VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Spartanburg County

Robin B. Stilwell, Circuit Court Judge

RECEIVED
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S.C. SUPREME COURT

ANTWON M. BAKER, JR.

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-001531

APPENDIX

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG)

The State,)
) TRANSCRIPT OF RECORD
-vs-) 2012-GS-42-3668
) 2013-GS-42-2013
Antwon Michele Baker, Jr.,)
) June 3 - 6, 2013
Defendant.) Spartanburg, South Carolina

B E F O R E:

HONORABLE J. DERHAM COLE, JUDGE; and a jury

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(Proceedings June 3, 2013)

THE COURT: First case is what, State vs. Antwon Baker?

MR. BULSA: Baker, yes.

THE COURT: All right. Mr. Ianuario, you represent Mr. Baker?

MR. IANUARIO: That's correct, Your Honor. And this is my associate attorney, Matt Canady.

THE COURT: Matt Kennedy?

MR. IANUARIO: Canady.

THE COURT: Canady?

MR. IANUARIO: Yes, sir, Your Honor.

THE COURT: C-A-N-N-A-D-Y?

MR. IANUARIO: C-A-N-A-D-Y.

THE COURT: All right. Y'all represent Mr. Baker?

MR. IANUARIO: Yes, sir.

THE COURT: Where is Mr. Baker?

MR. IANUARIO: He is in the holding cell, the holding area.

THE COURT: Have they gone to get him? Have you got any matters to address before we pick the jury?

MR. BULSA: Yes, sir. First off we need to do arraignment on the pistol charge. That was a direct indictment.

He was served through his attorney -- unless he wants

to waive presentment on that or waive arraignment on it.

MR. IANUARIO: We can waive arraignment.

THE COURT: He was just charged with unlawfully carrying a pistol, not with carrying a pistol in the commission of a violent crime?

MR. BULSA: The sentence on the murder will cover that, so, yes, sir, it will just be the unlawful possession, because he's in unlawful possession regardless of the outcome of the murder.

THE COURT: So he could get an additional sentence for unlawful carrying a pistol on top of the murder.

MR. BULSA: He basically --

THE COURT: He's charged with possession of a pistol during the commission of a violent crime -- he couldn't?

MR. BULSA: Based on the facts of the case to let the jury know he was not in lawful possession of a pistol.

Second, Your Honor, I don't know how to phrase this, but the defense I understand is claiming self-defense.

This occurred at a Waffle House, and for the sake of the record and for any post-conviction relief should a conviction be obtained, I'm not certain if a pretrial hearing needs to be held regarding the "Stand Your Ground" law since we've got a self-defense claim. He could be immune from prosecution altogether.

THE COURT: All right. Well, let's wait until we get

the defendant in here.

THE BAILIFF: He's on his way, Judge.

THE COURT: Okay.

(Whereupon, the defendant entered the courtroom.)

THE COURT: What's that statute number?

(Pause.)

MR. BULSA: 16-11-410 I believe is where it begins.

Your Honor, the section that I believe may need to be addressed is 16-11-440(c).

MR. IANUARIO: That's correct, Your Honor.

THE COURT: Okay. Mr. Ianuario, what's the defendant's position?

MR. IANUARIO: Yes, Your Honor. We'd like to have a hearing on the "Stand Your Ground". Pretty much the defense is we believe it has merit for consideration.

THE COURT: All right. Mr. Ianuario, as I understand it, you are making a motion for a dismissal of the indictment pursuant to 16-11-450.

MR. IANUARIO: Correct, Your Honor.

THE COURT: Okay. What would you like to present?

MR. IANUARIO: The statute reads a person who is not engaged in an unlawful activity and who is attacked in a place where he has a right to be including but not limited to his place of business has no duty to retreat and may stand his ground.

Mr. Baker was a lawful patron at the Waffle House on the evening of the shooting. I know we haven't gotten into the facts of the case yet but he -- he was summoned outside. There was a quarrel. He stuck his head out the door and said he wanted no part of it, he was going back inside, didn't want to fight.

As he was turning around to reenter he was jumped by at least one individual. I believe there was four or five standing around.

So although Mr. Baker was unlawfully carrying a pistol at that point in time we do not believe he engaged in any unlawful activity. He was not using the pistol in any sort of manner to intimidate, to attempt to rob, coerce, threaten, was not pointing it, presenting it and wasn't aware the pistol was even there until he was attacked.

THE COURT: Okay. Would you like to present some evidence?

MR. IANUARIO: Can you take the police reports without the witness being present, or the witness statements?

THE COURT: Sir?

MR. IANUARIO: I have statements to -- to the fact, but I would need the witnesses in to give the statements.

THE COURT: Well, I mean, I think you've got the burden of proof.

