside
23 the front door of the bar laying on his back.

24 Q And what injuries did you observe?

25 A Multiple stab wounds or lacerations, deep

1 lacerations, that looked -- appeared to be stab
2 wounds.

3 Q And what did you do at that point for him?

4 A Well, because of the injury, we didn't know what
5 other things besides those cuts, so we put him in
6 spinal precautions to protect the spine. The
7 immediate threat was his chest wound, so we
8 immediately put a dressing on that wound to kind of
9 help seal that wound from air going in and out of
10 it.

11 Q Was that wound bleeding at that point?

12 A That wound was not bleeding as much, but that is
13 the most threatening wound is in the chest area.

14 Q And so how would you describe how Mr. Lewis was
15 acting on the way to the hospital?

16 A He was a little bit combative and not cooperating,
17 and that's because he was losing a lot of blood and
18 his oxygen level was really low because of that, so
19 --

20 Q Was he asking to be turned on the side?

21 A Yeah, he was asking and begging to be turned on his
22 side for comfort, but we weren't allowed to do that
23 because we had to protect the spine at that point.

24 Q At that point, it's actually better for him to be
25 on his back?

1 A Right.

2 Q And combative doesn't mean he was trying to fight
3 y'all?

4 A I mean, he was grabbing at us, but it was just
5 because he didn't have that much oxygen to, you
6 know, really understand everything that was
7 happening to him at that point.

8 Q So he was just trying to stay alive at that point?

9 A Yes.

10 Q So he may not have even known what he was doing at
11 that point?

12 A Right.

13 Q And you treated also Mr. Stone, the other person in
14 the ambulance?

15 A Yes, but I don't have any paperwork on that, so I'm
16 not going to speak on that unless you give me a
17 report.

18 Q If I can give you a copy of the report, will it
19 help you?

20 A Yeah, a little bit, if I look over it.

21 Q Let me get you a clean copy real quick.

22 MR. SHELLENBERG: Your Honor, may I approach?

23 THE COURT: Yes.

24 BY MR. SHELLENBERG:

25 Q You also treated Mr. Clarence Stone?

1 A Yes.

2 Q And what injuries did you treat him for?

3 A He had a laceration near his right eye and left
4 pinky finger.

5 Q In your report you wrote, patient would not allow
6 you to examine his eye?

7 A Yes. Well, we could tell like that it was injured,
8 but we're supposed to kind of clean it up, bandage
9 it, and actually cover the other side, because you
10 don't want the eyes to be moving if they're
11 injured, but he didn't want us to touch him as far
12 as that injury. His pinky was already bandaged by
13 the Fire Department before we got there.

14 Q And at that point, was Mr. Stone in stable
15 condition?

16 A Yes.

17 Q So most of your attention was on Mr. Lewis at that
18 point?

19 A Right.

20 Q And where did y'all -- what hospital did y'all
21 deliver him?

22 A Richland.

23 Q All right.

24 MR. SHELLENBERG: Court's indulgence, Your
25 Honor?

1 (Pause.)

2 MR. SHELLENBERG: No further questions. Thank
3 you.

4 THE COURT: Yes, sir?

5 MR. SCHWARTZ: Thank you, Your Honor.
6 Briefly.

7 CROSS-EXAMINATION

8 BY MR. SCHWARTZ:

9 Q Ms. Gatlin?

10 A Yes, sir.

11 Q I've just got a few questions for you.

12 A Sure.

13 Q Just to make sure I got it right, the chest wound,
14 the incision, that wasn't the one that was bleeding
15 a lot, profusely, is that correct?

16 A I don't know what it was doing before we got there,
17 but at the time, no.

18 Q Okay. Did he have a lot on his face?

19 A He had a lot on his face and on the -- hold on,
20 sir.

21 Q Take your time.

22 A His right upper arm and several lacerations to the
23 left side of his face.

24 Q Okay. But the chest wound was an internal wound?
25 You would agree with me on that?

1 A I mean, you could visibly see on the outside, but,
2 yes. It is more life-threatening on the inside.

3 Q Okay. And you've got your report there, so you
4 note in your report that Mr. Lewis was reeking of
5 alcohol? Do you recall that?

6 A A smell that was similar to alcohol.

7 Q Okay. Your best guess, it was alcohol?

8 A I'm not going to guess.

9 Q Okay. You've got that on the report?

10 A Yes.

11 Q And you also note the same for Mr. Stone, right?

12 A Correct.

13 MR. SCHWARTZ: No further questions. Thank
14 you.

15 MR. SHELLENBERG: Just briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. SHELLENBERG:

18 Q Reeking of alcohol is his words, that's not what
19 you would classify it as?

20 A I can't go in depth of the level of alcohol I
21 smelled.

22 MR. SHELLENBERG: Thank you. No further
23 questions.

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

25 Any objection to this witness being excused?

1 THE BAILIFF: Place your left hand on the
2 Bible, raise your right hand, and face the clerk
3 for me.

4 (Witness complies.)

5 THE CLERK: Do you swear or affirm the
6 testimony you shall give in this case will be the
7 truth, the whole truth, and nothing but the truth,
8 so help you God?

9 THE WITNESS: Yes.

10 THE CLERK: Thank you. Have a seat in the
11 witness stand, and state your full name for the
12 record.

13 (Witness seated.)

14 THE WITNESS: Dr. Bradley J. Marcus,
15 M-A-R-C-U-S.

16 BRADLEY J. MARCUS, M.D.,
17 after being duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. SHELLENBERG:

20 Q Good afternoon, Dr. Marcus. How are you?

21 A Very well.

22 Q Good. Can you please give the Court a little bit
23 of your education and training background?

24 A Sure. I went to college at University of North
25 Carolina Chapel Hill. From there, I went to

1 medical school at the American University of the
2 Caribbean, got an M.D. degree. And then from
3 there, I did six years of training at the Medical
4 University of South Carolina where I studied to
5 become a pathologist.

6 In addition to being a pathologist, I did
7 fellowship training in forensic pathology and in
8 cytopathology, which is the diagnosis of cancer
9 cells, pap smears, and so forth.

10 From there, I've been -- I came to Columbia in
11 2008 and have been here ever since working as a
12 pathologist, forensic pathologist, and
13 cytopathologist at my practice called Professional
14 Pathology Services here in Columbia.

15 Q Are you still teaching?

16 A Not anymore, no. I gave that up.

17 MR. SHELLENBERG: I move to have Dr. Marcus
18 submitted as an expert in forensic pathology.

19 MS. ZMROCZEK: We have no objection.

20 THE COURT: All right. Ladies and gentlemen
21 of the jury, normally a person cannot give opinion
22 testimony. Normally when a person testifies, they
23 must testify as to what they either saw, heard, or
24 sensed by smell, or something of that nature.
25 However, there is an exception when someone is

1 qualified because of education or experience. They
2 are permitted to give their opinion in certain
3 areas if the Court qualifies them that way. This
4 witness will be qualified in the area of forensic
5 pathology to give opinion testimony in that area.
6 That does not mean that you must accept the
7 opinion, but it is evidence for you to use in any
8 way you see fit and give it the weight and
9 credibility you believe is appropriate.

10 All right. And so Dr. Marcus will be
11 qualified as a forensic pathologist.

12 BY MR. SHELLENBERG:

13 Q Dr. Marcus, what do you do as a pathologist?

14 A Well, as a pathologist, basically you're diagnosing
15 diseases. And you're doing that through the
16 growths, which is looking at your eyes, and then
17 using a microscope. So any time a surgeon goes
18 into someone's body and removes say a kidney or
19 part of the breast, it goes to the pathology
20 department where the pathologists, who is a medical
21 doctor, examines the specimen, dissects the
22 specimen, and makes microscopic slides of it, and
23 then looks at it under the microscope to give the
24 surgeon the exact diagnosis of what type of cancer
25 it is or what the disease is of the tissue that's

1 being removed from the body.

2 Q And do you conduct autopsies?

3 A Yes. Part of pathology is the autopsy. So an
4 autopsy, what we do is we, after somebody dies, we
5 then do a full dissection of the body and determine
6 what caused them to die, the cause of death, what
7 physiological process caused them to die. And we
8 do that through doing an exam, external exam,
9 internal exam looking at all the organs,
10 documenting any injuries or lack of injuries and
11 come up with a cause of death, which is a disease
12 or mechanism of how someone dies. So an example of
13 that is gunshot wound to head, complications of
14 metastatic breast cancer, that's what we come up
15 with in our report and we give a detailed report.

16 Q And did you do an autopsy on James Lewis?

17 A Yes, I did.

18 Q And what was his cause of death?

19 A I don't exactly know the exact verbiage, but if you
20 can give me the report.

21 MR. SHELLENBERG: Your Honor, may I approach?

22 THE COURT: Yes.

23 THE WITNESS: Okay, yes. So I did his autopsy
24 back in 2015. So I put the cause of death in this
25 case as a stab wound to the chest.

1 BY MR. SHELLENBERG:

2 Q And when you get a body, before you conduct the
3 autopsy, what do you do?

4 A Okay. So the way it works is the coroner goes to
5 the scene, investigates what happened at the scene,
6 and collects the body and puts it into a body bag
7 and transports it to the Palmetto Health Richland
8 morgue, okay? They then notify me of if they want
9 an autopsy or not. In this case with Mr. Lewis,
10 they wanted to have an autopsy performed on him
11 because of the stab wound to him.

12 So I get a report from the coroner prior to
13 the autopsy with some case details. They're not
14 all there, just whatever case details are that I
15 have and then I -- and then usually the next
16 morning, I do the autopsy. So this autopsy was
17 performed on March 7th, 2015, and it says the time
18 here was 8:00 a.m., so that was my first autopsy of
19 the day.

20 And basically the first thing I do is the body
21 comes out of the body bag and I examine the body
22 for any type of injuries to it.

23 Q Dr. Marcus, let me stop you real quick. Do you
24 recognize that?

25 A Yes.

1 Q What do you recognize that as?

2 A That's a diagram I made during the autopsy.

3 MR. SHELLENBERG: Your Honor, at this time we
4 move State's 56 into evidence.

5 MS. ZMROCZEK: Without objection, Your Honor.
6 (WHEREUPON, State's Exhibit No. 56 was
7 marked for identification and received
8 into evidence.)

9 MR. SHELLENBERG: Your Honor, may we publish?

10 THE COURT: Yes, sir.

11 MR. SHELLENBERG: May the witness step down?

12 THE COURT: Yes, sir.

13 (Witness steps down.)

14 BY MR. SHELLENBERG:

15 Q So as you were saying, Dr. Marcus?

16 A Right. So as soon as the body bag is opened,
17 usually we have a coroner deputy there, and they
18 are taking photos of the body. And then, in
19 addition, in a case like this, we had -- I believe
20 a deputy was there also taking photos, somebody
21 from crime scene. So while they're taking photos,
22 what I do is I make a diagram, kind of an old
23 school method, but just in case something happens
24 to those photos, you know, they get lost, I have a
25 diagram as my backup to see what happened.

1 So the first thing I do is I examine the body
2 whole. What I see, medical therapy on him.

3 Q And did they do some extensive therapy in this
4 case?

5 A Right. They did extensive medical therapy. And I
6 can go through each thing if you want.

7 Q Sure.

8 A Okay. I'm going to start with these little dots
9 right here that are all over are EKG lead pads.
10 Everybody has seen them. It measures any
11 electrical activity in the heart. This is an ET
12 tube, endotracheal tube, that goes down into the
13 throat and helps you breathe. A nasogastric tube
14 is usually put down in the nose and goes down in
15 the stomach to get out any blood that's in the
16 stomach. This is an intravenous catheter in the
17 left neck here, which is if they run fluids or
18 blood into somebody, that is a wide open catheter.

19 Q And in this case, did they run blood into
20 Mr. Lewis?

21 A Yes. Yes.

22 Q And how much blood did they give him?

23 A From what I recall, it was a lot. I'd have to look
24 at the medical record.

25 Q Okay.

1 A This is a blood pressure cuff around the arm.
2 Another intravenous catheter right here. This
3 is -- I can't remember what that is, I have to
4 check my report what I wrote there, I can't
5 remember.

6 Q That's okay.

7 A This is a puncture wound. So another area where
8 they like to get -- put intravenous catheters is
9 right here, goes into the iliac vessels. When
10 you're losing blood, it's very hard, so there's
11 multiple punctures from the multiple attempts to
12 get the catheter in there. So when that doesn't
13 work, they go here in the anterior shin, the bone
14 is right there, they drill a hole and put a
15 catheter in the anterior aspect of the leg and they
16 can run fluids that way also.

17 Right here is a staple. This is a surgical
18 incision right here. And this is another surgical
19 incision. So a trauma surgeon must have made these
20 incisions in the ER or up in the operating room.

21 And then, in addition, there was multiple
22 tattoos on the body. And then up here is what --
23 my general weight, length, temperature, rigor, the
24 stiffness of the body, scalp here. And just basic
25 items that I find in the autopsy.

1 Q And then after you -- well, and these don't affect
2 the actual wounds that you're looking into?

3 A No. Mr. Lewis had multiple stab wounds and incised
4 wounds on him, so I didn't want to put them on this
5 diagram because then the diagram becomes even more
6 busy with the injuries that I noticed on his body,
7 so I made a separate diagram for that.

8 Q And what is the difference between stab wounds and
9 incised wounds?

10 A A stab wound is deeper than it is long. Whereas,
11 an incised wound is like a cut, it's longer than it
12 is deep. So like a slash, a slash would be like an
13 incised wound whereas a -- a deep wound in the body
14 is long -- if it's deeper than it is long, that is
15 considered a stab wound.

16 Q Dr. Marcus, I'm going to show you State's 57 and
17 21. Do you recognize --

18 MS. ZMROCZEK: Without objection, Your Honor.

19 THE WITNESS: Yes, I recognize those.

20 (WHEREUPON, State's Exhibit Nos. 21 AND
21 57 were marked for identification and
22 received into evidence.)

23 MR. SHELLENBERG: Your Honor, may I publish to
24 the jury?

25 THE COURT: Yes, sir.

1 BY MR. SHELLENBERG:

2 Q Any particular one you want to go through first?

3 A Yes, that one.

4 Q What is this a diagram of?

5 A Okay. So after I document all the medical therapy,
6 I removed all the medical therapy off of Mr. Lewis.
7 And what I do then is, now that all the medical
8 therapy is off him, I call X-ray to come down to
9 the morgue. And X-ray comes down to the morgue,
10 because every once in a while if -- sometimes if
11 there's a stab wound, pieces of blade or something
12 can kind of fall off, break off, if it's a
13 cheaply-made knife, and sometimes there's evidence
14 in the body, you know. So I X-ray the body to see
15 if there's any radio-opaque objects in the body,
16 because that's the first thing I want to do is get
17 that out before I start dissecting things and
18 things get lost.

19 In this case, I radiographed him, there was no
20 radio-opaque objects, bullets, anything else in his
21 body, so then I proceeded with the autopsy.

22 So what I did is I go through -- I go through
23 the body and I look for any type of, I call them
24 injuries.

25 So on here, IW stands for incised wound, and

1 then stab wounds here. And then I have -- other
2 things I have here are abrasions, which are
3 scrapes, scrapes on the skin. Look at any toddler
4 who starts walking, they fall, they scrape their
5 leg, that's called an abrasion, a scrape. And then
6 also, there was some more medical therapy where the
7 surgeons cut the Decedent and they put in tubes in
8 his chest. So these are not stab wounds, these are
9 cuts that the surgeon made to put a chest tube in
10 to get blood out of the thorax area or chest
11 cavity.

12 And so these are basically -- and then some
13 abrasions here and there. So that's basically the
14 injuries that he sustained.

15 Q So IW, incised wounds, so are those cuts to the
16 face?

17 A They're cuts to the face, that's right. On the
18 face, there were three cuts.

19 Q How long were the cuts?

20 A Well, I have to go through -- I can either do it
21 one way, I can go through every single thing here
22 in detail -- I think that's the best way.

23 Q Okay, let's do it.

24 A So, again, so let's talk about the stab wounds, all
25 right? These stab wounds, they're labeled Number

1 1 -- whatever numbering I'm doing, Stab Wound
2 Number 1, I think there's another stab wound,
3 Number 2. These are labeled for identification
4 purposes only. They do not reflect the order in
5 which they were received, okay? This labeling, it
6 makes it easier for me to keep track of things, so
7 I don't know whether Stab Wound Number 1 or Number
8 2 occurred first. There's no way for me to know
9 that.

10 So I'm going to go through -- I'm going to do
11 it -- I'm going to go through stab wounds, incised
12 wounds from the head down because that's the order
13 of my --

14 Q Dr. Marcus, let me show you these real quick.

15 A Yes.

16 Q It may also help.

17 A Okay.

18 Q Do you recognize those?

19 A Yes.

20 MS. ZMROCZEK: Without objection, Your Honor.

21 THE COURT: What's the number?

22 MR. SHELLENBERG: They are Number 45, 46, 47,
23 50, 51, 52 and 49.

24 THE COURT: Those will be entered without
25 objection.

1 (WHEREUPON, State's Exhibit Nos. 45-47,
2 49, 50-52 were marked for identification
3 and received into evidence.)

4 BY MR. SHELLENBERG:

5 Q Do you want to correlate between that and these
6 pictures?

7 A That's fine. So starting with the head, so up here
8 on the head, I wrote in he had three incised wounds
9 here. All right. I don't label them or anything,
10 I just write three and group them together.
11 There's one right here just lateral to the eye,
12 another one more lateral to that wound, and then
13 another one down here. And I can correlate those
14 with the photo.

15 So right here, those three wounds that I just
16 described to you, these are incised wounds. They
17 are longer than they are deep. So there's three
18 wounds right here to the left aspect of his head.

19 Q Okay.

20 A Moving down on his anterior aspect of his right
21 neck, there is an abrasion approximately one inch,
22 so a scratch on his neck right here.

23 Q And it's on what side?

24 A It's on his right -- anterior aspect of his right
25 lower neck.

1 So now coming down, I'm going to do the thorax
2 and the abdomen next. So on the thorax, there is a
3 stab wound to the chest, right here just below the
4 left nipple and more towards the middle of his
5 body. This is a 0.8-inch in length by -- the stab
6 wound. And it's -- it goes to a depth of three
7 inches and has an oblique orientation.

8 Q What does oblique orientation mean?

9 A Oblique, you know, transverse, horizontal,
10 vertical, oblique, okay? And that wound goes to a
11 depth of approximately three -- approximately
12 three inches. And it guess through the left chest
13 skin, subcutaneous tissue, goes to the anterior
14 aspect of the left fourth rib intercostal space, so
15 the meat you eat on ribs, it goes through that
16 meat, and then it goes into the right ventricle of
17 the heart. The heart has four chambers, this one
18 is the right ventricle of the heart. And I noticed
19 on that right ventricle that it was sutured closed,
20 so a surgeon must have seen that wound when they
21 opened the chest and sutured it closed. So that's
22 one stab wound. The direction --

23 Q This?

24 A Yes, this is that stab wound. Nipple. That's the
25 stab wound right there.

1 Q And that's between the ribs?

2 A It goes between the ribs, that's correct.

3 Q And you were going to say the direction it went in?

4 A Direction of the wound. So after I do all the
5 measurements, I cut inside the body and I find the
6 direction of the wound. That wound was going
7 backwards, backwards, was going upwards, and was
8 going medial this way. And that would make sense
9 anatomically because that's right where the right
10 ventricle is.

11 Q So if you were going to stab me in the chest, it
12 would be in and up?

13 A It would be like -- almost like --

14 Q Like you were going up?

15 A Right.

16 Q And towards the middle?

17 A Towards the middle.

18 Q Okay.

19 A Okay. So that's the first. All right. So below
20 that, below that wound is a small incised wound.
21 So a small slash wound right there.

22 Upper extremities. There's another stab wound
23 to his right shoulder right here.

24 Q It's going to be the incised wound to the arm?

25 A Yes, that's coming up next. Stab Wound Number 2.

1 Stab Wound Number 2 is to the right arm right here,
2 okay? That wound has got horizontal orientation
3 and goes to a depth of approximately 1.6 inches,
4 and it just goes to the skin subcutaneous tissue
5 with hemorrhage. The approximate path rate of that
6 wound is forward, upward, and medial.

7 Now, it's hard to deal with the directions on
8 a body, especially if it is extremities, because we
9 don't know what position his arm was in when this
10 stab wound occurred, so I just do the direction
11 basically when the body is in the anatomical
12 position, which is lying on the table just like
13 this with the palms open, okay? So in all reality,
14 that might not actually be the exact path because I
15 don't know the position of his arm, okay?

16 Okay, so now -- let's go back. That's a
17 picture of that stab wound right there. Okay?
18 Now, there's a few incised wounds to the upper
19 extremities, okay? The first one is this one right
20 here. This is an incised wound to that finger
21 right there, 0.25 inches in length. There is
22 another incised wound right here on the posterior
23 aspect of the left forearm.

24 Q And would you call those defensive?

25 A Yes. Any wound that I'm going to describe that is

1 on the forearms, on the hands, behind or on the
2 back of the arm are considered defense wounds, as
3 someone coming at you with a knife, you go to block
4 it, you go to grab the knife. So anything on your
5 hands is potentially a defense wound.

6 Q So, Dr. Marcus, this right here would be consistent
7 with --

8 A It could be, yes. So there's two incised wounds
9 right here. There's another incised wound on the
10 left -- on the left anterior aspect of the left
11 thumb, right here, 1.8 inches long. Okay. That's
12 another incised wound. That's also considered a
13 defense wound.

14 Q Is that because you wouldn't get these wounds on
15 the inside of your hand like this --

16 A Right.

17 Q -- if you were striking somebody with a closed
18 fist?

19 A No, you couldn't. To me, this wound looks like --
20 it looks like someone who tried -- Mr. Lewis tried
21 to grab a knife. That's what it looks like.

22 Okay, so that's -- that's all the wounds on
23 the upper extremities. And then that's another
24 picture of that wound right there.

25 Q And, again, it is consistent with?

1 A It could be like this.

2 Q Defending himself?

3 A It could be. Now, we go down to the lower
4 extremities, and he has -- on his knees, he has two
5 abrasions, two scratches on his knees. Okay?

6 There was one more diagram of the head.

7 Q I show you what has been marked as State's 57.

8 A So keep that one, and show that one too, if you
9 don't mind.

10 Q Sure.

11 A So on this -- now, this is a diagram of the scalp.
12 I made an incision in the scalp and I reflect the
13 scalp over, and it shows on the undersurface of the
14 scalp right here, he's got a little bit of
15 hemorrhage. Now, that can be associated with two
16 things. One, either he had some sort of blunt
17 trauma to his head where he was hit in the head by
18 a blunt object, or it can be associated -- see how
19 these wounds are very close in proximity? So this
20 wound here when the knife first struck his head
21 right here could have caused that hemorrhage, okay?
22 There's no way for me to know. I'm giving you both
23 options of what could have happened.

24 Q And, Dr. Marcus, if you got three cuts to your
25 head, would they bleed like crazy?

1 A Yes. Any type of head wound, all right, bleeds --
2 I've seen people hit their head, an older person,
3 and they can bleed to death. Because the vessels
4 in the scalp, they don't constrict and they'll just
5 bleed and bleed and bleed. That's why you have to
6 wear a hat in the winter because your head gets
7 cold.

8 Q Okay.

9 A Those are all the injuries that I found on
10 Mr. Lewis. So -- and then I go through and I
11 basically -- then after that I document all those
12 wound tracks and everything, I go and I do a
13 complete autopsy. I examine all the organs, weigh
14 everything. I get blood for toxicology testing.
15 And then at the end of the autopsy, I put
16 together -- I get my notes together and I put
17 together a report multiple pages long.

18 Q And what was his alcohol level that night?

19 A Okay. So I pulled some subclavian blood,
20 subclavian blood from a vessel here. I also pulled
21 fluid in his eye, all right? And toxicology --
22 let's see where is that? This is the report where
23 tox is pending. I issued another report with an
24 addendum on it. If you can get me that report.

25 (Pause.)

1 A Okay, so, yes, his subclavian blood ethanol was
2 0.081. His subclavian blood was also positive for
3 tetrahydrocannabinol and
4 11-carboxy-tetrahydrocannabinol, which is marijuana
5 breakdown products.

6 In addition, his vitreous levels of his fluid
7 in his eye, his blood alcohol there was 0.096. So
8 vitreous fluid is usually two hours behind. So I
9 can tell you right now, when Mr. Lewis died, he had
10 not -- he stopped drinking, because if he hadn't
11 stopped drinking, the blood ethanol level would be
12 higher than the vitreous. And it's not, it's the
13 opposite. So that much I can tell you.

14 Q And you can't tell what it was going down to,
15 that's just what it was --

16 A That's what it was when I did the autopsy.

17 Q And, again, the combination with the cuts to the
18 head with the alcohol would have caused what kind
19 of bleeding?

20 A Yes. Again --

21 Q I guess alcohol --

22 A Alcohol does -- will make you bleed easier. It
23 makes the blood a little thinner because you're
24 very well hydrated, so -- I don't know the exact
25 extent of how much, but you can bleed easier when

1 you -- that's why people go out when they go
2 drinking, they can get bruised every easily.
3 (Witness returns to witness stand.)

4 BY MR. SHELLENBERG:

5 Q Again, Dr. Marcus, stab wound to the chest was the
6 cause of death?

7 A Yes, I put the cause of death as a stab wound to
8 the chest.

9 Q And you defined it as backward?

10 A It was going backward, upward, and to the middle,
11 medially.

12 MR. SHELLENBERG: Court's indulgence, Your
13 Honor.

14 (Pause.)

15 MR. SHELLENBERG: No further questions.

16 Thank you, Dr. Marcus.

17 THE COURT: All right. Yes, ma'am?

18 MS. ZMROCZEK: Thank you.

19 CROSS-EXAMINATION

20 BY MS. ZMROCZEK:

21 Q Good afternoon again, Dr. Marcus.

22 A Hey.

23 Q You and I met to talk about this case?

24 A Yes.

25 Q And we talked about a few things that I want to

1 touch on. The subclavian blood, you said you could
2 say that they had stopped drinking, but also you
3 recall that there was eight -- at least eight
4 intravenous blood donations given, right?

5 A Right, that's correct.

6 Q So that would actually also affect the subclavian
7 blood?

8 A Yes, that could also affect what his blood alcohol
9 content was. I concur.

10 Q So the ocular fluid is not affected by that,
11 right?

12 A No, the ocular fluid is not because it lags behind
13 two hours.

14 Q So -- and explain kind of that lag behind two
15 hours. So if it was .96, what does that mean?
16 What does mean that if it lags behind two hours?

17 A All right. So it takes a while for the alcohol to
18 cross the -- to get into the vitreous. So it takes
19 about two hours to get into the vitreous. So
20 basically, at some point during the night, his
21 blood alcohol level was higher at some point. I
22 can't tell exactly what, but it was very high. I
23 don't know -- actually, I should take that back. I
24 don't know what it was, but I can tell you it was
25 higher than the vitreous fluid.

1 Q At some point it was higher than .96?

2 A Yes, at some point, it was higher than .96. I
3 don't know exactly how high it went, though.

4 Q And the subclavian, we can't necessarily rely on
5 because of the -- what is the word I'm trying to
6 think of?

7 A The transfusions.

8 Q Thank you, yeah, transfusions.

9 A That's correct.

10 Q Okay. So -- and then you talked about -- you
11 characterized these wounds on the face and on the
12 hands as incised wounds. You called them slash
13 wounds, right?

14 A Slashed, incised, yes.

15 Q And, in fact, those incised wounds, those slash
16 wounds on his face, they don't even travel the same
17 direction, do they?

18 A I can't tell exactly with an incised wound the
19 direction it travels.

20 Q Okay.

21 A Because it's a slash. I can't -- you know, I don't
22 know where it is.

23 Q Or if someone is moving?

24 A Right.

25 Q Okay. And so if someone is swinging a knife to get

1 away, they can get an incised wound that way,
2 right?

3 A Yes.

4 Q Okay. You talked about the chest wound. And you
5 kept saying it could be consistent, you know, with
6 going up and out. Also it could be consistent if
7 I'm getting beat on the ground and I'm trying to
8 get somebody off of me and I just poke them. Is it
9 consistent with that kind of wound as well?

10 A So you're on the ground getting beat and the person
11 is on top of you?

12 Q On top of you, yes.

13 A Yes. That could be consistent, yes.

14 Q Okay. Is that the kind of injury that is going to
15 spurt blood everywhere?

16 A No. No, not that one.

17 Q Okay. The facial injuries, those are the ones
18 that --

19 A Yes, they will spurt a lot of blood.

20 Q Okay.

21 A Not spurt like it's an artery, but it will just
22 like --

23 Q It will be a lot of blood?

24 A -- bleed and bleed and bleed.

25 Q And I guess -- you talked about the difference

1 between -- you said there was -- tetrahydro -- THC
2 and then THC metabolite. What's the difference
3 between those two?

4 A I believe the THC -- the tetrahydrocannabinol is
5 the main ingredient in marijuana, and then the
6 other one I said, that is a breakdown product of
7 that.

8 Q Okay.

9 A Okay.

10 Q So we had active and then we had some breakdown?

11 A Breakdown product, yes.

12 Q Okay. So someone had smoked or it had been smoked?

13 A At some point, yes.

14 Q Right. Right. And then you talked about defensive
15 wounds, about how wounds on the hands or arms, you
16 know, could be defensive wounds. That's how
17 they're classified in medicine, right?

18 A Yes.

19 Q And so if you're getting beat up and you cover
20 your -- you're trying to cover your hands and your
21 face, could those be defensive wounds if you have
22 injuries on your hands?

23 A Yes.

24 Q Okay. And if you get beat up and -- have you seen
25 injuries where persons have been punched or kicked

1 or hit so hard that their skin splits?

2 A Yes.

3 Q Okay. And, again, abrasions are just from scraping
4 your body on a harder surface?

5 A Correct.

6 Q Okay. And then lastly, I wanted to ask about the
7 wounds, you know, like on the arm and the face and
8 the hand. You said it looked like maybe he was
9 trying to grab a knife?

10 A That's one possibility, yes.

11 Q Okay. Also, if someone is still swinging and the
12 other person is swinging a knife, could those
13 wounds, those slash wounds, have appeared that way
14 as well?

15 A Sure.

16 Q Okay.

17 A If someone is swinging arms and the other person
18 has a knife, yes, they could be, yes.

19 Q Okay.

20 MS. ZMROCZEK: I have no further questions.

21 Thank you.

22 MR. SHELLENBERG: Just briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. SHELLENBERG:

25 Q Dr. Marcus, I think you said the vitreous level was

1 .96? You mean .096?

2 A Yes, sorry, I apologize. Yes, .096. That would --
3 yes.

4 Q And just looking at these injuries once more, the
5 injury on the arm is consistent with holding your
6 arm up defensively?

7 A It can be, yes.

8 Q And the cut on the hand would have to have come
9 with an open hand?

10 A Yes.

11 Q He wouldn't have got it if the person was punching,
12 they would have to have an open hand in order to
13 receive that cut to the palm?

14 A You could get an open hand or somehow, if the hand
15 was closed, the knife went into this like this. I
16 don't know. But, you know, my experience tells me
17 that that to me that looks like someone tried to
18 grab a knife. That's my experience.

19 MR. SHELLENBERG: No further questions, Your
20 Honor.

21 MS. ZMROCZEK: And just very briefly.

22 RECROSS-EXAMINATION

23 BY MS. ZMROCZEK:

24 Q We can go back and forth all day on how these could
25 have happened, right?

1 A Right. There's various ways that you could have
2 sustained these injuries.

3 Q And all of them are supported by your scientific
4 findings? Any of those ways --

5 A Right.

6 Q -- could be supported by your scientific findings?

7 A I agree.

8 MS. ZMROCZEK: Okay. Thank you.

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

10 Any objection to this witness being excused?

11 MS. ZMROCZEK: None from the Defense, Your
12 Honor.

13 MR. SHELLENBERG: No, Your Honor.

14 THE COURT: All right. You're free to leave.

15 (Witness steps down and is excused.)

16 THE COURT: Call your next witness.

17 MR. CATHCART: The State calls Dr. Alejandro
18 Luis.

19 (Witness approaches.)

20 THE BAILIFF: Place your left hand on the
21 Bible, raise your right hand, and face the clerk.

22 (Witness complies.)

23 THE CLERK: Do you swear or affirm the
24 testimony you shall give in this case will be the
25 truth, the whole truth, and nothing but the truth,

1 so help you God?

2 THE WITNESS: I do.

3 THE CLERK: Thank you. Please have a seat in
4 the witness stand, and state your full name for the
5 record. And please spell your first name.

6 (Witness seated.)

7 THE WITNESS: Alejandro Luis,
8 A-L-E-J-A-N-D-R-O.

9 ALEJANDRO LUIS, M.D.,
10 after being duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. CATHCART:

13 Q Dr. Luis, where are you employed?

14 A Palmetto Health Richland.

15 Q And what do you do there?

16 A I'm an acute care surgeon.

17 Q Acute care surgeon?

18 A Acute care surgeon.

19 Q Can you describe to the jury exactly what that
20 means?

21 A I do general surgery, emergency general surgery, I
22 do trauma, and I do surgical intensive critical
23 care.

24 Q And were you doing that back in 2015?

25 A Yes, sir, I was.

1 Q Specifically March 7th through 8th of 2015?

2 A That is correct, yes, sir.

3 Q Okay. And when you were doing that, did you have
4 the opportunity to come in contact with a patient
5 by the name of James Lewis?

6 A Yes, sir, I did.

7 Q Could you please describe to the jury how you came
8 in contact with him and what you found?

9 A I was on call the night --

10 Q I'm sorry, sir, to interrupt you. I apologize.
11 You did bring -- you have a copy of your report as
12 well? Obviously this was a long time ago?

13 A It was, yes, sir, but I do have a copy.

14 Q Will it help you remember exactly what you did?

15 A Absolutely.

16 Q Please refresh your memory as to that as well, if
17 you could. Please tell the jury how you came in
18 contact with him and what you did.

19 A So I didn't know him as Mr. Lewis. He came in as a
20 trauma male. On 3/7/2015, my operative note,
21 preoperative diagnoses and postoperative diagnoses,
22 are consistent with a stab wound to the left chest
23 underneath the left nipple. He had a left chest
24 tube that had been placed by the emergency
25 department physicians when I first assessed him.

1 He was in shock. He was cold, clammy, barely
2 breathing. And I proceeded to perform an emergency
3 department thoracotomy, so essentially opened his
4 left chest. He had a massive amount of blood in
5 the left chest. And I identified what is known as
6 the pericardium. It is the sack that surrounds the
7 heart. And when I identified it, it was very taut,
8 it was very tense, full of what I felt to be blood.
9 I incised the pericardium, made a hole in it, and
10 made it extremely wide, top and down, and I was
11 able to bring out the heart from the left side of
12 the chest.

13 When I did that, I appreciated about a
14 4-centimeter laceration or cut on the front part of
15 the right ventricle. So we have four chambers.
16 This was the right ventricle. When I appreciated
17 it, quickly stapled it closed, and urgently took
18 the patient to the operating room to see if we
19 could definitively control this. All the while, he
20 was getting massive amounts of blood. And we took
21 him to the operating room.

22 Q Okay. And so this massive bleeding inside his
23 chest?

24 A Yes, sir.

25 Q That's because that part where his heart was

1 pierced, is that the part that pumps the blood back
2 into the rest of the body?

3 A That's correct. From the right ventricle, it goes
4 into the lungs, and then from the lungs back to the
5 left ventricle, and the left ventricle to the body.

6 Q So when it was pierced, even though he wasn't
7 bleeding out of his body so much, his body -- his
8 heart was pumping his body full of blood?

9 A That's correct. His left chest was full of blood.

10 Q So it was draining from everywhere else that needs
11 blood, it was just going in the cavity of his body?

12 A That's correct. That's correct.

13 Q Is that something that would cause someone to
14 weaken quickly?

15 A Absolutely.

16 Q After you stapled it, you took him to the operating
17 room. What occurred next?

18 A So we performed what's known as a clamshell. It's
19 essentially continuing to open the left chest more
20 towards the middle. Not quite opening like this,
21 but extending my incision from the left chest
22 towards the right chest and opening it like you
23 would a car door or something that you would open.
24 And this was to be able to control the aorta, which
25 is the big artery that pumps blood out of the heart

1 to the rest of the body. Very difficult to
2 control. We took a suture and repaired the
3 laceration. And, unfortunately, at that time, he
4 died on us, and then we began intracardiac CPR. So
5 that's basically when we squeeze the heart to get
6 it to beat again. Heart has very good memory. So
7 if you can help it along, it will beat.

8 Q When you say squeeze, what do you mean?

9 A So, you know, the heart is almost triangular
10 shaped, and you can grab the apex of the heart and
11 physically squeeze it to pump blood to the brain
12 and the vital organs.

13 Q So you plugged the hole and you were actively using
14 your hands to pump his heart for him?

15 A That's correct.

16 Q And what occurred after that?

17 A He expired.

18 Q How long were you pumping his heart for him?

19 A At least 20 minutes. I know I dictated, at least
20 20 minutes. Yes, after persisting for
21 approximately 20 minutes, the patient had been in
22 asystole. Asystole meaning no regular heartbeat,
23 no rhythm. We had at that point decided to let the
24 patient expire and cease our efforts.

25 MR. CATHCART: Thank you. Please answer any

1 questions from Defense counsel.

2 MR. SCHWARTZ: No questions for this witness,
3 Your Honor.

4 THE COURT: All right, you may step down.

5 (Witness steps down.)

6 THE COURT: Call your next witness.

7 MR. CATHCART: The State calls Deputy Marum.

8 (Witness approaches.)

9 THE BAILIFF: Place your left hand on the
10 Bible, raise your right hand, and face the clerk.

11 (Witness complies.)

12 THE CLERK: Do you swear or affirm the
13 testimony you shall give in this case will be the
14 truth, the whole truth, and nothing but the truth,
15 so help you God?

16 THE WITNESS: I do.

17 THE CLERK: Thank you. Please have a seat in
18 the witness stand, and state your name for the
19 record. And please spell your last name.

20 (Witness seated.)

21 THE WITNESS: Master Deputy Jared Marum,
22 M-A-R-U-M.

23 JARED MARUM,
24 after being duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. CATHCART:

2 Q Deputy Marum, where are you employed?

3 A Richland County Sheriff's Department.

4 Q How long you been there?

5 A Almost five years.

6 Q Okay. Were you working there back on 2015,

7 March 7th, 2015?

8 A I was.

9 Q Were you directed to a call on Monticello Road,
10 Culler's Restaurant?

11 A Yes, I was.

12 Q Can you please describe to the jury what your call
13 was, what you were called there for?

14 A I was dispatched to, I believe it started as a
15 fight, which was upgraded to a victim being stabbed
16 in the head.

17 Q Okay. And what, if anything, did you find when you
18 got there?

19 A When I arrived there, the victim, Mr. James Lewis,
20 was laying on the outside of the front step of the
21 bar. He was covered in blood. And there was a
22 group of people around him and some were attending
23 to his wounds.

24 Q How would you describe the scene? Was it chaotic?
25 Was it calm?

1 A It wasn't chaotic. There was a decent amount of
2 people out there. Like I said, there was about two
3 or three people applying pressure to him, but
4 relatively calm, I guess.

5 Q Okay. And what did you -- what, if anything,
6 happened when you started to find out what was
7 going on?

8 A Basically we were just -- we weren't really asking,
9 but people were just telling us that Boo did it,
10 saying Boo was the one that stabbed him.

11 MS. ZMROCZEK: Your Honor, I'm going to object
12 to hearsay.

13 THE COURT: All right. Please don't say
14 anything that someone said to you.

15 BY MR. CATHCART:

16 Q And did you talk with any of the witnesses?

17 A I did.

18 Q Okay. And after speaking with witnesses, what else
19 did you do?

20 A We cleared the scene throughout the restaurant and
21 to the back. At that point, secured the scene and
22 then waited for everybody else, Crime Scene and CID
23 to show up.

24 Q CID, what's that?

25 A Crime Scene -- sorry, investigation.

1 Q Investigation?

2 A Yes, sir.

3 Q And you also asked for Crime Scene as well?

4 A Correct.

5 Q What -- Crime Scene comes in there to do what?

6 A They handle the scene after that as far as evidence
7 and photographing, and all that.

8 Q They are the ones who take pictures of what's going
9 on?

10 A Yes, sir.

11 Q And evidence at the scene?

12 A Right.

13 Q You don't do that, do you?

14 A No.

15 Q Did you go into the pool hall?

16 A I did.

17 Q And did you see blood in the area of the pool hall?

18 A Yes.

19 Q Where did you see blood?

20 A From the front step all the way through to the back
21 deck.

22 Q Okay. Was a line of blood going from one part to
23 the other?

24 A Yeah, it was a lot of blood.

25 Q Okay. Did you see any blood in the kitchen?

1 A I don't remember specifically.

2 Q Did you see any blood on the dance floor?

3 A Dance floor being where the pool tables are?

4 Q No, the pool tables are over -- let me show you,
5 I'm sorry.

6 A You walk in the front door and it splits.

7 Q Correct. Let me show you what has been marked as
8 State's Exhibit Number 8. Do you recognize that?

9 A That would be looking in from the front door.

10 Q Okay. And what's over here on I guess your -- my
11 right, the jury's left. And what -- that is a?

12 A Pool table.

13 Q And there's some pool tables on this side?

14 A Correct.

15 Q Dance floor back there?

16 A Right.

17 Q Did you see blood back in here?

18 A I don't remember, to be honest.

19 Q Okay. But what you did see was the line of blood
20 coming through here?

21 A From the front to the back, yes.

22 Q That being State's Exhibit Number 28, blood on the
23 back deck?

24 A Correct.

25 Q State's Exhibit Number 20, blood on the front door?

1 A I believe so, yes.

2 Q And State's Exhibit Number 15, that would be the
3 trail of blood you're talking about?

4 A Correct.

5 Q That you noticed coming from one side to the other?

6 A Correct.

7 Q Did EMS come to pick up the people that were hurt?

8 A They did.

9 Q And you, in your report, indicated that the victim,
10 James Lewis, was hurt?

11 A Correct.

12 Q And you also put down a name Elijah Salley?

13 A Correct.

14 Q Was Elijah Salley hurt at that scene?

15 A Originally we thought it was, but come to find out,
16 I don't believe he had anything to do with it.

17 Q And when you say you thought it was, where did you
18 get the name Elijah Salley?

19 A Myself and my corporal responded to the scene.
20 Another deputy that was on the other side of the
21 area ended up following the ambulance down to the
22 hospital. And one way or another down at the
23 hospital, that was the other victim, who we thought
24 it was anyway, that was transported.