MR. IANUARIO: Okay. May I speak to the prosecutor

one moment, Your Honor?

THE COURT: Okay.

(Pause.)

MR. IANUARIO: I would like to start with Investigator Foster, Your Honor. I believe he's readily available.

MR. BULSA: They're upstairs. I've got to bring them down here, Your Honor.

THE COURT: Let's get them down here.

(Pause.)

MR. BULSA: In the meantime would you like to arraign the defendant on the indictment?

THE COURT: All right. You are Antwon Baker.

THE DEFENDANT: Yes, sir.

THE COURT: Mr. Ianuario is your lawyer?

THE DEFENDANT: Sir?

THE COURT: Mr. Ianuario is your lawyer?

THE DEFENDANT: Yes, sir.

THE COURT: Mr. Ianuario, have you advised your client that he's also been indicted -- in addition to the crime of murder he's been directly indicted by the prosecutor on a charge of unlawfully possessing a pistol on June the 3rd of 2012?

MR. IANUARIO: That's correct, Your Honor.

THE COURT: And you've talked to him about that?

MR. IANUARIO: Yes, Your Honor.

THE COURT: Does he waive arraignment or wish to be arraigned?

MR. IANUARIO: We're going to waive the arraignment on it, Your Honor.

THE COURT: Okay. Mr. Baker, do you understand what the charge is? Do you understand the potential punishment --

THE DEFENDANT: Yes, sir.

THE COURT: -- for unlawful carrying a pistol?

THE DEFENDANT: Yes, sir.

THE COURT: Okay.

MR. BULSA: Additionally, Your Honor, the defendant gave two written statements, spoke to two separate investigators and gave information about this incident that the state may intend to use.

It's my understanding the defense is waiving any Jackson vs. Denno hearing regarding the voluntariness of any of those statements.

MR. IANUARIO: That's correct, Your Honor.

THE COURT: How many statements are there?

MR. BULSA: Two written statements, and then he discussed the case with Investigator Williams and also Investigator Foster. And he made sort of a spontaneous comment when the officers first approached him.

THE COURT: All right. Mr. Ianuario, you're aware of

the statements the state wishes to offer in evidence in the trial of this case that they claim were made by your client?

MR. IANUARIO: Yes, Your Honor. I was provided with two statements from my client in the discovery.

THE COURT: All right. Two of those are written statement?

MR. IANUARIO: Correct, your Honor.

THE COURT: You've been provided copies of those statements?

MR. IANUARIO: Yes, Your Honor.

THE COURT: You discussed those with Mr. Baker?

MR. IANUARIO: Yes, Your Honor.

THE COURT: And did Mr. Bulsa also provide you with the substance of any oral statement that he wishes to introduce?

MR. BULSA: They were contained in the police -- police video reports.

MR. IANUARIO: All the reports contained all of the information. I don't believe there was any oral information gathered.

THE COURT: All right. Is there any statement made by the defendant to law enforcement that you believe was not voluntarily made by him?

MR. IANUARIO: No, Your Honor.

THE COURT: Do you agree that any statement made by the defendant was made freely and voluntarily?

MR. IANUARIO: Yes, Your Honor.

THE COURT: Mr. Baker, do you agree with your lawyer's representation that any statement you made to law enforcement that relates to this case was made by you freely and voluntarily?

THE DEFENDANT: Yes, sir.

THE COURT: Did anybody coerce you in any way?

THE DEFENDANT: No, sir.

THE COURT: Did anybody promise you anything to get you to make a statement?

THE DEFENDANT: No, sir.

THE COURT: Did anybody threaten you or put any pressure upon you of any kind?

THE DEFENDANT: No, sir.

THE COURT: Were you ever denied any food or drink or anything you needed prior to the statement being given?

THE DEFENDANT: No, sir.

THE COURT: Were all statements made by you freely and voluntarily?

THE DEFENDANT: Yes, sir.

THE COURT: Without any pressure or coercion?

THE DEFENDANT: No, sir.

THE COURT: In other words, you made them of your own

free will and choice?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. You can have a seat.

MR. BULSA: I believe the defense has a couple of pretrial matters we can address while we're waiting on the witness, Your Honor.

MR. IANUARIO: Yes, Your Honor. May I approach?

Your Honor, I provided the prosection with copies of these. One is a motion to strike prejudice returns [sic] and one is a motion to sequester the witnesses.

THE COURT: All right. Mr. Bulsa, any objection to the motion to sequester?

MR. BULSA: No, Your Honor. The state has inquired of the defense. I believe they would reciprocate in that matter should they have any witnesses.

THE COURT: Do you have any other witnesses besides the defendant, Mr. Ianuario?

MR. IANUARIO: Not at this time, Your Honor. There's one long shot I've been speaking with Solicitor Bulsa about that I do not believe I'll be calling. But he has been made aware of it and the content of the testimony.