25 Q So he was a victim of a stabbing, but not this

1 stabbing?

2 A Yes, I believe so, correct.

3 Q The person who -- the people that left in the EMS
4 was James Lewis and Clarence Stone?

5 A I know it to be James Lewis, but, yes, I --

6 Q The other guy was stabbed where, do you recall?

7 A In the face, I believe.

8 MR. CATHCART: Please answer any questions
9 from Defense counsel.

10 CROSS-EXAMINATION

11 BY MS. ZMROCZEK:

12 Q Good afternoon, Deputy Marum.

13 A How you doing?

14 Q You're a first responder -- not first responder,
15 but you are like the first responding officer,
16 right?

17 A Correct.

18 Q And so you get a call -- so someone or multiple
19 people called 9-1-1, right?

20 A Correct.

21 Q And then they dispatch it to you?

22 A Correct.

23 Q And they tell you what -- kind of what to expect on
24 the scene?

25 A Correct.

1 Q So you get there. And tell the jury kind of what
2 your job is for the scene. What is it that you
3 want to do?

4 A Secure the scene and secure any threats at the
5 scene.

6 Q Okay. So securing the scene is important, right?

7 A Correct.

8 Q So if people were inside the pool hall, you would
9 have them leave, or at least get out so that they
10 could be talked to as witnesses, right?

11 A Correct.

12 Q But the investigations was coming down, right?

13 A Correct.

14 Q So they're the ones who would investigate the
15 witnesses?

16 A In-depth, yes.

17 Q Okay. And you just talked to a couple of people?
18 I think you talked to the owner and the daughter of
19 the owner, right?

20 A Correct, that I had the names of, yeah.

21 Q Right. And you went to the academy before you
22 started your service, right?

23 A Correct.

24 Q And you received training there?

25 A Right.

1 Q On how to write reports?

2 A Correct.

3 Q Because you want to make sure that -- for example,
4 this is now 2018 and this happened in 2015. How
5 many calls do you think you have been on since
6 then?

7 A Too many.

8 Q Yeah, too many to even remember, right?

9 A Yes.

10 Q So you want your report to be complete?

11 A Correct.

12 Q And accurate?

13 A Right.

14 Q And truthful?

15 A Right.

16 Q And that's why you do them close in time, right?

17 A Right.

18 Q And so -- do you have a copy of your report in
19 front of you?

20 A I do.

21 Q Okay. And, in fact, in your report you state
22 that -- bear with me. Okay. And I'm looking at
23 Line 5 maybe, Witness One. And who do you have as
24 Witness One? Would that be Reeshemah Culler?

25 A Yes, Reeshemah Culler.

1 Q And she said that there was someone struck with a
2 bottle around the ATM. And the next thing that you
3 said is there was blood around this area following
4 that next sentence, right?

5 A Correct.

6 Q But that's not your job to photograph that, right?

7 A Correct.

8 Q That's what you have Crime Scene and investigations
9 to do?

10 A Right.

11 Q So you just note the things that are important in
12 your report, right?

13 A Right.

14 Q And tell me, you don't know in your report about
15 somebody taking a knife and pulling it up and
16 gutting somebody, do you?

17 A No.

18 Q Okay. And I understand that there was kind of
19 deputies reporting to the hospital and to the --
20 and you were at the scene, so maybe some
21 information got confused and that's how somebody
22 else's name got put in there?

23 A Yes.

24 Q But later you can go back and you can amend and fix
25 your reports, right?

1 A Correct.

2 Q And that was done in this case, they put the
3 correct Clarence Stone name instead of Elijah
4 Salley eventually?

5 A I did not.

6 Q Right, right, somebody else went back and fixed
7 that, though?

8 A I don't know.

9 Q Okay. And had you had any other corrections, you
10 could have gone back and fixed those, right?

11 A Correct.

12 Q Okay. But we have no other amended reports besides
13 the report you gave?

14 A Okay.

15 Q Right?

16 A I --

17 Q You haven't done any, have you?

18 A No.

19 Q Okay. And then what's the -- under the suspect,
20 what is the height that you have listed for
21 Mr. Geter?

22 A Which one? I have two. Five-seven and five-eight.

23 Q Five-seven or five-eight, right?

24 A (Nods affirmatively.)

25 MS. ZMROCZEK: Thank you. No further

1 questions.

2 THE COURT: Yes, sir?

3 REDIRECT EXAMINATION

4 BY MR. CATHCART:

5 Q Your job when you got there was to secure the
6 scene, correct?

7 A Right.

8 Q And basically do your report. As Ms. Zmroczek
9 pointed out, you wrote down what people told you?

10 A Right.

11 Q They told you that Boo did it?

12 A Right.

13 MS. ZMROCZEK: Objection, Your Honor.

14 THE COURT: What's the objection?

15 MS. ZMROCZEK: Hearsay.

16 MR. CATHCART: Just what he wrote in his
17 report. She was going through his report.

18 THE COURT: Sustained.

19 MR. CATHCART: No further questions at this
20 time. Thank you.

21 THE COURT: All right. Sir, you may step
22 down.

23 Any objection to this witness being excused?

24 MS. ZMROCZEK: None from the Defense, Your
25 Honor.

1 (Witness steps down and is excused.)

2 THE COURT: All right, call your next witness.

3 MR. CATHCART: The State calls Investigator
4 Clarke.

5 (Witness approaches.)

6 THE BAILIFF: Place your left hand on the
7 Bible, raise your right hand, and face the clerk.

8 (Witness complies.)

9 THE CLERK: Do you swear or affirm the
10 testimony you shall give in this case will be the
11 truth, the whole truth, and nothing but the truth,
12 so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Thank you. Please have a seat in
15 the witness stand, and state your name for the
16 record.

17 (Witness seated.)

18 THE WITNESS: Joseph Clarke.

19 JOSEPH CLARKE,
20 after being duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. CATHCART:

23 Q Mr. Clarke, where are you employed?

24 A Richland County Sheriff's Department.

25 Q What do you do there?

1 A I am a sergeant now over the assault unit and an
2 investigator.

3 Q How long have you been an investigator?

4 A I've been in investigations since 2006.

5 Q How long have you been with the Sheriff's
6 Department?

7 A Since 2003. And before that, I worked with the
8 University of South Carolina Police Department for
9 three years before that.

10 Q And back in 2015, you were an investigator. What
11 region were you working then?

12 A That particular night, I was the primary homicide
13 investigator on call, so I would have been the
14 person called for that week. We have a week
15 Thursday to Thursday, starting at about
16 11:00 o'clock at night, to the following Thursday
17 about the same time. And I would have been the
18 primary homicide investigator if we had any death
19 in the county that needed to be investigated.

20 Q And on the night of March 7th, 2015, were you
21 called about a case?

22 A I was. It was early morning. I was awakened by a
23 phone call. The desk sergeant called and said, We
24 have a possible stabbing victim that may not make
25 it, is the way it was put to me, at Culler's Pool

1 Hall off of Monticello Road.

2 Q Okay. And what did you do when you got that
3 information?

4 A When that happens, you immediately start working
5 the phones, you start working the radio. My county
6 vehicle, you know, is parked at my home. I cut the
7 radio on, start scanning. I then make phone calls
8 to my secondary, which was Investigator J.P. Smith.
9 He's going to be somebody that's going to be
10 assisting me in the investigation. I then take --
11 make contact with the supervisor in that particular
12 region, in this case it's Region 3. Region 3,
13 yeah.

14 And I say, What have you got? Give me the
15 most you got at that time. And I was told that two
16 were being transported to the ER, not certain on
17 their status. And, again, I was told that one of
18 the gentlemen may not make it.

19 Q Okay. And what occurred after that?

20 A That gave me time finally to get down I-20, got off
21 on Monticello Road and made contact with units that
22 were there on the scene at Culler's Pool Hall. And
23 then I kind of take an overview of what's going on
24 as best I can, kind of triage what we've got at the
25 scene.

1 Q Okay. And with the triage that you got, what were
2 you doing?

3 A Well, in situations like this, particularly at
4 nightclubs and bars that stay open late, you know,
5 there's usually kind of different ways things
6 happen. The most common thing that happens late at
7 night, in my experience, is we have a shooting or
8 something. And a lot of times, that's where
9 someone in the bar has been told to leave. They're
10 angry. They go out to the car and they get a gun,
11 and then there's some shooting. Most times people
12 aren't hit. It's just, you know, they were
13 disgruntled, they were mad, and they shoot the
14 place up or they shoot the cars in the parking lot
15 and they drive away.

16 By the time I get there, unless I'm already
17 nearby or on the road, a lot of folks have gone
18 already, and it's real hard to find witnesses.

19 And the second thing you do in a bar or club
20 incident like this late at night -- and I think at
21 this point we're 3:00 in the morning -- I don't
22 have my paperwork in front of me, I apologize. At
23 that point --

24 Q Would having a copy of that help refresh your
25 memory?

1 A That would be great. But usually late at night,
2 certainly past midnight, you then have to triage
3 who's a credible witness.

4 MS. ZMROCZEK: Your Honor, may we approach?
5 (WHEREUPON, a bench conference was held
6 in the presence of the jury but out of
7 the hearing of the jury.)

8 THE COURT: Ladies and gentlemen of the jury,
9 let me send you all out one second.

10 (WHEREUPON, the jury retires to the jury
11 room at 3:48 p.m.)

12 MS. ZMROCZEK: Obviously, Your Honor, my
13 objection was to him saying credible witness. He's
14 seasoned in testimony. He knows better.

15 MR. CATHCART: Your Honor, I'm assuming what
16 we are talking about, he only spoke to, if I'm not
17 mistaken, to the two Culler -- the mother and the
18 daughter, who, as he listed in his report, found to
19 be sober. I'm assuming that is what he is talking
20 about.

21 THE WITNESS: That is exactly what I was
22 fixing to talk about.

23 THE COURT: All right. Whether or not it --
24 the issue of credibility goes to the jury.

25 MR. CATHCART: Absolutely. I apologize. For

1 the record, he can testify as to finding people who
2 are aware and understood what was going on as to
3 being sober.

4 MS. ZMROCZEK: And, Your Honor, what I would
5 ask is the jury be instructed that it is struck
6 from the record and they are not to consider that.

7 THE COURT: I will tell them to disregard the
8 last comment.

9 MR. CATHCART: And that it is in their purview
10 only as to credibility, I think would be --

11 MS. ZMROCZEK: Thank you.

12 THE COURT: All right. You can bring them
13 back in. And I will have you rephrase the
14 question. He can answer the difference in credible
15 and sober, because that is what you are trying to
16 ask.

17 (WHEREUPON, the jury came into open
18 court at 3:50 p.m.)

19 THE BAILIFF: The jury is all present, Your
20 Honor.

21 THE COURT: All right, that was quick, but we
22 will continue.

23 Ladies and gentlemen, the last line of
24 questioning, I'm going to strike the questioning.
25 So that is not for you to consider. I'm going to

1 ask that Mr. Cathcart rephrase his question.

2 BY MR. CATHCART:

3 Q I believe you were talking about going to a
4 situation that is late night at a bar, you are
5 looking for people who will be able to see what
6 happened, correct?

7 A Correct.

8 Q Sober people?

9 A Sober people, people that were near the incident.

10 Q Okay.

11 A People that were actually in the bar when it
12 happened.

13 Q Okay.

14 A As time goes on, phone calls get made, people get
15 on social media websites and say something has just
16 happened at this location, concerned family starts
17 to arrive. You don't know who is allied with
18 who. You don't know who family is with family. So
19 you start to sort out witnesses to find out what
20 was present, who was sober, who may have actually
21 seen what happened, not heard what happened through
22 a second or third source. So it is a way triage a
23 witness.

24 Q Did you find some witnesses to speak with?

25 A I did.

1 Q Who did you speak with?

2 A Deborah Culler.

3 Q All right.

4 A The owner.

5 Q How did you find her to be?

6 A How did I find her?

7 Q No, how did you find her to be? How was demeanor?

8 A She was pleasant with me. Fully awake.

9 MS. ZMROCZEK: Irrelevant to this testimony.

10 THE COURT: Overruled.

11 A She was sober. That is good. And she told me that
12 she did not drink and that she was the owner of the
13 building. I found her to be someone I would want
14 to talk to.

15 Q Did she indicate she saw what happened?

16 A She did.

17 Q Okay. And did you also speak with her daughter?

18 A I did.

19 Q Okay. And did you find her to be the same --

20 A Same state.

21 Q Okay.

22 A Fully awake, sober, and willing to speak.

23 Q And, again, was able to -- indicated she knew what
24 happened, saw what happened?

25 A Yes.

1 Q And after you -- when you spoke with them, did you
2 also look at the scene also?

3 A I did.

4 Q Did you walk through the scene?

5 A I did.

6 Q Okay. And did you notice anything out of the
7 ordinary of a normal bar at the scene?

8 A Well, certainly there was a lot of blood on the
9 ground in different parts of the bar. I was being
10 told at that point that it had been possibly a
11 stabbing. And that seemed consistent with the
12 blood trail to different parts of the bar.

13 Q Okay. And the blood trail, it went from what part
14 of the bar to the other part of the bar?

15 A Well, not -- I don't want to categorize, you know,
16 which direction, per se, but drops and drips and
17 splats, and things like that. From blood analysis,
18 it appeared it was in multiple locations, from the
19 deck in the back, into the pool hall itself, to the
20 front door, and there seemed to be quite a bit of
21 blood trace there at the front door near the
22 stairs.

23 Q I show you what has been marked State's Exhibit
24 Number 22. Do you recognize that?

25 A I do. That is the deck behind the bar, the back

1 door.

2 Q And the spots on the ground?

3 A That would be blood drops.

4 Q State's Exhibit Number 13?

5 A That would be inside the pool hall obviously next
6 to a pool table itself. Blood dripping.

7 Q Okay. And that being the back door?

8 A Not certain in that picture, but it may be the back
9 door. Yes, it is the back door.

10 Q And, again, all the spots on the ground?

11 A Correct.

12 Q That being the trail you are talking about?

13 A Correct.

14 Q State's Exhibit Number 14?

15 A Correct. More blood drops between some chairs and
16 the pool table there.

17 Q Ending up on State's Exhibit Number 20?

18 A That would be the front entrance. And there is
19 quite a bit of blood here on the right-hand side of
20 the door. And these would be steps leading down
21 into the parking lot or the front of the location.

22 Q Did you observe any blood or have any indication
23 that there was blood on the dance floor?

24 A You know, at that time I wasn't -- I didn't know
25 the actual anatomical layout of what was the dance

1 floor and what wasn't, so I can't say yes or no.

2 Q Did you notice where the kitchen is?

3 A I did.

4 Q Was there any blood in the kitchen?

5 A No.

6 Q Was there any blood in the room beside the kitchen
7 towards where the bathroom is?

8 A It was dark.

9 Q Okay.

10 A I don't remember any blood standing out there, but
11 I do remember blood in this area obviously going to
12 the back door and obviously at the front door.

13 Q Okay. But no one pointed out any blood to you on
14 the dance floor?

15 A I don't recall that. I don't remember that
16 being --

17 Q You don't recall suing any?

18 A No.

19 Q Okay. And the crime scene investigation came out
20 as well?

21 A They did.

22 Q And they looked and took photographs of evidence in
23 the case?

24 A Correct. When CSI gets there -- well, let me, so
25 we understand how this works. A deputy arrives on

1 the scene. A deputy puts up police tape like you
2 have seen on TV and movies, and they set that up as
3 fast as they can. They then try to keep the area
4 as clear as possible, keeping in mind this is a
5 business. Keep in mind there may be some
6 valuables, there may be some cash involved, and
7 things like that. So, you know, we want to make
8 sure we keep the area secure. Then while they are
9 there, they start a crime scene log. And so they
10 will sign in who shows up, when they show up, and
11 the purpose they are supposed to be there.

12 So I was assigned to go in and speak to
13 witnesses or take a look around, and then CSI would
14 have done the same thing, and given the purpose was
15 to do crime scene analysis on scene.

16 Q Okay. And y'all got Ms. Reeshemah Geter[sic] to
17 point out with crime scene where she saw things
18 happen?

19 A Reeshemah Culler.

20 Q Reeshemah Culler, yes.

21 A Yes. She had -- I had learned that both she and
22 her mother had already gone home. There was
23 nothing really out of the ordinary on that. This
24 gentleman had been transported to the hospital, and
25 we didn't know where this was going right then.

1 And when I learned that they were co-owners of
2 the bar and worked there, I asked them to come back
3 to the scene. And she willingly came back and
4 helped me kind of sort out what she had seen and
5 what had happened.

6 Q And showing you a Picture Number 25, State's
7 Exhibit 25, that it is her pointing out items of
8 what and where she saw things?

9 A Correct.

10 Q Again, State's Exhibit Number 28?

11 A Correct.

12 Q She did this and memorialized with CSI and you
13 being there as well?

14 A Correct. As we are taking pictures, yes.

15 Q Once CSI went there and y'all finished at the
16 scene -- were y'all finished at the scene? What
17 did y'all do after that, speaking to the witnesses?

18 A Okay. At that point, I understood they knew who
19 this gentleman was. At that point they were
20 saying, Boo did it, Boo was the one responsible for
21 it, et cetera. And I said, Fine.

22 Not knowing who Boo was, and obviously I
23 didn't know if that was his given name, I needed to
24 properly identify him. We had them come back to
25 our region headquarters off of Garners Ferry to sit

1 down with us and speak with us. And we took --

2 showed them a photo lineup of someone who we --

3 MS. ZMROCZEK: Your Honor, we have a matter of
4 law.

5 THE COURT: All right. Ladies and gentlemen,
6 I am going to send you all out for a second.

7 (WHEREUPON, the jury retires to the jury
8 room at 3:59 p.m.)

9 THE COURT: Yes, ma'am, what is your
10 objection?

11 MS. ZMROCZEK: Your Honor, we discussed this
12 pretrial about the lineup, and if there were going
13 to be discussions about the lineup we would have to
14 have a hearing about it. And Investigator Clarke
15 was here the whole time, so I'm not sure why it is
16 coming up now, but, I mean, there has been no
17 testimony from either of the two witnesses that
18 they picked him out. And I don't -- I mean, they
19 know him, so I don't know that it is even relevant,
20 but, you know, but now that he mentioned this whole
21 lineup thing, and we discussed this pretrial.

22 THE COURT: Well, let's see what else --
23 finish asking the question and we will see what he
24 is going to say.

25 THE WITNESS: I was just discussing the

1 process, what we did, and why we brought witnesses
2 back to region headquarters. There was no --

3 BY MR. CATHCART:

4 Q You took a picture of him --

5 A So we knew exactly who the gentleman was at that
6 point we were most likely going to get a warrant on
7 in an hour. I wanted to make sure we had the
8 proper identification instead of -- there could be
9 two Robert Geters, there could be four of them, I
10 don't know. And I felt that in an abundance of
11 caution let's get him in a lineup so they could say
12 it. If they knew him, they would pick him
13 immediately, then I would pull a DMV photo up and
14 show it to them and say, Can you confirm that is
15 the person you know as Robert Geter? And at that
16 point we would be in a position to secure a
17 warrant.

18 THE COURT: Do we need to have a Biggers
19 hearing?

20 MR. CATHCART: They knew him by name and
21 sight. I don't think it is applicable.

22 THE COURT: Is he getting into a lineup?

23 MR. CATHCART: I mean --

24 THE COURT: If he gets into testifying about
25 picking out of a lineup, you have got to have a

1 Biggers hearing.

2 MS. ZMROCZEK: The other option is to strike
3 that testimony. Again, I just don't --
4 identification isn't an issue, so I don't even know
5 why we are having to go through this.

6 MR. CATHCART: I mean, my understanding of her
7 motion as well, she asked for confirmation that we
8 were not going to enter a lineup. I certainly was
9 not anticipating entering a lineup, nor were we
10 going to.

11 THE COURT: All right. So we probably don't
12 need to discuss it.

13 MR. CATHCART: I don't disagree, Your Honor.
14 They just showed up, he showed them a picture of
15 him, and they said, Yes, that is him.

16 THE WITNESS: Don't use the word lineup?

17 MR. CATHCART: You don't need to say lineup.

18 THE WITNESS: Not a problem. I showed a photo
19 identification, positive identification was made.

20 MS. ZMROCZEK: I think that is still --

21 MR. CATHCART: Just they know him. That is
22 fine.

23 THE COURT: I don't even know that it is
24 necessary to get into showing them any picture,
25 because you are saying that --

1 MS. ZMROCZEK: They knew him.

2 MR. CATHCART: They have known him for 17
3 years.

4 THE COURT: So it is not even necessary I
5 think under State v. Livingston, or whatever, I
6 think that is the case.

7 THE WITNESS: Your Honor, honest to God, that
8 is something we do routinely.

9 THE COURT: I know you are saying what you
10 did.

11 THE WITNESS: Okay.

12 THE COURT: And that is something normally we
13 bring in, but we didn't do a Biggers identification
14 hearing.

15 THE WITNESS: I understand.

16 MR. CATHCART: And there is no reason to
17 talk -- I mean, just --

18 THE COURT: That is not --

19 THE WITNESS: This is easily handled. It
20 won't come up again. I can fix that problem.

21 THE COURT: Okay. I'm assuming that that is
22 not the reason that they -- the identification of
23 him was because they knew him, is that correct?

24 THE WITNESS: Correct. We wanted to make sure
25 law enforcement knew exactly who we were looking

1 for. That is the only reason why we would do that.
2 It is redundant to do a lineup, I agree, in the
3 grand scheme of things, but we were trying to make
4 sure we had the exact person named Robert Xavier
5 Geter whom we were fixing to put on an arrest
6 warrant.

7 MR. CATHCART: But in this case --

8 THE COURT: I think you can rephrase that
9 question to say that they knew and that they were
10 identifying who he was to show law enforcement.
11 I'm trying to think of the best way to put it.

12 MR. CATHCART: To verify who he was.

13 THE WITNESS: Right. We usually say they know
14 by name and face, and all needed to do is make a
15 positive identification on that by photograph. Or
16 we can just say nothing at all.

17 MS. ZMROCZEK: I think that we can't say
18 anything about photograph. I think that needs to
19 be stricken and -- or we can have a hearing, but --

20 THE COURT: He can say that he showed them a
21 photo and they were able to -- and that was the
22 same person. But, I mean, if the word lineup comes
23 in, that is when the issue becomes an issue. So I
24 mean, because even though they knew him by name and
25 sight, they didn't know him by name and sight. So

1 I think what he is testifying to, is that --

2 THE WITNESS: Thoroughness of the
3 investigation.

4 THE COURT: -- is this Ms. Zmroczek? Yes,
5 that is her.

6 MS. ZMROCZEK: Right. Right. But a lineup
7 isn't required.

8 THE COURT: So we will go look for her. That
9 is not Ms. Zmroczek. Here is Ms. Zmroczek. I
10 think is what he is trying to testify to.

11 THE WITNESS: And, Your Honor, just so we are
12 certain, Ms. Zmroczek too, so we are certain, we
13 pulled up a DMV photo that then had his name and
14 vitals on it.

15 MS. ZMROCZEK: That's fine.

16 THE WITNESS: All right. All right.

17 MS. ZMROCZEK: A DMV photo is fine. Just
18 strike the --

19 THE WITNESS: Okay.

20 MR. CATHCART: Before we do this, because I am
21 afraid of a landmine.

22 BY MR. CATHCART:

23 Q He told you what happened, correct?

24 A Who told me?

25 Q When Mr. Geter handed you the knife?

1 A Yes.

2 Q He told you something, correct?

3 A Well, yes. Let's do it now.

4 Q Yes.

5 A Okay. He -- we spoke on the phone.

6 Q Okay.

7 A Mr. Geter agreed to come and see me.

8 Q Okay.

9 A He came to headquarters. Smoking a cigarette. We
10 talked for a moment. I said, Are you willing to
11 talk to me? He said, Yes.

12 We walk in the building. We get on the
13 elevator. I want to pat him down to make sure
14 everything is okay. And he says, You are probably
15 going to need this, or something to that effect,
16 and he hands me the knife and puts it in my hand.
17 We are on the elevator.

18 Q Okay.

19 A We then go upstairs. And as we are speaking, I
20 said, Is this the knife you used? Yes. There was
21 like five dudes, or something, is what he said.

22 I said, Fine. Hold on a minute. I want to
23 give you Miranda, I want to do this -- you know,
24 this kind of thing. And at that point he didn't
25 want to talk. We advised him of his rights, and he

1 just did not want to speak. He didn't want to talk
2 about it.

3 Q Okay.

4 MS. ZMROCZEK: And I think --

5 THE WITNESS: And at that point we took the
6 knife, we put the knife into evidence, we took
7 pictures, we took his clothing, we gave him
8 something to dress out in, because we had warrants
9 at that point, and we transported him to Alvin S.
10 Glenn.

11 MS. ZMROCZEK: And I think Doyle v. Ohio, Your
12 Honor -- he says gave him Miranda, and then he
13 chose not to speak. I don't think they can go into
14 that. What I think he can say is they had a
15 conversation in the elevator, that he received the
16 knife, after which they collected his clothes and
17 sent him to wherever. I don't think that he can
18 talk about giving Miranda and then him not talking.
19 I think that Doyle v. Ohio is very clear on that.

20 THE COURT: I'll have to take a look at it.

21 MS. ZMROCZEK: Okay.

22 (Pause.)

23 THE COURT: This case is a little bit
24 different. It is talking about impeaching, the
25 prosecutor trying to impeach the witness, is what

1 it sounds like.

2 MR. SHELLENBERG: It is almost like they are
3 trying to use it to impeach him.

4 THE COURT: They are saying -- in this one it
5 sounds like they are saying, Well, you didn't go
6 back and say, Well, why didn't you tell the police
7 this when you first interviewed with him? Instead,
8 you were stopped. And they are using that to
9 impeach him in this case. I think that is little
10 bit different.

11 I think he can say, I gave him Miranda
12 Warnings, and leave it at that. Don't say anything
13 else, whether or not he said anything or not. I
14 mean, jurors are very familiar with the Miranda
15 Warnings. I think he can -- he can say he gave him
16 Miranda Warnings. But I think this case is a
17 little bit different.

18 MR. CATHCART: Your Honor, I think he should
19 be able to say, he read him his Miranda Warnings
20 after he told him about the five dudes. And, I
21 want to read you rights, at which point Mr. Geter
22 chose to remain silent.

23 THE WITNESS: Because, Your Honor, obviously I
24 thought he was going to give a statement perhaps in
25 his defense, I mean, or an explanation of perhaps

1 what happened from his side.

2 MR. CATHCART: He didn't remain -- I mean, in
3 this case he didn't remain silent, he gave two
4 statements on the phone, it was like five dudes,
5 and when he got there, it was like five dudes, you
6 know. He was like, Hold on, let me tell you your
7 rights.

8 THE WITNESS: Okay. You are fixing to talk to
9 me. Let me make sure you understand your rights
10 before you -- you know. We do this all the time.

11 MS. ZMROCZEK: But I think that once he makes
12 a comment on his choosing to exercise his right to
13 remain silent, that is --

14 THE COURT: Well, he can't -- he is not going
15 to do that. He is just going to just say what he
16 did, he gave him his Miranda Warnings.

17 THE WITNESS: That's fine.

18 MR. CATHCART: Just Miranda Warnings, and
19 that's it.

20 THE WITNESS: Let me make sure I understand.
21 I gave him his Miranda Warnings, and then I just
22 stop talking, or do I -- what do I do?

23 THE COURT: He asks the next question. What
24 happened next?

25 THE WITNESS: Fair enough.

1 THE COURT: Are we good? Let's bring them
2 back in.

3 MS. ZMROCZEK: I ask them to strike the last
4 sentence.

5 THE COURT: They probably don't remember.

6 (WHEREUPON, the jury came into open
7 court at 4-1-1 p.m.)

8 THE BAILIFF: The jury is all present, Your
9 Honor.

10 THE COURT: All right. Yes, sir.

11 Ladies and gentlemen of the jury, please
12 disregard -- you probably don't even remember it
13 now, but disregard the last question. The
14 objection was sustained. I am going to -- please
15 do not -- I'm going to ask you to rephrase the
16 question.

17 MR. CATHCART: Yes, ma'am.

18 BY MR. CATHCART:

19 Q They came down to headquarters, Mrs. Culler and
20 Ms. Culler?

21 A Yes.

22 Q They wrote statements as to what occurred?

23 A Yes.

24 Q And you verified Mr. Geter's identity via a
25 photograph, correct?

1 A I did.

2 Q Okay. After you get their statements, realize for
3 sure who you were looking for, what did you do
4 next?

5 A At this point we received affirmative information
6 that the gentleman had died. And we knew then that
7 we had someone who had been killed, thus making it
8 a homicide. We also learned that Mr. Stone's
9 injuries were significant. We were already hearing
10 from medical personnel that he may lose his eye.
11 That is what I was being told. And we are getting
12 that confirmed by an investigator who is at the ER
13 learning this realtime.

14 So at that point we secured two warrants, one
15 for murder and the second for attempted murder, due
16 to the fact of the deceased and then the injuries
17 being significant and possibly could be -- could
18 have been fatal as well.

19 Q Okay. Warrants for?

20 A For Mr. Geter.

21 Q Okay. And once you secured warrants, what did you
22 do next?

23 A At that point, then we start the process of trying
24 to find Mr. Geter, see if we can locate Mr. Geter.

25 Q And how did you do that?

1 A At that point we go ahead and get the warrants cut,
2 put into NCIC. We are not sure if we have a flight
3 risk. We are not sure what we are dealing with at
4 that point. You never know, so you want to make
5 sure you have them in NCIC if someone flees the
6 state or perhaps leaves the country, which is very
7 rare, but flee the state. If that person is
8 located say in another state, Georgia, North
9 Carolina, Tennessee, or wherever, they can be
10 apprehended by local authorities there and then
11 brought back to South Carolina.

12 We then networked out with family members, and
13 there was an investigator that knew of him and knew
14 of his brother. And a phone call was made to his
15 brother, who goes by the nickname of Rabbit. And I
16 cannot remember --

17 MS. ZMROCZEK: Your Honor, I am going to
18 object to anything that Rabbit said. That is
19 hearsay.

20 THE COURT: All right. Sustained.

21 BY MR. CATHCART:

22 Q You told Rabbit that you were looking for his
23 brother?

24 A Correct.

25 Q Okay. And at some point did you get in touch with

1 Mr. Geter?

2 A I did. I gave his brother Rabbit my cell phone
3 number, my county cell phone number, and said,
4 Please have him contact me as soon as humanly
5 possible. We need to talk to him.

6 Q Okay. And did you -- were you able to talk with
7 Mr. Geter?

8 A Mr. Geter would contact me by phone.

9 Q Around what time was this?

10 A Let me look in my -- this would have been around
11 noon that same morning, or noon that same day,
12 rather. And I spoke to him on the phone. And we
13 spoke briefly on the phone.

14 And I said, We're going to need to talk to
15 you. You need to come in and talk to me, okay? We
16 have got to get to bottom of this, that kind of
17 thing.

18 And he said, I'll be in there very soon. And
19 we negotiated on about 1:30. He got there about
20 2:00 o'clock in the afternoon.

21 Q Okay.

22 A And that was at headquarters.

23 Q Okay. Headquarters over there off of Two Notch?

24 A Two Notch. 5623 Two Notch Road.

25 Q Okay. And what occurred when he showed up at

1 headquarters?

2 A The desk sergeant, I told the desk sergeant
3 downstairs -- there is an area where you can look
4 out in the parking lot. They said, There is a
5 gentleman here to see you. I went downstairs, made
6 contact with him, shook his hand, told him who I
7 was, why I wanted to talk to him. He was smoking a
8 cigarette, and I said, Do you want to talk to me?
9 And he gave the affirmative that he would.

10 Q Okay. And what did you do then?

11 A You know, I noticed that he had quite a bit of
12 blood still on him, on his clothing. And he was
13 dressed in a camouflage jacket, woodland print
14 camouflage jacket, much like folks had described
15 that he was wearing when it happened.

16 And at that point I said, Why don't you come
17 upstairs with me? We brought him inside. I gave
18 him a quick pat-down because I don't know what he
19 has got on him, or anything like this. And I want
20 to talk to him. And I didn't put him in handcuffs.
21 There is still his side to the story that we need
22 to know about. And that was truly what I was
23 interested in. This had happened in a bar. It
24 happened early in the morning. And there had been
25 a lot of people there. So we want to hear his side

1 of this thing.

2 And as we get on the elevator, I and another
3 person get on the elevator with him. He hands me a
4 bloody knife, puts it in my hand. And I said, Is
5 this the knife you used? And he said, Yes. And he
6 said, there was like five dudes there.

7 And I said, Okay. Hold on a second, meaning,
8 if you are going to tell me something, let me
9 advise you of your rights, so I can advise him of
10 Miranda. And we went upstairs. He made no further
11 statements.

12 Q Okay. And did you do what at that point? Did you
13 collect the knife?

14 A I collected the knife, put that into evidence,
15 collected his clothing. Obviously for some DNA
16 down the road we want to know whose blood is on
17 him. And found out if he needed any, you know,
18 acute medical care. It didn't appear he did. He
19 certainly didn't indicate he did. We charged him
20 with the two warrants that we had. We transported
21 him to Alvin S. Glenn Detention Center without
22 further incident.

23 Q Let me show you what has been marked State's
24 Exhibit Number 58. Do you recognize what that is?

25 A I do. That is the knife that Mr. Geter handed me

1 on the elevator.

2 Q Okay. And that is the one you put into evidence?

3 A Correct.

4 MR. CATHCART: At this time the State seeks to
5 introduce State's Exhibit Number 58.

6 MS. ZMROCZEK: No objection.

7 THE COURT: That will be entered without
8 objection, 58.

9 (WHEREUPON, State's Exhibit No. 58 was
10 marked for identification and received
11 into evidence.)

12 BY MR. CATHCART:

13 Q I show you what has been marked State's Exhibit
14 Number 59. Do you recognize what that is?

15 A I do. It is going to be an oral swab, DNA, Q-tip
16 swab for DNA.

17 Q And that is a swab that you took from Mr. Geter?

18 A That is correct.

19 Q And how did you do that?

20 A We opened up the swab package without touching it.
21 They remove the stick with the Q-tip end on the
22 side, place it inside your cheek, both sides, get
23 it good and moist, put it in a box, we seal it, and
24 send it off to the lab.

25 Q Okay.

1 MR. CATHCART: At this time the State seeks to
2 introduce Number 59.

3 MS. ZMROCZEK: Without objection, Your Honor.

4 THE COURT: It is entered without objection.

5 (WHEREUPON, State's Exhibit No. 59 was
6 marked for identification and received
7 into evidence.)

8 BY MR. CATHCART:

9 Q I show you what has been marked as State's Exhibit
10 Numbers 34 and 35, and ask if you recognize what
11 these are?

12 A Yes, I do. These are pictures I actually took.
13 That is my hand in a glove. This is just moments
14 after he handed me the knife.

15 Q Okay. Is anything that was on the blade of the
16 knife of significance?

17 A It appears to be blood.

18 MR. CATHCART: At this time the State seeks to
19 introduce State's Exhibit Number 34 and 35.

20 MS. ZMROCZEK: Without objection, Your Honor.

21 THE COURT: All right. Entered without
22 objection.

23 (WHEREUPON, State's Exhibit Nos. 34-35
24 were marked for identification and
25 received into evidence.)

1 BY MR. CATHCART:

2 Q I show you what has been marked as State's Exhibit
3 Number 37. Do recognize what that is?

4 A I do. That would be just outside of our detention
5 cell. That would be blood, what appears to be
6 blood stains on Mr. Geter's jacket.

7 Q Okay. And State's Exhibit Number 44. Can you
8 describe what that is?

9 A That would be looking straight on at Mr. Geter.
10 And that appears to be blood on his undershirt just
11 outside the D cell.

12 Q And State's Exhibit Number 43?

13 A That would be a side profile of Mr. Geter. And,
14 again, a photograph of what appears to be an
15 abrasion or wound on his right -- above his
16 right -- left eye, rather -- and blood on his
17 undershirt.

18 MR. CATHCART: The State would seek to
19 introduce these.

20 MS. ZMROCZEK: Without objection, Your Honor.

21 THE COURT: All right. 37, 44, 43 will be
22 entered without objection.

23 MR. CATHCART: That would be 43, 44, and 37.

24 (WHEREUPON, State's Exhibit Nos. 37,
25 43-44 were marked for identification and

1 received into evidence.)

2 MR. CATHCART: Beg the Court's indulgence.

3 (Pause.)

4 BY MR. CATHCART:

5 Q You did go to Culler's, did you not, that night?

6 A I did.

7 Q Culler's is located where exactly?

8 A Monticello Road. I don't have numerics in front of
9 me.

10 Q Is it kind of close to where I-20 is?

11 A It is. Right when you come off the exit there, if
12 you are going west -- eastbound.

13 Q Away?

14 A Westbound. Right. Westbound towards Atlanta. And
15 you get off at that exit and a gas station and
16 Culler's, you can almost see it right cross the
17 street.

18 Q It that in Richland County?

19 A Yes, sir.

20 Q Please answer any questions from Defense counsel.

21 CROSS-EXAMINATION

22 BY MS. ZMROCZEK:

23 Q Investigator Clarke, what kind of training did you
24 receive at the academy for investigations? Tell
25 the jury.

1 A It has been over 18 years ago. I know we covered
2 some things, but I wouldn't know exactly what we
3 covered.

4 Q Okay. You received training. You have had 18
5 years of training as an investigator?

6 A No, I have had 18 years of experience in law
7 enforcement.

8 Q Okay. In law enforcement. But you received
9 specific training in investigations?

10 A I think I have, yes. That would be safe to say,
11 yes.

12 Q In fact, every year you have to get more training,
13 right? You have to keep your hours?

14 A Yes, but that usually primarily involves physical
15 fitness, shooting, and things like that.

16 Q Okay. But the point of being -- and like you don't
17 start out as an investigator, you have to start out
18 kind of like a beat cop or, you know, as Officer
19 Marum, kind of a responding officer, right, and you
20 kind of work your way up the chain, right?

21 A That is the usual path.

22 Q That is the usual path. So investigators are kind
23 of highly trained police officers?

24 A Highly is subjective, but one would say, you
25 know --

1 Q Okay. We expect them to be, right?

2 A I don't know.

3 Q Okay. We'll move on. So you go down. You get
4 called, you go down to Culler's, you talk to two
5 people, and you take out warrants? That was your
6 testimony, right?

7 A No, that was not the sequence of events, but.

8 Q All right. Did you take the warrants out before or
9 after speaking with Mr. Geter?

10 A After speaking with Mr. Geter?

11 Q Uh-huh.

12 A I had them before I spoke with Mr. Geter.

13 Q Right. So before you ever heard his side of the
14 story, you took the warrants out?

15 A Yes.

16 Q Okay.

17 A I had probable cause for the arrest.

18 Q Not every time someone is killed is it a homicide,
19 is it?

20 A No.

21 Q Or is it a murder?

22 A Not a murder.

23 Q Not a murder, right. Sometimes it is self-defense?

24 A Absolutely.

25 Q Okay. I'm going to show you what has been marked

1 as Defendant's 17, 24, 23, 22, 21, 20, 18, 13, 8,
2 and 9. Do you recognize those?

3 A I do.

4 MS. ZMROCZEK: Your Honor, at this time we
5 move these in evidence.

6 THE COURT: Any objection?

7 MR. CATHCART: No objection.

8 (WHEREUPON, Defendant's Exhibit Nos.
9 8-9, 13, 17-18, 20-24 were marked for
10 identification and received into
11 evidence.)

12 BY MS. ZMROCZEK:

13 Q So the first one I just showed the jury, these are
14 Defendant's 8 and 9.

15 A Okay.

16 Q Okay. You have CSI, right? You have crime scene
17 investigators that take the photos? You did not
18 take these?

19 A Right.

20 Q But they are trained to take the photos, correct?

21 A Correct.

22 Q And these photos kind of show the inside of -- a
23 little bit of the area of the dance floor where the
24 ATM and jukebox are, right?

25 A Correct. They show the interior of the building at

1 that location, that angle.

2 Q Okay.

3 A Okay.

4 Q We don't have any other photos that go past this
5 point, do we?

6 A That I don't know. I would have to look at all the
7 pictures to know that for certain.

8 Q Okay. Does your report indicate whether the door
9 was open -- the kitchen door was open or closed?

10 A I don't know if I mentioned the kitchen door.

11 Q Okay. And we don't have any photographic evidence
12 of it from that night, correct?

13 A That I don't know, ma'am. I would have to look at
14 all the pictures.

15 Q And then I'm going to show you Defense 13.

16 A Okay.

17 Q A photo taken outside on the deck that evening,
18 correct?

19 A Correct.

20 Q And one of the things that you want to do when you
21 investigate is make sure that you collect -- or at
22 least photograph all areas of entrance or collect
23 all materials of possible entrance, right?

24 A If possible you would like to collect it. You
25 always want more photographs.

1 Q You always want more photographs and more
2 collection?

3 A Evidence is like money, you always want more of it.

4 Q Right. Because that stuff helps to find out
5 exactly what happened, right?

6 A It can help.

7 Q Right. It can help corroborate a story, right?

8 A Potentially, sure.

9 Q Because otherwise you have somebody saying
10 something -- I even think you said in your direct,
11 you know, you don't know who is on whose side, you
12 have got families working together and maybe
13 families working against other people, right?

14 A I didn't say families working against other people.

15 Q Okay. But you have families -- at least you
16 discussed that in your direct?

17 A Correct. You don't know whose family ties are
18 what.

19 Q Right.

20 A Who is related to whom.

21 Q Right.

22 A Right. You don't know who is an employee, who is
23 not a n employee, that kind of thing.

24 Q Right. Who has an interest or not an interest to
25 say something?

1 A A dog in the fight. Absolutely.

2 Q Right. A dog in the fight. So what you want to do
3 is you want to get some physical evidence to
4 corroborate somebody's story, right?

5 A It would help.

6 Q Absolutely. Because otherwise all we have is what
7 he said and she said?

8 A Not always, no.

9 Q Sometimes?

10 A Certainly sometimes, sure.

11 Q And physical evidence helps corroborate that,
12 right?

13 A Physical evidence can help corroborate what
14 eventually happened or what actually happened.

15 Q Right. And sometimes we don't want to worry about
16 what eventually happened, sometimes we need to go
17 back to the beginning to help understand what began
18 to happen or what started something, right?

19 A That is always -- in an investigation, that is
20 always something that is a direction perhaps.

21 Q Okay. And you received pictures that evening or
22 that next day on the 7th, you received photographs,
23 right?

24 A I don't know where you are -- what is the question?

25 Q The photographs that you identified?

1 A Correct. Did I receive them? I don't understand.

2 Q You knew photographs were taken that evening?

3 A Photographs were taken at the scene, yes.

4 Q Right. I'm talking about pictures you identified
5 that you have recognized?

6 A Right.

7 Q Okay. You have seen these before?

8 A I have seen those, yes.

9 Q They were e-mailed to you, right, or texted to you?

10 A Okay. Yes.

11 Q Okay.

12 A Okay.

13 Q And those were -- we will start with Defendant's
14 18. Those were these pictures, right?

15 A That looks familiar, yes.

16 Q Okay. And these are pictures of what -- and you
17 received these pictures on March 7th?

18 A That would have been the day, yes, because
19 everything happened on March 7th. it just started
20 early in the morning.

21 Q It just started at 2:00 in the morning.

22 A Right.

23 Q So March 7th you get pictures of what Mr. Geter
24 looks like?

25 A Right. Those were sent to me I believe by his

1 brother.

2 Q Okay. You received these pictures?

3 A Right. He sent them. And if I remember correctly,
4 he wanted to --

5 Q You can't say what other people --

6 A No, no, it would be -- let me just -- I have got to
7 put it in context, counselor, it didn't just come
8 out of the air. I was told that there were some
9 photographs perhaps of what Robert Geter looked
10 like.

11 Q Uh-huh.

12 A And those needed -- that I needed to see those.

13 Q Right. And that is how we got them?

14 A Right. And they were sent to me via cell phone. I
15 don't remember whose cell phone, Robert's or his
16 brother's, to my county cell phone, because I gave
17 my cell phone number to Rabbit so that his brother
18 could eventually call me as soon as humanly
19 possible.

20 Q Okay. And that is what he did, right?

21 A Who?

22 Q Robert called you?

23 A Yes. Some short time later he called me, right.

24 Q And he brings you the knife?

25 A He certainly did.

1 Q And said, Here?

2 A He said, You may need this.

3 Q You may need this. And we have photographs of his
4 left eye, face, right side of his face, hand --
5 both hands, right?

6 A I see both hands, yes, ma'am.

7 Q A full-on face?

8 A Correct.

9 Q And a close-up of the injuries that he received?

10 A Correct.

11 Q And, in fact, that full-on face is similar to the
12 one that was just previously entered where his face
13 was so swollen? In fact, his eyes are swollen
14 shut, correct, or at least one eye?

15 A You know, from the angle I can't tell if they are
16 swollen shut. There appears to be some swelling to
17 his face, no question.

18 Q Not only does he show up and tell you, You may need
19 the knife, as he hands it to you, he is wearing the
20 exact same clothes that he had worn that evening,
21 right?

22 A It appears that way, yes, ma'am.

23 Q Didn't try to hide?

24 A I don't know if he tried to hide or not.

25 Q Okay. Did he show up at your office?

1 A He certainly did.

2 Q Okay. Did you have to put a BOLO out and have
3 somebody in North Carolina go pick him up?

4 A No. We did put a BOLO out, though. I'm pretty
5 sure we put a Be On Look Out.

6 Q But he turned himself in?

7 A Right. He came to headquarters.

8 Q Right. Just came in and brought the knife?

9 A Yes.

10 Q You talked about y'all went through the pictures of
11 the scene and blood. And you said you don't want
12 to comment on direction, but actually you have --
13 Richland County has their own crime scene certified
14 people that can talk about direction and spatter
15 and how things could have moved, right?

16 A Yes. There is a scientific principle known as
17 blood splatter or blood drop analysis, and you can
18 look at that type of thing through some training,
19 you can get some certification in it. I don't have
20 it.

21 Q But somebody in Richland County does?

22 A Many of the lab folks have it and can look at how
23 it is a drop or is it slash or a run, those types
24 of things, yes.

25 Q Okay. And because that can only help explain what

1 happened scientifically, right?

2 A Scientifically. With this issue, though,
3 counselor, there was not a whodunnit. We knew who
4 had done it, it was just a matter of perhaps why.

5 Q Right. Perhaps why?

6 A Sure.

7 Q So we want to investigate the why?

8 A That is absolutely right. That is why we would
9 like to speak to the Defendant.

10 Q Right. Or maybe look at the physical evidence?

11 A Yes. We were operating on a tight timetable at
12 that point. We didn't know at that point if we
13 have enough probable cause because we have a person
14 identified by name and sight, two credible, or
15 rather --

16 MS. ZMROCZEK: Your Honor --

17 THE WITNESS: Word bothers you?

18 THE COURT: All right. Please disregard the
19 last statement. Please rephrase the question.

20 BY MS. ZMROCZEK:

21 Q What investigation did you do into this being
22 Robert Geter trying to save his life?

23 A Robert Geter trying to save his life?

24 Q Yes? What investigation did you do?

25 A Put in that context, none.

1 Q Not one bit, did you?

2 A Well, it wasn't relevant.

3 Q Okay. Not relevant to you because you had already
4 taken out the warrants, right?

5 A Because I had probable cause for the arrest,
6 counselor.

7 MS. ZMROCZEK: No further questions, Your
8 Honor.

9 THE COURT: All right. Yes, sir?

10 MR. CATHCART: Thank you, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. CATHCART:

13 Q Other than Mr. Geter saying, there was like five
14 guys, did anyone also give any evidence that there
15 was anybody else other than a one-on-one fight
16 between Mr. Lewis and Mr. Geter?

17 A None.

18 Q Mr. Geter's brother sent you pictures of Mr. Geter.
19 That is pictures of him with skinned knuckles,
20 correct? That is Defense Number 23?

21 A Correct.

22 Q With one hand covered in blood?

23 A Correct.

24 Q That is Defense Number 21. But he gave no
25 indication what occurred. Did he tell you this as

1 a witness of what occurred?

2 MS. ZMROCZEK: Your Honor --

3 THE COURT: Hold on. What is the objection?

4 MS. ZMROCZEK: The same issue that we
5 discussed earlier.

6 THE COURT: You have to come up. I don't know
7 what you are talking about.

8 (WHEREUPON, a bench conference was held
9 in the presence of the jury but out of
10 the hearing of the jury.)

11 THE COURT: Yes, sir. Please rephrase the
12 question.

13 BY MR. CATHCART:

14 Q Other than somebody sending you pictures of
15 Mr. Geter from that night, was there any other
16 evidence sent to you from anybody about anything
17 other than what you found out from your
18 investigation at the scene?

19 A No.

20 Q Was the evidence that was found at the scene
21 consistent with what the Cullers told you occurred?

22 A Correct.

23 Q Reeshemah Culler pointed things out. Is that where
24 the blood occurred?

25 A Correct.

1 Q When she said that -- when she pointed out where
2 the victim was laying, his head up against the
3 door, did the blood show that?

4 A It appeared to resemble that, yes.

5 Q The evidence from the witnesses you spoke to, the
6 evidence from everybody you spoke to, all
7 corroborate what the Cullers told you, correct?

8 A Correct. When I got to the scene and spoke to
9 folks at the scene, they were naming someone by
10 name. And at that point I spoke to two witnesses
11 who gave written statements, assisted in
12 identification, and stated this was the person that
13 they saw do what happened. At that point I had
14 probable cause to make an arrest in the State of
15 South Carolina.

16 Q Did anybody else ever come to you and say something
17 different?

18 A Never.

19 Q This happened 2015, correct?

20 A Correct. We even put out -- we do Crime Stoppers
21 tips, we do media releases. Anonymity is
22 guaranteed. There is a reward. We do all of those
23 things, as we do in all investigations of this
24 nature. No one came forward to say anything to the
25 contrary of what my two witnesses, Ms. Culler,

1 Deborah and Reeshemah, that said that night, nor
2 was inconsistent with what they were telling me or
3 what we found at the scene.

4 Q And you were here in opening statements, correct?

5 A Yes.

6 Q Is that the first time you heard that story?

7 A No. Oh, that story?

8 Q Yes, the story that he gave about -- in opening
9 statements?

10 MS. ZMROCZEK: Your Honor, I object. Openings
11 are not evidence, so.

12 THE COURT: Overruled.

13 BY MR. CATHCART:

14 Q His scenario of the facts that Mr. Geter's attorney
15 is now saying happened, is that the first time you
16 have ever heard that?

17 A Yes.

18 Q And you also, by the time Mr. Geter came, turned
19 himself in, knowing that the police were looking
20 for him, this hand that has no other injuries but
21 is covered in blood wasn't covered in blood by the
22 time you got to it, correct?

23 A It did not appear to be covered in blood when he
24 came to me.

25 Q The clothes on him that had what appeared to be

1 blood on them, you collected, right?

2 A Correct.

3 Q Including this gray undershirt, correct?

4 A Correct.

5 Q You confirmed that Clarence Stone was also a
6 victim?

7 A I did.

8 Q And you spoke with him as well?

9 A I did. I took a statement at his home.

10 Q And he gave a statement of what occurred?

11 A He did.

12 Q You saw him testify again today?

13 A I did.

14 Q And was that exactly what he told you?

15 MS. ZMROCZEK: Objection, Your Honor.
16 Improper vouching.

17 THE COURT: Overruled. You are asking about
18 the testimony that he gave?

19 MR. CATHCART: Yes. We watched him just a few
20 minutes ago.

21 THE COURT: Overruled.

22 BY MR. CATHCART:

23 Q The same thing he told this jury happened to him is
24 what he told you?

25 A Seems absolutely consistent, correct.

1 Q Thank you. No further questions.

2 MS. ZMROCZEK: I know. I will be very brief,
3 Your Honor.

4 THE COURT: Go ahead.

5 RECROSS-EXAMINATION

6 BY MS. ZMROCZEK:

7 Q Actually, it was not the first time you heard that
8 story because Mr. Geter told you, right, when he
9 turned himself in, that he was jumped by five
10 people?

11 A He said, It was like five dudes.

12 Q Okay. Five dudes. So that is actually not the
13 first time that you have heard that story in here
14 in opening.

15 A What counselor asked me was what was discussed in
16 trial today or in trial up to this point. And, no,
17 that is not the first -- that would be the first
18 time I heard that story.

19 Q Okay. Let me make it more clear. The first time
20 you heard about Robert Geter being attacked was
21 when he turned himself in six hours after Mr. Lewis
22 had expired, correct?

23 A No, I never heard he had been attacked.

24 Q You never heard -- okay, sorry, jumped?

25 A I heard there had been a fight.

1 Q What was -- what did he say to you in the elevator?

2 A I wrote down in my statement, purposely being quiet
3 when I met with him just so that I could get
4 upstairs and get in front of a computer, get in
5 front of a statement form, get in front of a
6 Miranda Warning, the things we normally do. He
7 told me he was beat up by like five dudes. He told
8 me that.

9 Q Okay. So you had heard that then? You heard that
10 before yesterday?

11 A To be clear, Counselor, what Prosecution, what the
12 State asked was that story, what y'all are putting
13 together as defense, was that the first time I
14 heard it in that way. Yes, that was the first time
15 I heard it since I have been in court. The only
16 thing Mr. Geter told me was it was like five dudes.

17 Q He was beat up or jumped by five dudes?

18 A It was like five dudes.

19 Q Okay.

20 A Almost -- I have got that in quotations. There was
21 no expounding on the front end or the back end.
22 Certainly if he had done that I would have been
23 glad to take his statement and hear his side of it.

24 Q Okay. So with your -- with the pictures and the
25 statement, that was your investigation?

1 A No, my investigation was much more thorough -- we
2 are paraphrasing my investigation. The
3 investigation continued outwards.

4 Q Okay. Let's talk about people that you spoke with.
5 Reeshemah Culler and Deborah Culler, they are
6 related, right?

7 A Yes, mother and daughter.

8 Q Uh-huh. Michael Harkness, when did you speak with
9 him?

10 A Never spoke to that man.

11 Q Never spoke to that man, right?

12 A Never spoke to him.

13 Q So never knew that he had ever said until a few --
14 a year ago, or whenever we had the last hearing on
15 this, you never knew that he said, I'm going to
16 kill somebody tonight, right? You never spoke with
17 him?

18 A Let me put that in the proper context. When -- no,
19 I did not, to answer the question. In fact, the
20 first time I heard that was in that prior trial we
21 had, or hearing.

22 Q Hearing?

23 A Hearing. A lot of folks don't want to come
24 forward.

25 Q A lot of folks don't want to come forward, right?

1 A Can't do anything about it.

2 Q Right, you can't do anything about it, because you
3 control the bar, you control who comes in and out,
4 if you speak against the family you cannot be
5 able --

6 MR. CATHCART: Can she ask questions and not
7 argue closing argument?

8 MS. ZMROCZEK: Trying to get there.

9 THE COURT: Please ask in the form of
10 questions, please.

11 BY MS. ZMROCZEK:

12 Q People don't like to talk, right?

13 A It is situational. It happens from time to time.
14 It is unfortunate we have situations like this,
15 particularly at clubs or bars, or things like that,
16 where folks are, you know, they just don't want to
17 get involved or they concerned about repercussions
18 or they don't want to be thought of as a snitch, or
19 any number of reasons. So it is very hard to get
20 folks to cooperate sometimes. And that is
21 unfortunate.

22 Q It is.

23 A Because it doesn't -- counselor, to your credit,
24 it doesn't allow us to maybe get the full picture.

25 Q Right. And we have -- so we have the Cullers and

1 Mr. Harkness, who are related, and Mr. Stone, who
2 is the godson, right?

3 A I didn't know all the family relations of
4 Mr. Stone. I knew obviously Ms. Culler and her
5 daughter share a common name, so that was pretty
6 easy to figure out who was who.

7 Q Thank you.

8 THE COURT: All right. Sir, you may step
9 down.

10 THE WITNESS: Thank you, ma'am.

11 (Witness steps down.)

12 THE COURT: Ladies and gentlemen of the jury,
13 we are at about a quarter to 5:00. We are at a
14 good stopping point. We will start back tomorrow
15 at 9:30. Tomorrow morning at 9:30.

16 Remember, do not discuss the case. Do not
17 read anything about it. Please do not do any
18 independent research regarding this case. When you
19 leave here today, just wipe your mind clear of
20 everything until you come back tomorrow morning at
21 9:30. Think about something else and enjoy your
22 evening.

23 Thank you.

24 (WHEREUPON, the jury is excused at 4:45
25 p.m.)

1 restful evening.

2 At this time we will continue with the State's
3 case.

4 I'll ask the State to call their next witness.

5 MR. CATHCART: May it please the Court, Your
6 Honor? At this time the State calls Yvonne Woods.

7 (Witness approaches.)

8 THE BAILIFF: Place your left hand on the
9 Bible, raise your right hand, and face the clerk.

10 (Witness complies.)

11 THE CLERK: Do you swear or affirm the
12 testimony you shall give in this case will be the
13 truth, the whole truth, and nothing but the truth,
14 so help you God?

15 THE WITNESS: I do.

16 THE CLERK: Please have a seat in the witness
17 stand, and state your full name for the record.

18 THE WITNESS: Yvonne Woods.

19 YVONNE WOODS,
20 after being duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. CATHCART:

23 Q Investigator Woods, where are you employed?

24 A Richland County Sheriff's Department.

25 Q And what do you do there?

1 A I'm a crime scene investigator.

2 Q Can you describe for the jury exactly what that
3 means?

4 A We go -- we process all scenes all over Richland
5 County, whether it be burglary, larcenies,
6 homicides, suicides.

7 Q And when you say process the scene, what are y'all
8 doing? What are you looking for?

9 A Evidence. We look for any evidence. We photograph
10 and we look for any evidence that's at the scene.

11 Q And did you do that in this case?

12 A Yes, I did.

13 Q And when I talk about this case, you were on duty
14 back on March 7th of 2015?

15 A Yes, sir.

16 Q Did you have the opportunity to go to Culler's Pool
17 Hall and Restaurant?

18 A Yes, sir, I did.

19 Q Tell the jury what you went there for.

20 A I was called to the scene to process the scene,
21 actually, to take photographs and to collect
22 evidence.

23 Q Okay. And when you got to that scene, what did you
24 find?

25 A I observed blood everywhere. Clothing. I had to

1 photograph the stuff.

2 Q Okay. And so when you observed the blood and you
3 say clothing, how did you see, what did you see,
4 and where did you see it? I mean, how -- when you
5 go there, do you just go in blind and don't know
6 what's going on?

7 A I don't know what's going on until I get there.
8 Once I get there, I do a walk-through to see what I
9 do have. I try not to destroy any evidence. I
10 photograph the scene as is. And then I do another
11 walk-through the second time to find other evidence
12 and I photograph evidence at that point. My first
13 thing to do is to photograph the scene as is.

14 Q So you walk through the scene first?

15 A That is correct.

16 Q And look for anything that might be evidence?

17 A Evidence.

18 Q In this case?

19 A That is correct.

20 Q Were you informed of what kind of case this was
21 when you got there?

22 A The only thing that I was told was that it was an
23 altercation with a stabbing. That was the only
24 thing that I was told.

25 Q Okay. And when you walked into the scene, or when

1 you observed the scene, what did you first see?

2 A I saw clothing on the outside of the business at
3 the doorway, and then I observed blood.

4 Q Okay. Let me show you what's been marked State's
5 Exhibit Number 18. Would that be the clothing
6 you're talking about you saw outside?

7 A Yes, sir. That's at the front door.

8 Q And that would be the blood you saw at the front
9 door as well?

10 A That is correct.

11 Q Okay. And, again, you took those pictures before
12 you did any other processing, correct?

13 A That is correct.

14 Q Again, State's Exhibit Number 19, again, that same
15 doorway?

16 A Yes, sir.

17 Q Okay. You then proceeded into the building?

18 A Yes, sir, I did.

19 Q And, again, showing you State's -- I'm sorry.
20 State's Exhibit Number 15, is that, again, a
21 photograph you took of what you observed to be
22 evidence in the scene?

23 A Yes, sir.

24 Q And that is a photograph of what?

25 A Blood.

1 Q Blood?

2 A Yes, sir.

3 Q And you memorialized that before you did any other
4 processing?

5 A That is correct.

6 Q Okay. And as I believe you said earlier, when you
7 first got there, you looked at the building, I
8 mean, the whole area?

9 A That is correct.

10 Q Did you talk to any witnesses who were there to
11 tell you what happened?

12 A I talked with the officer that was on scene, first
13 responding officer.

14 Q Okay. And then at that point?

15 A He explained to me what he had, what happened, and
16 he gave me -- he advised me of the victims that
17 were transported, because there was no one there
18 prior.

19 Q Okay.

20 A So.

21 Q And so you looked through the building and you
22 focused on the items that you --

23 A That is correct.

24 Q That you see? Mainly, that there was blood in the
25 area?

1 A Yes, sir.

2 Q Okay. And you memorialized that by photographing,
3 as you stated, the scene and the area that you
4 found was significant?

5 A That is correct.

6 Q What did you do after you took those photographs
7 and looked at the entire scene?

8 A I walked through and I put markers down where the
9 blood stains were at so I could collect a swab from
10 them.

11 Q Let me show you State's Exhibit 60 through 71. And
12 let me ask if you recognize these?

13 MS. ZMROCZEK: They're without objection, Your
14 Honor.

15 BY MR. CATHCART:

16 Q If you would, just go ahead and describe what they
17 are.

18 A Marker 1 is reddish-brown stains believed to be
19 blood at the doorway entry.

20 Q Marker Number 1.

21 MS. ZMROCZEK: Your Honor, I think he needs to
22 move them in officially before he shows them to the
23 jury.

24 MR. CATHCART: I'm sorry. I ask them to be
25 entered in evidence. I was kind of used to the way

1 we've been doing it lately.

2 THE COURT: All right. That's Number 60 --

3 MR. CATHCART: We ask to move 60 through 71
4 into evidence, Your Honor.

5 THE COURT: Any objection?

6 MS. ZMROCZEK: No, they are without objection.

7 MR. CATHCART: May I publish them to the jury?

8 THE COURT: All right, they are entered
9 without objection. Yes, sir.

10 MR. CATHCART: Thank you.

11 (WHEREUPON, State's Exhibit Nos. 60-71
12 were marked for identification and
13 received into evidence.)

14 BY MR. CATHCART:

15 Q Okay.

16 A Marker Number 2 is on the building itself on the
17 walls.

18 Q Okay.

19 A Marker Number 3 is on the floor inside.

20 Q Again, when you say Marker Number 3, it's those
21 little markers that you put down around --

22 A It's marking the reddish-brown stains.

23 Q Okay.

24 A Marker Number 4 is on the pool table closest to the
25 front door.

1 Q And that would be marking it because there is?

2 A Reddish-brown stains.

3 Marker Number 5 is also reddish-brown stains
4 on the floor next to a chair.

5 Marker Number 6 is also reddish-brown stains
6 on the floor.

7 Marker Number 7 is reddish-brown stains on the
8 back interior of door.

9 Marker Number 8 is also reddish-brown stains
10 on the back deck.

11 Marker Number 9 is reddish-brown stains also
12 on the back deck.

13 And Marker Number 10, I have two photographs
14 here for Marker Number 10, also reddish-brown
15 stains on the back deck. And this is overall
16 picture of reddish-brown stains on the floor
17 inside.

18 Q And that is how it appeared?

19 A Yes, sir.

20 Q And these are the markers that you placed? What
21 was the purpose for you placing those markers?

22 A So that I could collect the swabs.

23 Q Can you describe for the jury what you do when you
24 collect swabs?

25 A It's sterile cotton swabs, and I put water on it,

1 and I take it and I collect the sample of the
2 reddish-brown stains.

3 Q Let me show you what has been marked State's
4 Exhibit Number 73. Do you recognize what that is?

5 A These are the swabs that I submitted into evidence.

6 MR. CATHCART: Your Honor, at this time the
7 State moves to enter State's Exhibit 73.

8 THE COURT: Any objection?

9 MS. ZMROCZEK: No objection, Your Honor.

10 THE COURT: All right, it will be entered
11 without objection.

12 (WHEREUPON, State's Exhibit No. 73 was
13 marked for identification and received
14 into evidence.)

15 BY MR. CATHCART:

16 Q And when you -- that swab, they're all in this
17 baggie?

18 A Yes, sir.

19 Q And they're individually wrapped, I assume, and
20 processed?

21 A Individually processed, individually done, placed
22 in a sterile box. It's also sealed and then it's
23 sealed in this.

24 Q Okay. And you register down the list of Swab
25 Number 1, and you put where it's from --

1 A Yes, sir.

2 Q -- front door entry, all the way down to Swab
3 Number 10 --

4 A Ten.

5 Q -- at the back stairwell?

6 A Yes, sir.

7 Q Including the swab of the pool table as well?

8 A That is correct.

9 Q What do you do with the swabs once you have
10 collected them?

11 A Once I collect them, I submit them into evidence.

12 Q Okay. And did you process anything else while you
13 were there at the scene?

14 A The frame of the pool table that was close to the
15 front door.

16 Q And how -- when you processed that, what did you
17 do?

18 A I checked for latent prints on that as well. So
19 what I done, I took black powder and I dusted it
20 checking for latent prints. And I also collected a
21 swab from that area.

22 Q Were you able to determine anything from the
23 prints?

24 A No, sir.

25 Q Did you see anything other than the items that you

1 processed and collected and recorded as to evidence
2 in this case?

3 A No, sir. I collected and submitted everything that
4 I saw that was in this case.

5 MR. CATHCART: Please answer any questions
6 from Defense counsel. Thank you.

7 CROSS-EXAMINATION

8 BY MS. ZMROCZEK:

9 Q Good morning, Ms. Woods.

10 A Good morning.

11 Q Mr. Cathcart asked you about what kind of case it
12 was. Does it matter if you know when you're going
13 to a scene what kind of case it is?

14 A No. I like to have all my items together, the
15 tools that I need to process that scene when I go.

16 Q Okay. And so you work for Richland County, right?

17 A Yes, that is correct.

18 Q And did you receive training to do crime scene
19 investigation?

20 A Yes, I did.

21 Q Okay. And, in fact, when you received that
22 training, they teach that you never know what
23 you're looking for or what can be of evidentiary
24 value, correct?

25 A That is correct.

1 Q So you want to make sure that you photograph the
2 entire scene, right?

3 A Yes, ma'am.

4 Q Okay. He showed you Number 71. Do you know -- is
5 there a reason why we didn't take any pictures past
6 this point?

7 A There was no evidential value -- no evidence past
8 that point.

9 Q Right. But in your training, you never know if
10 there's evidence or not evidence, right?

11 A That's the reason why we do a walk-through.

12 Q But you also want to go ahead and photograph it
13 just to confirm that there's nothing that can be
14 found?

15 A Once I walk through it and if there's no evidence
16 there, I concentrate mostly where the evidence is
17 at, and I am going to photograph where the evidence
18 is at.

19 Q Right. But, for example, if someone was in a
20 kitchen and the door was open or shut could be a
21 matter of contention, then we would be able to know
22 that had the scene been photographed, right?

23 A If there was evidence there and if the owner had
24 told me that anything was beyond that point.

25 Q Right. But nobody told you anything was beyond

1 this point right here, right?

2 A The owner told me there was nothing beyond that
3 point.

4 Q So Ms. Culler directed you to --

5 A That's correct.

6 Q So she --

7 A But I walked through it first.

8 Q So you never saw any bottles?

9 A No.

10 Q Never collected any chains?

11 A No, ma'am.

12 Q Never saw evidence of any fight inside by the
13 bathroom or the ATM machine? In fact, we don't
14 have a picture of the ATM machine from that night,
15 do we?

16 A No.

17 Q Okay. So you were working at the direction of the
18 investigator and Ms. Culler, is that correct?

19 A That's incorrect.

20 Q Okay. You said that you made blood swabs. Weren't
21 there blood swabs on the -- or that you collected
22 blood swabs -- on the back deck, there were stairs
23 that went down?

24 A That is correct.

25 Q And there was blood on the stairs?

1 A That is correct.

2 Q And we didn't collect those, right?

3 A I collected -- I cannot go and collect a swab from
4 all the blood that's there. I collected from the
5 main area.

6 Q Right. But we didn't -- so there was none from the
7 stairs?

8 A No, ma'am.

9 Q Okay. And there was none from the railing on the
10 deck either?

11 A No, ma'am.

12 Q Okay. Pictures that you took that -- didn't take
13 the pool tables. Had anybody -- to your knowledge,
14 once that scene was secured by Officer Marum, had
15 anybody been in there and moved anything or changed
16 anything?

17 A Not that I'm aware of.

18 Q Okay. So the photographs that we have from that
19 evening show exactly what it looked like?

20 A When I got there, yes, ma'am.

21 MS. ZMROCZEK: Thank you. No further
22 questions.

23 THE COURT: Yes, sir.

24 REDIRECT EXAMINATION

25 BY MR. CATHCART:

1 Q If you saw any evidence -- and you knew that this
2 was an altercation that occurred with blood because
3 you saw blood?

4 A That's correct.

5 Q If you saw any blood, would you have recorded it?

6 A Yes, sir.

7 Q If saw any other evidence of assault, you would
8 have recorded it, right?

9 A Yes, sir.

10 Q Was there any?

11 A No, sir.

12 MR. CATHCART: Thank you.

13 THE COURT: All right. You may step down,
14 ma'am. Thank you.

15 (Witness steps down.)

16 MR. CATHCART: Your Honor, at this time the
17 State calls Investigator Oates.

18 (Witness approaches.)

19 THE BAILIFF: Place your left hand on the
20 Bible, raise your right hand, and face the clerk.

21 (Witness complies.)

22 THE CLERK: Do you swear or affirm the
23 testimony you shall give in this case will be the
24 truth, the whole truth, and nothing but the truth,
25 so help you God?

1 THE WITNESS: I do.

2 THE CLERK: Thank you. Please have a seat in
3 the witness stand, and state full name for the
4 record. And please spell your last name.

5 (Witness seated.)

6 THE WITNESS: It's Robert Oates, O-A-T-E-S.

7 ROBERT OATES,
8 after being duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. CATHCART:

11 Q Investigator Oates, where are you employed?

12 A Richland County Sheriff's Department.

13 Q What do you do there?

14 A I currently work inside the latent print crime
15 scene unit.

16 Q And were you working with the Sheriff's Department
17 back in 2015?

18 A Yes, I was.

19 Q What were you doing there?

20 A I was a crime scene investigator.

21 Q Okay. And basically doing the same job Yvonne
22 Woods does?

23 A Yes, sir.

24 Q And process scenes?

25 A Yes.

1 Q Were you on duty back on March 7th of 2015?

2 A Yes, I was.

3 Q And were you called to the autopsy of James Lewis?

4 A Yes, I was.

5 Q And what did you do when you got there?

6 A I observed Dr. Marcus perform a medical autopsy on
7 the victim.

8 Q And did you take a buccal swab from the victim?

9 A Yes, I did.

10 Q Let me show you what's been marked State's Exhibit
11 Number 72.

12 A Yes.

13 Q Do you recognize what that is?

14 A Yes, I do.

15 Q Could you tell me what it is?

16 A This is a buccal swab or a DNA swab that we collect
17 from the victim's mouth area, saliva for DNA
18 purposes.

19 Q And that's what you did from this item? You did
20 swab the victim's mouth?

21 A Yes.

22 Q And put it into a --

23 A Yes, I placed it into an envelope and sealed it
24 with evidence tape with my initials and the date.

25 Q Okay. And then put it into evidence as well?

1 A Put it in evidence, yes.

2 MR. CATHCART: Your Honor, at this time the
3 State seeks to introduce State's Exhibit Number 72.

4 MS. ZMROCZEK: No objection, Your Honor.

5 THE COURT: It will be entered without
6 objection.

7 (WHEREUPON, State's Exhibit No. 72 was
8 marked for identification and received
9 into evidence.)

10 MR. CATHCART: No further questions. Thank
11 you.

12 CROSS-EXAMINATION

13 BY MS. ZMROCZEK:

14 Q Investigator Oates, good morning.

15 A Good morning.

16 Q You work for the CSI Department at Richland County?

17 A Yes.

18 Q And y'all have officers trained in crime scene
19 investigations?

20 A Yes.

21 Q You have officers trained in blood spatter
22 analysis?

23 A Yes, we do.

24 Q Okay. And what blood spatter analysis does is it
25 helps us kind of understand direction of blood and

1 give us an overall story of kind of what happened,
2 right?

3 A Yes, it can. Yes.

4 Q And when you also go to scenes, you want to make
5 sure you photograph everything, even if at that
6 time it doesn't appear to have evidentiary value,
7 because you don't know at that time, right?

8 A Right.

9 Q So you want to make sure that everything is
10 covered, correct?

11 A True, yes.

12 MS. ZMROCZEK: Okay. No further questions.

13 Thank you.

14 THE COURT: Yes, sir?

15 REDIRECT EXAMINATION

16 BY MR. CATHCART:

17 Q Did you go to the scene?

18 A No, I didn't.

19 Q Was anything about blood spatter involved with you?

20 A No, sir.

21 Q Blood spatter would have been appropriately asked
22 by a person that was there, right?

23 A Normally, yes. On the scene, yes.

24 Q Not the guy who just went to the autopsy?

25 A Not normally, no, sir.

1 MR. CATHCART: No further questions.

2 THE COURT: All right. You may step down,
3 sir.

4 (Witness steps down.)

5 THE COURT: Call your next witness.

6 MR. CATHCART: The State calls Dr. Gray Amick.

7 (Witness approaches.)

8 THE BAILIFF: Place your left hand on the
9 Bible, raise your right hand, and face the clerk.

10 (Witness complies.)

11 THE CLERK: Do you swear or affirm the
12 testimony you shall give in this case will be the
13 truth, the whole truth, and nothing but the truth,
14 so help you God?

15 THE WITNESS: I do.

16 THE CLERK: Thank you. Have a seat in the
17 witness stand, and state your full name for the
18 record.

19 (Witness seated.)

20 THE WITNESS: My name is Gray Amick.

21 GRAY AMICK,

22 after being duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. SHELLENBERG:

25 Q Dr. Amick, where are you employed?

1 A Richland County Sheriff's Department.

2 Q And what you do for the Sheriff's Department?

3 A I'm the lab director in the forensics laboratory.

4 Q And can you give the Court a little bit of your
5 background, education, and training?

6 A Yes. I have a BS in biology from 1989, a PhD in
7 biochemistry in 1993 from USC. At that point I was
8 hired by the State Law Enforcement Division and
9 worked there for 11 years. In 2004 I was hired by
10 the Richland County Sheriff's Department with
11 another individual to start the DNA lab. We
12 started the DNA lab there in 2004. I worked as a
13 DNA technical leader in charge of validation and
14 technical supervision until 2016, where I was
15 promoted to lab director.

16 MR. CATHCART: Your Honor, at this time we
17 move to have Dr. Amick as an expert in DNA
18 analysis.

19 MS. ZMROCZEK: We have no objection.

20 THE COURT: All right, ladies and gentlemen of
21 the jury, as I told you and explained to you on
22 yesterday, an expert witness, he's been qualified
23 as an expert in DNA analysis --

24 Is that correct, DNA analysis?

25 MR. CATHCART: Yes, ma'am.

1 THE COURT: -- to give opinion testimony in
2 that area. That does not mean that you have to
3 accept the opinion, but it is evidence for you to
4 use in any way you see fit and give it the weight
5 and credibility you believe is appropriate. Thank
6 you.

7 BY MR. SHELLENBERG:

8 Q Dr. Amick, can you tell the jury a little bit about
9 what you do as a DNA analyst?

10 A Yes. Basically, what we do is receive evidence
11 from officers at the crime scene, investigators,
12 deputies, and we try to develop a DNA profile from
13 that, from those items. And we also receive
14 standards or controlled swabs from people involved
15 and try to develop profiles from those and compare
16 the two to see if they match or not.

17 Q Now, did you become involved in this case against
18 Mr. Geter?

19 A Yes, I did.

20 Q And when did you become involved or how did you
21 become involved?

22 A I was assigned this case just on a rotational
23 basis.

24 Q And did you get the swabs from Ms. Woods -- or in
25 this case, Mrs. Woods?

1 A I would have gotten swabs from the log-in or
2 evidence department, so she would have logged them
3 into evidence and then I would retrieve them from
4 there.

5 Q And when you get them, are they already prepared
6 for you, do you prepare them? How does that work?

7 A So if they're swabs, they come directly to me and I
8 do my analysis on the swab. If it's an item of
9 clothing or another piece of evidence, it may be
10 something I myself would swab or process, make
11 cuttings from.

12 Q Now, in this case did you get a number of swabs?

13 A Yes, I did get some swabs.

14 Q And if you refer to your report, would that help
15 refresh your memory?

16 A Yes.

17 Q Let's look at the swabs you received in this case.
18 Look at Number 16. Did you test that?

19 A Yes, 16 was Swab 1 from the front doorway entry.

20 Q And would the 1 that you tested correlate to the 1
21 that would have been put on the picture?

22 A It would probably have been the crime scene
23 investigator's nomenclature.

24 Q Okay. And did you test what was Swab Number 1?

25 A I did.

1 Q And how do you test it?

2 A So what I would have done is visually look at it to
3 see if there is a stain on it, and depending on the
4 case specifics, do some basic serology, which is
5 identify the body fluid which may be on it. So in
6 this case, I was able to test it for indication of
7 blood, so I did that. And then I would process it
8 for a DNA profile.

9 Q And in this case, did you process it for a DNA
10 profile?

11 A Item 16? Yes, I did.

12 Q And to get those DNA profiles, how do you acquire
13 them?

14 A It was a multi-step process. It involves making a
15 cutting, extracting the DNA, setting it up with
16 some other reagents to amplify the DNA and then
17 visualize it on genetic instruments. We test about
18 24 different locations on the DNA molecule so as to
19 be very discriminating. So it takes -- it's a 3-
20 or 4-step process. It may take, you know, from a
21 day to a couple of months to do depending on the
22 number of items and complexity of the evidence.

23 Q Now, in this case did you get a swab from Mr. James
24 Lewis?

25 A Yes, I did.

1 Q And did you get a swab from Mr. Clarence Stone?

2 A Yes, I did.

3 Q And did you get a swab from Mr. Robert Geter?

4 A Yes, I did.

5 Q And are those useful in comparing against the swabs
6 you would have gotten from the scene?

7 A Yes. So I would process those in a similar manner,
8 make the cuttings, and develop a DNA profile from
9 those, and then compare those to the profiles I got
10 from the evidence.

11 Q So you wouldn't have used any profiles you would
12 have gotten from the evidence to develop a specific
13 person profile, you take it from their actual swab
14 that they take individually?

15 A Right. I would use the swab from their mouth, in
16 this case, to -- for comparison to the evidence.

17 Q Okay. And let's go back to that Swab 1 from the
18 front doorway entry. What was the DNA result from
19 that?

20 A The DNA result from Item 16, which that one was,
21 matched James Lewis.

22 Q And that would be what would have correlated to
23 Number 1 from the crime scene analyst if we're
24 going off of her nomenclature?

25 A Yes, Swab 1 is my description.

1 Q Did you test -- and it came back as who?

2 A James Lewis.

3 Q Go to Swab Number 2. Did you test that one as
4 well?

5 A Swab Number 2 is my Item Number 17, yes.

6 Q And what did that come back to?

7 A Same result. The DNA result from Item 17 matches
8 James Lewis.

9 Q And that would have matched the Number 2
10 nomenclature for the crime scene analyst?

11 A That's correct.

12 Q Let's go on to Swab Number 3. Did you test Swab
13 Number 3?

14 A Yes, that was my Item Number 18. The DNA result
15 from Item 18 is a mixture. James Lewis and
16 Clarence Stone could not be excluded. Robert Geter
17 was excluded from that item.

18 Q James Stone -- or Clarence Stone and James Lewis,
19 that would have correlated to Number 3 of the crime
20 scene analyst?

21 A That's right, Swab 3.

22 Q Or Swab 3. All right. Did you test Swab Number 4
23 from the top of the pool table?

24 A Yes, Swab 4 was my Item Number 19.

25 Q And what did that come back as?

1 A DNA result from Item 19 matched James Lewis.

2 Q And that, again, would have matched the Number 4 on
3 the crime scene analyst?

4 A Yes.

5 Q All right. Did you test Number 5?

6 A Yes. Swab 5 was my Item Number 20.

7 Q And what did Swab 5 come back as?

8 A DNA result from Item Number 20 matched James Lewis.

9 Q And did you test Swab 6?

10 A Six was Item 21, and the result from Item 21 was
11 the same. The DNA result from Item 21 matched
12 James Lewis.

13 Q And, again, that would have correlated with the
14 swabs taken by the crime scene analyst?

15 A That's correct.

16 Q Did you test Swab Number 7?

17 A Yes, Swab 7 was my Item 22. The DNA result from
18 Item 22 matched James Lewis.

19 Q And did you test Swab Number 8?

20 A Yes. Item Number 8 is Item 23 for me. DNA result
21 from Item 23 matched James Lewis.

22 Q And did you test Swab Number 9?

23 A That was Item 24. The DNA result from Item 24
24 matched James Lewis.

25 Q And did you test Swab Number 10?

1 A Number 10 was Number 25 in my report. DNA result
2 from Item 25 matched James Lewis.

3 Q So all of the swabs and the blood that was found
4 and tested from the scene came back to be James
5 Lewis?

6 A All of those swabs that I just mentioned, they all
7 matched James Lewis. And Number 18 also matched
8 Clarence Stone.

9 Q And did you test the knife in this case?

10 A Yes. Item 27 was the knife.

11 Q And what -- and how do you go about testing the
12 knife? You just take a specific swab from it?

13 A The knife -- let me refer to my notes. In this
14 case, we swabbed the blade of the knife and tested
15 it for the presence of blood, which blood was
16 indicated on the blade of the knife.