THE COURT: Well, they'll have to be sequestered also.

MR. IANUARIO: Yeah.

THE COURT: Mr. Bulsa, what about the motion to prohibit the use of the word victim?

MR. BULSA: Your Honor, the state would object to that. Our victim was shot five times, had 12 bullet holes in him.

I think it's just a characterization that I intend to use. I don't actually use that word, I believe, when I question my witnesses, but in my opening and closing I do reference the decedent as the victim.

THE COURT: So during the testimony or the eliciting of testimony you intend to refer to the deceased by his actual name?

MR. BULSA: I can't say I won't slip up and say the word victim, but I typically question the witnesses regarding the name of the person, as to whether they knew that person, how they knew that person so that it's clear for the jury.

I never overly emphasize that anyway, but it may slip out before I catch it.

THE COURT: All right. Well, I'm not going to preclude the prosecutor from referring to the deceased as a victim in the argument, but during the testimony he'll refer to him by his name.

MR. IANUARIO: Thank you, Your Honor.

THE COURT: All right. Anything else?

MR. BULSA: May we bring the victim's family in?

THE COURT: Who?

MR. BULSA: The victim's family is outside the courtroom. We'd like to bring them in.

THE COURT: Whose family?

MR. BULSA: The victim's family, Your Honor.

THE COURT: Do they have a name? Mr. Young's family. Okay.

MR. IANUARIO: Your Honor, members of Mr. Young's family. Some of them, two or three of them, are witnesses in this case. I'd like to ask that those witnesses be sequestered.

THE COURT: Okay.

MR. BULSA: They can stay outside.

Investigator Williams has arrived -- excuse me -- Foster has arrived.

THE COURT: All right. Mr. Ianuario, do you want to call Mr. Foster?

MR. IANUARIO: Yes, Your Honor. I would like to call Investigator Foster to the stand, Your Honor.

RICHIE FOSTER, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. IANUARIO

Q Thank you, Investigator Foster.

So the purpose of this hearing is a "Stand Your Ground" hearing. I'm looking to determine if Mr. Baker was not engaged in unlawful activity, if he was attacked in a

place where he had a right to be and that he had the right to respond with force or deadly force. Those are the issues I'd be looking for.

Would you provide a brief summary for the Court of the events that took place on the night of June 3rd, the early morning hours?

A My understanding so far is that Mr. Baker stopped to get something to eat, noticed that a crowd of people were in the parking lot.

THE COURT: Well, excuse me just a minute. But, now, he's not going to be able just to testify as to what everybody else told him.

MR. IANUARIO: Shouldn't he be allowed to testify on the information he gathered at the location in the course of his investigation, not the authenticity of it but what he was told?

THE COURT: Well, he can testify what everybody told him if you don't want me to consider it as evidence that would support a grant of immunity.

MR. IANUARIO: Understood, Your Honor.

THE COURT: I mean, this hearing is not different than the trial. I mean, you have a burden to establish that he's entitled to immunity, and you do that through competent evidence, not just hearsay testimony.

MR. IANUARIO: Understood, Your Honor.

BY MR. IANUARIO

Q In the course of your investigation did you determine that anyone else at the Waffle House had a firearm besides Mr. Baker?

A No, I did not.

Q Was it suspected anyone else at the Waffle House had a firearm besides Mr. Baker?

A There was one mention of it, and we could not prove it was.

Q Approximately how many individuals did you interview at the scene?

A Now, I personally probably didn't interview anybody at the scene. I might have been -- apparently talked with about 15 people all together.

Q How many of those -- are you familiar with the events that led up to the shooting? Are you familiar with the events that were alleged to have taken place before the shooting?

A That same morning? Yes, sir.

Q And what was the synopsis of what started the shooting? What led up to the shooting from your investigation?

A From whose point of view?

Q From which -- from your point of view as a police officer investigating the scene.

A There was a crowd of folks outside. Mr. Baker came up, noticed that he had problems with one fellow in the past.

He retrieved his firearm from his dash of his car, walked in and ordered. Apparently some words were exchanged between one or two or three of the group and him.

And he came outside one time, started to come back in. He was hit in the back of the head and at that time turned around and started shooting and, per the witnesses, chased the victim around in the parking lot and stood over him and kicked him.

Q Okay. And did you watch the video from the Waffle House on the evening in question or the morning in question?

A Yes, sir.

Q And does the video corroborate those events?

A The video only shows inside. You can tell Mr. Baker is up at the counter placing his order and getting his order.

Two individuals apparently come up to him, and they have -- say something back and forth. He goes back outside, and then you can briefly tell he breaks the threshold of the door coming in and then turns around. And that's supposedly when all the shooting starts.

Q And would you describe that doorway?