17 Q Okay. And when you tested Number 27, what was the
18 result?

19 A The DNA result from Item 27 was a mixture. The
20 major contributor matched James Lewis and the minor
21 contributor matched Robert Geter.

22 Q Now, can you explain what a mixture is of DNA?

23 A Yes, sure. So we're able to tell when we develop a
24 DNA profile how many people may be in that stain.
25 So a mixture is simply, could be a mixture of more

1 than one person. So in this case, it is two
2 individuals. So it's just what it sounds like,
3 it's a mixture of more than one individual.

4 Q And now blood is not the only way that you can find
5 DNA on an object, correct?

6 A That's correct.

7 Q And how else could you find it?

8 A Any body fluid or skin cells from an individual can
9 leave DNA and it will leave -- so my blood, my skin
10 cells, my hair roots, my saliva would all generate
11 my DNA profile. So there's many different sources
12 of the DNA profile. So it could come from any one
13 of those sources.

14 Q So it can come from blood or handling something,
15 wearing something?

16 A That's correct.

17 Q Any contact could cause DNA results?

18 A You could possibly leave enough DNA to get a
19 profile from that, yes.

20 Q And so you said Number 27, major contributor is
21 James Lewis. What does that mean?

22 A That means the mixture was the two individuals I
23 described, and one was at a higher intensity, a
24 higher concentration than the other, so that would
25 be the major contributor. In that case, James

1 Lewis. And then the smaller component, which I
2 call the minor contributor, I was able to match to
3 Robert Geter.

4 Q And what does the intensity signify or the
5 quantity?

6 A It's just -- it is simply a quantity. So how much
7 of that person's DNA was on that item or how much
8 of the second person's DNA was on that item. So in
9 this case, there was more of James Lewis's DNA on
10 that item than Robert Geter's.

11 Q And can you tell how the DNA got on the item?

12 A No, I cannot.

13 Q And then did you also test -- well, let me show you
14 what has been marked as State's 74.

15 MS. ZMROCZEK: No objection, Your Honor.

16 THE COURT: All right. It will be entered
17 without objection.

18 (WHEREUPON, State's Exhibit No. 74 was
19 marked for identification and received
20 into evidence.)

21 THE WITNESS: Yes. That is my item -- that is
22 my Item Number 30, gray tank top with stains.

23 BY MR. SHELLENBERG:

24 Q And there's a little hole missing here. Is that
25 done by you all?

1 A Yes. This item was processed by our technician,
2 Ashleigh Dixon, and which her initials are up in
3 the top there.

4 Q Is that right here?

5 A Yes. She would have taken a picture of that, which
6 I have in my notes, and then made the cuttings and
7 done the preliminary processing and then passed it
8 to me for the DNA analysis.

9 Q So what do you do in the preliminary processing of
10 this?

11 A So she basically did the visual analysis of that,
12 saw where the stains were, made the cuttings,
13 tested for the blood, and then passed that to me
14 for DNA analysis.

15 Q And did you analyze it?

16 A I did.

17 Q And what was the result of that?

18 A So Item 30 was the gray tank top. The DNA result
19 from Item 30 was a mixture. And that mixture was
20 not distinguishable, meaning it didn't have a major
21 or minor contributor, so it reads a little
22 differently.

23 Based on the Caucasian population data
24 available, that observed mixture is greater than
25 152 tredecillion times more likely to occur under

1 the scenario that it is a mixture of James Lewis
2 and Robert Geter as opposed to the scenario that it
3 came from two unrelated unknown persons. So that
4 statistic indicates that it -- the probability is
5 higher that it's those two people versus two random
6 unknown people.

7 Q And it's a massive number of probability?

8 A Yes.

9 Q So you can't say 100 percent, but to a scientific
10 certainty?

11 A Yes. In my opinion, those are the two individuals
12 who contributed to the stain on that item.

13 Q And if a person -- can you tell by the stain whose
14 blood it was?

15 A Sometimes you can make an educated guess based on
16 quantities, like major, minor contributors, but in
17 this case, it was, like I said, indistinguishable
18 mixture, so they were kind of there in equal
19 amounts. So I cannot say whose DNA came from the
20 blood or from any other source in that -- on that
21 item.

22 Q Would you expect to find the person's DNA who was
23 wearing the shirt on it?

24 A Yes. You can -- you do sometimes find that
25 person's DNA.

1 Q And if a person was completely unrelated, would you
2 expect to find their DNA on it if there wasn't some
3 extenuating circumstances to cause it to get there?

4 A Can you ask me that --

5 Q Just in normal life, you wouldn't expect to see
6 another person's DNA that strong on an item? Does
7 that make more sense?

8 A Yes. You would not expect to find somebody else's
9 DNA just randomly on another item unless they had
10 bled or spit or deposited their body fluids
11 somewhere on that item.

12 Q And you don't go out to the scene, you don't make
13 any swab -- do any swabbing, you don't -- you're
14 strictly in the lab doing the DNA?

15 A I no longer have to do that; correct.

16 MR. SHELLENBERG: Court's indulgence, Your
17 Honor.

18 (Pause.)

19 MR. SHELLENBERG: Thank you, Dr. Amick.

20 CROSS-EXAMINATION

21 BY MS. ZMROCZEK:

22 Q Good morning, Dr. Amick.

23 A Good morning.

24 Q How are you?

25 A Good.

1 Q Great. You work in the lab, right?

2 A That's right.

3 Q And, in fact, when you receive items of evidence,
4 you expect that they were provided to you so that
5 y'all can help understand what happens, right?

6 When you receive them and test them, it's because
7 we're looking for answers?

8 A My job is to try to develop a DNA profile.

9 Q Okay.

10 A And make these statements whether somebody is
11 included or excluded.

12 Q And, in fact, that request was sent to your office,
13 that was sent in 2017 by my request, right?

14 A The request for what?

15 Q The request for this testing?

16 A Let me look at the request form. I don't recall.

17 Q Would it help if you look at the analysis initiated
18 date?

19 A The date? Let me see. No, that doesn't help me.
20 Hang on. I have a request from Investigator Joe
21 Clarke on March 10th of 2015 for the initial
22 testing in this case, which is a pocketknife of
23 Robert Geter, assorted clothing of Robert Geter,
24 DNA sample of deceased, James Lewis, buccal swab of
25 victim, Clarence Stone. That looks to be my first

1 request in this case.

2 Q Right. And when was your next one?

3 A My next request?

4 Q For all the swabs that you just went through?

5 A Oh. I don't see a request for those swabs, so I
6 don't know.

7 Q So let's go back to the date the analysis was
8 initiated.

9 A Okay.

10 Q Do you have that in front of you?

11 A 5/1/2017?

12 Q 5/1 --

13 A That's for the supplemental report.

14 Q Right. The supplemental report meaning the swabs?

15 A Correct.

16 MR. CATHCART: Your Honor, I think I have a
17 matter of law.

18 THE COURT: All right. Ladies and gentlemen
19 of the jury, I am going to send you all out for a
20 second, and I will have you back in shortly.

21 (WHEREUPON, the jury retires to the jury
22 room at 10:30 a.m.)

23 MS. ZMROCZEK: Your Honor, I think
24 Mr. Shellenberg has to argue any matter of law for
25 this witness. That is procedure.

1 MR. CATHCART: Your Honor, my objection is not
2 as to the witness, it's about her misrepresenting
3 what occurred to the jury.

4 THE COURT: What -- yes, sir?

5 MR. CATHCART: The original analysis done by
6 Dr. Amick showed James Lewis and an unknown person,
7 because we did not have a sample of Mr. Geter's
8 DNA. I asked for a Schmerber to get that sample
9 and got it for him. She didn't ask for jack. She
10 is --

11 MS. ZMROCZEK: That's actually not --

12 MR. CATHCART: -- misrepresenting what
13 occurred.

14 MS. ZMROCZEK: That's actually untrue, Your
15 Honor.

16 MR. CATHCART: And I'm amazed at that.

17 MS. ZMROCZEK: They did not have any request
18 to test the swab until I requested them and turned
19 over Schmerber voluntarily.

20 MR. CATHCART: From a Schmerber motion.

21 MS. ZMROCZEK: We requested -- Your Honor, we
22 requested the swabs be tested.

23 THE COURT: Do you have documentation of it?

24 MS. ZMROCZEK: I e-mailed Mr. -- yes, I
25 e-mailed Mr. Shellenberg and Mr. Cathcart. They

1 initiated it. And they are the ones who sent the
2 swabs at my request in May of 2017.

3 MR. CATHCART: We did not do anything by her
4 request. That is a lie.

5 THE COURT: All right, calm down. So I need
6 to have documentation. If there were requests made
7 and e-mails, there has to be documentation.

8 MS. ZMROCZEK: Yes, there were e-mails.

9 THE COURT: So your position is that she is
10 saying --

11 MR. CATHCART: She is saying that she did
12 this. The State did this when I found that there
13 was an unknown male -- found out from him that
14 because it's a mixture, even though it's in CODIS,
15 they can't do it from that. We have to have a
16 known sample. I'm not working for Ms. Zmroczek.
17 I'm certainly not doing anything by her request,
18 nor is the Sheriff's Department.

19 MS. ZMROCZEK: I'll pull it up, Your Honor.
20 Bear with me. Actually, I have all the e-mails
21 printed out, Your Honor, so it might be easier to
22 look at it that way.

23 (Pause.)

24 MR. CATHCART: Your Honor, if she's trying to
25 say back on May 7th, 2017, that when she asked for

1 all work orders, all x-rays, all Columbia fire
2 records, all missing pages of something, hospital
3 labs, hospital records on an unrelated person, need
4 all blood swabs by CSI tested.

5 MS. ZMROCZEK: There. That's exactly it, Your
6 Honor.

7 MR. CATHCART: That's May 7th.

8 MS. ZMROCZEK: Right, of 2017, which is what I
9 just asked. So to call me a liar and to say that
10 it was done at my request is completely improper.

11 MR. CATHCART: That same day, she said, Surely
12 you're still doing testing because you asked for
13 them, and I can send my client's DNA swab.

14 MS. ZMROCZEK: Because I asked for it.

15 MR. CATHCART: No, you didn't. You asked for
16 it later --

17 MS. ZMROCZEK: Same day.

18 THE COURT: Hold on one second. So when is
19 she asking --

20 MR. CATHCART: We asked for it and then she
21 goes, I need it all done.

22 MS. ZMROCZEK: They asked for what, Your
23 Honor?

24 MR. CATHCART: We got the swabs done because
25 we did the Schmerber, then you wrote that e-mail.

1 THE COURT: When did you request the
2 Schmerber?

3 MS. ZMROCZEK: They requested the Schmerber,
4 Your Honor, for the testing that they had done on
5 the knife and the clothes. And that's when I said,
6 And please test the swabs since surely you're
7 continuing to do testing.

8 MR. CATHCART: The swabs were already tested.
9 That's not -- the problem, we did not have Mr.
10 Geter's --

11 MS. ZMROCZEK: If Mr. Amick --

12 THE COURT: Hold on, you can't talk over each
13 other.

14 MS. ZMROCZEK: If Mr. Amick can tell me the
15 swabs were tested prior to May 5th, then I stand
16 corrected. If Mr. Amick can tell me that they were
17 developed without --

18 MR. CATHCART: No, no.

19 THE COURT: When were they tested?

20 MS. ZMROCZEK: Your Honor, according to the
21 report, the analysis was initiated May 1st, 2017.

22 THE COURT: And your request was May 7th,
23 right?

24 MS. ZMROCZEK: No, my request was --

25 MR. CATHCART: No, we requested it earlier.

1 THE COURT: Hold on.

2 MR. CATHCART: Your Honor, regardless, I did
3 not do anything on her request. That is incorrect.

4 THE COURT: All right. Well, the letter that
5 you were just reading from, you said was May 7th,
6 and then you're saying the request was done on May
7 1st. Your request came on the 7th, so obviously
8 they couldn't have done it based on your request if
9 it was done on the 7th, if the original request was
10 on May 1st. All right, we need to move on.

11 MS. ZMROCZEK: Your Honor, I can move on.

12 THE COURT: If you can't substantiate what
13 you're saying through documentation, please don't
14 say it.

15 All right. The objection is sustained.

16 Bring the jurors back in.

17 Thank you.

18 (WHEREUPON, the jury came into open
19 court at 10:39 a.m.)

20 THE BAILIFF: The jury is seated, Your Honor.

21 THE COURT: All right. The objection was
22 sustained. Please rephrase the question.

23 MS. ZMROCZEK: Thank you.

24 BY MS. ZMROCZEK:

25 Q Dr. Amick, you tested -- I want to go back to your

1 report. You tested Item Number 26?

2 A Yes.

3 Q And that was -- tell the jury what that was.

4 A Item 26 is a swab from top of pool table.

5 Q Okay. And what did that come back as?

6 A No blood was indicated on Item 26.

7 Q Okay. You tested Item 34 -- or you received Item
8 34, correct?

9 A That's correct.

10 Q And tell the jury what Item 34 is.

11 A Item 34 is camo jacket with stains.

12 Q Okay. And what were the test results on that?

13 A Thirty-four? No analysis performed on Item 34.

14 Q Okay. If you expected -- you said you expect to
15 find blood if people are wearing clothes or if
16 people are somehow transferring body fluid onto an
17 item, right?

18 A I'm not sure what you're asking.

19 Q Okay. So there are different ways to get DNA off
20 of items of clothing?

21 A To get it on items of clothing?

22 Q Right.

23 A Yes, there are different sources of DNA.

24 Q Okay. And if someone is involved in receiving a
25 beating of some sort, then DNA can get transferred

1 when either they're bled or punched or any of that,
2 right?

3 A Yes, you can -- you can -- if you bleed, that is a
4 source of DNA.

5 Q Okay. And as an expert in DNA analysis, it also
6 helps to know where the blood -- or kind of what
7 happened at the scene, right, or where you're
8 getting the items from?

9 A I only need to know that when I'm writing the
10 report.

11 Q Okay.

12 A Meaning, I have to know if -- say, I own the item
13 and I find my own DNA on it, then the wording of
14 the report may be different versus if there's some
15 foreign DNA on it. So that's the only reason I
16 really need to know. I don't need to know any of
17 that for the analysis.

18 Q Okay. Would you expect -- if there was repeated
19 stabbing and spatter, would you expect some DNA to
20 come back from the spatter?

21 A It's a possibility, yes.

22 Q Okay.

23 MS. ZMROCZEK: Beg the Court's indulgence.

24 (Pause.)

25

1 BY MS. ZMROCZEK:

2 Q And then, again, like you said, there are different
3 ways. So if someone is leaning over someone, you
4 could transfer DNA that way, right?

5 A You mean if their -- if some of their body fluids
6 dripped on something, yes, that is a way to get DNA
7 on something.

8 Q Okay. And, again, DNA is great because it can kind
9 of give us some scientific explanation, but it
10 can't tell us what happened, right?

11 A It cannot tell you what happened. It only -- I can
12 only tell whose DNA is the source of a stain or
13 not.

14 Q And not how it got there?

15 A That's correct.

16 Q Thank you.

17 THE COURT: Yes, sir?

18 REDIRECT EXAMINATION

19 BY MR. CATHCART:

20 Q Would stabbing someone get the person who got
21 stabbed's DNA on the knife?

22 A Yes, the person getting stabbed's DNA, I would
23 expect that person's DNA to be on the knife.

24 MR. CATHCART: No further questions. Thank
25 you, Your Honor.

1 MS. ZMROCZEK: Just one follow-up.

2 RE CROSS-EXAMINATION

3 BY MS. ZMROCZEK:

4 Q Would beating someone and then fighting back also
5 expect to get DNA on somebody?

6 A Can you clarify?

7 Q Either one of the two? Either one of the two
8 parties?

9 A It depends on if the person doing the beating -- it
10 depends on who's bleeding and what the source of
11 the DNA is.

12 Q Thank you.

13 MS. ZMROCZEK: Nothing further.

14 THE COURT: All right, you can step down.

15 Thank you.

16 Any objection to the witness being
17 excused?

18 MS. ZMROCZEK: None from the Defense.

19 MR. CATHCART: None from the State, Your
20 Honor.

21 (Witness steps down and is excused.)

22 THE COURT: All right. Call your next
23 witness.

24 MR. CATHCART: Your Honor, if we may take a
25 break before the next two witness. There is a

1 matter -- I have two more short witnesses.

2 THE COURT: All right, ladies and gentlemen of
3 the jury, we'll take about five or 10 minutes.

4 (WHEREUPON, the jury retires to the jury
5 room at 10:48 a.m.)

6 THE COURT: We have a matter of law?

7 MR. CATHCART: He just needs to use the
8 restroom. I didn't want to do it outside his
9 presence.

10 THE COURT: I'm asking, do we have a matter of
11 law, or do you just need a break before your
12 witnesses?

13 MR. CATHCART: Well, it's a matter. Mainly,
14 it's just one is the custodian records of the jail.

15 MS. ZMROCZEK: Do you mind if I argue?

16 THE COURT: No, no, no, go on and take him to
17 the restroom.

18 MS. ZMROCZEK: Just go to the restroom.

19 MR. CATHCART: And then also a fellow who is
20 in jail and spoke with Mr. Geter. I just want to
21 make sure the parameters of what to do and not,
22 just trying to be as careful as possible.

23 THE COURT: All right. So we will let him use
24 the restroom, then be back in about five minutes.

25 (WHEREUPON, a short break was taken.)

1 THE COURT: Are we ready?

2 MR. CATHCART: Yes, Your Honor.

3 THE COURT: Yes, sir.

4 MR. CATHCART: Our next two witnesses, one
5 would be Howard Jordan, who is a Defendant who was
6 in jail with Mr. Geter who spoke with him.
7 Obviously they spoke to each other while in jail
8 together. I mean, I believe the jury understands
9 Mr. Geter was taken to jail after his arrest. I
10 want to be as careful as possible as to --

11 MS. ZMROCZEK: Your Honor, he's testifying.
12 We're not going to -- I mean, he's going to say
13 where he's been for the last three years, so if
14 that's -- obviously, jail is jail.

15 MR. CATHCART: It would just be more sketchy
16 if he just said, I saw him out on the street and
17 had this conversation.

18 MS. ZMROCZEK: Right. It will be even more
19 sketchy when we find that he wasn't rooming with
20 him, but that will happen later, so.

21 MR. CATHCART: Fine. And also we have the
22 custodian records at the jail that we plan on
23 introducing a jail call.

24 MS. ZMROCZEK: Your Honor, we have listened to
25 the jail call. We ask that it be played in its

1 entirety minus the -- I think there are some
2 conversations about my lawyer, or is it just --

3 MR. CATHCART: The only thing I redacted is
4 when he said --

5 MS. ZMROCZEK: Yeah, that's fine.

6 MR. CATHCART: There's two calls. One I
7 redacted because it said back to jail. And I
8 didn't see anything as to the other.

9 MS. ZMROCZEK: As long as they're played in
10 their entirety, Your Honor, we're fine.

11 THE COURT: No conversation regarding what the
12 attorney may have said.

13 MS. ZMROCZEK: I think there was a
14 conversation about what he had had with his
15 previous lawyer or just -- or it may just be, I
16 need to talk to my lawyer. If it's just, I need to
17 talk to my lawyer, I think that's fine.

18 MR. CATHCART: I'll listen to them again. I
19 don't know that I've --

20 MS. ZMROCZEK: The three that Sharon sent me,
21 one was -- two were the same, one was redacted.
22 The one that I listened -- I listened to both,
23 obviously, but the notes that I have from the one
24 that just says, I need to talk to my lawyer, I
25 think that's fine.

1 MR. CATHCART: Okay.

2 MS. ZMROCZEK: I just ask they be played in
3 the entirety. And, I mean, are y'all going to have
4 more witnesses after this?

5 MR. CATHCART: Those two and --

6 MS. ZMROCZEK: I'm just trying to get --
7 that's why I've been on the phone, Your Honor, I'm
8 not being disrespectful. I'm just trying to make
9 sure we don't have too much of a lag.

10 THE COURT: Well, I'm going to break at about
11 12:15 anyway.

12 MS. ZMROCZEK: Okay. I think that will be
13 perfect, because I'm telling everybody to be here
14 at 2:00 instead of 11:00, because it was just -- I
15 knew we have to do colloquy.

16 THE COURT: We'll probably start back around
17 2:00.

18 MS. ZMROCZEK: Okay. Thank you.

19 THE COURT: So break around 12:00, 12:15,
20 probably start back around 2:00.

21 MR. CATHCART: Your Honor, we should be -- I
22 mean, I can't imagine we'll be that long.

23 THE COURT: Are we ready to bring them in?

24 MS. ZMROCZEK: Yes.

25 MR. CATHCART: State's ready.

1 THE COURT: All right.

2 MR. CATHCART: Oh. One thing, I'm sorry.
3 There is a transcript, just the -- I'll play the
4 whole thing, but I was planning on giving the
5 transcript to the jury. I have case law that
6 allows me to do that.

7 THE COURT: Who transcribed it, not somebody
8 in your office?

9 MR. CATHCART: No, ma'am.

10 THE COURT: Well, I mean, I know they've
11 brought them to me before and said somebody in the
12 office transcribed it. That's not going to work.
13 If it's a court reporter that transcribed it --

14 MR. CATHCART: CompuScripts. It's the
15 original.

16 MS. ZMROCZEK: As long as it's the whole
17 thing.

18 MR. CATHCART: It's not the whole thing, just
19 the part I'm concerned about. I'll play the whole
20 tape.

21 THE COURT: Did they not transcribe the whole
22 thing?

23 MR. CATHCART: No, ma'am. I'm just putting
24 this one part. It is 15 minutes of testimony. If
25 they want all 15 minutes, that's one thing.

1 THE COURT: Why can't you just send the tape
2 back? Are you putting it in evidence?

3 MR. CATHCART: I'm going to put it in evidence
4 as well. Just play it so they can follow along.

5 THE COURT: They'll need a complete
6 transcript.

7 MR. CATHCART: That's fine.

8 THE BAILIFF: Bring them in, Your Honor?

9 THE COURT: Yes.

10 (WHEREUPON, the jury came into open
11 court at 11:00 a.m.)

12 THE BAILIFF: The jury is seated, Your Honor.

13 THE COURT: All right, ladies and gentlemen of
14 the jury, I am going to ask the State to call their
15 next witness.

16 MR. CATHCART: At this time, Your Honor, the
17 State calls Howard Jordan.

18 (Witness approaches.)

19 THE BAILIFF: Place your left hand on the
20 Bible, raise your right hand, and face the clerk.

21 (Witness complies.)

22 THE CLERK: Do you swear or affirm the
23 testimony you shall give in this case will be the
24 truth, the whole truth, and nothing but the truth,
25 so help you God?

1 THE WITNESS: Yes, ma'am.

2 THE CLERK: Thank you. Have a seat in the
3 witness stand, and state your full name for the
4 record.

5 (Witness seated.)

6 THE WITNESS: Howard Jordan.

7 HOWARD JORDAN,
8 after being duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. CATHCART:

11 Q Mr. Jordan, you were incarcerated in Alvin S. Glenn
12 Detention Center back in September of last year, of
13 2016, weren't you?

14 A Yes, sir.

15 Q And at that time you asked to speak with
16 Investigator Gainey at the Sheriff's Department?

17 A Yes, sir.

18 Q Can you please describe to the jury why you chose
19 to do that?

20 A Due to the time me and Mr. Robert Geter was in
21 lockup together and --

22 MS. ZMROCZEK: I'm sorry, Your Honor, I can't
23 understand him.

24 THE COURT: I can't either.

25 Sir, they'll fix the microphone.

1 THE WITNESS: Okay.

2 BY MR. CATHCART:

3 Q So you said you called Investigator Gainey why?

4 A I called him due to a conversation me and Mr. Geter
5 had.

6 Q Uh-huh.

7 A During the lockup time. And we was talking through
8 the vent.

9 Q Through the vent?

10 A Huh?

11 Q You were talking through what?

12 A Through a vent.

13 Q Through a vent, okay.

14 A Yeah, one room to the next.

15 Q But you knew you were talking to Mr. Geter?

16 A Yes, sir.

17 Q Okay. And what was that conversation about?

18 A I mean, we was talking, like, he was asking me what
19 I was in for, and I told him.

20 Q What were you in there for?

21 A For drugs.

22 Q Drugs, okay.

23 A I asked him --

24 Q You still actually have pending drug charges, don't
25 you?

1 A No, sir.

2 Q You don't?

3 A (Witness shakes head.)

4 Q Okay.

5 A And I asked him what was he in there for.

6 Q Okay.

7 A He told me he had a beef with an individual,
8 middle-aged black man. I said, What happened? He
9 was like, he had tension between the two due to
10 first a money situation. Then a couple of days
11 after that, he was told that the individual was
12 trying to get at his lady friend. So he said about
13 a week after that he seen him on Monticello Road.
14 And when he approached the individual, one thing
15 led to another, they got into a scuffle. He said
16 he pulled out a knife and he just started stabbing
17 him.

18 Q Did he say why he stabbed him?

19 A He said, really, because it was animosity between
20 the two anyway. He said when he seen him, he was
21 just -- it was a matter of like this was his
22 intention. He was trying to get at him.

23 Q So did he say he did this in self-defense?

24 A No.

25 Q He did it because of animosity towards him?

1 A Yes, disrespect.

2 Q Because of disrespect?

3 A (Nods affirmatively.)

4 Q He killed him because the victim --

5 A Due to the money situation --

6 Q Uh-huh.

7 A -- and him trying to get at his lady friend, he
8 felt disrespected.

9 Q Felt disrespected by the victim?

10 A Yes, sir.

11 Q And you felt the need to call the Sheriff's
12 Department why?

13 A Because what he was trying to do. He was trying to
14 make it to where it was self-defense.

15 Q So he told you --

16 A He told me it wasn't self-defense.

17 Q Okay.

18 A And I was like, if that was me, my family would
19 want justice for me, or if that was my child, I
20 would want justice for my child.

21 Q Okay. So that's why you felt the need to call the
22 Sheriff's Department?

23 MS. ZMROCZEK: Your Honor, I'm going to
24 object.

25 THE COURT: What's the objection?

1 MS. ZMROCZEK: Trying to invoke sympathy about
2 justice. Just improper.

3 THE COURT: Objection is overruled.

4 BY MR. CATHCART:

5 Q So you called the Sheriff's Department because of
6 that?

7 A Huh?

8 Q You called the Sheriff's Department because the way
9 you felt?

10 A Yes, sir.

11 Q Did the Sheriff's Department promise you anything?

12 A No, sir.

13 Q Has the Solicitor's Office promised you anything
14 for your testimony?

15 A No, sir.

16 Q You're here today because why?

17 A Trying to do the right thing and try to bring
18 closure to the victim's family.

19 Q Do you know the victim?

20 A No, sir.

21 Q Do you even knew the victim's name in this case?

22 A He never gave me a name.

23 Q He just told you where it happened?

24 A He just told me about the incident.

25 Q Did he tell you what street it was on?

1 A He just said it was on Monticello Road.

2 Q Did he say what the name of the bar was or the
3 place that it happened at?

4 A No, sir.

5 Q So you just know he killed a middle-aged man on
6 Monticello Road?

7 A Yes, sir.

8 MR. CATHCART: Please answer any questions
9 from Defense counsel.

10 THE COURT: Yes, ma'am?

11 MS. ZMROCZEK: Thank you.

12 CROSS-EXAMINATION

13 BY MS. ZMROCZEK:

14 Q Mr. Jordan, where did this conversation take place?

15 A In the lockup facility at Richland County Detention
16 Center.

17 Q What lockup facility?

18 A SHU.

19 Q In SHU?

20 A Yes, sir -- yes, ma'am.

21 Q Okay. And when were you in SHU? When did this
22 conversation take place?

23 A This here was like back in March or April of 2016.

24 Q March or April of 2016?

25 A Yes, ma'am.

1 Q Okay. And you were sure that it was in SHU?

2 A Yes, ma'am.

3 Q And y'all were both in SHU?

4 A Yes, ma'am.

5 Q And you go to SHU because why?

6 A Acting out.

7 Q Acting out?

8 A Yes, ma'am.

9 Q So you were acting out and you got sent to SHU,
10 right?

11 A Yes, ma'am.

12 Q And you say that this was in March or April of
13 2016?

14 A Yes, ma'am.

15 Q Okay. So in May of -- May 17th of 2016 when you
16 went and met with the investigator and you told
17 them or cleared your conscience about five other
18 people that you had talked to, you didn't mention
19 Mr. Geter then, right?

20 A Yes, ma'am.

21 Q Oh, you did?

22 A (Nods affirmatively.)

23 Q Okay. So you mentioned it in May of 2016?

24 A Yes, ma'am.

25 Q I thought you testified earlier it was September?

1 A No, when I talked to the investigator. I kept
2 talking to him after that.

3 Q That's right.

4 A Yes, ma'am.

5 Q But you talked to him May 17th, --

6 A Yes, ma'am.

7 Q -- 2016, and you didn't give him Geter's name then,
8 did you?

9 A Yes, ma'am.

10 Q And then on June 1st, you talked to them again
11 about five other people?

12 A Yes, ma'am.

13 Q But it wasn't Mr. Geter, was it?

14 A No, not that time.

15 Q No. And then on June 16th, you talked to him about
16 three other people?

17 A Yes, ma'am.

18 Q And it wasn't Robert Geter, was it?

19 A No, ma'am.

20 Q And July 20th, you talked to him about four other
21 people?

22 A Yes, ma'am.

23 Q And you did not talk about Robert Geter then?

24 A No, ma'am.

25 Q And then on July 21st, you talked to him about one

1 other person?

2 A Yes, ma'am.

3 Q And that wasn't Robert Geter?

4 A No, ma'am.

5 Q And then on July 27th, you talked to him about two
6 other people?

7 A Yes, ma'am.

8 Q And that wasn't Robert Geter?

9 A (Nods negatively.)

10 Q And then on August 30th, you talked to him about
11 two more people, still not Robert Geter, right?

12 A Yes, ma'am.

13 Q And then, September 7th, 2016, you talked to him
14 about Robert Geter?

15 A (Nods affirmatively.)

16 Q Right?

17 A Yes, ma'am.

18 Q Okay. So for some reason, all these people just
19 feel like talking to you through the vents and
20 confessing to you, right?

21 A No, I was just on lockup that one time.

22 Q Just on lockup. So how did you know that it was
23 Mr. Geter?

24 A Because I seen him through the door. We were going
25 to take a shower.

1 Q In SHU?

2 A Yes.

3 Q And then, again, you also went back on
4 November 29th, 2016, to talk about another person,
5 right?

6 A Yes, ma'am.

7 Q So that's 23 people that you feel like you need to
8 clear your conscience or help get justice, right?

9 A Yes, ma'am.

10 Q And you are not expecting any other benefit, are
11 you?

12 A No, ma'am.

13 Q All right. And you are aware that the jail keeps
14 track of where you are?

15 A (Nods affirmatively.)

16 Q All the time?

17 A Yes, ma'am.

18 Q It's called housing activity, right?

19 A Yes, ma'am.

20 Q And they do that for every single inmate, right?

21 A Yes, ma'am.

22 Q And so when you're in SHU, we can see who else is
23 in SHU?

24 A Yes, ma'am.

25 Q And when you're in SHU, we can see who's not in

1 SHU, right?

2 A (Nods affirmatively.)

3 Q Is that right?

4 A Yes, ma'am.

5 Q Okay. So if you and Mr. Geter weren't in SHU at
6 the same time ever, then your information would be
7 incorrect, wouldn't it?

8 A If we wasn't in SHU?

9 Q If you were not in SHU together?

10 A Yes, ma'am.

11 Q Then you could not have talked to Mr. Geter, isn't
12 that right?

13 A That's right.

14 MS. ZMROCZEK: All right. Thank you.

15 MR. CATHCART: May it please the Court, Your
16 Honor?

17 THE COURT: Yes, sir.

18 REDIRECT EXAMINATION

19 BY MR. CATHCART:

20 Q DO you recall you gave a statement to the
21 investigator? Gave a statement to the
22 investigator?

23 A Yes, sir.

24 Q Would having that statement help to refresh your
25 memory as to the dates you talked to them?

1 A I've got it in my pocket.

2 Q Would it help refresh the dates you spoke to them
3 on the statement that you signed and dated?

4 A Yes, sir.

5 Q Let me show you this. Do you recognize what that
6 is?

7 A Yes, sir.

8 Q Okay. What date did you speak with the
9 investigator?

10 A [REDACTED] 19th.

11 Q Sir, that's your date of birth?

12 A Oh, my bad.

13 Q You're looking for the date of statement.

14 A Oh, September 7th.

15 Q Okay. And you said you talked to Robert Geter on
16 what day? You said -- when he asked you what
17 murder are you talking about, he stated -- you
18 stated?

19 A Robert Geter.

20 Q Uh-huh. Did you say when you talked to him? You
21 indicated that you said, Yesterday in E dorm?

22 A Yes, sir.

23 Q So --

24 A No, I wasn't in E dorm. No, he wasn't in E dorm.
25 I was in lockup. When I talked to him, we was in

1 lockup.

2 Q Okay. But when you talked to Mr. Geter?

3 A Yes, sir.

4 Q That was the day before you gave the statement?

5 A Yes, sir.

6 Q So it would have been September of 2016?

7 A Yes, sir.

8 Q So all the other cases she's been talking about,
9 you didn't know about Mr. Geter from June
10 beforehand, right?

11 A That's right.

12 MR. CATHCART: Thank you. No further
13 questions.

14 THE COURT: Anything else?

15 MS. ZMROCZEK: No, thank you.

16 THE COURT: Sir, you may step down.

17 Any objection to this witness being excused?

18 MR. CATHCART: Nothing from the State, Your
19 Honor.

20 (Witness steps down and is excused.)

21 THE COURT: Call your next witness.

22 MR. CATHCART: The State calls Sergeant
23 Waters.

24 (Witness approaches.)

25 THE BAILIFF: Place your left hand on the

1 Bible, raise your right, and face the clerk.

2 (Witness complies.)

3 THE CLERK: Do you swear or affirm the
4 testimony you shall give in this case will be the
5 truth, the whole truth, and nothing but the truth,
6 so help you God?

7 THE WITNESS: I do.

8 THE CLERK: Thank you. Please have a seat in
9 the witness stand, and state your full name for the
10 record.

11 (Witness seated.)

12 THE WITNESS: Robert Waters.

13 ROBERT WATERS,
14 after being duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. CATHCART:

17 Q Mr. Waters, where are you employed?

18 A At the Alvin S. Glenn Detention Center.

19 Q What do you do there?

20 A I'm the assistant watch commander, and I work in
21 internal affairs.

22 Q At the Alvin S. Glenn Detention Center, do y'all
23 have a way inmates can call outside?

24 A We do.

25 Q And what company is that done through?

1 A Through AmTel.

2 Q Do y'all record any phone calls that are made
3 outside through the jail?

4 A We record all calls.

5 Q Record all calls?

6 A Yes, sir.

7 Q And when you do record calls -- when someone makes
8 a call, it tells them you're being recorded?

9 A Yes.

10 Q It tells them that they will be recorded before
11 any -- to both sides, correct?

12 A Yes.

13 Q And do y'all store these phone calls?

14 A They are.

15 Q Keep them in your normal course of business?

16 A Well, the company does -- the company does, and we
17 have access to them.

18 Q Let me show you these two reports. Do you
19 recognize what these are?

20 A Yes, these are the reports that are used when the
21 inmates make phone calls. What happens is their
22 name and their inmate number show up on these calls
23 with the family member that they call for a period
24 of 15 minutes.

25 Q You get a 15-minute phone call?

1 A Fifteen-minute phone call.

2 Q It gives them -- it shows who is making the phone
3 call based on their inmate number?

4 A Yes, it will show the individual's name, the
5 individual's inmate number, and then they got to
6 enter their 4-digit pin number just like you do --
7 like an ATM machine. That's the only way the call
8 can go through.

9 Q So they have their own code?

10 A Yes.

11 Q To make their phone calls?

12 A Right, that only they should know.

13 MR. CATHCART: Can I get this marked, please,
14 ma'am?

15 (WHEREUPON, State's Exhibit No. 75 was
16 marked for identification only.)

17 BY MR. CATHCART:

18 Q Let me show what has been marked as State's Exhibit
19 Number 75. Do you recognize what that is?

20 A Yes.

21 Q And what is it?

22 A That's a recorded phone call on a disk dated
23 3/10/2015.

24 Q And that's when -- and you listened to it, did you
25 not?

1 A Yes. I can't see the beginning.

2 Q You can take it out.

3 A Yes, I listened to it on 3/31/2017 at 1045 hours.

4 Q And you verified that was the phone call made on
5 the account of Robert Geter?

6 A Yes.

7 MR. CATHCART: Your Honor, at this time State
8 seeks to introduce State's Exhibit Number 75?

9 MS. ZMROCZEK: Without objection, Your Honor.

10 THE COURT: All right.

11 (WHEREUPON, State's Exhibit No. 75 was
12 admitted into evidence.)

13 MR. CATHCART: May I publish it to the jury?

14 THE COURT: Yes, sir.

15 (Phone Call published to the jury.)

16 BY MR. CATHCART:

17 Q On what date was that phone call made?

18 A On 3/10/2015 at 1414.

19 Q That's March 10th of 2015?

20 A Yes.

21 MR. CATHCART: Thank you. No further
22 questions.

23 MS. ZMROCZEK: Just briefly.

24 CROSS-EXAMINATION

25 BY MS. ZMROCZEK:

1 Q How many phone calls were made or have been made
2 while Mr. Geter has been in jail?

3 A How many calls has he made since he's been in jail?

4 Q Yes, sir.

5 A I couldn't tell you that off the top of my head.

6 Q Hundreds, correct?

7 A Yes.

8 Q And hundreds of calls?

9 A Yes.

10 Q And have you listened to all of them?

11 A No.

12 Q Okay. So why would you listen to this one?

13 A Why did I listen to it? Because I was told to come
14 down here to listen to the call to verify that that
15 came from the Alvin S. Glenn Detention Center,
16 which I do on a regular basis.

17 Q And who told you that? Who asked you to come down?

18 A Who asked me to come down? Mr. -- I can't
19 pronounce his name.

20 Q Somebody in the Solicitor's Office?

21 A Yeah, Solicitor's Office.

22 Q And did they ask you to listen to any of those
23 other hundreds of phone calls where Mr. Geter is
24 crying or any of those phone calls?

25 A I listened to a couple of phone calls. I can't

1 recall which ones.

2 Q But this is the one --

3 A Especially the ones of him crying.

4 Q But this is the one that they put in, right?

5 A That's the one I mentioned.

6 MS. ZMROCZEK: Thank you. No further
7 questions.

8 MR. CATHCART: Nothing else from the State,
9 Your Honor.

10 THE COURT: All right. You may step down,
11 sir.

12 (Witness steps down.)

13 THE COURT: All right. Call your next
14 witness.

15 MR. CATHCART: Your Honor, at this time the
16 State rests.

17 THE COURT: All right, ladies and gentlemen of
18 the jury, the State has rested. There are some
19 matters of law that I need to take up outside of
20 your presence. I'm trying to decide if I'll go
21 ahead and send you all to lunch instead of having
22 you sit back there.

23 Let me see the lawyers one second.

24 (WHEREUPON, a bench conference was held
25 in the presence of the jury but out of

1 the hearing of the jury.)

2 THE COURT: All right, ladies and gentlemen of
3 the jury, we're just trying to figure out the
4 scheduling as best as possible. What we're going
5 to do is go ahead and send y'all -- there's some
6 matters of law that I need to take up. It may take
7 about 20 to 30 minutes, so instead of having you
8 sit in the back, we're going to go ahead and let
9 you just go for lunch. And then I'll have y'all
10 back about 1:45. So that's about two hours if you
11 need to run and do anything.

12 Remember, you've only heard the State's case.
13 It would be improper at this point for you to make
14 any decisions or having any conversations or do any
15 deliberations until you have heard all of the
16 evidence, the arguments of the parties, and the
17 charge on the law from the Court.

18 So, once again, do not do any independent
19 research, do not discuss the case. We will see you
20 back about 1:45.

21 All right. Thank you.

22 (WHEREUPON, the jury is excused for
23 lunch at 11:40 a.m.)

24 THE COURT: All right. Anything from the
25 State in the form of motions?

1 MR. CATHCART: No, Your Honor, nothing from
2 the State.

3 THE COURT: All right. Anything from the
4 Defense?

5 MS. ZMROCZEK: Yes, Your Honor, at this time
6 we would move for a directed verdict motion under
7 Rule 19, specifically for the attempted murder
8 case, Your Honor. The testimony that was provided
9 by the attempted murder victim was Mr. Clarence
10 Stone. And if you recall his testimony, it was, I
11 got caught in the eye trying to break up the fight.
12 And I even clarified that again, I said, You got
13 caught in the eye?

14 So, Your Honor, looking at the charges for
15 attempted murder, attempted murder requires a
16 specific intent to kill. And there was no, He
17 looked at me and he stabbed me in the eye. There
18 was no definition -- or any specific intent to
19 kill.

20 Additionally, Your Honor, there was no
21 testimony that Mr. Stone -- any medical testimony
22 that Mr. Stone could have or would have died from
23 this injury. But, more importantly, Your Honor,
24 it's the specific intent to kill when it was
25 clearly -- the testimony was from the stand from

1 the witness that he was trying to break up the
2 fight and got caught in the eye. And I made sure
3 to clarify that testimony with him. And, again,
4 there was zero medical testimony about him ever
5 facing a loss of life as to that result.