A A typical Waffle House doorway. You walk in from outside, and then you make an abrupt turn in -- in a type of a little foyer area. And then there's another door that comes into the main dining area.
Q And the door going into the main dining area, do you remember if it was -- you had to pull to enter or to push to enter the main dining area?
A I don't recall. I think most of them pull.
Q With the door in the main dining area closed, approximately how big was the enclosed area that Mr. Baker was attacked in?
A It's been a while since I've been at Waffle House, but I'd say it's not much bigger than that desk you're in front of -- behind.
Q And did you see if Mr. Baker had any trespass notices or anything for this particular Waffle House on occasion in the course of your investigation?
A No, sir.
Q Were you made aware of any sort of an issue with him being banned from the establishment by any Waffle House employes?
A No. I did not.
Q Do you know if the individual that had a gun or was alleged to have had a gun earlier in the evening was a part of the skirmish?

A There were two separate groups that ended up coming together, and he supposedly was part of the outside group not connected to the group that Mr. Baker had had a problem with in the past. They were sort of together but not together if that makes any sense.
Q And do you know his exact involvement in this skirmish? Did he indicate that he was a part of it or just a witness?
A He -- the one that supposedly had the other gun is -- was a -- was coming there to meet one of the girlfriends. That's his thing, that come there, I believe.
Q And did you interview Mr. Baker after the -- after the incident?
A Yes, I did.
Q And bear with me just a moment.
(Pause.)
Q Did you have any indication that Baker started the altercation?
A No, sir.
Q Did you have any indication that Baker attempted to avoid the altercation?
A He kept telling the individuals that came in to tell him that he was going to fight them -- he kept telling them to leave it alone in his -- in his words.
Q And was that confirmed by other witnesses?

A I believe one of the females did say or was trying to also keep them calmed down. Without reading through them again, I can't be exactly sure.
Q In the statement that you took from Baker did he indicate what the group of men standing outside the doorway indicated to him?
A That he had some type of beef with their homeboy.
Q Did he mention to you that they said they were going to rob him of everything that he had?
A Yes, sir.
Q And did Baker indicate that it appeared or he was under the impression that any of those individuals had firearms?
A He stated that he thought one of them may have had because he kept his hands in his waistband.
Q Was that the same person that allegedly had a gun earlier in the evening?
A Without having to read three or four of them, I'm not quite sure. I don't recall the exact description. I don't believe so, but it could have been.
MR. IANUARIO: May I approach the witness, Your Honor?
THE COURT: You may.
A If you've got it that'd be great. Save me from looking.
(Pause.)

A Yes, sir. I believe so.
Q Thank you.
And after this point in time Mr. Baker still refused to fight and entered the building according to statements you gathered and investigations you've done.
A Yes, sir.
Q Do you feel that that doorway that Antwon was assaulted in offered him a reasonable avenue of escape?
A He could have kept coming in the restaurant, yes, sir.
Q And that was a full door, correct? Or we believe it's a full door.
A I believe so.
Q So that would have delayed him. Do you think there was any effort placed to hide from the attacker inside the Waffle House?
A There've been several hiding places in Waffle Houses from shooters, yes, sir.
Q And do you think that he could have gotten to those Waffle Houses from the doorway before somebody fired off a round?
A Given that we never found another weapon, yes, sir.
Q And how did you determine that Jakeem Middleton did not have a weapon?
A He supposedly ran around the store or the restaurant over to the adjacent restaurant -- I think it was IHOP back

then -- and hid in bushes and waited on his girlfriend to pick him up or a friend girl to pick him up.

They come back. The only other -- we checked all of that area, checked the car. The only other reference to a weapon that he might have had would I think came from the cook or one of the clerks inside of the Waffle House, might seen, thought they saw, the butt of a gun in his pocket or something -- I think in one of their statements.

Q Did you talk to a Brandon Glover on that particular evening?

A I think I tried to.

Q And have you found a copy of your report yet?

A Let me -- yes, sir. He wasn't too helpful.

Q And what comment did you make about that in your report? It starts with, "I was unable to get any information from him," and then goes on for a couple of more sentences. It's the bottom of my page. I don't know if it's the same as yours.

A I'm sorry. Which page?

MR. IANUARIO: May I approach again, Your Honor?

THE COURT: Yes, sir.

A "Don't if he was on something or not. He would not answer any question -- would not answer questions to any degree."

Q And what did your investigation determine Mr. Glover's

involvement in this altercation was?
A He was a relative of the victim, I believe, and he was with that group of people if I remember right.
Q Did any witnesses indicate that Mr. Glover started the altercation?
A He supposedly as near as we could tell is one of the individuals that hit Mr. Baker on the back of the head as he came into the restaurant.
Q Okay. And stepping back a moment, going back to Jakeem Middleton, you said that he was picked up in the Waffle House or in the parking lot of the IHOP, correct?
A Yes, sir. I believe so.
Q And in the -- in your investigation his friend girl -- for lack of a better term -- determined that when she picked them up, and according to his statement, Jay started striving -- Jay being Jaquan -- "Jay starts driving and they leave and come back." Do you know where they left to go?
A It apparently wasn't too far because they came back as officers were arriving too. I believe somebody else was with them.
Well, Glover said that was my cousin that needed to go back, something to that. I think that was said somewhere.
Q Were girls with them?
A I believe it was Jakeem and Glover and maybe Jaquan.

I think Jaquan and Jakeem were together.
Q Okay.
A I may be mistaken without going back through it.
Q Do you know of any reason that the friend girl would have had to exit the Waffle House parking lot to go immediately next door into the IHOP? Did she say why she was looking for them in the IHOP?
A Well, she brought them there, and I think she was trying to go find them and make sure they were all right.
Q And did they say where they went when they left?
A They did not, just I think -- I don't think they got anywhere before they turned around. I mean, I don't think they went to a place. I just think they got down the road and turned around as near as I could gather.
Q And did you take any gunshot residue samples or swabs from Mr. Middleton, Jakeem Middleton?
A I don't think we did. There was no other mention of anyone else firing any shots, so I do not believe that we did that.
Q Did Middleton indicate that Mr. Baker fired at him?
A I believe, yes, sir. I do believe he said as he was rounding the corner he turned back to look, and he said that Mr. Baker fired at him.
Q How did Antwon keep his weapon stored?
A He stated to me that he keeps it with the magazine in

the well with no round in the -- in the chamber.
Q Okay. Did you investigate Mr. Glover at the time of the incident and run his background?
A I did not.
Q Did you run the background on any of the witnesses that were present?
A I did not.
Q So we don't know if any of them had a history of violence or not.
A No, sir.
Q We don't know if any of them had a history of carrying firearms or not.
A No, sir.

MR. IANUARIO: Nothing further at this time, Your Honor.

MR. BULSA: May I bring the family in, Your Honor?

(Pause.)

CROSS-EXAMINATION

BY MR. BULSA

Q All right. Investigator Williams, this occurred at the Waffle House on -- excuse me -- up on Abernathy Boulevard?
A Yes, sir.
Q This is past the mall close to the Target.
A Yes, sir.

Q Okay. And you spoke about the double doors going into the Waffle House.

Now, this incident did not occur inside those, that doorway, did it?

A No, it did not.

Q Okay. That was -- the first of those two doors was the door that the defendant was trying to enter when he was hit in the back of the head.

A Correct.

Q Now, in your investigation of this case how many shots had been fired?

A I believe it was six or seven.

Q Do you know how many -- how many shell casings were found?

A Give me one second.

(Pause.)

A I'm counting right now, five.

Q Five shell casings recovered at the scene, right?

A Yes, sir.

Q And one spent bullet recovered at the scene.

A Yes, sir.

Q Okay. And the autopsy showed 12 bullet holes to the victim, correct, to Mr. Young?

A I believe so, yes, sir.

Q And those were five actual in-and-outs, and then one

additional in-and-out from one of the same bullets.
A Yes, sir.
Q Is that right?
A I believe so.
Q So we have five shell casings and five shots to Mr. Young.
Now, in your speaking with the defendant -- do you have copies of his original statements?
A Yes, sir.
Q May I see those?
(Pause.)
(First Statement marked State's Suppression Exhibit No. 1 for Identification; second statement marked State's Suppression Exhibit No. 2 for Identification.)
Q Now, we've got this marked state's exhibits for this hearing.
State's Exhibit 1 is a 2-page statement. Would that have been his first statement?
A Yes, sir.
Q Okay. And was it written in his own hand?
A It was.
Q Okay. And State's Exhibit 2 for this hearing is a 3-page statement. Is that the second statement?
A Yes, sir.
Q I'm not going over these in great detail, but would

you look in the first of these -- the first part of each of these statements? Did he not -- did the defendant not reference that he recognized a vehicle and some people he had had issues with before?

A He did.

Q And he wrote that in both of these statements.

A Yes, he did.

Q So he made that recognition when he first drove into the parking lot of this Waffle House, is that right?

A My understanding the way he relayed it to us.

Q And he referenced to you that he continued to park, in fact, got out and put his gun in his waist.

A Yes, sir.

Q And I think -- let me. I think these actually differ on the next point I want to make.

In the first statement, the 2-page statement, does he reference whether anyone in the parking lot commented to him as he was going into that Waffle House?

A "The boys didn't say nothing at first, so I went on in and ordered my food."

Q Okay. And then in the second one did he reference any comment that he said?

A He could hear them say it looked like him.

Q Okay.