6 For those two reasons, we would move for a
7 directed verdict on the charge of attempted murder.

8 THE COURT: Yes, sir?

9 MR. CATHCART: Your Honor, the State based
10 attempted murder on transferred intent. He got
11 stabbed in the eye as Mr. Geter was attempting to
12 kill Mr. Lewis. He was injured by that result of
13 transferred intent. The intent -- specific intent
14 to kill Mr. Lewis transferred to the other victim,
15 Mr. Stone.

16 THE COURT: And then --

17 MR. CATHCART: Use of a deadly weapon, stabbed
18 him in the face goes to probability that can cause
19 death, could have, but the specific intent is a
20 transfer case.

21 THE COURT: Yes, ma'am?

22 MS. ZMROCZEK: Thank you. If I may respond,
23 Your Honor? There has been no charge of commission
24 during crime of a deadly weapon. And under
25 Belcher, which will be part of our jury charges, is

1 that they cannot establish malice with the use of a
2 deadly weapon under State v. Belcher if it is used
3 in any sort of self-defense or any sort of
4 mitigation. So they cannot use a knife as the
5 establishment of malice under State v. Belcher.

6 So, again, Your Honor, I have scoured the case
7 law and talked to people much smarter than I last
8 night about transferred intent when it comes to
9 attempted murder. It is unsettled. In this state
10 there is no -- there is no determination by the
11 Supreme Court about transferred intent with
12 attempted murder.

13 Now, typically, I understand that in murder
14 course cases or felony murder cases, the intent
15 follows the bullet. And if we're going to argue --
16 we weren't moving for a directed verdict motion on
17 the murder because I believe that is a question of
18 fact whether it was self-defense or not. However,
19 I think that we can run into a problem because if
20 it is -- if they do find self-defense on the murder
21 and then -- then there is no -- then the intent was
22 to kill in self-defense. And so there is no
23 transferred intent to the attempted murder. So I
24 think we're going to have conflicting verdicts at
25 that point if we even get there.

1 But, Your Honor, just looking at what the jury
2 charges and the elements require for attempted
3 murder, we believe they have not met their burden.

4 THE COURT: Any response?

5 MR. CATHCART: Your Honor, the intent, just as
6 her example is, it doesn't follow a bullet in this
7 case, it follows a knife as he was stabbing
8 Mr. Lewis. It follows the knife as he stabbed
9 Mr. Stone in the face.

10 Her argument as to -- self-defense as to
11 Mr. Lewis, then it's possibly because of the same
12 self-defense as to Mr. Stone. I don't think that's
13 an either/or issue. When someone is stabbed in the
14 face because he was trying to kill somebody else,
15 that is the intent to kill and malice transfers to
16 that person who is attacked, both of them.

17 THE COURT: All right. Any -- I'm looking at
18 the statute.

19 As to -- I guess, working backwards, as to the
20 motion for directed verdict regarding there is no
21 specific intent, as to the intent, this Court finds
22 that -- or this Court denies the Defendant's motion
23 for a directed verdict.

24 The State has -- I think transferred intent,
25 looking at the cases that involve transferred

1 intent, presents an issue of fact as to if he
2 was -- if the intent was transferred, he was trying
3 to, in fact, on the murder charge, kill the
4 Decedent, and Mr. Clarence Stone was stabbed in the
5 face.

6 And I understand your position regarding the
7 injuries, but he was stabbed in the face, so that's
8 a question of fact as to whether or not that was
9 intent to kill, intent to kill another person and
10 stabbing in the face. I think those are issues of
11 fact for the jury to decide. I'm going to deny the
12 motion for directed verdict.

13 I think she does present an issue, interesting
14 issue as to whether or not we may have to do
15 something with the verdict form if he is -- if the
16 jury finds that he is not guilty of murder and you
17 are arguing transferred intent, I'm not sure they
18 are going to be able to find not guilty of murder
19 and guilty of the attempted murder if the argument
20 is transferred intent. But we'll think about that.
21 We'll all think about that. And you may be able to
22 work it on the verdict form to say -- which I'm not
23 crazy about doing if this, if that, but we'll take
24 a look at the verdict form and try to see if
25 there's some way to do it to make sense. If the

1 argument is transferred intent, I'm not sure if
2 he's found not guilty on the murder, he can be
3 found guilty on the attempted murder. Do you
4 follow me?

5 MR. CATHCART: I understand what you're
6 saying, Your Honor. And our -- I mean, at the base
7 of it would be that saying transferred intent,
8 However, he did stab a man in the face. Obviously,
9 it goes into -- I mean, I think that's something
10 we'll obviously look at. I understand what you're
11 saying.

12 THE COURT: We may have to discuss the lesser
13 included, because I don't know what you all are
14 asking for in terms of lesser included. We'll
15 discuss that when -- I guess, we'll have a charge
16 conference after we get all of the evidence in.

17 So I'm thinking from a scheduling
18 standpoint -- I am going to give him his rights at
19 this point.

20 MS. ZMROCZEK: Thank you.

21 THE COURT: But I'm thinking from a scheduling
22 standpoint, we'll come back around 1:45, get
23 started. Have your witnesses here.

24 MS. ZMROCZEK: Yes, I have two witnesses. I
25 have one that's getting off work at 3:30, 3:45, but

1 I have two before that, and I also have Mr. Geter.
2 So -- and I'm waiting on the jail. Your Honor,
3 because of Mr. Jordan's testimony today, I have
4 provided the State with Defense Exhibit 70 and 71,
5 which are impeachment evidence, which I'll put in
6 through the jail -- the proper jail -- it's a
7 business record from the jail that shows the
8 housing activity, which establishes that these two
9 inmates were never ever in the same pod. So I did
10 provide that to them and I'm waiting to hear back.

11 THE COURT: So you think you will probably
12 take up most of the afternoon?

13 MS. ZMROCZEK: I do. I do. But I think we'll
14 finish. We have probably five or six witnesses,
15 but they'll be quick.

16 THE COURT: And I need you all to send my law
17 clerk any proposed jury charges. She has done a
18 jury charge already, a drafted one. She just kind
19 of put a little bit of everything in there, I
20 think, so it's nothing that's in stone, written in
21 stone. But we will discuss that I guess this
22 evening to try to work on the jury charge. And
23 then if all goes the way we think it will, we'll be
24 ready for closing arguments and the charge in the
25 morning.

1 MS. ZMROCZEK: I think that is probably
2 accurate.

3 MR. CATHCART: And I assume it's going to be,
4 we go first, y'all, then rebuttal?

5 MS. ZMROCZEK: No, under Beatty you have to
6 open in full.

7 THE COURT: Yes.

8 MR. CATHCART: Yes. And then you close, then
9 I can rebut.

10 MS. ZMROCZEK: And I close. Then you can
11 rebut just what I -- yeah.

12 THE COURT: All right.

13 MS. ZMROCZEK: Did you want to do his rights?

14 THE COURT: Yes. Let me have him stand.

15 (Defendant stands.)

16 THE CLERK: Raise your right hand.

17 (Defendant complies.)

18 THE CLERK: Do you swear or affirm the answers
19 you shall give the Court to be the truth, the whole
20 truth, and nothing but the truth, so help you God?

21 THE DEFENDANT: Yes, ma'am.

22 THE CLERK: Thank you.

23 THE COURT: All right. Yes, sir. You are
24 Robert Xavier Geter, is that correct?

25 THE DEFENDANT: Yes, ma'am.

1 rested.

2 At this time I will turn to the Defense and
3 see if there are any witnesses they wish to call.

4 MS. ZMROCZEK: They are, Your Honor. There
5 are.

6 Your Honor, we call Captain Moye.

7 (Witness approaches.)

8 THE BAILIFF: Place your left hand on the
9 Bible, raise your right hand, and face the clerk.

10 (Witness complies.)

11 THE CLERK: Do you swear or affirm the
12 testimony you shall give in this case will be the
13 truth, the whole truth, and nothing but the truth,
14 so help you God?

15 THE WITNESS: I do.

16 THE CLERK: Thank you. Please have a seat in
17 the witness stand, and state your full name for the
18 record.

19 (Witness seated.)

20 THE WITNESS: Washava Moye.

21 THE COURT REPORTER: Can you spell your whole
22 name?

23 THE WITNESS: W-A-S-H-A-V-A M-O-Y-E.

24 WASHAVA MOYE,
25 after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. ZMROCZEK:

Q Captain Moye, will you tell the jury where you're employed?

A Alvin S. Glenn Detention Center.

Q And what is your job at the Alvin S. Glenn Detention Center?

A Division manager over operations.

Q Okay. And as part of your job as division manager over operations, do you keep certain records on certain inmates, or on any inmate, or on all inmates?

A On all inmates, yes, ma'am.

Q What kind of records do you keep on them?

A We keep their actual booking reports, any disciplinaries, housing assignments.

Q Okay. You keep a lot of records on hand?

A Yes.

Q I want to talk about housing assignments. Explain to the jury what a housing assignment is.

A Housing assignment is actually where the detainee is placed when he enters the jail, started from intake. Any location that he moves from, we keep accountability of where they're housed at.

Q And when you keep accountability, are those

1 business records that you keep as a normal course
2 of business?

3 A Yes, ma'am.

4 Q I'm going to show you what has been marked as
5 Defendant's 70 and 71 and ask if you recognize
6 those?

7 A I do.

8 Q And what are those?

9 A These are housing activities per inmate.

10 Q Okay. And Number 70 is housing inmate for who?

11 A Say that again?

12 Q Defense Number 70 is housing records for which
13 inmate?

14 A Howard Jordan.

15 Q And Defense 70 --

16 A Seventy-one?

17 Q Yes.

18 A Robert Geter.

19 Q And are those fair and accurate representations of
20 the housing locations for each inmate?

21 A Yes, ma'am.

22 Q Okay.

23 MS. ZMROCZEK: Your Honor, at this time we
24 move Defense 70 and 71 into evidence?

25 MR. CATHCART: No objection.

1 (WHEREUPON, Defendant's Exhibit No. 70
2 AND 71 were marked for identification
3 and received into evidence.)

4 BY MS. ZMROCZEK:

5 Q Can you briefly turn to the housing location for
6 Mr. Geter during May '16, May 2016, until September
7 of 2016, and tell the jury in what location he was?

8 A Unit Juliet.

9 Q Unit Juliet. And so when you say units, these are
10 like pods?

11 A Housing units.

12 Q Housing units that have several different doors
13 that people can stay in, right?

14 A Yes, ma'am.

15 Q So he was in Juliet?

16 A Yes.

17 Q So what about if you'll turn for Mr. Jordan and
18 tell the jury where he was located during the times
19 of May 2016 to September of 2016?

20 A Well, he's in two locations, looks like Fox Trot
21 and SHU.

22 Q S-H-U being the SHU unit?

23 A Special Housing Unit, yes, ma'am.

24 Q And if you'll just flip through Mr. Jordan's entire
25 housing unit and see if he was ever housed in

1 Juliet.

2 A He was not.

3 MS. ZMROCZEK: Thank you. Please answer any
4 questions the State may have.

5 MR. CATHCART: No questions from the State.

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

7 Any objection to this witness being excused?

8 MR. CATHCART: Nothing from the State.

9 (Witness steps down and is excused.)

10 MS. ZMROCZEK: Our next witness, Your Honor,
11 is Christopher Watkins.

12 (Witness approaches.)

13 THE BAILIFF: Place your left hand on the
14 Bible, raise your right hand, and face the clerk.

15 (Witness complies.)

16 THE CLERK: Do you swear or affirm the
17 testimony you shall give in this case will be the
18 truth, the whole truth, and nothing but the truth,
19 so help you God?

20 THE WITNESS: Yes, I do.

21 THE CLERK: Thank you. Have a seat in the
22 witness stand, and state your full name for the
23 record.

24 (Witness seated.)

25 THE WITNESS: Christopher James Watkins.

1 CHRISTOPHER JAMES WATKINS,
2 after being duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. ZMROCZEK:

5 Q Mr. Watkins, will you please tell the jury where
6 you're employed.

7 A I am employed with Watkins Digital Forensics and
8 Investigations.

9 Q Okay. What do you do at Watkins Digital Forensics
10 and Investigations?

11 A I am a SLED licensed private investigator, and my
12 business is focused in criminal defense and digital
13 forensic investigations.

14 Q And digital forensic investigations?

15 A Yes.

16 Q Explain to the jury what digital forensic
17 investigations include, briefly.

18 A Digital forensic science is the area of forensic
19 science that deals in the examination of digital
20 equipment, cell phones, computers, those kinds of
21 technology, for the purpose of identifying
22 information, furnish a criminal case or any kind of
23 case to do an investigation, to secure that
24 information and produce it to be used in court.

25 Q And have you ever been qualified as an expert in

1 the area of digital forensics?

2 A Yes.

3 Q Where?

4 A United States Federal Court, South Carolina Circuit
5 Court, that includes Common Pleas and General
6 Sessions, and South Carolina Family Court.

7 MS. ZMROCZEK: Your Honor, at this time we
8 would move Mr. Watkins in as an expert in digital
9 forensics.

10 MR. CATHCART: No objection.

11 THE COURT: All right, ladies and gentlemen of
12 the jury, Mr. Watkins will be qualified in the area
13 of digital forensics to give testimony in that
14 area. You can give it whatever weight you decide
15 to do, consideration you decide to do so. Thank
16 you.

17 MS. ZMROCZEK: Thank you.

18 BY MS. ZMROCZEK:

19 Q I'm going to hand you what has been marked as
20 Defendant's 31 through 35 -- so 31, 32, 33, 34,
21 35 -- and Defendant's 38 and ask if you recognize
22 those images?

23 A Yes, I do.

24 Q And did you produce those?

25 A I did.

1 Q And do they fairly and accurately represent the
2 information that you received from those?

3 A Yes.

4 MS. ZMROCZEK: Your Honor, at this time we
5 would move Defendant's 31 through 35 and 38 into
6 evidence.

7 THE COURT: Any objection?

8 MR. CATHCART: I don't know what they are.

9 (Pause.)

10 MR. CATHCART: No objection.

11 (WHEREUPON, Defendant's Exhibit Nos.

12 31-35, 38 were marked for identification
13 and received into evidence.)

14 BY MS. ZMROCZEK:

15 Q If you would explain to the jury -- step down if
16 you need to, or you can do it from there, but make
17 sure that everybody can see, and explain to the
18 jury what kind of information you extracted from
19 those photos and why you put it on the mockup.

20 A Okay. The purpose of these exhibits is to show the
21 metadata associated with the pictures that were
22 taken on an LG smart phone, I believe belonging to
23 Mr. Geter's girlfriend.

24 The metadata at the bottom will represent the
25 filing date for each picture and the date and time

1 that each photograph was taken.

2 Q Okay. And so for the first one, what was the
3 metadata, what did it show as far as the date and
4 time that picture was taken?

5 A The date taken reads, March 7, 2015, at 3:29 a.m.

6 Q And that was for Defendant's 31?

7 A Yes.

8 Q And Defendant's 32?

9 A March 7, 2015, 3:29 a.m.

10 Q Defendant's 33?

11 A March 7, 2015, at 3:29 a.m.

12 Q Defendant's 34?

13 A March 7, 2015, 3:29 a.m.

14 Q Defendant's 35?

15 A March 7, 2015, 3:29 a.m.

16 Q And Defendant's 38?

17 A March 7, 2015, 3:45, a.m.

18 MS. ZMROCZEK: Mr. Watkins, please answer any
19 questions the State may have.

20 CROSS-EXAMINATION

21 BY MR. CATHCART:

22 Q You do digital forensics, which is basically what
23 you were able to do here, and that's basically
24 saying, according to the data on the phone, what
25 time the picture was taken?

1 A Yes, sir, that's correct.

2 Q This was Deatra Niles's phone?

3 A It was, yes, sir.

4 Q And that's his girlfriend?

5 A Yes.

6 Q Okay. And in any of the photos that you analyzed,
7 any of them show the back of the Defendant's head?

8 A No, I don't believe any of these do. I'll flip
9 through again.

10 Q Any photos that you had or seen show the back of
11 his head?

12 A Not that I recall.

13 Q And also with a forensic -- also, with what you do,
14 you're also a private investigator, correct?

15 A I am.

16 Q And as a private investigator, you go and
17 investigate crime -- or cases?

18 A Yes.

19 Q What kind of cases?

20 A Really any kind of case, criminal defense, it could
21 be family law, in this case criminal defense. My
22 assignment was just for this specific area here
23 that I'm here for today.

24 Q So you didn't talk to any witnesses?

25 A I believe there was another investigator assigned

1 to the case who handled that.

2 Q But you didn't talk to any witnesses?

3 A I did not.

4 Q You did not talk with Deborah Culler?

5 A I did not.

6 Q Did you go to the scene where this occurred?

7 A No.

8 Q You didn't talk to Reeshemah Culler either,
9 correct?

10 A No.

11 Q You didn't talk to Michael Harkness either,
12 correct?

13 A No, I did not.

14 Q Did you talk to any eyewitness of what occurred in
15 this case?

16 A No.

17 Q So basically what you can say -- what you're here
18 to say and the only thing you can say is that the
19 pictures were taken at 3:29?

20 A Correct. That's what I was asked to do.

21 MR. CATHCART: No further questions.

22 MS. ZMROCZEK: That's all we have of this
23 witness.

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

25 (Witness steps down.)

1 MS. ZMROCZEK: Your Honor, our next witness, I
2 believe we have an issue to take up.

3 THE COURT: All right. Ladies and gentlemen
4 of the jury, there is a matter of law I need to
5 discuss outside of your presence. We will have you
6 out shortly. A brief break.

7 (WHEREUPON, the jury retires to the jury
8 room at 2:15 p.m.)

9 THE COURT: All right. Where is my deputy?
10 She says that she wants to take off the leg guards
11 because he wants to demonstrate. And I have
12 allowed the State to call their witnesses to
13 demonstrate, so that is why I am considering that.
14 But, of course, I would like to hear from you all
15 regarding it.

16 THE DEPUTY: You know, our policy is not to
17 take them off.

18 THE COURT: And if we take them off, it's
19 going to be for a short time, which means I have to
20 send the jury back out again.

21 And then, Deputy Kimbrough, obviously we have
22 to have an officer by the jury.

23 THE DEPUTY: We also have to have somebody
24 stand by the Defendant while he's doing it.

25 THE COURT: And I guess an officer by the

1 door.

2 What is it -- can you show me what it is he's
3 going to do?

4 I mean, because you've already said,
5 Ms. Zmroczek, that they're going to know he's in
6 jail.

7 MS. ZMROCZEK: Right. I understand. But two
8 concerns. Obviously, his movement is restricted,
9 which could affect the way that he demonstrates.
10 And I don't want any hesitation to be inferred as
11 something else. Also, it's going to require like
12 getting up off the ground and standing up and
13 there's an additional safety concern about him, you
14 know, falling.

15 THE COURT: Let me see what you -- go ahead
16 and ask him what he wants to do.

17 MR. SCHWARTZ: We're just going to go through
18 where James was and where he was in the attack.
19 And then he's on the ground at some point and he's
20 going to instruct me on how James was hitting him
21 on the ground and how he was being stomped. So
22 he'll be laying on the ground and then he will
23 attempt to get up.

24 MS. ZMROCZEK: Your Honor, I have discussed
25 this issue several times. Mr. Bank reminded me of

1 something I forgot to say, which was that we --
2 certainly, we admit that he's going to be in jail,
3 but the inference from -- I mean, there's already
4 going to be this inference with all these guards
5 around, so the inference from the guards and him
6 having these shackles on infers some sort of
7 dangerousness or could infer some sort of
8 dangerousness.

9 THE COURT: Well, they're not going to be all
10 around if -- the only way they're going to be
11 standing around him -- so you take that whichever
12 way you want -- the only way they're going to stand
13 around him is if he has the shackles off, which
14 means I'm going to put one at -- a deputy at the
15 door, somebody by the stand, probably a deputy
16 right there in the chair, another one right here,
17 and deputies back at the back door, so --

18 MS. ZMROCZEK: Yes. That's fine.

19 THE COURT: But ordinarily I would not take
20 them off because it's their policy --

21 MS. ZMROCZEK: Right.

22 THE COURT: -- not to. I think it might be
23 the sheriff's policy not to take them off, and
24 they're in charge of courthouse security.

25 Then I assume you all will -- okay.

1 Do you have enough deputies in here?

2 THE DEPUTY: We have four, five. We have
3 enough, yes.

4 THE COURT: Let me see the deputies at the
5 bench.

6 (Deputies approach the bench.)

7 THE COURT: Then, of course, I'll tell
8 Mr. Geter that it probably would not be a good idea
9 to try to run. Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: All right, let's bring them on in.

12 Y'all are going to take them off? We'll let
13 him testify with them off. I think they've got it
14 covered.

15 All right. Let's bring them in.

16 (Defendant seated on the witness stand.)

17 THE COURT: All right, Mr. Bowen.

18 (WHEREUPON, the jury came into open
19 court at 2:25 p.m.)

20 THE BAILIFF: The jury is seated, Your Honor.

21 THE COURT: All right. Yes, sir?

22 MR. SCHWARTZ: Thank you, Your Honor. The
23 Defense calls Mr. Robert Geter.

24 THE BAILIFF: Place your left hand on the
25 Bible, raise your right hand, and face the clerk.

1 (Witness complies.)

2 THE CLERK: Do you swear or affirm the
3 testimony you shall give in this case will be the
4 truth, the whole truth, and nothing but the truth,
5 so help you God?

6 THE DEFENDANT: Yes, ma'am.

7 THE CLERK: Thank you. State your full name
8 for the record.

9 THE DEFENDANT: My name is Robert Xavier
10 Geter.

11 THE COURT: Yes, sir?

12 MR. SCHWARTZ: Thank you, Your Honor.

13 ROBERT XAVIER GETER,
14 after being duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. SCHWARTZ:

17 Q Mr. Geter, you understand why you're here today,
18 right?

19 A Yes, sir.

20 Q Introduce yourself to the jury. Where are you
21 from?

22 A I'm from Columbia, South Carolina, born and raised.
23 I've been raised be my grandparents.

24 Q How many brothers and sisters you got?

25 A I have four brothers and two sisters.

1 Q And where are you in that line-up?

2 A I'm the second to the oldest.

3 Q Okay. And where did you go to high school?

4 A Eau Claire.

5 Q Okay. Did you graduate?

6 A No, sir.

7 Q How long -- how far along did you get?

8 A Eleven, 11th grade.

9 Q Why didn't you graduate?

10 A Because I started hanging with the wrong crowd,
11 skipped school and stuff.

12 Q Okay. What do you do for work?

13 A Electricity at Columbia Farms and Trojan Labor.

14 Q What do you mean electricity?

15 A L.C. Electricity Company. I was working at Fort
16 Jackson. He was building the -- doing the wiring
17 for the dorms at Fort Jackson.

18 Q Okay. And what about the chicken farm or the
19 Columbia Farms?

20 A Columbia Farms. I was working from 7:00 to 5:00,
21 from Monday -- Monday to Thursday.

22 Q What did you do there?

23 A Hanging live chickens.

24 Q Okay. You recall -- you know why you're here?

25 A Yes, sir.

1 Q What were you doing the morning of March 6th, 2015?

2 A March 6th, I was -- I was really just getting up.
3 Just getting up and fixing to go sell some clothes,
4 T-shirts.

5 Q What time did you get up?

6 A I got up around about 7:00, 8:00.

7 Q Okay. Were you working that day or you had the day
8 off?

9 A Yeah, I had the day off.

10 Q Okay. And you said you got up around 6:00 or 7:00
11 and then you sold clothes. Tell the jury what you
12 mean when you're selling clothes.

13 A I was selling T-shirts, pocketbooks, pants, things
14 like that.

15 Q Is that kind of a side -- you've got a side job?

16 A It was a side job.

17 Q Okay. Where do you sell T-shirts and purses and
18 whatnot?

19 A On Monticello Road, right across the street from
20 Culler's Pool Hall.

21 Q Okay. And what time did you start selling clothes
22 that day?

23 A It was around about 1:00 o'clock. About one
24 o'clock.

25 Q Okay. And how long were you out there selling

1 clothes and purses?

2 A Till about 5:30.

3 Q Okay. And what did you do after that?

4 A I went and picked up my girlfriend from work and we
5 went home.

6 Q Okay. Where does she work?

7 A She work at Babcock.

8 Q Okay. What time did y'all get home together?

9 A We got home around about 7:00.

10 Q Okay.

11 A Around about 7:00.

12 Q All right. What did y'all do after you got home?

13 A She got in the shower and I chill for a minute and
14 watch TV. I told her I was fixing to go down the
15 street to my friend's house right quick.

16 Q Okay. And you left your girlfriend and you went
17 down to your friend's house?

18 A Yeah, I walked down to my friend's house.

19 Q Okay. And what did y'all do together there?

20 A We played video games and chilled for a minute. He
21 was fixing to put something on the grill, then he
22 said, We about to go to Culler's Pool Hall, we
23 going to eat some dinner. And he asked me did I
24 want to ride with them. I said, Yeah, I'll ride.

25 Q All right. Let's talk about Culler's Pool Hall.

1 You're familiar with that place?

2 A Yeah, I been going there for the last -- since I
3 was like 18.

4 Q Okay. And this is a pool hall, you play pool
5 there, you hang out?

6 A Hang out, play pool.

7 Q All right. Do you know the Cullers?

8 A Yeah, I know the Cullers.

9 Q How long have you known them?

10 A I been knowing them since I was like in my teens,
11 probably about 11, 12.

12 Q Okay. So you've known them for a while?

13 A Uh-huh.

14 Q Now, what time did you and your best friend get to
15 Culler's?

16 A We got to Culler's around about, around about 8:00
17 or 9:00. We got there around about 8:00 or 9:00.

18 Q Okay. When you got there, how many people were
19 there?

20 A It was about 30, 35, 40 people.

21 Q Okay. Did you know some of the people that were at
22 Culler's?

23 A Uh-huh, I know plenty of people.

24 Q All right. What did y'all do when you got there?

25 A We chilled for a minute, mingled, and we talked.

1 And I went and bought a beer. We went together and
2 bought some beer. I drink Icehouse, so we
3 bought -- I bought me an Icehouse. And we went
4 back out and chilled for a minute out on the back
5 deck. And then after that, I went to the store. I
6 walked to the store to get a cigar.

7 Q Store? Where is that store?

8 A That's One Love, right on -- beside of the grill.
9 It's a restaurant on the side of Culler's Pool
10 Hall. It's a grill. It's a grill, but it was shut
11 down. And the One Love right there and it's like a
12 path. You go right behind it, you go right on the
13 side and you can go straight to the store like
14 that.

15 Q Okay. What did you do, you bought a cigar at the
16 gas station?

17 A No, it's a convenience store, it ain't got no gas
18 station.

19 Q So bought your cigar and talked to somebody there?

20 A Yeah, I talked to the owner, Steve. Talked to the
21 owner, Steve, because I used to be cleaning his
22 coolers and he'll pay me like \$20, \$30 dollars to
23 clean out the coolers and fill them back up with
24 ice.

25 Q Okay. You bought the cigar. Then what did you do

1 next?

2 A He told me he already had somebody -- he already
3 had somebody to do it, so I left. I went back to
4 the pool hall where my friend was at.

5 Q All right. Then what happened when you got back
6 after buying the cigar?

7 A I got back. We still mingle for a minute. Then I
8 went in there. And it was around about 12:00 then.
9 It was around about 12:00 o'clock then when I went
10 back in the pool hall. I went and bought me
11 another beer and I went back out the door, chilled
12 with my friends and them. And they was like, We
13 fixing to get ready to go. You riding? I was
14 like, No, I'll catch a ride later on.

15 Q Okay. You know James Lewis, right?

16 A Yeah, I know James Lewis.

17 Q How do you know him?

18 A I met him through my brother.

19 Q How long have you known him?

20 A I been knowing him for like six years.

21 Q Okay. You guys hang out together or?

22 A No, we never hung together. Every time we would
23 see each other, we shake each other's hand and go
24 on about our business.

25 Q Obviously he was there that night?

1 A Yeah, he was there that night.

2 Q Did you talk to James prior to this incident that
3 night?

4 A Yes, I shook his hand. I shook his hand before I
5 went and used the bathroom.

6 Q Okay. All right. So you went back out after you
7 bought your second beer, right?

8 A Uh-huh.

9 Q Then what happened?

10 A Then my friends was getting ready to leave. It was
11 going on like probably about 2:00 o'clock in the
12 morning. And they was getting ready to leave.
13 They said, You sure? I said, Yeah, I'm going to
14 catch a ride later. I'm going to catch a ride
15 later. I'm going to listen to a few more songs.
16 So I went back in the building and put money in the
17 jukebox. I put some money in the jukebox. Five
18 dollars in the jukebox to get 12 songs, 50 cent.
19 And I put the money in the jukebox, so I ran -- I
20 had to use the bathroom, so before I even put the
21 music in, I ran to the bathroom to use the bathroom
22 again, and James was standing on the side of the
23 door.

24 MR. SCHWARTZ: Your Honor, may I approach?

25 THE COURT: Yes.

1 BY MR. SCHWARTZ:

2 Q All right. I'm showing you what has been marked as
3 Defendant's Exhibit 73. Do you recognize this?

4 A Yes. That's the dance floor.

5 Q Don't show it to the jury yet. Do you recognize
6 that?

7 A Yeah.

8 Q What is that?

9 A That's the dance floor.

10 Q Of what?

11 A Of Culler's.

12 Q Okay. Is that a representation of how you remember
13 it that night?

14 A Yeah, but it was an ATM machine standing right
15 there.

16 Q But other than that, that's pretty accurate?

17 A Uh-huh.

18 Q To the layout?

19 A It's way smaller than this, though.

20 MR. SCHWARTZ: The Defendant moves Exhibit 73
21 into evidence.

22 (Pause.)

23 BY MR. SCHWARTZ:

24 Q I'm going to give you this Sharpie marker, okay?

25 A Uh-huh.

1 Q And I want you to mark where James was, James hangs
2 out or was that night.

3 A (Witness complies.)

4 Q And for the record, where is that?

5 A Right beside the bathroom door. The bathroom comes
6 out -- the door opens like this here.

7 Q Okay. And for this piece of evidence, mark on
8 there where the attack occurred.

9 A Right here. Right in front of the jukebox.

10 MR. SCHWARTZ: The Defendant moves Defendant's
11 Exhibit 73 in.

12 MR. CATHCART: Can I see?

13 (Pause.)

14 MR. CATHCART: No objection.

15 THE COURT: All right.

16 (WHEREUPON, Defendant's Exhibit No. 73
17 was marked for identification and
18 received into evidence.)

19 BY MR. SCHWARTZ:

20 Q Now, you went to the restroom that night?

21 A Uh-huh.

22 Q Okay. You put some money in the jukebox?

23 A Uh-huh.

24 Q Then went to the restroom?

25 A Yes, sir.

1 Q What happened after you went to the restroom?

2 A When I went to the restroom, I had to put my beer
3 down to use the bathroom and I washed my hands. I
4 washed my hands. Then when I came out, I came out
5 the door, and I went back, straight back to the
6 jukebox because my money had done slide. It didn't
7 take my money. So as I was putting -- trying to
8 put the money back in, James come behind me and
9 told me I stepped on his foot. He said I stepped
10 on his foot.

11 And I was like, Oh, my bad, my bad, my bad,
12 you know what I'm saying. I'm having a good time.
13 I'm like, my bad. I ain't know he would come at me
14 like that because we always talk to each other. So
15 I was like, My bad, my bad. Like right there in
16 front of the jukebox.

17 And Clarence came up and like, What's up with
18 this nigga? You feel what I'm saying? He wasn't
19 on my side, he was on James's side. He was like,
20 What's up with this nigga?

21 And I turned around like, Man, you ain't got
22 nothing to do with this. You ain't got nothing to
23 do with this.

24 Q How did you know -- how do you know Clarence Stone?

25 A I met Clarence through friends, other friends.

1 Q How long have you known him for?

2 A I probably known him about -- about seven years.

3 Q And how do you know him, from hanging out at
4 Culler's or other places or --

5 A Hanging out other places.

6 Q All right. So Mr. Lewis says that you stepped on
7 his foot?

8 A Yeah, said I stepped on his foot.

9 Q And then --

10 A Yeah. I apologized to him. I apologized. I told
11 him, My bad.

12 Q Okay. Then what happened?

13 A Then Clarence came and like, What's up with this
14 nigga? What's up with this nigga? I turned around
15 and said, Man, you ain't got nothing to do with
16 this, you know what I'm saying, you ain't got
17 nothing to do with this.

18 So as I turned back around to James, Clarence
19 hit me from behind. He hit me in the back of my
20 head. So I turned around and I grabbed Clarence
21 hand to stop him from hitting me, and that's when
22 James jumped in.

23 Q Okay.

24 A Then when James jumped in, when James jumped in, I
25 already said, I got a fight on my hands, you know

1 what I'm saying? I been raised coming up fighting
2 with my brothers. So I just grabbed his hand,
3 grabbed his hand. That's when I kept getting hit
4 in the jaw, boom. When I got hit in the jaw the
5 second time, I went down. Some kind of way, I
6 slipped.

7 MR. SCHWARTZ: Your Honor, at this time can we
8 have the Defendant come down and demonstrate for
9 the jury?

10 THE COURT: Yes, sir. He can step down.

11 (Witness steps down.)

12 THE COURT REPORTER: I need to have him facing
13 me.

14 MR. SCHWARTZ: Sure.

15 BY MR. SCHWARTZ:

16 Q All right. Let's talk about Mr. Lewis real quick.

17 A Uh-huh.

18 Q How big is he?

19 A He is a little taller than you.

20 Q Okay. How muscular is he?

21 A I say about 230, something like that.

22 Q And how tall are you?

23 A I'm like five-eight.

24 Q Okay. And how much did you weigh back in 2015?

25 A 145.

1 Q How much do you weigh now?

2 A 202.

3 Q You put on a little weight?

4 A Yes.

5 Q Okay. So you weren't this big then?

6 A No.

7 Q So pretend that we're at the jukebox.

8 A Uh-huh.

9 Q All right. And I'm James. Explain to the jury,
10 the jukebox is here, okay.

11 A Uh-huh.

12 Q So where are you --

13 A The jukebox is right here, so I'm right here at the
14 jukebox. As I come out the bathroom door, I go
15 straight to the jukebox and put the money in the
16 machine. I put the money in the machine and it
17 wouldn't take. So James come up and say, Hey, you
18 stepped on my mother fucking foot and you ain't say
19 excuse me? I said, My bad, my bad, my bad.

20 Q Where was he in relation to you? Was he on the
21 left side, right side?

22 A He was on my right side.

23 Q So where I'm standing?

24 A Yeah, he was up a little closer.

25 Q Okay.

1 A And I'm like, My bad, my bad. I couldn't believe
2 he came up on me like that, know what I'm saying,
3 because I thought we was all right. And I'm like,
4 Man, my bad, my bad, just like that.

5 And Clarence came up from the left, from the
6 left part, and was like, What's up with this nigga?
7 And I'm like, Man, you ain't got nothing to do with
8 this. You ain't got nothing to do with this here,
9 just like that. And when I turned back around,
10 boom. I turned around and it's Clarence, so I
11 grabbed his hand. I grabbed his hand. He still
12 been trying to hit me, steady trying to hit me.
13 And Clarence -- that's when James jumped in and hit
14 me. Boom.

15 Q Where did he hit you?

16 A He hit me in my jaw. He hit me in my jaw. And I
17 went down a little bit. I staggered a little bit.
18 When I got hit in the jaw, I staggered a little
19 bit. So I'm still -- I'm trying -- I don't know
20 which one to face, you know what I'm saying, which
21 one to go at, but when I turned around, I turned to
22 James because he hit harder. So I tried to grab --

23 Q Grab me like --

24 A So when I tried to grab James like this here and
25 tried to hold him like this here, some kind of way,

1 I went back. And when I went back, I hit the
2 ground like this here, on the thing like this here,
3 and I'm on the ground like this here. That's when
4 James came on me quick.

5 Q All right. Slow down. How did James come at you?
6 Tell -- I'm James, so --

7 A He came, he came at me. He was on this side.

8 Q He was on that side.

9 A When he came at me, I was trying to get up. He put
10 his knee right here, right here. He put his knee
11 right there. He was swinging, swinging at my face.
12 So I grabbed his arm like this here and trying to
13 twist, trying to twist. And he still swinging, so
14 as I tried to get up, Clarence come and kicked me
15 in the face. Boom. So I went back this way.

16 So I'm still trying to twist and trying to
17 hold my arms out like this here to keep his feet
18 from hitting again, so I tried to twist again to
19 get up. He kicked me again. When he kicked me
20 again, I went this way here. And I went in my
21 pocket. I know I had a knife. I went in my
22 pocket, my side pocket. I pulled the knife out.
23 So I let Clarence -- let James go and grabbed hold
24 of the blade like this here, and I pushed him back
25 and I sliced him like this here, sliced him. And

1 he backed up. I'm trying to get up. I get up with
2 the knife in my hand. So I'm like this here now.
3 I'm like this here now.

4 Q So where is James and where is Clarence?

5 A James is right there. James is right there.

6 Q Where I'm standing?

7 A Yeah, so James is trying -- he see the knife. Now,
8 James dancing trying to get in. And Clarence like,
9 Clarence like, Get him, get him, get him. So I was
10 like, Man, I thought we was all right. I thought
11 we was all right, Man, what the fuck wrong with
12 you? I thought we was all right. So I'm just
13 slicing at him, he steady coming, he steady coming.
14 That's when Blue -- Blue about this tall here.
15 Black, they call him cowlick boy, James got
16 cowlicks. So he come up behind me and grabbed me
17 in a chokehold. Boom. When he hooked me up like
18 this here, I'm like this here on my toes choking,
19 choking. I said, Oh, I'm going to fall down. So I
20 said, Boy, don't fall now. If you fall now they
21 will stomp you --

22 Q Is he still hitting you at this point?

23 A Yeah, Clarence was steady hitting me, but James was
24 kind of like falling back because he done been
25 stabbed. He was kind of like falling back. And

1 Clarence still steady trying to get in, get in.

2 That's when Deborah come out.

3 Q Deborah? Who's Deborah?

4 A Ms. Deborah Culler.

5 Q She comes out from where?

6 A She comes out. She comes out the kitchen.

7 Q And that is where in relation to where we're at in
8 the restaurant?

9 A She come out the kitchen. The kitchen is right
10 behind right here.

11 Q Okay. So to the right of the bathroom?

12 A To the right. And we all right here. We all right
13 here. She come out and all I heard her say was,
14 Y'all stop, y'all let him go, like that. Then when
15 he let me go, I went down like this here. I still
16 got the knife in my hand. So as I'm falling
17 back -- I'm dizzy. As I'm falling back like this
18 here to get out -- go out the door, that's when
19 somebody grabbed my arm like this here, Come on,
20 Boo, come on, aggressive, and, Please just come on,
21 Boo. And I knew the voice, and he took me on out
22 the door. When I went out the door, I'm like this,
23 the knife in my hand. I'm still trying to see. My
24 eyes had done swole up. You see what I'm saying?
25 I'm talking about swole up.

1 Q How bad was your face bruised and swollen?

2 A My eyes were shut, both my eyes were shut, and it
3 was blurry. All I seen was blur, like two people
4 at the same time. And I still got the knife. So
5 everybody come up to me, like, Man, what happened,
6 what happened, Boo? I was like, Man, they just
7 jumped me, Man, they just jumped me. You know what
8 I'm saying? They was like, Well, who jumped you?
9 And about the time I could get the name out, James
10 come out the back door. Mother Fucker, you just
11 stabbed me. Mother Fucker, you just stabbed me.
12 Just like that. And I heard the mother fucker
13 telling James, Chill out, James, chill out. Chill
14 out. Chill out, James.

15 Q At this point when he comes back out, where are you
16 in the bar?

17 A I ain't in the bar.

18 Q You're out --

19 A I'm on the back -- I'm on the back deck.

20 Q Okay. You're on the back?

21 A Yeah, I'm on the back deck now. Steps right here.

22 Q Who went out first, you or James?

23 A I went out first. Deborah told him to let me go.

24 Q Okay.

25 A Then they let me go. And somebody grabbed me real

1 hard, boom, and I flinched. They said, Come on,
2 Boo, come on. And took me out the door, just like
3 that. I couldn't see, I could not. I was like,
4 Man, I can't hardly see. Man, I can't hardly see.
5 And at the same time, I'm trying to wipe -- with my
6 jacket, trying to wipe my eyes, you know what I'm
7 saying, so I can see a little bit. And by the time
8 I could tell them who it was, James come out the
9 door.

10 I hear him, Mother Fucker, it ain't over, you
11 just stabbed -- you just stabbed me and it ain't
12 over, you feel what I'm saying?

13 So I said, Man, goddammit, I told you I'm
14 sorry, Man. My bad, Man. My bad. I said I'm
15 sorry, Man. I said, I'm sorry, Man. You all
16 right? I asked him was he all right.

17 And he came at me and Clarence come from the
18 side, boom. That's when Blue and them all came in.
19 They all at me now slicing. And Elijah, he got
20 stabbed --

21 Q Who is that?

22 A Elijah.

23 Q Okay.

24 A He came -- he came in here on the stand, but he say
25 somebody else stabbed him or something, but he had

1 went to the hospital. And he was one of the ones
2 trying to grab my arm to get the knife.

3 Q Okay.

4 A Grabbed my arm.

5 Q At this point outside, how many guys are attacking
6 you?

7 A It was like four of them, it was like four of them,
8 it was like four of them. They James's partners,
9 whatever they got going on, you feel what I'm
10 saying? All my friends had done left. That's why
11 I ain't had no help.