A "I kept on walking."

Q All right. So in the second more lengthy statement he referenced actually hearing a comment.
A Correct.
Q Yet he continued to go into the Waffle House.
A Yes, sir.
Q Okay. Now, you commented about there being separate groups of people at this Waffle House. We have a group of young ladies who are inside the Waffle House eating, is that right?
A Yes, sir.
Q Three ladies. And then we have Mr. Young coming to the Waffle House earlier before the defendant with three of his friends.
A Yes, sir.
Q Is that right? And then we have this Jakeem Middleton that had come to the Waffle House with some of his friends.
A I think, yes, sir.
Q So Mr. Middleton was not actually part of the group involving Mr. Young, was he?
A No, sir.
Q And the video, you said it only shows what occurs inside the Waffle House.
A Correct.
Q Does it show any sort of animosity being displayed towards anybody?

A There's no volume but -- and it doesn't look like they were -- they weren't in each other's face or anything. You couldn't tell that good.
Q But what you asked --
A But you could tell they had a conversation together.
Q There's a conversation with the person you were able to identify as the defendant with apparently one other individual who we believe to be Brandon Glover, is that right?
A Correct.
Q It's merely a conversation. It appears that Glover is asking him to go outside.
A Yes, sir.
Q Because after that conversation they do go outside.
A Correct.
Q Then you cannot really see anything. But on one occasion you can see the defendant coming back into the door but then going back out immediately.
A Yes, sir. He just -- he just breaks the threshold of the outside door.
Q Okay. Now, the defendant in his statements references by his description what occurred. Does he say there were a crowd of people around him?
A He walked outside to a crowd of people, I think.
Q Okay. And how does he describe that he shoots the

weapon?
A You might have to give me my paper back.
Q Do you need that?
A Yes, sir.
Q Okay.
A I believe -- in his second statement he just said he pulls it out and starts firing it. The first one he turns back around and pulls out his gun and fires three to eight shots.
And I believe in -- when I was interviewing him he made a fanning motion as he was describing what he was doing as he was -- like he was spreading the crowd out.
Q Spreading the crowd. Okay. Yet only -- this was what type of weapon?
A A semiautomatic handgun.
Q And that's the type that rounds are ejected as they're shot?
A Yes, sir.
Q And was that weapon recovered?
A It was.
Q Was a clip in it?
A I believe it was, yes, sir.
Q How many rounds had been removed from the clip?
A I will have to look back on that. Bear with me just a moment.

(Pause.)
A I believe it had ten -- ten rounds left in it if I read it correctly.
Q And how many rounds does that clip hold?
A Fifteen.
Q Fifteen. So ten were still in it, and five rounds were found or shell casings were found at the scene.
A Yes, sir.
Q And how many other people got hit when he did this fanning motion shooting the gun?
A Just one, just the victim, no other victims.
Q Anthony Young was the only one who was struck.
A Yes, sir.
Q And Mr. Ianuario asked you about the -- one of the cars specifically leaving, the one that went to pick up Jakeem Middleton. Weren't there other cars in the parking lot that left as well?
A Yes, sir.
Q And do you know why they were leaving?
A I would think to get out of the way of the gunfire.
Q Okay. And just so the Court has a good understanding, these shell casings, were they just found right in front of the Waffle House door?
A No. They were -- I think two were found just in that parking lot there, and there were a couple of more on

through the parking lot, and then I believe at least one in a parking lot above.

If you're looking at the front door of the Waffle House there's a -- I guess a mini mall parking lot right there. It's separated by a grass median. There was at least one up there if I'm not mistaken.

Q So these shell casings were not grouped in one location. They were spread over a distance.

A Yes, sir.

Q In fact, through the Waffle House parking lot into another parking lot.

A Yes, sir.

Q Do you know if the defendant was entitled to be possessing that gun?

A Let me look.

Q Did he have a concealed weapons permit?

A I do not believe he did.

Q So he was not in lawful possession of that gun when he got out to go to the Waffle House.

A No, sir.

Q Okay. Thank you. That's all I have.

REDIRECT EXAMINATION

BY MR. IANUARIO

Q Detective Foster, you indicated that Mr. Baker exited out of the doorway or could have exited out of the doorway

and run into the parking lot. Is there any place to substantially hide for cover in the parking lot?
A Awhile ago he could have came on in the Waffle House. When he went back out the Waffle House he went to confront them and hide behind cars. I think he actually did say he ran behind one car at one time.
Q And has a car ever stopped a bullet?
A It has.
Q Unless it hits the engine block or a major piece of the moving -- will sheet metal, will a door stop, a bullet?
A No, sir.
Q At what point in time did you think that Antwon had a duty to retreat? Would you say that duty arrived when he recognized some people he had a problem with in the past?
A I don't think I would have pulled in the parking lot if I'd a problem with somebody that was there.
Q But do you think that the law should be interpreted as if you see anybody that you've had a problem with you should just go away and not confront them, that you have no right to be where anyone else is?
A I didn't get to go to law school that long.
Q The comments -- in his first statement that they didn't say anything.
A Yes, sir.
Q Are you indicating they did not say anything to him

directly, or did they not say anything amongst themselves, no words were spoken at all?