12 Q Okay. And so after they came back and attacking
13 you, then what happened? How did the attack end?

14 A With James coming -- James more aggressive coming
15 at me. And I still had the knife at them and he
16 was still coming at me, jugging like this here.
17 Slicing like this here, jugging, jugging like that.
18 And then that's when somebody came from behind me
19 and grabbed me -- grabbed my arm like this here and
20 took -- picked me up and tote me -- I didn't weigh
21 that much -- and took me down the steps.

22 Q Okay.

23 A Took me down the steps.

24 Q All right.

25 A When they took me down the steps -- when they took

1 me down the steps, somebody say, Well, your brother
2 right here, your brother just pulled up. And they
3 put me in my brother's car. When I got in the back
4 seat, my brother and his girlfriend was like, What
5 the fuck happened to you? What happened to you? I
6 was like, Man, I just got jumped. My brother was
7 like trying to get out the door. I was like, Man,
8 it's all right. It's all right, Man. It's all
9 right. Just leave it alone. Just take me to
10 mama's house. Take me to mama's house.

11 Q All right. Let's get back on the stand here.

12 A (Witness returns to witness stand.)

13 Q All right. So you get back in your brother's car?

14 A I get in the car.

15 Q Okay. Where do you go from there?

16 A We go straight to my mama's house.

17 Q Okay. And what happens at your mom's house?

18 A I went to my mom house. I went straight to sleep.
19 I had a banging headache. I went straight to sleep
20 right on my mama bed. Boom.

21 Q Okay. Did you know anything about what had
22 happened to James or Clarence?

23 A I ain't know nothing, I ain't know nothing till
24 somebody woke me up. My brother woke me up and be
25 like -- be like -- at first they woke me up, but

1 they said I was talking out my head. They wouldn't
2 understand what I was saying, I was talking out my
3 head. They said I was talking out my head.

4 Q What's that mean, talking out your head?

5 A They said I was talking out my head. They couldn't
6 understand nothing I was saying.

7 Q Okay.

8 A But they went ahead -- they said they went ahead
9 and let me go back to sleep, so I went to sleep.
10 Then when I woke back up, everybody was standing
11 over me. And I woke up, What's going on? You
12 know, I couldn't see. That's when my eyes were
13 real shut then. I couldn't see, I was like, What's
14 going on? They like, Man, you know -- you know
15 James expired, right? I said, Expired? I say, He
16 died? They said, Yeah. Then I start crying, man,
17 I said, Man, I fucked up, Man. I don't know why
18 that shit had to happen like that, Man. I should
19 have left. You know what I'm saying? I kept
20 telling everybody, I fucked up. I fucked up. I
21 should have left, Man. I should have left with my
22 friends. You know what I'm saying? None of that
23 wouldn't happen. James would have been alive and I
24 would have been home right there on my job, you
25 feel what I'm saying?

1 Q Okay.

2 A And I just kept telling them I messed up. And I
3 just started crying, pouring down crying. And I
4 stayed at my mama house for a minute.

5 And my brother and them was like, What you
6 going to do? I like, Well, I'm going to turn
7 myself in, Man. I'm going to turn myself in.

8 Q Well, somebody called your girlfriend, right?

9 A Yeah.

10 Q Who was that?

11 A I think my brother called Deatra back, back to the
12 house, and told her I was up. And she came and --
13 she came and picked me up, then we went home. We
14 went home to Charleswood.

15 Q Okay. But you -- that morning, after you learned
16 that he had passed away, you turned yourself in at
17 some point that day?

18 A Yes. When me and Deatra was home, we was sitting
19 on the bed, we was sitting on the bed, and we
20 talking, we talking about the incident, what
21 happened and everything.

22 And she was like, Don't worry about it, it's
23 going to be okay. You going to be okay. Just like
24 that. And so she took some pictures of my face
25 like that. And she was like, Why don't you go take

1 a shower before you turn yourself in?

2 I said, No, I ain't going to take no shower, I
3 ain't going to take no shower. I'm going to turn
4 myself in like this here, just like that.

5 And so we started talking and next thing I
6 know, her phone ring, and it's her brother Thomas.
7 He the chief of the fire department. And it's her
8 brother saying that I need to turn myself in.

9 I said, That's what I'm going to do. And he
10 say the investigator called him some kind of way,
11 got in contact with him. Her brother Thomas, he
12 work as a fire chief.

13 And the dude there, I was talking to Joe
14 Clarke on the phone. I was talking to him. He was
15 like, Well, you just need to come on and turn
16 yourself in. I said, Yeah, man -- it was around --
17 I think it was around about 12:00. And I'm like,
18 Man, I'm going to turn myself in at 1:00 o'clock,
19 just like that. So I went -- we went and got
20 something to eat and everything and we chilled for
21 a minute. And next thing, it was about 1:00, I
22 think 1:30, something like that, and we was on our
23 way to Two Notch Road to the police department.

24 Q Okay. I'm going to show you what has been entered
25 into evidence as Defendants Exhibits 31 through 38.

1 Can you look at those pictures for me?

2 A Yeah.

3 Q Do you recognize those?

4 A Uh-huh.

5 Q Are those accurate representations of what your
6 face looked like the night of this attack?

7 A This is the night, this is the night, this is the
8 night when it happened.

9 Q Okay. All right. So when you turned yourself in
10 to the police -- when you turned yourself in to the
11 police, you brought them a few items, didn't you?

12 A Yeah, I brought --

13 MR. CATHCART: Objection as to leading.

14 THE COURT: Sustained.

15 BY MR. SCHWARTZ:

16 Q What did you bring to the police?

17 A I had the knife. I told -- Deatra was like, You
18 got the knife? I was like, Yeah, I got the knife.
19 And when I went in, when we went in the department,
20 I went to a little desk and I was like, I'm Robert
21 Geter, I'm the one y'all looking for. And Mr. Joe
22 Clarke and another investigator came down and
23 talked to me.

24 And when they came down and talked to me, I
25 was like, Man, can I go back out the door and smoke

1 a cigarette? He was like, Sure, go ahead.

2 I went back out the door. Deatra was still in
3 there. Mr. Clarke and them were still in the
4 department. They let me go out the door. I went
5 out and sat on the steps and I was smoking a
6 cigarette. Smoking a cigarette. And I smoked
7 another cigarette back to back.

8 And then Mr. Joe Clarke came and said, You
9 need to come on in. So I went on in, and they took
10 me upstairs. And I was like, Man, this the knife
11 right here that the incident happened -- with the
12 incident -- with the attack. I say, This is the
13 knife right here. That is the knife right here.

14 And he was like, Oh, okay. He got it in his
15 hand. He took it and he put it down. And then he
16 put me in handcuffs.

17 And I was like -- when he put me in handcuffs,
18 I was like, Man, I'm the one got jumped. I got
19 jumped by five people, Man, just like that.

20 He was like, Okay, okay, whatever, you feel
21 what I'm saying?

22 So I was like, Okay. Okay. Well, he ain't
23 serious with me. He ain't serious about this, you
24 feel what I'm saying?

25 So he took me up there, sat me down at the

1 desk, and pull out a piece of paper. He like,
2 Okay, now what happened?

3 And I said that -- I said, I want my lawyer
4 here to record everything. I want my lawyer here
5 so she can record everything.

6 And he didn't say no more, just like that.
7 And they took my clothes.

8 Q They took your clothes. Let's talk about the
9 clothes. What clothes were you wearing that night?

10 A I was wearing the same -- I was wearing some black
11 Dickey pants with the pockets on the side, and I
12 was wearing a gray thermal with my camouflaged
13 jacket on.

14 Q Okay. What clothes did you wear to the police
15 department?

16 A The same clothes that the attack happened.

17 Q Why would you wear the same clothes to the police
18 department that you were wearing the night before
19 when this attack went down?

20 A Because I didn't want him to think I was hiding
21 anything. That's why I kept the clothes. That's
22 why I told Deatra I am going to go like I am now
23 because I don't want them to think I'm hiding
24 anything. You feel what I'm saying? Because the
25 way I was looking at it, I was in the right.

1 Q Okay. And why did you turn in the knife to them?

2 A Because I didn't want them to think that I was
3 hiding something, you feel what I'm saying? That I
4 had something to hide.

5 Q Now, let's talk about this knife for a second.
6 Where did you get the knife that you had on you
7 that night?

8 A I got the knife from a partner of mine, Jerry, work
9 at Fort Jackson with me.

10 MR. SCHWARTZ: I'm not going to give it to
11 him.

12 THE WITNESS: He gave me the knife, he gave me
13 the knife because I ain't had one. And we were
14 scraping the wire -- I mean, the cord off the wire,
15 and he gave me the knife and said, You can go ahead
16 and keep that, I got another one. And ever since
17 then, I always kept it with me.

18 BY MR. SCHWARTZ:

19 Q Okay. And I'm showing what's marked as State's 58.
20 Do you recognize this?

21 A Uh-huh.

22 Q Okay. What is this?

23 A That's the knife I had.

24 Q Okay. And you used that knife for work?

25 A Yeah, I used it for work when I was working at Fort

1 Jackson.

2 Q Okay. How often would you carry the knife?

3 A I go to work like Monday through Friday.

4 Q Okay.

5 A When I'm off at Columbia Farms, I go there. When
6 I'm off at Fort Jackson, I go to Trojan Labor.

7 Q Okay. Now, let's go back to Culler's.

8 A Uh-huh.

9 Q That night -- or that morning. What point during
10 this attack did you start to really fear for your
11 life?

12 A When I felt -- when I got on the ground and I seen
13 that -- I been on the ground seemed like forever,
14 and I seen like it wasn't going to stop. And I was
15 Oh, shit, they fixing to stomp me in a coma, fixing
16 to stomp me to death. It was like every time I
17 tried to get up, I got two people hitting me back
18 down. So that's why I went in my pocket and pulled
19 the knife out.

20 Q Did you start this fight that night?

21 A No, I ain't start it. I ain't never start it. I
22 don't have no reason to start no fight with nobody.
23 Didn't have no reason.

24 Q Were you afraid for your life that night?

25 A Yeah, I was afraid for my life. I couldn't see. I

1 couldn't see.

2 Q You were in here when they were playing the 9-1-1
3 tapes -- or, excuse me, the jail tapes, right?

4 A Uh-huh.

5 Q You were saying on the tape, you said, I fucked up?

6 A Yeah, I fucked up.

7 Q What does that mean, I mean --

8 A Because I should have left. And that's the only
9 thing been on my mind was, I fucked up, I fucked
10 up, I fucked up. I should have left with my
11 friends when they told me they was leaving. And
12 knowing I ain't supposed to be down there at the
13 pool hall anyway, you know what I'm saying?
14 Without my girlfriend. I ain't supposed to be down
15 there anyway. But I had done got feeling good and
16 got to listening to the music, and I got stuck down
17 there.

18 MR. SCHWARTZ: Court's indulgence, Your Honor.

19 (Pause.)

20 BY MR. SCHWARTZ:

21 Q Briefly. Do you know Howard Jordan?

22 A No, I never seen him a day in my life.

23 Q Were you ever housed in the same unit as him?

24 A We never -- we never -- the paperwork proves that
25 we never been in SMU together.

1 Q Okay. You never talked with him?

2 A I never talked to nobody about my case.

3 MR. SCHWARTZ: Please answer any questions the
4 State might have for you.

5 THE WITNESS: Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. CATHCART:

8 Q Good afternoon, Mr. Geter.

9 A Good afternoon.

10 Q We've met before, correct?

11 A Yes, sir.

12 Q We've spoken before?

13 A Yes, sir.

14 Q And you've testified under oath before, correct?

15 A Yes, sir.

16 Q You know Mr. Lewis, correct?

17 A Yes, sir.

18 Q Known him for years, right?

19 A Yes, sir.

20 Q You know Mr. Stone, you've known him for years as
21 well, right?

22 A Yes, sir.

23 Q And you know that both of them, you've never seen
24 them get in any trouble before?

25 A No, I never seen them.

1 Q Get in any altercation at all?

2 A No, sir.

3 Q And you have been in that Culler's Club since you
4 were 12 years old?

5 A Ever since I was 18.

6 Q Eighteen? But you've known Deborah Culler since
7 you were 12?

8 A Twelve.

9 Q Your mama knows her?

10 A Uh-huh.

11 Q You've never known him to cause no altercations
12 either in that bar or not, Mr. Stone, right?

13 A Huh-uh, I ain't never -- I have seen him down there
14 only two times since I been knowing him.

15 Q You've been there since you were 18. You were 30
16 something when this happened, right?

17 A Uh-huh, 35.

18 Q And you've been going there 15 odd years and you've
19 only seen Mr. Stone twice in your life?

20 A About two times down there.

21 Q Same thing with Mr. Lewis. You've never known him
22 to be -- start an altercation with anybody either
23 in the bar or not, right?

24 A No, he always sit it at the door.

25 Q But he ain't causing no trouble with anybody,

1 right?

2 A No.

3 Q Never?

4 A I ain't caused no trouble neither.

5 Q And -- I'm sorry, you what? You've never been in
6 trouble at the bar?

7 A Who?

8 Q You've never caused no trouble at the bar is what
9 you're saying?

10 A No, I ain't never caused no trouble down there.

11 Q Okay. When you went there that night, Deborah was
12 there, right?

13 A Uh-huh.

14 Q She was in the kitchen?

15 A Uh-huh.

16 Q She was cooking in the kitchen?

17 A Uh-huh, yes, sir.

18 Q And as she said, when she's -- when the club's
19 going, the door to the kitchen is open so people
20 can go get a beer and pay her for the beer, right?

21 A The door -- the door always be shut.

22 Q Always be shut?

23 A And at the top, the top part be open.

24 Q Uh-huh.

25 A So the door shut and you just put your money on the

1 counter and she set the beer on the counter.

2 Q So does that happen every time or is that just this
3 one night?

4 A It always be like that.

5 Q So when Ms. Culler said that the door was open that
6 night, she's mistaken?

7 MR. SCHWARTZ: Objection to pitting witnesses,
8 Your Honor.

9 THE COURT: Rephrase the question.

10 BY MR. CATHCART:

11 Q Did you see Ms. Culler testify, though, correct?

12 A Yes, sir.

13 Q You heard what she said, correct?

14 A Yes, sir.

15 Q And you've known her since -- you said since you
16 were 11 years old?

17 A Since I was 12.

18 Q Twelve years old. She even took you to church,
19 tried to get you to go to church with her the --

20 A When I was like 34. After I started getting my
21 life together.

22 Q Uh-huh. She tried to help you, right?

23 A Yeah. Because at one time, they couldn't stand me.

24 Q But this time she was trying to help you, right?

25 A Yeah.

1 Q The week before this occurred?

2 A No, it was about a month.

3 Q Okay. But she was trying to help you right before
4 this occurred, right?

5 A She asked me to come to her church.

6 Q Uh-huh. I mean, did you think that was in a bad
7 way?

8 A No, that was a good way. I went.

9 Q And Ms. Culler -- and you know Reeshemah also?

10 A Uh-huh.

11 Q She was there that night too, right?

12 A I don't remember seeing her.

13 Q Okay. And you know Mr. Harkness?

14 A Yeah, I know him.

15 Q He was there that night as well, right?

16 A I don't remember seeing him.

17 Q Okay. There was a lot of people there, right?

18 A Yeah, it was good little -- a lot of people.

19 Q Mr. Harkness knows who you are, doesn't he?

20 A Yeah, he know who I am.

21 Q Okay. Reeshemah knows who you are, doesn't she?

22 A Uh-huh.

23 Q Clarence knows who you are?

24 A Uh-huh. Yes, sir.

25 Q As does James?

1 A Yes, sir.

2 Q You agree with me that the facts of the case never
3 change, right? If something happens and you tell
4 the truth about it, that doesn't change, right?

5 A Nothing changed.

6 Q Nothing changes?

7 A No, sir.

8 Q But you told Investigator Clarke it was five
9 people?

10 A Uh-huh. Yes, sir.

11 Q You told your girlfriend on the phone it was only
12 two people. The last time you testified in this
13 hearing, you said there was three people on top of
14 you?

15 A Uh-huh.

16 Q Kicking you. You said Blue was on you at that
17 time. Now you're saying Blue was not?

18 A Blue was never -- Blue was never was on me. Blue
19 had grabbed me in a chokehold.

20 Q He was never on you, never kicked you?

21 A Huh-uh.

22 Q Do you recall me asking you -- actually, this is
23 Ms. Zmroczek asking you, Which way were you facing,
24 were you facing the jukebox? Do you recall telling
25 us, I was facing James and telling him, Man, my

1 bad--

2 MR. SCHWARTZ: Objection, Your Honor.

3 THE COURT: Hold on a second. Are you reading
4 the transcript?

5 MR. CATHCART: Yes, ma'am.

6 THE COURT: Just identify which page.

7 MR. CATHCART: Yes, ma'am. It is Page 304.

8 In fact, can I give him a copy as well so he can
9 follow along?

10 THE COURT: What's your objection?

11 MR. SCHWARTZ: He needs to ask a question,
12 Your Honor, and then ask Mr. Geter does the
13 answer -- or impeach him with the prior testimony.
14 He's reading the prior testimony into the record.

15 THE COURT: He will have to do it in the form
16 of a question. We need to give Mr. Geter a copy so
17 he can --

18 MR. CATHCART: May I approach the witness,
19 Your Honor?

20 THE COURT: Yes.

21 BY MR. CATHCART:

22 Q I show you -- we're going to go to Page 304 and
23 Page 305. 304, Ms. Zmroczek asked you about facing
24 the jukebox -- about where you were facing. And
25 you told her that you were -- about Clarence and

1 James, correct?

2 A Uh-huh.

3 Q And then you indicated on Page 305, you stated at
4 that point is when y'all first started tousling?

5 A That's when the attack happened.

6 Q Just James and Clarence, right?

7 A Just James and Clarence at that time.

8 Q And then the tousling and you fell down and then
9 got back up and that's when Zachary got you?

10 A Uh-huh. That's when he grabbed me in a chokehold.

11 Q Look on Page 305. While you were still -- your
12 last story was -- and correct me -- that's when
13 y'all started tousling. Clarence started tousling
14 with them. I started -- I turned around and
15 Clarence started tousling with him. And that's
16 when a dude named Zachary tried to grab me.

17 A Uh-huh.

18 Q That's what happened now?

19 A Yes.

20 Q Back then, right? That's not what you're saying --

21 A That after he got -- after I got up, he grabbed me
22 in a chokehold.

23 Q Well, that's odd, because if you look back on the
24 next page, 306, that's when you tripped up after
25 all this happened, correct? The last time you

1 talked about this, the truth was then after Zachary
2 was there, that's when you fell down?

3 A That's when I remember everything. I remember
4 everything that happened. I just told everything
5 that happened.

6 Q But it's different this time, correct?

7 A No. Everything that happened. Everything that
8 happened. I told just the way everything happened.

9 Q But you're telling a different story, sir. That my
10 point.

11 A Everything -- it can still add up to the same
12 thing, sir.

13 Q So no matter how the story changes, as long as it
14 adds up to you being innocent, you're good with it,
15 is that what you're saying?

16 MR. SCHWARTZ: Objection, Your Honor.
17 Argumentative.

18 THE COURT: Overruled.

19 BY MR. CATHCART:

20 Q Facts don't matter until you get the end result, is
21 that what you're saying?

22 A Say that again.

23 Q The facts don't really matter, the details, they
24 can change as long as you get to the result you're
25 asking for, correct?

1 A No, sir.

2 Q But you're changing your story. First it's five
3 people, then it was two people --

4 A All together, it was five people. When I went on
5 that back patio, that's when Elijah jumped in.
6 Elijah jumped in the picture. But he ain't --

7 Q You didn't mention Elijah last time.

8 A Because I wasn't thinking then. I was --

9 Q Five people, then two, then three. Now, you're
10 getting Elijah in there to get back up to five.

11 A It was five people, Man.

12 Q So the stories change each time?

13 A Five people, Man.

14 Q Deborah came out you said now this time, right?

15 A She came after -- when I got up, when I got up, and
16 then went Zachary grabbed me, Blue, when he grabbed
17 me in a chokehold, that's when Deborah came out and
18 said let him go.

19 Q But you're saying -- like the door being closed
20 that you're now saying, she came out of the
21 kitchen?

22 A Yes.

23 Q She was out of the kitchen watching this occur,
24 correct?

25 A I don't know if she was watching, but I know she

1 had to hear the commotion and hear people talking
2 and screaming.

3 Q According to what you're saying now, she knew what
4 was going on because she was telling them to stop,
5 right?

6 A Yeah, when she came out, she seen him with me in
7 the chokehold, she said, Let him go, let him go.
8 Y'all let him go.

9 Q And this is not a big dance floor, right?

10 A No, it's not that big.

11 Q Okay. So y'all are standing right in here?

12 A Yes, we right there.

13 Q She's out that door. She's about as close from me
14 to you, right?

15 A No, a little further back. Little further back.
16 She at the kitchen door.

17 Q You said she came out, man?

18 A Yeah, she at the kitchen door. She standing right
19 at the kitchen door. You can open the door --

20 MS. ZMROCZEK: Your Honor --

21 MR. SCHWARTZ: Your Honor, he's arguing. We'd
22 ask he let the witness answer the question.

23 THE COURT: All right, let him answer the
24 question, then ask the next question.

25 BY MR. CATHCART:

1 Q Please.

2 A She can step out the door -- she can open the door
3 at the bottom door and step out and stand right
4 there.

5 Q Okay.

6 A I didn't see her, all I heard was her voice. And
7 they let me go. And I kind of went down like that
8 there and back up.

9 Q She was how far from you?

10 A She was -- I couldn't -- I couldn't -- I know the
11 kitchen -- from the kitchen door --

12 Q Uh-huh.

13 A -- she was standing there, all I heard was her
14 voice.

15 Q You have been in this place since you were 18 years
16 old?

17 A Yeah, I been there since I was 18.

18 Q How far from the kitchen door to the other wall?

19 A It is about from that TV to the end of that desk.

20 Q From there to this desk?

21 A To the end of that desk.

22 Q From there to there?

23 A Uh-huh.

24 Q So you're saying she would have been about this
25 close?

1 A Yeah, about that close.

2 Q And you agree that she has no problem seeing,
3 right?

4 A I just heard her voice.

5 Q But she's this close saying, What's going on?

6 A I don't know how close she is to me, but all I
7 heard was her voice saying, Let him go. Y'all let
8 him go.

9 Q But she was definitely there?

10 A She was definitely there.

11 Q She definitely knew what was going on?

12 A I heard her voice.

13 Q Okay. And she saw what happened, correct?

14 A She seen them --

15 MR. SCHWARTZ: Speculation, Your Honor.
16 Objection.

17 THE COURT: Sustained.

18 BY MR. CATHCART:

19 Q She was in a position to see what happened?

20 A Uh-huh.

21 MR. SCHWARTZ: Again, objection. Speculation.

22 MR. CATHCART: It relays the position, Your
23 Honor.

24 THE COURT: Overruled.

25

1 BY MR. CATHCART:

2 Q Is that chair where it was that night, do you know?

3 A Huh-uh, I don't know.

4 Q You don't know where everybody's position was?

5 A It's a different chair.

6 Q That corner right there, you know that corner?

7 A Uh-huh.

8 Q That's about the same distance away too, isn't it,
9 from where the fight was going on?

10 A No.

11 Q It's on the same thing as the door, right?

12 A When you come, when you come in, you closer to the
13 jukebox. You about this -- you more closer to the
14 jukebox right there.

15 Q Yeah.

16 A And you go around that corner and it is right
17 there. The kitchen door right there.

18 Q Okay.

19 A And it's a little farther from the kitchen door to
20 the jukebox.

21 Q Okay. So this is actually closer to the jukebox?

22 A Yeah. That wall right there actually closer, that
23 corner right there.

24 Q So closer to the jukebox, clear sight to the
25 jukebox where this was happening?

1 A Uh-huh.

2 Q Than even the kitchen door, correct?

3 A Say that again.

4 Q This corner where this chair is is even closer to
5 where this was happening?

6 A Yes, right now it is.

7 Q Than even the kitchen door, correct?

8 A Uh-huh.

9 Q There's clear sight from there to where it is
10 happening, correct?

11 A Yes, sir.

12 Q How many pool tables are in the pool hall?

13 A Two.

14 Q I show you what has been marked -- I'm sorry, what
15 I was pointing to was State's Exhibit Number 73
16 beforehand. I show you what has been marked --
17 excuse me, Defendant's Exhibit Number 73. Let me
18 show you what has been marked State's Exhibit
19 Number 4. Do you recognize what that is?

20 A Yes, sir.

21 Q And what is it?

22 A It's pool tables.

23 Q And that pool table is closest to what?

24 A Closest to the door.

25 Q Front -- the front door?

1 A To the glass, the window.

2 Q Okay. Let's see here. Let me show you what is
3 Defense Exhibit Number 8. That is that pool table?

4 A Uh-huh.

5 Q You see the hat in both?

6 A (Nods affirmatively.)

7 Q And standing at this pool table, you can see inside
8 right where you're saying that incident occurred as
9 well, correct?

10 A Yeah, if you standing at the end of that pool
11 table, you can, but if you standing on the side --
12 if you standing on the side and you stand on the
13 front of it, you can see it.

14 Q But from this vantage point at this pool table --

15 A Uh-huh.

16 Q -- you can see in there as well, correct?

17 A No -- yeah, you can see a little bit of it, but you
18 can't see the jukebox, though, because that wall --

19 Q I'm looking at jukebox.

20 A The wall -- yeah, but if you standing at the pool
21 table, the wall right there, you can't see it, you
22 can't see the jukebox.

23 Q That's the pool table, that's the jukebox, right?

24 A Uh-huh.

25 Q Who took you to Culler's?

- 1 A Friend of mine.
- 2 Q Who is?
- 3 A Victoria.
- 4 Q Victoria?
- 5 A (Nods affirmatively.)
- 6 Q Did Victoria tell the police what occurred?
- 7 A She wasn't down there. She had --
- 8 Q Did she tell them she took you there?
- 9 A No. No, sir.
- 10 Q Oh. Who carried you out?
- 11 A I don't -- I don't know who that was picked me up.
- 12 Q Picked you up, delivered you to your brother?
- 13 A Took me down the steps.
- 14 Q Uh-huh.
- 15 A And then --
- 16 Q Said, There's your brother?
- 17 A Your brother just pulling up, just like that, and
- 18 let me down. And they put me in the car, tote me
- 19 to the car.
- 20 Q That guy?
- 21 A Uh-huh.
- 22 Q Who was it?
- 23 A I don't know who it was.
- 24 Q Your brother don't know who it was? Is he coming
- 25 here today?

1 MR. SCHWARTZ: Objection.

2 THE WITNESS: I don't know if he remember --

3 MR. SCHWARTZ: I've got two objections. One
4 is speculation and two is he continues to talk over
5 my witness when he's trying to answer the question.

6 THE COURT: All right. Please rephrase the
7 question.

8 MR. CATHCART: Sorry, Your Honor.

9 BY MR. CATHCART:

10 Q Is he coming here today?

11 A I believe so.

12 Q The guy who carried you out?

13 A No, not the guy that carried me out. I don't know
14 who that was.

15 Q How about the guys up on the porch --

16 MR. SCHWARTZ: Your Honor, we've got a matter
17 of law.

18 THE COURT: All right, ladies and gentlemen of
19 the jury, I am going to send you all out for a
20 brief moment.

21 (WHEREUPON, the jury retires to the jury
22 room at 3:12 p.m.)

23 THE COURT: While we're doing that, we're
24 going to have to put the shackles back on.

25 All right, what's the objection?

1 MR. SCHWARTZ: Your Honor, this is an improper
2 line of questioning. He's attempting to burden
3 shift with his line of questioning by saying, Why
4 haven't you brought these people here to come
5 testify on your behalf, when it's not our duty,
6 it's not our burden to prove. We don't have to
7 call any witnesses, but Mr. Cathcart continues to
8 go down the line of questioning where he's saying,
9 Where is this person? Why isn't this person here?
10 Is he coming here today? That's not our burden of
11 proof. And he's attempting to shift that burden
12 from the jury. And we would ask that the
13 questioning stop and be stricken from the record.

14 MR. CATHCART: Your Honor, they don't have to
15 put up a case, that's they're absolute right, but
16 they have chosen to put up a case. And I can
17 comment on the weakness of the case and expose the
18 holes in the case.

19 MR. SCHWARTZ: Your Honor --

20 THE COURT: You can, but you can't shift
21 the -- you can't shift the burden. You can ask him
22 who was the guy that carried him out.

23 MR. SCHWARTZ: Which we agree with, Your
24 Honor, but asking him, Where is he, is he going to
25 come testify for you, is totally inadmissible and

1 inappropriate.

2 MR. CATHCART: They, in their case --

3 THE COURT: I understand.

4 MR. CATHCART: -- have put up that all these
5 people exist. And in my closing, I will be able to
6 say, Where are they? It's no different than asking
7 this. He's the only person who knows these people.
8 I'm not saying we know them.

9 MR. SCHWARTZ: It's still improper. I think
10 it's still improper on closing to say, Where are
11 these people? It's not our burden. It's not our
12 case, it's the State's. And we can't -- they're
13 not allowed to argue missing witnesses. It's just
14 improper.

15 THE COURT: The only issue is that they have
16 the responsibility of disproving self-defense. You
17 don't have to prove -- you don't have to prove
18 self-defense, they have to disprove it, so --

19 MR. SCHWARTZ: I agree with that, Your Honor,
20 but asking him why his witnesses aren't here --

21 THE COURT: Well, no, I'm not going to allow
22 him to ask why the witnesses aren't here. I think
23 you can go through and ask him what's the name
24 of -- you can ask him who was the person and -- but
25 I have to think about the closing argument as to

1 whether or not he can say nobody -- there's
2 probably a way to say that no one who has testified
3 corroborated his story.

4 MR. SCHWARTZ: We can discuss it later. We
5 can do some case research tonight, but I still
6 think it is improper.

7 THE COURT: To say that no one has
8 corroborated his story?

9 MR. SCHWARTZ: Yes, Your Honor.

10 THE COURT: In argument?

11 MR. SCHWARTZ: Yes, Your Honor.

12 THE COURT: All right. Let's -- I'm going to
13 have her look up some cases also, but I don't think
14 you can shift the burden as to why he --
15 specifically getting into why didn't you call this
16 person or why you didn't call that person, because
17 he doesn't have to call anyone. He doesn't have to
18 call anyone. When we get into arguments, we can
19 discuss that at that time.

20 MR. CATHCART: Yes, ma'am.

21 MR. SCHWARTZ: And, Your Honor, we ask the
22 question be struck.

23 THE COURT: Did y'all put them back on?

24 THE DEPUTY: Yes, ma'am.

25 THE COURT: Let's bring them back in.

1 Leave them on.

2 MR. CATHCART: I'm not planning on him doing
3 anything for me.

4 THE COURT: I didn't think you would.
5 Bring them back in.

6 (WHEREUPON, the jury came into open
7 court at 3:18 p.m.)

8 THE BAILIFF: The jury is seated, Your Honor.

9 THE COURT: Ladies and gentlemen, the
10 objection is sustained. I'm striking the last
11 question.

12 Please rephrase the question.

13 BY MR. CATHCART:

14 Q Your brother saw the commotion when you got put in
15 his car?

16 A Uh-huh.

17 Q He saw James bleeding up there on the deck, right?

18 A No, he didn't see that.

19 Q He saw Zachary up there on the deck trying to --

20 MR. SCHWARTZ: Objection, Your Honor.

21 Continued speculation.

22 THE COURT: Sustained.

23 BY MR. CATHCART:

24 Q Were you able to connect with anybody with the
25 knife on the deck?

1 A Was I able to connect with anybody?

2 Q Uh-huh.

3 A I believe so.

4 Q Okay. Well, would it be surprising to you that the
5 last time you testified you said nobody got stabbed
6 on the deck? I am going to refer you to Page 341,
7 Lines 14 and 15.

8 A I just know I couldn't see. I was just slinging
9 the knife. That's all I was doing.

10 Q Last time -- this time you're saying Zachary pulled
11 you away after you got back up, right?

12 A Where, on the deck?

13 Q No, no, no, after you got back up on the dance
14 floor?

15 A Yes, he grabbed me in a chokehold.

16 Q Grabbed you in a chokehold. That's after you're
17 saying Clarence and James Lewis, two guys you've
18 never seen in any altercation before, kicking you
19 and punching you?

20 A Yeah. Yes, sir.

21 Q At that point is when Zachary came in?

22 A Yes, sir.

23 Q And last time you told us, Zachary was stomping me
24 in the body?

25 A I was on --

1 Q That would be on Page 307, Lines 11 and 13.

2 A I believe he was.

3 Q Which is true, this time or last time?

4 A It was so many of them around me stomping me, but
5 my only focus was on Clarence and James because
6 they was the closest. They was getting the most
7 licks in. They was the closest.

8 Q So the truth has changed?

9 A No, that was true.

10 Q Did you tell -- the only thing you told the police
11 at all was, It was like five dudes?

12 A Yeah, it was like five of them.

13 Q And this time when you're on the porch, you stated
14 that, just jugging with the knife?

15 A Uh-huh.

16 Q Did any of them get a hand on you, or you got to
17 keep them back with this knife?

18 A Yeah, I was keeping -- I was keeping them back. I
19 was keeping them back.

20 Q So nobody hit you there?

21 A I don't -- I don't -- I don't -- I don't recall
22 that, but I know I couldn't see -- I couldn't see
23 who was hitting me, but I know James was in front
24 of me.

25 Q Okay.

1 A But I couldn't see on the side, I couldn't see on
2 the side who was coming at me. All I know is they
3 was trying to get at the knife, take the knife from
4 my hand.

5 Q Last time --

6 A Yeah, because --

7 Q -- under oath in front of --

8 A -- I got a mark right here where they grabbed my
9 hand. My hand been bloody.

10 Q You got a mark on your hand?

11 A Got a mark right here.

12 Q Kind of like James had a mark on his hand?

13 A Yeah, I guess that's when he tried to grab the
14 knife on the back deck.

15 Q He marked your hand just by grabbing your hand?

16 A With his fingernail. Look, got it right there.

17 Q You mean the scraped knuckles that you had?

18 A Yeah, right here.

19 Q Right there?

20 A Yeah.

21 Q He scraped that with his hand?

22 A With his fingernails.

23 Q With his palms?

24 A With his fingernails.

25 Q That abrasion on your knuckles --

1 A Yeah, break the skin off.

2 Q -- was from his palm and his hand. So nobody hit
3 you out on the deck, right?

4 A I don't remember.

5 Q You would remember if somebody hit you hard, right?

6 A Of course.

7 Q I mean, this is a big incident, right?

8 A Yeah, this is a big incident.

9 Q You remember this happened?

10 A Yeah, they around me and I'm like slinging the
11 blade.

12 Q And it's the truth, it doesn't change, right?

13 A The truth don't change.

14 Q Well, last time you told us got hit in the head
15 with a stool.

16 A With a chair.

17 Q Page 311, Lines 4 through 7.

18 A Yeah, with a chair. I got -- the chair got throwed
19 at me, but I just left that part out.

20 Q Why would you leave that out?

21 A Because I already told you about it one time.

22 Q I asked you three times.

23 A And I told you --

24 Q You are talking to these people here.

25 A Yeah, but you asking the question.

1 Q Yes, sir. And I asked you three separate times if
2 anybody --

3 A Yes, sir.

4 Q -- hit you on the deck and you said, --

5 A I was swinging the blade.

6 Q -- I don't remember.

7 A I was swinging the blade. That's all I remember is
8 swinging the blade.

9 Q But when I say what your last story was, Oh, yeah.
10 How long were you on the ground?

11 A In the --

12 Q In the pool room?

13 A It seemed like forever, Man. Seemed like I was on
14 the ground for like a good couple of minutes.

15 Q Okay. Long enough for Deborah to come out and see
16 what was going on?

17 A Uh-huh.

18 Q Long enough for everybody in there to see what was
19 going on, correct?

20 A I guess so.

21 Q And if somebody heard a commotion, they could come
22 around and see what's going on?

23 MR. SCHWARTZ: Objection. Speculation.

24 THE COURT: Sustained.

25

1 BY MR. CATHCART:

2 Q Do you recall -- let me ask you this, who is Deatra
3 Niles?

4 A That was my girlfriend.

5 Q That was your girlfriend? Still is?

6 A No. We are just friends.

7 Q Okay. And you called her a bunch, right?

8 A Uh-huh.

9 Q Do you recall telling her in a different story that
10 everything happened here, only everything happened
11 at the pool room by the jukebox?

12 A I was telling her that that's where everything
13 started at.

14 Q In fact, you told her the only reason there was
15 blood on the back deck is because people in the bar
16 must have moved that man back there. Don't you
17 remember telling her that?

18 A I said they must have moved James or something.

19 Q Because that would be the only reason there would
20 be blood back there, right?

21 A Yeah, all around the place like that.

22 Q Not that you were slashing --

23 A I'm standing by the steps slinging the knife. I'm
24 standing by the steps where you go down at.

25 Q But the story you told her was everything happened

1 here. I was gone before he --

2 A Everything started right there.

3 Q You told her everything happened right here, I was
4 gone?

5 A That's where everything --

6 Q Somebody must have moved him out back?

7 A That's where everything started at.

8 Q And the tape you heard also, that was your child's
9 mother, right?

10 A Uh-huh.

11 Q Not Ms. Niles, but --

12 A Yes, sir.

13 Q -- another lady, Keita -- I'm sorry, I can't
14 remember her name. What's her name?

15 A Kayla Dixon.

16 Q Kayla Dixon. That's it. Thank you. That's the
17 first time you talked to her after this incident
18 occurred, right?

19 A Yes, sir.

20 Q And you asked her, What did you hear happened?

21 A I asked her what she heard.

22 Q But you didn't tell her, I almost got killed that
23 night, right? You didn't tell her that?

24 A She already know.

25 Q This is the first time you've talked to her, right?

1 A Yes.

2 Q You didn't tell her it was five guys, correct?

3 A Uh-huh.

4 Q You didn't tell her it was three guys? You didn't
5 tell her just two? Right?

6 A I don't -- I don't remember.

7 Q You just said that you fucked up?

8 A Yes.

9 Q Not that, I'm defending myself, I fucked up. I did
10 wrong.

11 A (Nods affirmatively.) Yeah.

12 Q You defended yourself is what you want the jury to
13 believe?

14 A Uh-huh.

15 Q But you're the guy that did wrong?

16 A I did wrong. I did. I should have left.

17 Q Fucked up, bad boy --

18 A I should have left.

19 MR. SCHWARTZ: Your Honor, again, will Mr.
20 Cathcart please allow my witness to finish the
21 answer before he asks another question.

22 THE COURT: All right. Make sure he has the
23 opportunity to answer, and then ask the next
24 question. All right.

25 MR. CATHCART: Yes, ma'am.

1 BY MR. CATHCART:

2 Q You said your act of self-preservation was you
3 being a bad boy, right?

4 A Uh-huh.

5 Q You said that the act of you killing a man was,
6 Fuck it, right?

7 A No.

8 Q Bad boy, did wrong?

9 A I did wrong. I should have left. I did wrong.

10 Q You said, Fuck it, shit?

11 A If I would just let them just beat me and just left
12 it at that, I probably wouldn't be here.

13 Q Prior to your first hearing, did you tell anyone in
14 law enforcement that you -- about what happened
15 that you're saying now or the other version last
16 time?

17 A No, I just told Joe Clarke that five guys jumped
18 me.

19 Q That's it, never said anything else?

20 A I don't recall talking to no officer.

21 Q But the last time you testified, you only said it
22 was three of them by name?

23 A What I can remember.

24 Q No, I mean --

25 A What I can remember.

1 Q You just said three. You said Clarence, Zachary,
2 also known as Blue?

3 A Blue.

4 Q And James?

5 A Yeah.

6 MR. SCHWARTZ: Objection, Your Honor. It has
7 been asked and answered?

8 THE COURT: Overruled.

9 BY MR. CATHCART:

10 Q And this time, because that doesn't really fit what
11 you told Joe, correct, you added Elijah in there
12 and you still didn't get to five?

13 A I told him it was about five guys. That's what I
14 said. I told him it was about five guys, Man.

15 Q No names first --

16 A I was getting jumped. I was getting jumped, Man.
17 I was getting jumped. And they was kicking and
18 everything, Man.

19 Q They?

20 A They was kicking me and everything, Man.

21 Q Who is they? Who was kicking you and everything?

22 A Clarence was kicking me, kicking me in the face. I
23 seen him kick me two times as I was trying to get
24 up.

25 Q Okay.

1 A And he was punching me too.

2 Q Okay. So just Clarence now?

3 A Yeah. And James.

4 Q Okay. What about Zachary? You said Zachary was
5 kicking you last time?

6 A Blue came -- Blue came -- when I got up -- when I
7 got up, that's when he grabbed me in the chokehold.
8 I remember him grabbing me in a chokehold.

9 Q At what point -- let me ask you this. And I'm a
10 little ADD, and I apologize. You said you came
11 home this time, your brother took you to your
12 grandmother's house?

13 A Took me to my mama's house.

14 Q Your mama's house?

15 A Yes, sir.

16 Q And you went straight to bed?

17 A (Nods affirmatively.)

18 Q How long did you stay asleep?

19 A I don't -- I don't recall.

20 Q At some point they woke you up?

21 A Uh-huh.

22 Q Talked to you and you said you were --

23 A They said I was talking out my head.

24 Q And you fell asleep again?

25 A Fell asleep again.

1 Q And then at one point Deatra came to pick you up?

2 A Yeah, after they woke me up.

3 Q After they woke you up. Was it morning by this
4 time?

5 A I believe so. Yeah, it was morning. It was light
6 out the door.

7 Q Okay. So it was daylight?

8 A Yeah, it was daylight.

9 Q And y'all were talking about you got the Sheriff's
10 Department to come in and talk to you about turning
11 yourself in?

12 A No, not then. Not when I was at my mama house.

13 Q Okay. But you didn't see Deatra until?

14 A I woke up the second time.

15 Q And at that time before you turned yourselves in, I
16 believe you said she told you to get showered and
17 you said, No, I don't want to take a shower?

18 A She said, You need to wash that blood off your face
19 and get in the shower. I was like, Nah.

20 Q Okay. And she took pictures of you, right?

21 A Uh-huh. Yes, sir.

22 Q Okay. Around what time did she take pictures of
23 you?

24 A It was I think that second time I woke up. It was
25 early in the -- it was early in the morning.

1 Q At daybreak, I mean light outside?

2 A No, it wasn't light out the door. When she took
3 the pictures, it was like about 2:00 or
4 3:00 o'clock, something like that, in the morning.

5 Q How did she take pictures if she wasn't there?

6 A She took the pictures. She came to my mama's house
7 to pick me up the second time I woke up. When she
8 came to pick me up, they called her and told her to
9 come get me. She came and picked me up. And
10 before we left, she took the pictures.

11 Q I thought your testimony earlier when I just asked
12 you when she came and picked you up it was
13 daylight?

14 A When she came and picked me up, we left. She took
15 the pictures, but by the time we left my mama
16 house, it was daylight out the door.

17 Q Okay. So now she came and from 2:00 o'clock to
18 7:00 o'clock, y'all hung out before she took you
19 out of there?

20 A Hung out?

21 Q Well, 2:00 o'clock in the morning --

22 A She came -- the first time she came -- the first
23 time she came, it was in the morning. It was in
24 the morning. Everybody say I was talking out my
25 head.

1 Q Okay. So you're saying she came multiple times?

2 A She left.

3 Q Okay.

4 A She left. She let me sleep. She left. Then when
5 I woke up, they called her to come and get me. I
6 told her to come and get me. She came and got me.
7 She took pictures and we just mingled for a minute.
8 Then by the time we left my mama house, it was
9 daylight out the door. Then we went home.

10 Q You been going to this Culler's since you were 18,
11 so almost 15 years-ish. I'm not exactly sure of
12 your age.

13 A Uh-huh.

14 Q How often do you go there?

15 A I go there like every time I'm off work.

16 Q More than once a week?

17 A Probably twice a week.

18 Q At least twice a week?

19 A Uh-huh.

20 Q For this many years?

21 A (Nods affirmatively.)

22 Q So you're kind of a regular?

23 A Uh-huh, yes, sir.

24 Q One of those -- like Cheers, everybody knows your
25 name?

1 A Yes, sir.

2 Q And when you were there before you did this, did
3 you see people you recognized?

4 A When I was there?

5 Q Before all this started?

6 A Yeah, I seen a couple of people.

7 Q So, I mean, people in there other than Deborah
8 Culler, Reeshemah Culler, Clarence, Mr. Harkness --

9 A It was --

10 Q -- there was a bunch of other people you knew?

11 A It was packed. It was packed. The building was
12 packed and out the door was packed.

13 Q And all these people were the ones you're saying
14 saw one of the four versions that you've given?
15 Four versions?

16 A I don't know, ain't nobody come forward. Ain't
17 nobody want to say nothing.

18 Q Let me show you what has been marked State's
19 Exhibit Number 67.

20 MR. SCHWARTZ: Can I see it?

21 MR. CATHCART: I mean, Defense Exhibit, excuse
22 me.

23 BY MR. CATHCART:

24 Q Who is this?

25 A That's James.

1 Q Never seen him in any altercation, cause any
2 trouble before in your life?

3 A I never seen him in none of that.

4 MR. CATHCART: Nothing further. Thank you.

5 THE WITNESS: Thank you.

6 THE COURT: All right. Yes, sir?

7 MR. SCHWARTZ: Thank you, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. SCHWARTZ:

10 Q The Solicitor asked you about James, didn't he,
11 just now?

12 A Yes, sir.

13 Q Asked if you had ever seen him I guess be violent
14 with anybody, right?

15 A Yes, sir.

16 Q Do you have personal knowledge that he broke his
17 girlfriend's --

18 MR. CATHCART: Objection.

19 Q -- arm?

20 THE COURT: Sustained.

21 MR. SCHWARTZ: Your Honor, they --

22 THE COURT: Let me see you all a second.

23 (WHEREUPON, a bench conference was held
24 in the presence of the jury but out of
25 the hearing of the jury.)

1 THE COURT: The objection is sustained.

2 BY MR. SCHWARTZ:

3 Q Did you stop at some point and count how many
4 people were attacking you that night?

5 A No. No, sir. Until later on in the county when I
6 got locked up, I started remembering everything
7 that happened that night.

8 Q Okay. And how many people did you tell Joe Clarke,
9 the investigator, that jumped you?

10 A I said it was about five people.

11 Q And about how long after this attack did you meet
12 with Joe Clarke?

13 A About -- at least about -- I don't know, about
14 nine, ten hours.

15 Q Okay.

16 A After the incident.

17 Q Okay. Let's go back to that night. What would
18 have happened to you if you were not pulled out
19 that night? That night?

20 A I thought that -- I know -- I know -- I ain't never
21 seen James get, you know, in nothing, but I heard
22 things about him, you know what I saying, what type
23 of dude he is, when he do get, you know what I'm
24 saying, when he do get aggravated, but I never paid
25 that no attention until that night he jumped me.

1 You feel what I'm saying? And the only thing I
2 kept thinking, like we said about he broke his --
3 my bad.

4 Q You can't talk about that.

5 A My bad. My bad. My bad.

6 Q What would have happened to you that night, what do
7 you believe would have happened to you that
8 night --

9 MR. CATHCART: That's speculation.

10 MR. SCHWARTZ: It's not speculation, Your
11 Honor. He's here to testify as to what he believed
12 was going to happen that night, that happened to
13 him directly.

14 MR. CATHCART: Believe would be the term that
15 makes it speculation.

16 MR. SCHWARTZ: State of mind, Your Honor.

17 THE COURT: All right. The objection is
18 sustained. You will have to rephrase the question.

19 BY MR. SCHWARTZ:

20 Q What would happen if you did not use your knife to
21 stop that attack that night?

22 A I probably would have got killed or stomped in a
23 coma.

24 Q Did you start this fight?

25 A No, sir.

1 Q Did you want any part of this fight?

2 A No, sir.

3 Q Did you go to that bar that night to kill or hurt
4 anybody?

5 A No, sir. That wasn't on my agenda.

6 MR. SCHWARTZ: No further questions.

7 RECROSS-EXAMINATION

8 BY MR. CATHCART:

9 Q When you tried to fight Mr. Lewis, he's a bigger
10 guy?

11 A Uh-huh.

12 Q That's what y'all were saying, he's a big fellow.
13 He needed all these other people to help him is
14 what y'all story is, right? He's a big guy,
15 though. But he needed five people?

16 A Them his people. They more closer to James, just
17 like Ms. Deborah and Reeshemah, they more close to
18 their family than close to my family. They more
19 close to them.

20 Q You tried to fight him and he beat you, right?

21 A I got jumped.

22 Q You tried to fight him one-on-one and he kicked
23 your butt, right?

24 A No, it wasn't one-on-one.

25 Q You came back again --

1 A Clarence hit me.

2 Q You came back again after he beat you and he still
3 put you down, right?

4 A No. I dipped out the door. Somebody helped me out
5 the door. I never turned around and came back. I
6 couldn't even see.

7 Q But for you having your knife, the step you had to
8 take to finally beat Mr. Lewis, right?

9 A To get him up off me.

10 Q That's what you had to do finally to beat him?

11 A To get him up off me.

12 Q Because you couldn't beat him up because he's too
13 big for you?

14 A Get him up off me.

15 Q Disrespected you?

16 A I had to get him up off me.

17 Q You have got to come up with some story now, right?

18 A Ain't no story, I had to get him up off me. That's
19 common sense. Anybody that was in my predicament
20 at that time --

21 Q The truth doesn't change, does it?

22 A -- they would have did it.

23 Q It has changed with you four times?

24 A They would have did it.

25 MR. CATHCART: No further questions.

1 THE WITNESS: Appreciate it.

2 THE COURT: All right, ladies and gentlemen of
3 the jury, there's a matter of law that I need to
4 take up, so I am going to send you all out for a
5 break. We will actually take our afternoon break.
6 We'll take about 10 minutes.

7 (WHEREUPON, the jury retires to the jury
8 room at 3:41 p.m.)

9 THE COURT: Okay. I just needed for him to
10 step down since we put the shackles on.

11 And then we can just go back on the record
12 regarding -- we'll go on the record regarding the
13 conference up at the bench sidebar. There was an
14 objection. I believe the question was, Do you --
15 don't you have knowledge of him breaking or doing
16 something to his girlfriend?

17 MR. SCHWARTZ: That's correct, Your Honor.

18 MR. CATHCART: The Defendant himself just
19 finished testifying that he has no knowledge of the
20 Defendant being violent in any way either at
21 Culler's or outside of Culler's Bar. The Defense
22 then tries to lead him with a specific instance of
23 misconduct, which I don't know, (a), existed or,
24 (b), the Defendant says he doesn't know anything
25 about that, so he tried to feed it to him.

1 MR. SCHWARTZ: Our position, Your Honor, is
2 they opened the door and they asked the question.
3 We were -- on redirect we were allowed to ask about
4 it. That's our position, he had personal knowledge
5 as to how he broke his foot. We initially
6 instructed him that we were not going to talk about
7 it. Once they opened the door, we brought it up
8 because it was now proper. And that's our
9 position.

10 THE COURT: All right. Well, it was not
11 proper. First of all, he doesn't have -- unless he
12 can say he was there, I'm not sure how you say he
13 had personal knowledge. Secondly, he -- the
14 question -- he testified -- if you're going to
15 impeach him, there's a way to do it. You have to
16 ask him, Are you aware of this conviction that he
17 had, not going into the details of the conviction.
18 But that was the reason. I just wanted to put on
19 the record that the objection was sustained and
20 that we have a record of it.

21 MR. CATHCART: Thank you, Your Honor. Your
22 Honor, I'm unaware of any conviction period as to
23 this.

24 MR. SCHWARTZ: He died before any conviction.
25 He was not even charged, I believe.

1 MR. CATHCART: He died before he was charged?

2 MR. SCHWARTZ: He was charged I believe with
3 criminal domestic violence, but never --

4 THE COURT: Well, he was not -- your client
5 was not there, is my understanding. And I think he
6 asked -- the question was, did he have any personal
7 knowledge of him being violent, and he said no. I
8 mean, your client said no.

9 Now, had he said that in response, then
10 that -- but he said no. I think it's improper for
11 you to suggest to him something that you all
12 probably know because --

13 MR. CATHCART: The last time --

14 THE COURT: Sir?

15 MR. CATHCART: Nevermind, Your Honor.

16 THE COURT: I just wanted to put that on the
17 record.

18 Do you all have any other witnesses?

19 MS. ZMROCZEK: Yes, ma'am.

20 THE COURT: Okay. All right, let's take about
21 a 5-minute restroom break and then we'll --

22 MS. ZMROCZEK: I have three more, Your
23 Honor -- wait, I have four more, but they should be
24 relatively short.

25 THE COURT: You have four more witnesses?

1 MS. ZMROCZEK: Yes, Your Honor.

2 (WHEREUPON, a short break was taken.)

3 THE COURT: Are you ready to bring them in?

4 MS. ZMROCZEK: Yes, Your Honor.

5 THE COURT: You can bring them in.

6 Do you have all your witnesses lined up?

7 MS. ZMROCZEK: Yes, Your Honor. Yes, Your
8 Honor.

9 (WHEREUPON, the jury came into open
10 court at 3:58 p.m.)

11 THE BAILIFF: The jury is present, Your Honor.

12 THE COURT: All right. I'm going to ask the
13 Defense to call your next witness.

14 MS. ZMROCZEK: Thank you, Your Honor. The
15 Defense would call David Stelzer.

16 (Witness approaches.)

17 THE BAILIFF: Place your left hand on the
18 Bible, raise your right, and face the clerk.

19 (Witness complies.)

20 THE CLERK: Do you swear or affirm the
21 testimony you shall give in this case shall be the
22 truth, the whole truth, and nothing but the truth,
23 so help you God?

24 THE WITNESS: I do.

25 THE CLERK: Thank you. Please have a seat in

1 the witness stand, and state your full name for the
2 record.

3 THE WITNESS: My name is David Stelzer.

4 THE COURT REPORTER: Will you spell your last
5 name?

6 THE WITNESS: S-T-E-L-Z-E-R.

7 DAVID STELZER,
8 after being duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. ZMROCZEK:

11 Q Mr. Stelzer, will you tell the jury where you're
12 employed?

13 A Trojan Labor.

14 Q And what is Trojan? What does Trojan Labor do?

15 A We're a temporary staffing company.

16 Q So you -- what does that mean? Like --

17 A We service a variety of clients for different
18 assignments. People come and apply for different
19 jobs and we place them to their assignments
20 according to what they're qualified for.

21 Q Do you place people to do electrical or
22 construction work?

23 A We do.

24 Q Okay. And I'm going to show you what has been
25 marked as Defendant's 41 and ask if you recognize

1 this record?

2 A Yes, it looks like a work history for Robert Geter.

3 Q Okay. And does it fairly and accurately represent
4 his work history?

5 A To the best of my knowledge, yes.

6 MS. ZMROCZEK: Your Honor, at this time, we
7 would move Defendant's 41 into evidence.

8 MR. CATHCART: No objection.

9 THE COURT: Entered without objection.

10 (WHEREUPON, Defendant Exhibit No. 41 was
11 marked for identification and received
12 into evidence.)

13 BY MS. ZMROCZEK:

14 Q Did y'all place people to work out at Fort Jackson
15 to build the new residence out there, or the new
16 dorms?

17 A We service many different clients on Fort Jackson.
18 I believe that this was before I was employed with
19 Trojan Labor, if I'm correct.

20 Q Okay. When you do that, would they be labeled as
21 construction or electric, or do y'all have
22 specific --

23 A Yes. It depends on the job they're doing there,
24 yes.

25 MS. ZMROCZEK: Okay. Thank you. I have no

1 further questions. Please answer any questions the
2 State may have.

3 CROSS-EXAMINATION

4 BY MR. CATHCART:

5 Q Good afternoon.

6 A Hey.

7 Q And this is just a -- indicates that Mr. Geter
8 worked with LS Construction on the 5th of March
9 '15, correct?

10 A May I look at it?

11 Q Please.

12 A The date in question is March the 5th, is that
13 right?

14 Q That's the latest date on that, correct?

15 A The latest date on this work history is March 5th,
16 2015, with LS Construction. I don't see -- I don't
17 believe we have the work classification on this
18 particular document.

19 Q Do y'all -- y'all do -- this is temporary labor?

20 A Correct.

21 Q Okay. Do y'all have certified electricians working
22 temporary labor?

23 A We have. I don't believe we have any currently
24 right now.

25 Q OKAY. Does that show Geter as a certified

1 electrician?

2 A It does not.

3 Q Do y'all typically use people who are untrained in
4 electrical work to do -- be a certified -- I mean,
5 work on electricity jobs?

6 A If somebody isn't trained to do electrical work,
7 no, we would not send them to do electrical work,
8 if that's what you're asking.

9 Q Would you have employees who do electrical work use
10 improper tools?

11 A I'm not sure I understand the question.

12 Q Well, is there a tool that you use to strip wire?

13 A Yes.

14 Q What are they called?

15 A Wire strippers.

16 Q Okay. Do y'all let people to use wire strippers
17 when they're doing electrical work?

18 A If they're doing electrical work, they would
19 probably use those, yes.

20 Q Not a lock-blade knife, would they? Would that be
21 a proper thing to do for electrical work?

22 A Lock-blade knife, I couldn't say particularly. It
23 really depends on what they're doing. There's a
24 number of things you can do.

25 Q But if you're using your hopefully skilled laborer

1 to do electrical work, correct, you ask for them to
2 use the proper tools?

3 A Well, certainly, yes.

4 Q And the proper tool in this case would be wire
5 strippers?

6 A To strip wire, yes, I would say wire strippers.

7 Q Okay. You weren't at Culler's on March 7th of
8 2015, were you?

9 A I'm sorry, say it again?

10 Q Were you at a place called Culler's Pool Hall on
11 March 7th of 2015?

12 A Was I? No.

13 Q Uh-huh. Do you have any other knowledge of who
14 Mr. James Lewis is?

15 A I do not.

16 Q Deborah Culler?

17 A I do not.

18 Q All you can say is that Mr. Geter, according to
19 this piece of paper, worked for LS Construction on
20 the 5th of March of 2015, right?

21 A I could say that, yes.

22 Q Correct. Thank you.

23 MS. ZMROCZEK: No further questions, Your
24 Honor.

25 THE COURT: All right, sir, you may step down.

1 MS. ZMROCZEK: Do you have any problem with
2 this witness being released off his subpoena, Your
3 Honor?

4 THE COURT: No problem.

5 MR. CATHCART: No problem.

6 (Witness steps down and excused.)

7 MS. ZMROCZEK: Our next witness, Your Honor,
8 we call Rosalyn Graves.

9 (Witness approaches.)

10 THE BAILIFF: Place your left hand on the
11 Bible, raise your right, and face the clerk.

12 (Witness complies.)

13 THE CLERK: Do you swear or affirm to tell the
14 truth, the whole truth, and nothing but the truth,
15 so help you God?

16 THE WITNESS: Yes, ma'am.

17 THE CLERK: Thank you. Please have a seat in
18 the witness stand, and state your name for the
19 record.

20 (Witness seated.)

21 THE WITNESS: Rosalyn Monique Graves.

22 ROSALYN MONIQUE GRAVES,
23 after being duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. ZMROCZEK:

1 Q Ms. Graves, will you please tell the jury a little
2 about yourself? How old are you and where do you
3 work?

4 A I'm 38 years old -- I meant, 48 years old. I wish
5 I was. But I'm currently unemployed.

6 Q Are you familiar with Culler's Bar & Grill?

7 A Yes, ma'am.

8 Q Do you know Robert Geter?

9 A Yes, ma'am.

10 Q Do you know Deborah Culler?

11 A Yes, ma'am.

12 Q Do you know Reeshemah Culler?

13 A Yes, ma'am.

14 Q Were you at Culler's Bar & Grill on the evening of
15 March 6th, 2015?

16 A Yes, ma'am.

17 Q Okay. Did you see Deborah Culler there?

18 A Yes, ma'am.

19 Q Did you see Robert Geter there?

20 A Yes, ma'am.

21 Q Did you see Reeshemah Culler there?

22 A Yes, ma'am.

23 Q When did you see her there?

24 A When I came around the building, it was -- I'm not
25 sure what time it was, but when I came around the

1 building after the fight, or whatever, that's the
2 first person I seen was Reeshemah.

3 Q Okay.

4 A And she was standing right there by the building.

5 Q Let me clarify my question. Prior to -- so you're
6 aware of the fight?

7 A Yes. I didn't -- I'm going to be honest with you,
8 ma'am, I didn't remember -- recall seeing her there
9 until I came around that building.

10 Q Okay. So prior to the fight and until you came
11 around the building, you didn't -- you don't recall
12 seeing Reeshemah Culler?

13 A No, ma'am.

14 MS. ZMROCZEK: Thank you. Please answer any
15 questions the State may have.

16 THE WITNESS: Okay.

17 CROSS-EXAMINATION

18 BY MR. CATHCART:

19 Q When did you get to Culler's that night?

20 A Maybe about 8:00 or 9:00 o'clock.

21 Q Okay. Can you tell me everybody who was there?

22 A No, I can't tell you everybody that was there.

23 Q It was crowded that night, wasn't it?

24 A Yes.

25 Q Packed out on the porch, on the back deck?

- 1 A Uh-huh.
- 2 Q Where were you mostly hanging out?
- 3 A I was on the inside.
- 4 Q You were on the inside?
- 5 A Yes.
- 6 Q Where on the inside?
- 7 A Inside on the dance floor.
- 8 Q On the dance floor?
- 9 A Uh-huh.
- 10 Q And the whole time, from 8:00 o'clock till --
- 11 A No, not whole time.
- 12 Q I was going to say that's a lot of dancing.
- 13 A I was in and out.
- 14 Q Okay.
- 15 A I was in and out.
- 16 Q In and out from the dance floor to where?
- 17 A To outside.
- 18 Q Outside on the deck?
- 19 A On the deck, outside on the other people property.
- 20 That's where I was parked at, on the other people
- 21 property.
- 22 Q Who is the other people property?
- 23 A It's a restaurant over there. Ms. Culler got two
- 24 sheds right there. I was on the other side of the
- 25 shed.

1 Q It's like a grill?

2 A Uh-huh.

3 Q Okay. And when Mr. Geter stabbed Mr. Lewis, where
4 were you?

5 A Outside in my car.

6 Q In your car?

7 A Uh-huh.

8 Q How long had you been in your car?

9 A Maybe about 10 minutes.

10 Q Had you seen Robert Geter that night?

11 A Uh-huh.

12 Q How was he acting?

13 A He was normal to me. He was normal.

14 Q How earlier -- when did you see him that night?

15 A Well, actually I seen him all that day. Because he
16 was out there selling clothes too.

17 Q Okay.

18 A Uh-huh.

19 Q And you were in the car. Were the sheds in front
20 of you?

21 A Yes, the shed -- my car was right here. The shed
22 was right here. I couldn't see what was going on
23 at Ms. Culler's.

24 Q Okay. So you couldn't see -- you were in the car,
25 had no idea what was going on?

1 A Uh-huh.

2 Q Had you been drinking that night at all?

3 A Yeah, I had been drinking.

4 Q Do you mind me asking, I'm sorry, how much?

5 A I couldn't tell you. Maybe four or five beers, or
6 whatever.

7 Q Not too much, though?

8 A Uh-huh.

9 Q And so for that brief moment of time, you were in
10 your car for how long?

11 A Maybe 10 minutes.

12 Q Ten minutes. You missed all the commotion?

13 A I missed everything.

14 Q Did you see Robert Geter's brother drive up?

15 A Nope.

16 Q Did you see Victoria Brown?

17 A No.

18 Q You didn't see her that night?

19 A No.

20 Q Do you know who she is?

21 A That's my cousin.

22 Q That's your cousin?

23 A Uh-huh.

24 Q She wasn't with Mr. Geter?

25 A I didn't see her. I'm saying I didn't see her. I

1 don't know if they were sitting in the car, or
2 whatever. I don't know.

3 Q Would it surprise you to know that she took him
4 there, was with him?

5 A Well, he may -- she may have brought him there. I
6 didn't know. I don't know how he got there.

7 Q But if you saw her, you would know you saw her,
8 right?

9 A Yes.

10 Q It's your cousin?

11 A Yeah.

12 Q But you didn't see her?

13 A No, I didn't see her.

14 Q And you didn't see Reeshemah until later after this
15 occurred, right?

16 A Uh-huh.

17 Q Okay. Thank you.

18 A Uh-huh.

19 MS. ZMROCZEK: No further questions.

20 THE COURT: All right, ma'am, you may step
21 down.

22 Any objection to this witness being excused?

23 MR. CATHCART: None from the State, Your
24 Honor.

25 THE COURT: All right, ma'am, you are free to

1 leave.

2 THE WITNESS: Uh-huh. Thank you.

3 (Witness steps down and is excused.)

4 MS. ZMROCZEK: Your Honor, our next witness is
5 Deatra Niles.

6 (Witness approaches.)

7 THE BAILIFF: Place your left hand on the
8 Bible, raise your right hand, and face the clerk.

9 (Witness complies.)

10 THE CLERK: Do you swear or affirm the
11 testimony you shall give in this case will be the
12 truth, the whole truth, and nothing but the truth,
13 so help you God?

14 THE WITNESS: Yes, ma'am.

15 THE CLERK: Thank you. Please have a seat in
16 the witness stand, and state your full name for the
17 record.

18 (Witness seated.)

19 THE WITNESS: Deatra Niles.

20 DEATRA NILES,
21 after being duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. ZMROCZEK:

24 Q Ms. Niles, will you tell the jury how old you are.

25 A Forty-five.

1 Q And where are you from?

2 A Columbia.

3 Q Do you work?

4 A Yes, ma'am.

5 Q Where do you work?

6 A VA Hospital, and I also own a store, and I do
7 private duty.

8 Q You do private duty?

9 A Yes, ma'am.

10 Q Like CNA work?

11 A Uh-huh.

12 Q Okay. And I want to take you back to March 6th of
13 2015.

14 A Uh-huh.

15 Q Okay. And where were you working then?

16 A At Babcock Center.

17 Q Okay. And were you dating Robert Geter at that
18 time?

19 A Yes, ma'am.

20 Q How long had y'all been dating?

21 A We been dating for about two years.

22 Q Okay. Are y'all dating now?

23 A No, ma'am.

24 Q Okay. Are y'all still friends?

25 A Yes, ma'am.

1 Q Okay. I want to ask you about, what do you recall
2 about that evening?

3 A I went to work and got off from work and came home.
4 And Robert was home when I got off from work. And
5 I ran to the store and came back, and he was gone.

6 Q Okay. Do you remember -- what do you remember
7 about -- did he leave at all after that evening?

8 A Did he leave that evening?

9 Q Yes. Did he leave and go to Culler's Bar?

10 A Oh, yes, ma'am. Later on, yes, ma'am.

11 Q I'm not trying to confuse you. I'm still talking
12 about the 6th.

13 A Uh-huh.

14 Q And so what's the next time you saw him after he
15 left?

16 A In the middle of the night.

17 Q Okay.

18 A Well, that's considered the next morning.

19 Q Okay. So in the middle of the night, but it was
20 early the next morning?

21 A Yes, ma'am.

22 Q And where did you see him?

23 A At his grandfather -- that's his mother house.

24 Q At his mama's house?

25 A Uh-huh.

1 Q His grandfather's house, but his mama's house?

2 A Yes, ma'am.

3 Q Okay. And what did you do?

4 A When I saw him?

5 Q Yes.

6 A I was kind of nervous when I saw him. I was

7 shocked.

8 Q Why?

9 A Because he looked like a totally different person.

10 Q Okay. Describe to the jury what you mean he looked
11 like a totally different person.

12 A He didn't look like himself. His eyes and all this
13 was swole. He had like a gash on the side of his
14 head. And he just looked like he got jumped on.

15 Q And were you able to conduct a conversation with
16 him that evening?

17 A Yes, ma'am.

18 Q Okay. Was he talking normally or?

19 A He just kept saying --

20 MR. CATHCART: Objection.

21 THE WITNESS: They --

22 THE COURT: Sustained.

23 BY MS. ZMROCZEK:

24 Q You can't -- let me rephrase the question. It was
25 a poorly asked question.

1 A Okay.

2 Q Let me ask it this way. Did you -- what did you do
3 with your phone as a result of his injuries?

4 A I took pictures.

5 Q Okay. I'm going to show you Defense 31 through 35
6 and 38 and ask -- they're already in evidence. Are
7 those the pictures you took that evening?

8 A Yes, ma'am.

9 Q And do those accurately reflect what Mr. Geter
10 looked like that night?

11 A Yes, ma'am.

12 Q Did he look like that before he left for Culler's?

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

14 Q Okay. Without telling us what was said, did you --
15 without telling us what was said, okay, just yes or
16 no, did you receive a phone call from anyone that
17 evening, or that morning, early in the morning?

18 MR. CATHCART: Objection, Your Honor.

19 Leading.

20 THE COURT: Sustained.

21 BY MS. ZMROCZEK:

22 Q Okay. Did you have any contact with any family
23 members that evening, or early morning?

24 A Yes, ma'am.

25 Q Who was that?

1 A His mother, his brothers.

2 Q How about anybody in your family?

3 A Yes, my brother and my sister -- my brother, yes.

4 Q And are any of them employed with the fire
5 department?

6 A My brother is.

7 Q Okay. And you said that you did speak with him
8 that evening?

9 A Yes, ma'am, I called him first.

10 Q Okay. And as a result of that conversation, what,
11 if anything, did you and Robert do later on that
12 day, on the 7th?

13 A He went home and went to sleep.

14 Q After that?

15 A After that. And I woke him up and let him know
16 that the guy was dead. And he didn't know that the
17 guy had -- was dead. And I just told him and --

18 Q Did y'all go anywhere after that?

19 A Yes. He contact the investigators and they made
20 arrangements, told him what time to be there, and
21 he went.

22 Q Okay. So you dropped him off there or you brought
23 him there?

24 A I took him there, yes, ma'am.

25 MS. ZMROCZEK: Beg the Court's indulgence.

1 (Pause.)

2 BY MS. ZMROCZEK:

3 Q What was his state of mind when you told him that
4 Mr. Lewis had died?

5 MR. CATHCART: Objection, Your Honor. It
6 calls for speculation.

7 MS. ZMROCZEK: If she has personal knowledge,
8 Your Honor.

9 MR. CATHCART: State of mind.

10 THE COURT: Sustained. Please rephrase the
11 question.

12 BY MS. ZMROCZEK:

13 Q Okay. What was his physical reaction when you told
14 him Mr. Lewis had died, that you witnessed?

15 A He was like shock, like saying, But they jumped on
16 me, they beat me, they beat me. He just kept
17 saying, They beat me. He was shocked.

18 Q And what emotions physically did you witness?

19 A I witnessed him -- he started crying saying, Baby,
20 they beat me.

21 MR. CATHCART: Objection. Hearsay.

22 THE COURT: Sustained.

23 BY MS. ZMROCZEK:

24 Q But he started crying?

25 A He started crying.

1 MS. ZMROCZEK: Thank you. Please answer any
2 questions the State would have.

3 CROSS-EXAMINATION

4 BY MR. CATHCART:

5 Q Good afternoon, Ms. Niles.

6 A How you doing?

7 Q I'm good. Thank you. You've spoken with Mr. Geter
8 a bunch since this occurred, correct?

9 A Uh-huh.

10 Q Y'all talked about the case, haven't you?

11 A Not that much. You talking about over the phone
12 talking?

13 Q Over the phone. You know, the State can listen to
14 them, right?

15 A Uh-huh, yes.

16 Q But during those calls, he has told you it was just
17 James Lewis and Clarence Stone were the ones
18 attacking him, right?

19 A He didn't say who was on him. He wasn't sure who
20 all attacked him.

21 Q He just says those two guys, correct? He said
22 Stone, his buddy, and he came in behind him?

23 A No. He wasn't sure how many there was. He know it
24 was more than one that was beating him.

25 Q And he told you also that everything happened at

1 the pool hall, right, inside the pool room?

2 A From my understanding, everything happened inside
3 the pool room.

4 Q You've been in there, right?

5 A Who?

6 Q In Culler's?

7 A I been in there, uh-huh.

8 Q Okay. And this would be the dance floor, right?

9 A Yes, sir.

10 Q And that's where he told you everything happened,
11 right there by the jukebox, right?

12 A No, he didn't tell me everything happened there.

13 Q Did he tell you it happened --

14 A Just from my understanding, it happened at the pool
15 hall.

16 Q In the pool hall? Inside the pool hall?

17 A From my understanding. I don't know where all it
18 happened at, I just know it happened at the pool
19 hall.

20 Q Okay. But y'all have talked about this multiple
21 times?

22 A Yeah. I didn't ask all them questions, like where
23 it happened or where, you know, it happened. I
24 didn't never ask all that.

25 Q Okay. You took pictures of him?

1 A Yes, sir, I did.

2 Q You took those pictures because you wanted to
3 record that he had blood on him and he had a cut on
4 his eye, right?

5 A I took pictures of him because I felt like he
6 didn't look like hisself. I didn't know what
7 happened. So that's why I took pictures.

8 Q Okay. And you tried to record his injuries, right?

9 A What you mean I tried to record injuries?

10 Q If he had a cut or a big old gashing wound --

11 A I just took pictures of his whole face, his hand,
12 and everything.

13 Q You didn't take one of the back of his head, did
14 you?

15 A He had hair. I couldn't see whether his head was
16 damaged.

17 Q He wasn't bleeding from his back, back of his head?

18 A I'm not sure. I just took pictures of his face
19 because his face, it scared me, and his hand, and
20 stuff. So I just took what I saw.

21 Q He looked like he took a licking, right?

22 A It looked like he got beat by more than one person.

23 Q Really? How can you tell more than one?

24 A I mean, he was beat. I'm not sure.

25 Q He got beat up?

1 A (Nods affirmatively.)

2 Q He had blood all over this one hand and has no
3 other injury, right? Defense Exhibit Number 35?

4 MS. ZMROCZEK: Your Honor, I think he's asking
5 for a conclusion. She can't speculate as to what
6 his injuries were. I think he can ask if she took
7 the photo. I mean, it reflects what it reflects.
8 The interpretation is up to the jury, I think.

9 THE COURT: Objection is overruled. You can
10 ask her what she sees on them because she took the
11 pictures. She can testify --

12 BY MR. CATHCART:

13 Q You took the picture of this hand, correct?

14 A Yes, sir.

15 Q And it's just blood all over his hand, but no
16 injury, right?

17 A No, it's injured. It looks swollen.

18 Q Okay, so it's just swollen, but it is covered in
19 blood, right? Was it covered in some kind of
20 reddish nasty stuff?

21 A No, it's not covered. I don't -- it's a picture.
22 You're saying the whole hand is covered?

23 THE COURT REPORTER: I'm sorry, I didn't hear
24 what you said?

25 THE WITNESS: I was asking him, is you saying

1 the whole hand covered in blood?

2 BY MR. CATHCART:

3 Q Okay, fingers up, not talking about up in here?

4 A Okay.

5 Q Shiny spots that are covered in red?

6 A Uh-huh.

7 Q They're covered, right? Nothing bleeding out of a
8 cut, just covered in blood, right?

9 A It is a cut on there. Yeah, look, that's a gash,
10 that's a cut.

11 Q That's a cut that soaked his -- all the way down to
12 his thumb?

13 A Sir, that's a cut right there. That's a cut.

14 Q Got blood all the way down to his pinky?

15 A That's a cut, sir.

16 Q Okay. That's where you're saying all this came
17 from?

18 A If you look at the picture, it's a cut.

19 Q That's a scrape, correct?

20 A It could be a cut too. That's not just a scrape.
21 It could be a cut.

22 Q Again, his hand is covered in something that's
23 making it shiny in the photograph, correct? Not
24 just where the cut is, but --

25 A That's not shiny. It's a cut right there.

1 Q What's that white thing right there?

2 A That's probably from me taking the picture with the
3 flash.

4 Q Okay. And when the flash makes a white thing like
5 that, what do you call that?

6 A The flash, the light.

7 Q It's shining, shining back at you?

8 A The light -- when you take a picture -- I'm pretty
9 sure you know how to take a picture -- it would
10 flash and show light.

11 Q Okay.

12 A That's a light.

13 Q Reflecting?

14 A That's light.

15 Q Yes, ma'am. And he had a scrape above his eye,
16 correct?

17 A That look like a cut.

18 Q Okay. When he came -- when you came and saw him
19 that night after he came back from Culler's, he
20 was -- in fact, he called you, is what got you
21 there, right?

22 A I had several phone calls.

23 Q Okay. You recall you talked to me before, right?

24 A Yes, I talked -- I'm not sure who I talked to, but
25 I talked to an investigator.

1 Q Somebody under oath in a previous hearing?

2 A Yes, sir.

3 Q Okay. And you went to the house -- in the previous
4 hearing, you said that he called you, correct?

5 A He wasn't the first. Several people called me,
6 then I went. And he called too.

7 Q Okay. And he told you that he stabbed somebody,
8 right?

9 MS. ZMROCZEK: Your Honor, now he's eliciting
10 hearsay. He has objected to it when I asked it,
11 but now he's trying to elicit it.

12 MR. CATHCART: This time he is a party
13 opponent, Your Honor, and it is a statement against
14 interest. An exemption to hearsay. Not for her
15 client.

16 MS. ZMROCZEK: She is not a party opponent,
17 Your Honor, he is.

18 THE COURT: It's his statement.

19 MS. ZMROCZEK: And his witness, right.

20 THE COURT: Hold on one second.

21 (Pause.)

22 THE COURT: All right. Objection overruled.

23 MR. CATHCART: Thank you, Your Honor.

24 BY MR. CATHCART:

25 Q He called you and told you he stabbed somebody,

1 right?

2 A He didn't tell me he stabbed nobody.

3 Q He didn't?

4 A No. When he called me, I can't remember -- I was
5 just so nervous when he called, only thing I
6 remember he was saying, They beat me. And I can't
7 remember whether he said -- he didn't say nothing
8 about a stabbing.

9 Q He told you he got drunk?

10 A No, he didn't.

11 Q He didn't?

12 A No. He didn't say that over no phone when he
13 called.

14 Q He never said he got drunk?

15 A No, he didn't call to say he was drunk.

16 MR. CATHCART: Beg the Court's indulgence.

17 (Pause.)

18 MS. ZMROCZEK: Your Honor, I ask to see what
19 they're --

20 MR. CATHCART: Sure. Transcript Page 259.

21 BY MR. CATHCART:

22 Q I show you what has been marked -- not marked,
23 excuse me. Do you remember giving testimony
24 before, correct, ma'am?

25 A Uh-huh. You talking about last year or three years

1 ago when it happened or when?

2 Q Last year. I show you Page 259 on Line 21. My
3 question: He called you and told you he stabbed
4 somebody? Your answer is what?

5 MS. ZMROCZEK: Your Honor, I think that's the
6 improper way to refresh her memory. I think he can
7 ask the question --

8 THE COURT: Objection overruled.

9 BY MR. CATHCART:

10 Q Please answer the question.

11 A Oh, it says he got in an incident and he got drunk.

12 Q So you said he got drunk?

13 A I mean, of course if you go to the --

14 THE COURT REPORTER: I'm sorry, I couldn't
15 hear you.

16 A Well, if you go down there to the pool hall, you
17 going to get -- but I can't remember about that
18 part, on the drunk part.

19 Q A year ago --

20 A He got in an incident. I remember him saying he
21 got in an incident.

22 Q And you also said a year ago that he got drunk?

23 A He was drunk, yes.

24 Q He was drunk?

25 A I mean, I'm not sure.

1 Q You saw him that night?

2 A When I saw him, he wasn't drunk. He was like out
3 of it, in and out, face messed up, and it had done
4 happened.

5 Q He told you he was drunk. And the next morning, he
6 didn't know he even killed that man, right?

7 A What you mean the next morning? During that day --
8 he didn't know the man had died until I let him
9 know, because he went to sleep and I told him, woke
10 him up and told him.

11 Q When he did this, he was drunk?

12 A I can't tell you whether he was drunk when he did
13 that because I wasn't there.

14 Q But he told you that, correct?

15 A No, he didn't tell me he was drunk. If you read
16 that question you asked, I said he got in an
17 incident and he was drunk. I'm not sure whether he
18 was real drunk then. When I saw him, he wasn't
19 really drunk.

20 Q Do you know Ms. Culler?

21 A Yes. Yes, sir.

22 Q Reeshemah Culler?

23 A Uh-huh.

24 Q You have known her for years as well?

25 A Reeshemah -- I mean, Reeshemah.

1 Q Well, just -- Deborah Culler, you have known her
2 for years?

3 A Yeah. I know who she is for years, right.

4 Q And you know she doesn't ever have any trouble
5 going from inside the kitchen if something is going
6 on just standing at the door --

7 MS. ZMROCZEK: Your Honor, he's asking her if
8 somebody has trouble seeing or what they have
9 trouble seeing.

10 MR. CATHCART: I'm asking her if she's feeble
11 or not able to move to the door at this point.

12 MS. ZMROCZEK: She wasn't there, Your Honor.

13 THE COURT: Rephrase the question.

14 BY MR. CATHCART:

15 Q Do you know Ms. Culler to have -- you've known her
16 for many years, correct?

17 A Uh-huh. I know who she is. I just know that's her
18 mother.

19 Q And you've seen her at the bar?

20 A And I've seen her down there before.

21 Q And cooking and taking care of stuff?

22 A Yes, sir. Yes, sir.

23 Q In your observance of her, is she able to move
24 around well?

25 A For Ms. Culler to move around?

1 Q Uh-huh.

2 A Yeah.

3 Q Coming out of doors, no problem?

4 A I haven't seen her like that, moving around.

5 Q And --

6 A I mean, and then -- excuse me, I'm sorry.

7 Q That's okay.

8 A Mostly when I have been down there, it's like
9 mostly her daughter or somebody else working. I
10 barely saw her there.

11 Q Okay. But her working there, her daughter works
12 there?

13 A I just usually see her daughter. The times that I
14 have been there, I haven't seen her like that. Her
15 twin sister, or something. I'm confused now.