A If you'll let me have it back, I believe his first statement says they did not say anything. The second one, I believe he overheard them state something that made me believe they weren't talking to him, he just overheard them talking. Yes, sir. First one, "The boys didn't say nothing first."

Q So we don't know if he was referring to them saying anything directly at him or them just being completely speechless.

A Yes, sir.

Q And in the second statement --

A "I started to walk toward the Waffle House and I could hear boys say it looked like him."

Q Okay.

A So that makes me think he's not being talked to.

Q So he's being talked about.

A Right.

Q You spoke with Jakeem, and he said he was there to meet one of -- I'm sorry. Why was Jakeem at the Waffle House?

A I'm sorry?

Q Why did Jakeem Middleton go to the Waffle House?

A I think he is the one that was going to meet a friend

and some girls.
Q And do you remember the name of his friend?
A D.J.
Q And did Jakeem indicate to you that that group of people had been giving his group of people any problems?
A He had -- apparently some words were exchanged somewhere, and I believe that came to be -- he was there to talk with the girls already with the other guys.
Q Bear a moment.
(Pause.)
A I believe it says that actually D.J. was the one having the problem.
Q Okay. Did you see any indication of that on the video?
A No, sir.
Q Did D.J. indicate anything about previously knowing Mr. Baker?
A No, he did not.
MR. IANUARIO: May I approach again, Your Honor?
(Pause.)
Q This may be just reading it wrong.
A "D.J. starts to tell him that he is having a problem with someone inside, something about the girls already being with somebody. And then he sees the white Crown Vic drive in, and the driver's mean-mugging him, staring him

down. Driver goes on inside, and he hears D.J. say that he had a beef with him in the past."

Q So it sounds like D.J. and Mr. Baker -- if I am reading this right -- had issues in the past. Is that the correct interpretation?

A That's what it sounds like, but I don't recall them knowing each other.

Q And Jakeem indicated that Mr. Baker shot at him.

A I believe so as he was rounding the corner.

Q Did he indicate which corner of the Waffle House he was rounding? I mean the back or the front.

A No, sir. I took it he -- the way he described it he was running around the front towards 29 and around that corner.

Q Okay. So from the description -- and you believed Jakeem when he said he didn't have a gun, correct?

A Correct.

Q You believed Jakeem when he said he was shot at, correct?

A Well, we never found any projectiles beyond him or anywhere right there.

Q Well, why do you think he said he was shot at if he wasn't? Did he give you any indication that he was trying to hide something?

A I don't know. He could have just been running because

the shots were fired. And if Mr. Baker's fanning the gun around he could have thought he was. We just never found any projectiles in that direction.

Q So construing this liberally they fired a shot at Jakeem. That's one shot. Mr. Baker is spraying and making this motion as multiple shots.

There's only five shots missing from this gun, and there's five-bullet passed from the deceased. Wouldn't that indicate that there'd be another gun?

A If there was any more holes or projectiles.

Q But how did you determine the holes came from Mr. Baker's gun?

A I believe that the projectile that was recovered matched his gun.

Q Was there any D.N.A. found on that projectile?

A I don't recall that.

Q Are you familiar with the operation of a revolver versus semiautomatic?

A A revolver just rotates in a little cylinder and the shell casings stay inside the weapon.

Q So then if there was a revolver and a semiautomatic and multiple shots were fired you would have only recovered the casings from the semiautomatic.

A Correct.

MR. IANUARIO: Nothing further.

RECROSS-EXAMINATION

BY MR. BULSA

Q Was there any evidence at all to suggest there was another weapon fired?

A No, sir, just the brief statement from the clerk saying he thought he saw a butt of a weapon. And then Mr. Baker said that one of them kept his hands on his waist. No other --

Q The question, Investigator, was whether there was any evidence at all that suggested another weapon was fired.

A None.

Q None?

A None.

Q Okay. Where did the defendant live at the time?

A I believe his address at the time was the townhomes over off of East Blackstock Road.

Q Which is approximately how far from this location?

A A mile and a half maybe.

Q Was there another Waffle House in the proximity of that address?

A Yes, sir. There is a Waffle House at Reidville Road and East Blackstock.

Q Which is actually a little closer to his residence than this one was.

A It should be. I'm not quite sure of the exactness,

but that should be closer to his residence than 29.

Q Thank you.

MR. BULSA: That's all I have.