16 MS. ZMROCZEK: I'm sorry, I couldn't hear you.

17 THE WITNESS: I was saying her sister and her,
18 both of them look alike, so her sister and Ms. --

19 BY MR. CATHCART:

20 Q Ms. Culler's stepsister, you mean?

21 A I guess that's her stepsister, yeah. But she
22 usually have other people working in there more.

23 Q Okay.

24 A During that time, her daughter wasn't working there
25 like that.

1 THE COURT: You've got to speak up, ma'am.

2 THE WITNESS: I said during that time I wasn't
3 seeing her daughter, it was other co-workers in
4 there working.

5 Q Okay. But -- let's go back to that time. You
6 weren't there, of course, that night?

7 A I wasn't there, no, sir.

8 Q You don't know what happened that night other than
9 what that man told you, correct?

10 A And other people, not just him.

11 Q Okay. Who else told you about it?

12 A I had several people reaching out, like --

13 Q Not what anybody said --

14 A Daryl.

15 Q Okay. Who?

16 A Daryl.

17 Q Daryl?

18 A Uh-huh.

19 Q Okay. And?

20 A I mean, just different people. Keita.

21 Q Keito?

22 A Keita.

23 Q Keita, okay.

24 A Other people that said they was there. I can't
25 tell you what nobody else say because it's hearsay,

1 I don't know the rest.

2 Q Absolutely. I'm not trying to get you to say
3 hearsay, but --

4 A But I'm just telling you who said they were there
5 and who contacted me.

6 Q Okay. And, as I stated, you've spoken to Mr. Geter
7 over the phone multiple times, correct?

8 A Yes, sir, I have.

9 Q Do you recall him telling you that, They moved the
10 man to the back deck?

11 A Did I --

12 Q That's why the blood is on the back deck because
13 they moved him out there?

14 A I don't remember.

15 Q You were telling him that they shouldn't move him?

16 A Shouldn't have touched him?

17 Q Uh-huh?

18 A Or move him to the front, or something, for the
19 ambulance, or something, wasn't supposed to touch
20 him, wasn't supposed to move the body or something.

21 Q Yeah, y'all were talking about how he moved that
22 man to the back deck, that's why there was blood
23 back there?

24 A Moved -- supposed to have moved him to the front
25 and waited on the ambulance, or something.

1 Q You remember him saying all that, right?

2 A I don't remember him saying about they move him to
3 the back. I just recall -- I can't remember,
4 something about moving for the ambulance to the
5 front, from what Keita spoke to me about.

6 Q Y'all are not boyfriend/girlfriend anymore, right?

7 A No.

8 Q But you still love each other, right?

9 A Uh-huh. I will always love him.

10 Q Always love him?

11 A Uh-huh.

12 Q Do anything for him?

13 A Uh-huh.

14 Q Yes, ma'am. Thank you.

15 REDIRECT EXAMINATION

16 BY MS. ZMROCZEK:

17 Q Mr. Cathcart asked if you'd do anything for him.

18 Would you perjure yourself and lie under oath?

19 A No, ma'am, I won't.

20 Q Make sure you speak up.

21 A No, ma'am, I would not.

22 Q Okay. He asked you about other people talking
23 about this event.

24 A Uh-huh.

25 Q In fact, are you -- were you aware of any threats

1 made to Mr. Geter?

2 MR. CATHCART: Objection.

3 THE COURT: What's the question again?

4 MS. ZMROCZEK: My question was, Mr. Cathcart
5 asked you about other people that had talked to you
6 about this. I'm trying to elicit the responses.
7 She gave names. And I said, Were you aware of any
8 threats made to Mr. Geter. He asked the question,
9 and that's all I was saying.

10 THE COURT: Let me see y'all one second.

11 (WHEREUPON, a bench conference was held
12 in the presence of the jury but out of
13 the hearing of the jury.)

14 THE COURT: The objection is sustained.

15 BY MS. ZMROCZEK:

16 Q Did anybody from the Richland County Sheriff's
17 Department, including this investigator here, come
18 and speak to you ever?

19 A No, ma'am.

20 Q I'm sorry?

21 A Come and speak to me?

22 Q Right.

23 A No, ma'am.

24 Q Okay. Thank you.

25 RECROSS-EXAMINATION

1 BY MR. CATHCART:

2 Q You weren't there, were you?

3 A Huh?

4 Q You weren't there when it happened, right?

5 A No. I was going with him during that time, though.

6 Q You weren't a witness to any of the incident that
7 occurred, correct?

8 A No, I wasn't there.

9 Q At any point did you ever go to the Sheriff's
10 Department and say, Hey, I got something to say?

11 A No.

12 Q You never did, right?

13 A No.

14 Q Okay. Thank you.

15 MS. ZMROCZEK: Your Honor, may this witness be
16 excused?

17 THE COURT: Yes, ma'am, you may step down.
18 (Witness steps down and is excused.)

19 MS. ZMROCZEK: Your Honor, I've advised her
20 that she can stay. She's been under sequestration,
21 so can she now sit in the jury -- excuse me, in the
22 gallery, not in the jury.

23 MR. CATHCART: That's fine with me, Your
24 Honor. I know what she's here for.

25 THE COURT: All right.

1 MS. ZMROCZEK: And our last witness, Your
2 Honor, is Stace Day.

3 (Witness approaches.)

4 THE BAILIFF: Place your left hand on the
5 Bible, raise your right hand, and face the clerk.

6 (Witness complies.)

7 THE CLERK: Do you swear or affirm the
8 testimony you shall give in this case will be the
9 truth, the whole truth, and nothing but the truth,
10 so help you God?

11 THE WITNESS: I do.

12 THE CLERK: Thank you. Please have a seat in
13 the witness stand, and state your full name for the
14 record.

15 (Witness seated.)

16 THE WITNESS: Stace Banks Day.

17 STACE BANKS DAY,
18 after being duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. ZMROCZEK:

21 Q Mr. Day, will you please tell the jury where you're
22 employed?

23 A I am the owner/operator of Day Investigations.

24 Q Tell the jury a little about your background. What
25 did you do prior to Day Investigations?

1 A I am an 18-year veteran of law enforcement with the
2 Town of Lexington. I was Chief of Police there. I
3 was lieutenant of the patrol division, the
4 investigation division, and I was assistant chief
5 prior to that. I have five years military police
6 in the United States Air Force, and I worked with
7 OSI during those times and simple military
8 operations within the base.

9 Q What do you do now as far as Day Investigations?

10 A I do criminal defense work with attorneys
11 throughout the state. I do domestic relations. I
12 do surveillance. I do witness locations,
13 background investigations, help people find their
14 birth parents.

15 Q You did some work in the case for Mr. Geter?

16 A I did.

17 Q And what do you do as far as kind of a direction or
18 how does -- how do you get assigned -- or how do
19 you figure out what to do?

20 A I just -- when the attorney hires me on a case, I
21 just take the discovery that they have from the
22 State or the witness statements and everything that
23 they have and do a review of that, meet with the
24 attorney, go over -- if I see from my background in
25 law enforcement any holes in an investigation or

1 things that can be strengthened or location of
2 witnesses or talking to witnesses, and then we come
3 up with a game plan at that point and speak to the
4 client and investigate it from there.

5 Q I am going to show you what has been marked as
6 Defendant's 2 and 74 and ask if you recognize these
7 documents?

8 A I do.

9 Q What are those documents?

10 A These are just sketches. They're not to scale.
11 These are sketches that I made of Culler's Pool
12 Hall for you during this investigation just showing
13 the layout of the floor plan.

14 MS. ZMROCZEK: Your Honor, at this time I
15 would move Defendant's 2 and 74 into evidence.

16 THE COURT: Any objection?

17 MR. CATHCART: None, Your Honor.

18 (WHEREUPON, Defendant's Exhibit Nos. 2
19 AND 74 were marked for identification
20 and received into evidence.)

21 BY MS. ZMROCZEK:

22 Q So Defendant's 2, you said it is not to scale, is
23 that correct?

24 A Yes. It is not to scale.

25 Q Okay. Did you see any sketches of the incident

1 location in the discovery, in the material provided
2 to you?

3 A No. And that's why we did the sketch of the
4 premises itself. Those are some of the things that
5 were -- we felt that were left out in looking
6 through the case jacket. Just showing a sketch so
7 we can see where the incident took place, and when
8 we're speaking of it, we can look at it and have
9 somewhat of a diagram to it.

10 Q How did you do this? Did you just draw it out of
11 thin air or how were you able to?

12 A No, I went on site.

13 Q On site, meaning you went to Culler's?

14 A I did --

15 Q Okay.

16 A -- and did a walk-through.

17 Q I'm sorry?

18 A I did a walk-through.

19 Q Okay. And then on Defendant's 74, you say, again,
20 it's not to scale?

21 A No.

22 Q Okay. What does that depict?

23 A That's the kitchen area of Culler's Pool Hall.

24 Q Okay. And had you ever -- prior to you going out
25 and taking pictures or seeing or drawing this

1 sketch, have you ever seen any pictures from inside
2 the kitchen?

3 A No.

4 Q Or of inside the kitchen?

5 A No picture.

6 Q Okay. In fact, did you ever see any pictures of
7 the complete dance hall, the bathroom doorway or of
8 the kitchen door from that -- from the evening of
9 March 6th, 2015, going into the morning of
10 March 7th, 2015?

11 A There were no pictures of it in the discovery --
12 well, I say -- there was a snapshot of around the
13 pool tables that showed a slight view of the corner
14 of it, but there were no overall pictures of the
15 area of the kitchen nor in the dance floor area.
16 And that was one of the big issues we had with it.

17 Q Okay. I'm going to show you Defendant's 72. Do
18 you recognize this?

19 A Yes. That's the inside of the kitchen.

20 Q And did you take those pictures?

21 A I did.

22 Q And do those fairly and accurately represent how it
23 looked when you went to take those pictures?

24 A Yes.

25 MS. ZMROCZEK: Your Honor, at this time we

1 would move Defendant's 72 into evidence.

2 MR. CATHCART: If I may ask a couple of
3 questions as to how he got that -- decided those
4 were the pictures to take.

5 MS. ZMROCZEK: I mean, I think he can do that
6 on cross.

7 MR. CATHCART: Before we have them admitted in
8 evidence --

9 THE COURT: What is your objection?

10 MR. CATHCART: Your Honor, I don't know as a
11 foundation as to how he chose what to take pictures
12 of or the angles, or anything.

13 THE COURT: Well, lay the foundation and
14 then -- lay the foundation as to where he was.

15 BY MS. ZMROCZEK:

16 Q Okay. Where did you take -- from where did you
17 take these pictures?

18 A Standing in the kitchen looking out.

19 Q At Culler's?

20 A Inside Culler's, in the kitchen area itself. And I
21 went --

22 Q So you went to Culler's?

23 A -- as far back into the corner as I can to shoot
24 across over to the right side as far as get across
25 at the tables. I tried to get an overall.

1 Q You were trying to get an overall view?

2 THE COURT: All right. Any objection?

3 MR. CATHCART: None, Your Honor.

4 (WHEREUPON, Defendant's Exhibit No. 72
5 was marked for identification and
6 received into evidence.)

7 BY MS. ZMROCZEK:

8 Q I also want to show you what has already been
9 previously admitted as Defendant's 26.

10 A Yes.

11 Q And you took those as well?

12 A I did.

13 Q Okay. So Defendant's 26 is labeled, View from the
14 kitchen. And explain to the jury -- now, did
15 anybody tell you where to stand?

16 A No.

17 Q Okay. So what did you do?

18 A I just went over there to take a picture of the
19 kitchen area and just tried to get the best
20 perspective I could.

21 Q Had you provided -- had you been provided any
22 pictures from the kitchen area?

23 A No pictures of that area nor in the pool side or
24 outside of it. Those were all generated through
25 us.

1 Q And Defendant's 26, the door is open, is that
2 correct?

3 A It is.

4 Q And then it's different in -- Defendant's 72 is
5 what?

6 A It's closed, the bottom half -- the door is cut in
7 half. So I took pictures with it open and I closed
8 it and just -- I didn't know what perspective would
9 be needed throughout, so I tried to get the best
10 overall.

11 Q Okay.

12 MS. ZMROCZEK: Please answer any questions the
13 State may have.

14 THE COURT: Yes, sir?

15 CROSS-EXAMINATION

16 BY MR. CATHCART:

17 Q You were with Lexington, right?

18 A Yes, town of.

19 Q And when you make a case to determine what
20 occurred, you talk to witnesses, don't you?

21 A Yes.

22 Q Okay. And you went to Culler's?

23 A Yes.

24 Q Based on her direction?

25 A Yes.

1 Q She told you to take pictures of the kitchen?

2 A Well, she -- when we went in there, we went there
3 because there were no pictures taken before overall
4 and that's why we took the pictures of the kitchen.

5 Q But you knew the kitchen was important because you
6 talked to all the witness in the case, right? You
7 talked to Deborah Culler, didn't you?

8 A No, I did not. I read her statement.

9 Q She was the lady in the kitchen, right?

10 A Right.

11 Q And she testified -- and I understand -- would it
12 surprise you to know she testified she was not in
13 the kitchen when she was watching this happen?

14 A Yes, sir.

15 Q That would surprise you?

16 A No, it wouldn't surprise me she was in the kitchen.

17 Q So why is the kitchen important?

18 A Why was the kitchen important?

19 Q Yes.

20 A It's an overall of the premises that's never been
21 photographed before.

22 Q Nothing happened in the kitchen according to any of
23 the evidence, right?

24 A Well, also on the dance floor, it was recorded as
25 well. That was just one section of the thing we

1 never had available to get pictures of.

2 Q You made this Defense Number 74?

3 A Yes.

4 Q You measured 12-foot by 12-foot by --

5 A Well, that was a guesstimation.

6 Q You didn't measure it?

7 A No.

8 Q What's the purpose of writing 12-foot by 12-foot if
9 you didn't measure it?

10 A She just wanted an estimate of the size of the
11 room.

12 Q Did you ever do CSI with Lexington Police?

13 A Yes.

14 Q Did y'all not measure at Lexington Police?

15 A Oh, yeah.

16 Q Y'all do measure, right?

17 A Yes.

18 Q Because that's what you're supposed to do, right?
19 You're not supposed to guestimate, are you?

20 A Well, I mean, when she took the pictures, she
21 wanted me to draw the thing after the fact. We
22 didn't measure because it wasn't a fact of --

23 Q I'm sorry.

24 A It wasn't a fact that measurements needed to be
25 done at that point in time.

1 Q Because it's not important because nothing happened
2 in the kitchen, right?

3 A I was only going through instructions. We were
4 asked to take photos and we were asked to do a
5 not-to-scale sketch of it.

6 Q That's by Ms. Zmroczek?

7 A Yes.

8 Q Okay. Did she ask you to talk to the witnesses?
9 You said, I believe, that's your main job, witness
10 location?

11 A Yes.

12 Q Okay. And did you do that?

13 A We did.

14 Q Okay. And so Ms. Culler is a witness, right?

15 A We didn't -- I did not interview Deborah Culler.
16 We were going off the statements that were given to
17 us through discovery.

18 Q You didn't think it was important to determine
19 whether she was sober or not that night?

20 A No.

21 Q You didn't think it was important to know whether
22 or not she felt that she really got a good look at
23 what happened and to show you where she was in the
24 kitchen --

25 A We were going --

1 Q -- before she went outside the kitchen?

2 A We were going through the details of what
3 statements were given us through the State.

4 Q So you just trusted the statements to the State,
5 you didn't feel that you needed to investigate
6 further? The State did all the job you needed for
7 her statement, is that true -- your position?

8 A Well, we felt like it was covered in the basis that
9 were asked, yes. We thought statements were -- it
10 was Deborah Culler and we felt the statement was
11 fine.

12 Q If the statement was fine, why did you say the prep
13 table is three foot wide and it's four feet from
14 the door?

15 A Well, I was just guesstimating on measurements.

16 Q It's not even the right measurements, right?

17 A I didn't measure that, no. It was a guesstimation
18 simply going by -- what we do is, when we took the
19 pictures, she asked me to do a sketch after the
20 fact instead of going down there and remeasuring,
21 so we were just going on the tiles on the floor.

22 Q Remeasuring? Who measured before?

23 A No, to measure.

24 Q I thought -- I could have sworn you said remeasure,
25 I apologize.

1 A I'm sorry if I did, but it was to measure.

2 Q Okay.

3 A But we were just utilizing the tile work on the
4 floor just on the guesstimation. They were
5 square-foot tiles.

6 Q Okay. And -- but the building itself, you didn't
7 feel it important to determine how far the pool
8 table was from the jukebox?

9 A No.

10 Q You didn't think it was important to determine how
11 far the door is from the jukebox?

12 A No.

13 Q How about the bathroom from the jukebox?

14 A No.

15 Q How about the corner where Ms. Reeshemah Culler,
16 who gave a statement?

17 A Right.

18 Q Did you talk to her?

19 A No.

20 Q Did you try to see if her statement was correct?
21 Did it follow the evidence?

22 A No. We used the statements given by the State.

23 Q But you didn't determine how far that was from
24 where she said she was to where they said they saw
25 it happen?

1 A No.

2 Q That wasn't important to you?

3 A It wasn't that it wasn't important. We didn't see
4 the need of doing a measurement on it.

5 Q You went through a site walk-through, right?

6 A Yes.

7 Q And so you saw the back deck?

8 A Yes.

9 Q And you have seen -- talking about pictures, there
10 were no pictures of the kitchen?

11 A No.

12 Q Right?

13 A No.

14 Q But there was pictures of the back deck, right?

15 A Yes.

16 Q There was pictures that corresponded with what
17 Mr. Stone said. You talked to him, right, he got
18 stabbed in the eye?

19 A No, I did not.

20 Q You didn't think his input would be important?

21 A No, we were still going on the statements given
22 already.

23 Q So you already knew what he was going to say, you
24 wanted to find something else?

25 A Well, we felt like the statement was what the

1 statement was.

2 Q You didn't give measurements of how big this deck
3 is, right?

4 A No, I did not.

5 Q Is that even slightly to scale of how wide it is?

6 A To the length of the building, yes.

7 Q So that would fit as many people as were on that
8 deck, this little thin thing?

9 A Little thin thing? It's a pretty long deck.

10 Q But it's kind of wide too?

11 A Uh-huh.

12 Q I mean, pool tables aren't even the same size,
13 correct?

14 A No.

15 Q In real life, they're the same size?

16 A Yes.

17 Q Did the deck correspond with the photographs that
18 were taken by Yvonne Woods? That's that same deck,
19 right?

20 A Yes.

21 Q And Yvonne Woods, unlike you, talked to the
22 witnesses?

23 A Uh-huh.

24 Q And she took pictures where they said stuff
25 happened, right?

1 A Right.

2 Q And that's why you have the pictures of the blood?

3 A Yes.

4 Q That's why you have the pictures on the back door
5 where the victim's head was when he got the final
6 stab when he got the gutting hit into his heart,
7 right? That's why we have pictures of that because
8 she listened to what people said?

9 A Well, we're assuming she did.

10 Q Okay.

11 A Because the incident report itself reported that it
12 occurred and it started on the dance floor.

13 Q You know that there's blood on the door, right?

14 A Which one?

15 Q On the back door? I'm sorry.

16 A Yes, on the inside.

17 Q But according to the statement from Ms. Culler, the
18 door was open. And she pointed out the pictures,
19 right? You didn't feel the need -- that statement
20 was good enough for you, wasn't it? You didn't
21 feel the need to go talk to her?

22 A Well, I was just going on the statement, going on
23 what she was saying, yes.

24 Q It wasn't going to change, was it? The truth never
25 does, does it?

1 A I wouldn't say that.

2 Q The truth changes?

3 A I wouldn't say that was the truth and all, I'm just
4 saying that it's, in fact, that it's just her --
5 what she was saying on it.

6 Q But she told the truth?

7 A She was a witness to it and that's what she gave to
8 the Richland County Sheriff's Department.

9 Q Based on your law enforcement expertise --

10 A Right.

11 Q -- when somebody tells the truth, it doesn't
12 change, right? It's consistent?

13 A I mean, a witness is a witness.

14 Q Uh-huh.

15 A I mean, you can take them at face value as they
16 come.

17 Q Yes.

18 A So you corroborate it from what you see and then
19 you -- what they're telling you and what you see.

20 Q But if somebody said five people, then three
21 people, then two people, something is wrong with
22 these statements, isn't it?

23 A Something is wrong.

24 Q Something is wrong, the truth isn't being said,
25 right?

1 A Yes.

2 Q I'm kind of confused with this -- and again --
3 okay. This picture here on Defense 72 --

4 A Okay.

5 Q -- is, I'm assuming, standing on the far corner of
6 the kitchen where you can't even see out the door.
7 What's the purpose of this?

8 A It was just overall to show back into that corner.

9 Q But it has no relevance to any of the testimony,
10 right?

11 A No.

12 Q This one where you're standing back from the fryer,
13 I mean --

14 A As far to the right as I could, yes.

15 Q But not where Deborah Culler was?

16 A No.

17 Q Not where she said she was when she first heard the
18 commotion?

19 A That would be at the prep table, same table I was
20 standing at, but further down.

21 Q And then definitely not where she was when she was
22 outside the door watching it happen, right?

23 A No -- well, not in these pictures, but the pictures
24 that I took that Richland County didn't take do
25 depict that, of the pool hall area outside the

1 kitchen. And they have been -- I'm assuming,
2 they've been entered as well.

3 Q You took pictures, what you're telling me, where
4 Deborah Culler saw what happened, but you never
5 talked to her? How do you know what she saw?

6 A Simply on the statements given.

7 Q So you can say exactly from this angle, her height,
8 from there, you took that exact picture, right? Is
9 that what you're saying?

10 A I don't -- I can't say that at all.

11 Q Wouldn't it have been helpful to you if you had
12 Ms. Culler there? I mean, they let you in the
13 place, right?

14 A Yes.

15 Q They gave you free rein to look at anything you
16 wanted to?

17 A Yes. Ms. Culler was not there. Reeshemah was
18 there.

19 Q Reeshemah was there?

20 A Right.

21 Q Please -- you explained that you were working for
22 Mr. Geter, right?

23 A Yes. Oh, yes.

24 Q Please, whatever you want to do, feel free.

25 A Yes.

1 Q And that's not once, but at least twice, right?

2 A Yes.

3 Q But you didn't -- she was there and you didn't say,
4 Hey, Reeshemah, could you point out your point of
5 view, your vantage point?

6 A Uh-huh.

7 Q You didn't think that was important?

8 A No, because it wasn't her.

9 Q She was a witness too, right?

10 A Well, it would have been the same situation.
11 Reeshemah would have said she wouldn't -- she
12 wasn't her mother, she doesn't know where her
13 mother would be standing -- or the same argument
14 would be posed.

15 Q If you would have her say where her mother was.
16 Reeshemah was an eyewitness as well, right? You
17 read her statement?

18 A I did.

19 Q She saw the whole thing as well. You didn't think
20 it was important -- I mean, let me ask you this.
21 When you were in Lexington --

22 A Uh-huh.

23 Q -- you would have done it, wouldn't you? You would
24 have asked a witness, What did you see, and taken
25 pictures based upon that?

1 A Right. And which that was --

2 Q So --

3 A -- asked in the statement --

4 Q -- you're saying law enforcement --

5 MS. ZMROCZEK: Your Honor --

6 THE WITNESS: -- where she was going and going
7 off the statement.

8 MR. CATHCART: I'm sorry, was Ms. Zmroczek
9 going to say something?

10 MS. ZMROCZEK: I was trying to allow him to
11 finish his answer.

12 BY MR. CATHCART:

13 Q You have viewed all these photographs, correct?

14 A Yes, I have.

15 Q And you have seen the lab report?

16 A Yes.

17 Q That the blood drops that were from the back of the
18 porch, back patio, drips a straight trail to the
19 front door where the victim laid down consistent
20 with the photographs that are shown?

21 A Well, I don't know if you can say it's consistent.

22 Q But you didn't do anything to find out if it
23 wasn't. You had every witness available to you and
24 you didn't ask them a thing.

25 MS. ZMROCZEK: Your Honor, I'm going to -- may

1 we approach?

2 (WHEREUPON, a bench conference was held
3 in the presence of the jury but out of
4 the hearing of the jury.)

5 THE COURT: The objection is overruled.

6 THE WITNESS: Did you want me to finish?

7 BY MR. CATHCART:

8 Q Oh, I'm sorry. I didn't realize you hadn't.
9 Please.

10 A What I was saying is when you're saying just where
11 the blood was in the back, and all, and where the
12 pictures were taken, it's like a puzzle. It is the
13 first thing that popped out to us. It's missing
14 pieces at the beginning. I mean, you can't see a
15 clear picture. No clear picture was given at the
16 beginning, simply being because the incident that
17 occurred, when the responding officer went there,
18 where he said that the initial incident took place
19 was never photographed. What we were seeing in the
20 evidence is someone made statements that there was
21 a beer bottle broken and there was -- we don't know
22 if there is blood or not in an area that was
23 completely left out of the crime scene.

24 Q You realize --

25 THE COURT: Let him finish.

1 THE WITNESS: And in doing that, there's no
2 way we can recover any of that. If there was
3 evidence there, we don't know. If there wasn't, we
4 don't know. Was there blood there? We don't know.
5 Was there not blood there? We don't know, simply
6 for the fact because it was never photographed that
7 night. And you can't reclaim evidence once it's
8 lost. They released the crime scene in it with it
9 never being photographed. It was cleaned, it was
10 purged. And we go there to take pictures just to
11 show from a progression of what the incident took
12 place and where it took place initially is the
13 whole purpose of why we took the overall pictures.
14 And just not in the kitchen, we're showing -- I'm
15 speaking of the -- when we went and did the dance
16 floor, the ATM, the jukebox area, all of that area
17 we had to photograph. There was nothing in
18 discovery ever showing that from crime scene.

19 BY MR. CATHCART:

20 Q You had, as you stated, statements of the
21 eyewitnesses there?

22 A Yes.

23 Q And you had that same witness with you at the
24 scene. And other than to ask if I could take --

25 A Which --

1 Q Reeshemah?

2 A Okay. She was there.

3 Q Yeah. And other than to ask if you can take
4 pictures wherever you want to?

5 A Right.

6 Q Kitchen or whatever, you didn't ask her anything?

7 A No. Because that was -- the purpose of it was we
8 were just trying to get an overall shot. We
9 haven't ever been able to get into the kitchen to
10 get the pictures. When we went up there last time,
11 it wasn't available. When we did the walk-through,
12 not there, nor when we took the previous pictures,
13 we couldn't get them as well.

14 Q Based upon her statement -- which you say is all
15 you need, written statement?

16 A Right.

17 Q Deborah Culler's statement -- as you said, all you
18 need?

19 A Well, it's not all. You say that's all we need,
20 it's not all we need. It's a composite of
21 everything. And we look at the statements that
22 were already given and already taken.

23 Q But you do not feel the need to talk to them
24 anymore?

25 A No.

1 Q To clear up anything that may --

2 A I felt like the information given that night was
3 their statements and that was pretty clear.

4 Q Okay. And they testified here today. I understand
5 you were sequestered, you weren't here seeing their
6 testimony, I get that.

7 A Right.

8 Q But they testified with the pictures and told a
9 story of what occurred.

10 A Okay.

11 Q But you didn't ask them about anything else that
12 you're trying to talk about now?

13 A I don't know what you're saying I'm trying to talk
14 about now.

15 Q Well, they said there was no blood in the dance
16 floor.

17 A Who said that?

18 Q Deborah Culler said that.

19 A The initial response, the incident report clearly
20 states to the responding officer, there was someone
21 struck in the head with a bottle and there was
22 blood in the area of the jukebox.

23 Q Responding officer. Good thinking. You talked to
24 him, right?

25 A No, I did not.

1 Q You talked to -- I mean, so you're saying you
2 didn't talk to Reeshemah Culler and say, Hey, what
3 about this? In fact, his report said there's blood
4 in the area, correct?

5 A Right.

6 Q It doesn't say where it is. And there is blood all
7 in this area?

8 A No. Jukebox? We don't know.

9 Q Jukebox --

10 A We don't know.

11 Q Yes, we do. Deborah Culler said no. You just
12 didn't ask her. I did.

13 MS. ZMROCZEK: Your Honor --

14 THE WITNESS: We don't know.

15 MS. ZMROCZEK: Your Honor, that's not even a
16 question. If he's going to sit there --

17 THE COURT: Hold on. What is the objection?

18 MS. ZMROCZEK: He's badgering the witness,
19 Your Honor.

20 THE COURT: All right. You need -- well, it's
21 not badgering, but the objection is sustained.

22 THE WITNESS: And what you're saying --

23 THE COURT: Hold on. Please ask it in the
24 form of a question.

25 MR. CATHCART: Yes, ma'am.

1 THE COURT: No statements.

2 BY MR. CATHCART:

3 Q Basically my understanding from what your testimony
4 here today is that you went to the Culler's and
5 took some pictures of the kitchen and the dance
6 floor and did these diagrams that are not to scale,
7 correct?

8 A Right. And I took pictures throughout as well of
9 the pool hall area. I took them throughout.

10 Q These are the ones that we have here?

11 A Yes, all of those pictures are not of that night.
12 There is very few of that night.

13 Q In spite of having Reeshemah with you during that,
14 that's what you did?

15 A Reeshemah wasn't there. Just in the kitchen, yes.

16 Q When you were taking pictures, she let you in the
17 place?

18 A Willie Brown is the one who let us do the
19 walk-through.

20 Q Okay.

21 A And do the pictures.

22 Q But Reeshemah was around?

23 A She was not there, no.

24 Q Okay. But she has been available to you, correct?
25 I thought you just told me that she was there --

1 A She was there when I took pictures in the kitchen.

2 Q Okay. So --

3 A Yes.

4 Q -- she was available to you?

5 A Yes.

6 Q You took pictures, you made these two diagrams?

7 That's what you did in your investigation in this
8 case?

9 A Well, that wasn't the whole investigation. I
10 overview the forensic signs, I go through the
11 pathology report --

12 Q You obviously look at the discovery --

13 A Right, and just trying to piece it and put it
14 together.

15 Q Okay. Thank you.

16 REDIRECT EXAMINATION

17 BY MS. ZMROCZEK:

18 Q I am going to show you Defendant's 75 through 79
19 and ask if you recognize those pictures?

20 A Yes. These are ones that I took of the pool hall
21 area.

22 Q Are those additional pictures that you took?

23 A Yes.

24 Q And they fairly and accurately represent pictures
25 that you took when you went to Culler's Pool Hall?

1 A Yes.

2 MS. ZMROCZEK: Your Honor, at this time we
3 would move 75 through 79 into evidence.

4 MR. CATHCART: No objection, Your Honor.

5 (WHEREUPON, Defendant's Exhibit Nos.

6 75-79 were marked for identification and
7 received into evidence.)

8 BY MS. ZMROCZEK:

9 Q All right. I am going to -- so you took not just a
10 few pictures, you actually went out and took a lot
11 of pictures, right?

12 A Yes, I took an overall.

13 Q An overall view. And, in fact, when you
14 investigate -- talk to the jury about when you --
15 if it were your case and you had a statement that
16 someone said, what would you do as the
17 investigator?

18 A I mean, we would -- we wouldn't pick and choose our
19 area to take photos. We would go through the
20 initial reports, which is the incident report of
21 responding officer and initial witnesses. We would
22 photograph everything.

23 Q Let's say --

24 A Inside and outside.

25 Q Let's say you were the responding officer, that you

1 communicated with Yvonne Woods who worked for you
2 for CSI. What would you expect her to do?

3 A I would expect her to take pictures throughout the
4 entire building inside and outside.

5 Q Okay. And you took just Defendant's 78, right --
6 not just, but you also took Defendant's 78?

7 A Yes.

8 Q What's on that table right there on Defendant's 78?

9 A Pool ball.

10 Q A pool ball. What else?

11 A A cue.

12 Q When people are playing pool, do they play with
13 balls and cues?

14 A Yes.

15 Q Okay. He asked you about talking to witnesses?

16 A Right.

17 Q Tell the jury how forthcoming all these witnesses
18 were talking to you.

19 A It was difficult at best. The ones that we were
20 trying to speak to and the ones that -- we had an
21 investigator prior to, Leigh Connelly, and she had
22 spoken to and vetted through a lot of people who
23 were potential witnesses or anything and narrowed
24 it down to a group. And they all were not
25 receptive to coming forward. Not knowing why,

1 either through retribution or just didn't want to
2 be --

3 MR. CATHCART: Objection, Your Honor.

4 THE COURT: Hold on. Let me see you all one
5 second.

6 (WHEREUPON, a bench conference was held
7 in the presence of the jury but out of
8 the hearing of the jury.)

9 THE COURT: The objection is overruled.
10 Just move on.

11 BY MS. ZMROCZEK:

12 Q Okay. Mr. Day, did you -- Mr. Cathcart asked you
13 on direct about corroborating what witnesses say.
14 For example, he asked you if a witness said
15 something, you would want to see if that
16 corroborated, right?

17 A Right.

18 Q Is that something that you do in investigations?

19 A Yes.

20 Q So, for example, if someone said they heard
21 somebody say something in a jail pod, you would
22 want to corroborate whether or not they were in
23 that jail pod, right?

24 A Yes.

25 Q And the investigations gap that you were filling in

1 because there were no pictures, there was nothing
2 provided prior to you going out there and doing
3 those pictures, right?

4 A There were no pictures. There was no clear picture
5 of the incident itself.

6 Q Thank you.

7 THE COURT: All right. Any other questions?

8 MR. CATHCART: Yes. Real short, Your Honor.

9 RECROSS-EXAMINATION

10 BY MR. CATHCART:

11 Q You did the entire scene?

12 A The entire scene --

13 Q You took pictures of everything, right?

14 A Yes.

15 Q That's what you're saying?

16 A Yes.

17 Q You took pictures of where that lady testified a
18 little bit earlier where she was parked two sheds
19 down, you took pictures of her vantage point?

20 A There is a picture of that, of the shed.

21 Q There's pictures of One Love looking back down, One
22 Love store?

23 A One Love store? No.

24 Q Yeah, it's the store Mr. Geter says he was up at
25 selling shirts first and then he went up there to

1 get a cigar?

2 A No, there's pictures showing the sheds and the path
3 that people walked down through.

4 Q But not where she was parked?

5 A Well, it would have been relevant because it was an
6 area shot. So it would have been relevant to where
7 she would have been parking to show where she was
8 parking just from the picture itself.

9 Q But from the testimony here, the kitchen is not
10 relevant, correct?

11 A Well, everything is relevant.

12 Q And One Love was not relevant? He talked about One
13 Love. He bought a cigar right before he came down
14 there and stabbed this man.

15 A Well, I mean -- I didn't go -- if you're asking me
16 did I go to the store, stand on the sidewalk and
17 shoot a picture back towards Culler's, I did not.

18 Q You did that in the kitchen. You were standing on
19 one corner taking a picture of the perspective.

20 A It was the building where the incident took place.

21 Q But it's not where the stabbing took place, right?

22 A We don't know that.

23 Q It's not where the evidence was, was it?

24 A I mean, where the incident took place -- and that's
25 where we're lost in this when we first looked at it

1 because it's missing a whole element. You cannot
2 see a clear picture. And when I say see a clear
3 picture, the incident took place within the dance
4 hall, the dance floor area. In looking at it and
5 speaking and looking over the statements, looking
6 at the photos where they went through and all this
7 stuff, if you were to ask me, I would say the
8 incident took place, it never stopped and it
9 continued to the back porch. It was never stopping
10 action. So the incident, to cover it and
11 photograph it so we could get a clear picture and
12 if there was any evidence that was ever left
13 behind, which we will never know now because there
14 was no photographs, it would -- should have been
15 photographed to indicate if there was or wasn't any
16 blood, bottles, or anything to indicate what
17 everybody had said, even through the Culler's
18 statement, saying that it started on the dance
19 floor. But we don't -- we can't tell now because
20 there was no evidence gathered.

21 Q But there were people who were there when it
22 happened and you chose not to talk to them? You
23 chose not to find any extra holes, open up any
24 closed doors? You --

25 A When you --

1 Q I'm sorry, pleas.

2 A Go ahead. I'm sorry.

3 Q You said, I'll just take pictures of a pool cue and
4 a ball. Going outside during the day time. A
5 picture that was duplicated multiple times, but the
6 difference is there's blood in ours from the
7 incident happening. A view of looking out that
8 way, which no one talked about. And a view of
9 where the pool tables are situated, which has been
10 put in evidence on the night it happened.

11 A So are you asking me why I made these -- I took
12 these pictures?

13 Q No, you said why you made these pictures, I'm
14 asking you why didn't you find out if there's
15 any -- talk to the witnesses who were there that
16 night --

17 A Right.

18 Q -- to investigate the case?

19 A Well, the reason -- and you -- I guess you're
20 asking me this question and you minimized the
21 pictures that I take and the reason why I take
22 them. I don't minimize it at all, because we're
23 trying to clarify and we're trying to get a clear
24 picture of the entire incident. There's no way
25 that you can have a picture, a clear picture of the

1 incident because there was a failure to finish
2 through and do a follow through on this. There was
3 no pictures taken in there, so we had to go back
4 and take pictures. There was nothing in discovery.

5 Q So when you were at Lexington County, you just sent
6 CSI and said, Take a picture of the whole place,
7 don't talk to any witnesses, don't focus on what
8 occurred, just, you know, take some pictures, get a
9 whole view, and witnesses don't really matter?

10 A That's --

11 Q People were there when it happened?

12 A That's --

13 Q We'll just stick with what they said?

14 A That's ID Tech 101.

15 Q That's what?

16 A That's ID Tech 101. That's exactly what you do,
17 you do an overall canvas of it. You will speak to
18 the investigator coming on scene, the detective on
19 scene. He will talk to the witnesses. He will
20 concentrate -- and then after they do an overall so
21 you can see a clear picture, then he will focus in
22 on the certain areas that he would rather have.

23 Q Exactly. And I understand, again, you were
24 sequestered, correct?

25 A Yes.

1 Q And would it surprise you to hear that that's
2 exactly what Yvonne Woods said she did?

3 A What she was directed to do?

4 Q She talked to the officer, she did a complete sweep
5 of the whole area, and then she focused on what the
6 evidence was and took pictures of each of it and
7 swabbed it. That's what you do, right?

8 A She didn't do it. It's clear -- there was nothing
9 in discovery to show that she did to it.
10 Absolutely nothing.

11 Q Her report says she canvassed the area, swept the
12 thing, talked to witnesses who told her what
13 occurred, and then she photographed all the
14 evidence, and then, she testified before, put the
15 little numbers on each one before she buccal
16 swabbed each one as directed by the people who saw
17 what occurred. It's what you're saying what you're
18 supposed to do.

19 A The State's witnesses, they took their statement
20 and in their statements clearly stated that it
21 happened on the dance floor. She heard somebody --
22 somebody hit somebody with a bottle on the floor.

23 Q Whose statement says somebody got stabbed on the
24 dance floor? Nobody says that.

25 A Hit in the head with a bottle.

1 Q Nobody said anybody was bleeding on the dance
2 floor, nobody did?

3 A You -- how do we know this?

4 Q Because you ask them. You were there to ask them
5 and you didn't. That's how you know.

6 A I would say it would be rather back on the State to
7 sit there and photograph it and look at it and
8 clarify this.

9 Q Because it didn't happen.

10 A Well, you don't know.

11 Q I don't know?

12 A No one will know because there's no evidence.
13 Absolutely no evidence.

14 Q There is no evidence in this file because that's
15 not what happened. He stabbed him on the back deck
16 as the witnesses told you.

17 Thank you.

18 MS. ZMROCZEK: Your Honor, was there a
19 question?

20 THE COURT: Do you have any further questions?

21 MS. ZMROCZEK: Just one, Your Honor.

22 FURTHER REDIRECT EXAMINATION

23 BY MS. ZMROCZEK:

24 Q When you were investigating in Lexington, did you
25 try to corroborate all the statements that were

1 given?

2 A Yes.

3 MS. ZMROCZEK: All right. That's all. Thank
4 you.

5 THE COURT: All right, sir, you may step down.

6 THE WITNESS: Thank you.

7 (Witness steps down.)

8 MS. ZMROCZEK: Your Honor, the Defense rests.

9 THE COURT: Does the State have any rebuttal
10 witnesses?

11 MR. CATHCART: Regretfully, yes, Your Honor,
12 we do.

13 THE COURT: All right. Let me see you all one
14 second.

15 (WHEREUPON, a bench conference was held
16 in the presence of the jury but out of
17 the hearing of the jury.)

18 THE COURT: Call your next witness.

19 MR. CATHCART: Your Honor, in rebuttal, the
20 State calls Elijah Salley.

21 (Witness approaches.)

22 THE BAILIFF: Place your left hand on the
23 Bible, raise your right, and face the clerk.

24 (Witness complies.)

25 THE CLERK: Do you swear or affirm the

1 testimony you shall give in this case will be the
2 truth, the whole truth, and nothing but the truth,
3 so help you God?

4 THE WITNESS: Yes.

5 THE CLERK: Thank you. Have a seat in the
6 witness stand, and state your full name for the
7 record.

8 (Witness seated.)

9 THE WITNESS: Elijah Salley.

10 ELIJAH SALLEY,
11 after being duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. CATHCART:

14 Q Mr. Salley, where do you work? Where do you work?

15 A When?

16 Q I'm sorry?

17 A Say it again?

18 Q Where are you employed? Where do you work?

19 A Aerotek, Airport Boulevard.

20 Q Okay. And I basically just pulled you off the job,
21 right?

22 A Yes, sir.

23 Q And I apologize. Did you go to the hospital back
24 on March 7th of 2015?

25 A Yes, sir.

1 Q Do you recall why you went to the hospital on March
2 7th, 2015?

3 A Me and my girl got into an altercation.

4 Q You and your girl did?

5 A Yeah, me and girlfriend.

6 Q And can you describe the altercation that made you
7 go to the hospital?

8 A She cut me with a box cutter, like on my wrists.

9 Q Okay. And you went to the hospital for that?

10 A Yes, sir.

11 Q Did the police talk to you at the hospital?

12 A Yes, sir.

13 Q Did you tell them what happened?

14 A Not at first, because I didn't want to get my
15 girlfriend in trouble.

16 Q Were you at Culler's on Monticello Road on that
17 night?

18 A No.

19 Q Do you know James Ervin?

20 A No.

21 Q Did you help in the fight against Robert Geter that
22 night?

23 A No.

24 Q You were where that night before you went to the
25 hospital?