REDIRECT EXAMINATION

BY MR. IANUARIO

Q Did you ask Mr. Baker what direction he was coming from when he entered the Waffle House?

A I believe he said he was just coming home from being out up 29. He came from that direction.

MR. IANUARIO: Nothing further.

THE COURT: Step down.

Next witness.

MR. IANUARIO: No further witnesses, Your Honor.

MR. BULSA: The state has no presentation to show.

THE COURT: Are these statements introduced into evidence?

MR. BULSA: They are for this hearing, Your Honor. I would offer them if they're not. I don't think I formally introduced them.

But any objection to this being offered?

MR. IANUARIO: No objection.

(First Statement marked State's Suppression Exhibit No. 1; second statement marked State's Suppression Exhibit No. 2.)

THE COURT: Any argument y'all want to make?

MR. IANUARIO: Yes, Your Honor.

Again, I would argue the case should be dismissed as the "Stand Your Ground" law applies. Aside from the unlawful carrying of a pistol, there's no indication that Mr. Baker was engaged in any unlawful activity.

There's no indication that he was at fault in bringing on the fight. He even attempted to walk away. When he was attacked the doorway entering into the Waffle House did not offer sufficient room for him to escape the attack, especially when you consider the door has to be pulled inward, so that it would have slowed him down. Plenty of time for someone to have stabbed him with a knife or shot him at very close range.

Once you enter into the Waffle House the only way he would have found any sort of cover that would have stopped a bullet would have been to jump over the counter.

By the same token, had he exited the Waffle House going into the parking lot -- he wasn't sure who had a gun. He knows at least one gentleman did.

I believe that the vehicle would not have had -- provided adequate cover. He didn't have the means to retreat to go get in his vehicle and leave.

Also, I believe there is evidence that there was another firearm present.

If you look at the statements that Detective Foster

received it mentions that they're talking about robbing Antwon.

There is a separate employee that mentions -- a Waffle House employee that mentioned he saw Jakeem Middleton with a -- what he believed to be a firearm earlier in the day. Plus, Antwon says that Jakeem Middleton had a firearm.

Jakeem Middleton was out on bond and probation at the time which would given him motivation to hide something.

He left the scene. He then returned. And even though there were two statements saying that Jakeem Middleton had a firearm, they neglected to take any G.S.R. sampling from him to determine if the shot was fired by Mr. Middleton. They just took him at his word.

Based on that I don't see that there's enough to disprove that Antwon Baker was within his rights to defend himself as he was being jumped by numerous men. And at least one of them was flashing a firearm toward Mr. Baker. And the testimony -- the independent statement from the Waffle House manager also confirms that.

THE COURT: Well, I don't have that statement.

MR. IANUARIO: I believe Detective Foster had mentioned that one of the Waffle House employees had indicated there was a firearm present.

THE COURT: Okay. Mr. Bulsa.

MR. BULSA: Your Honor, there's no evidence that the

defendant himself saw a weapon at the Waffle House.

The evidence is clear that he saw the person or persons that he claims he had an altercation with earlier.

He could have easily have gotten back in his car and continued on to the other Waffle House which was closer to his residence.

Your Honor, by stepping out of the car and arming himself he was not engaged in unlawful activity -- he was engaged in an unlawful activity. He had no right to possess that firearm.

He enter -- he brought the firearm to this situation, Your Honor. He is therefore not entitled to immunity under this statute, nor can he reasonably believe it was necessary to fire that gun that many times.

Based on the location of the rounds and the number of shots Mr. Young had in his -- through his body, that suggests that the defendant chased him down.

He took this as an opportunity to handle whatever problem Mr. Young and he had had in the past. He -- he is the one that presented and made this what it is.

He didn't -- he didn't seek to remove himself or avoid any conflict. He armed himself in case there was a conflict. And when there was he took the opportunity to enter in a deadly fashion.

Your Honor, this is a case for the jury to decide, and

he is not entitled to immunity.

THE COURT: Well, to begin with, I'm not satisfied that this statute applies to these circumstances.

The Protection of Persons and Property Act provides that -- it's the intent of the general assembly to codify the common law Castle Doctrine, which, as we know, recognizes that a person's home is his castle, and that you can protect your home from attack, or people in it from attack, without the necessity of retreating and use force as is necessary in order to repel the assault.

So the general assembly has stated in 16-11-420 that the purpose of this statute is to codify the common law Castle Doctrine and to extend the doctrine to include an occupied vehicle and the person's place of business.

Well, this is not the defendant's residence; it's not an occupied vehicle by the defendant; and it's not his place of business. This is a public place.

Is there some reason why this statute's applicable?

MR. IANUARIO: Your Honor, I believe it's applicable under subsection (c), that a person who is -- a person who is not engaged in unlawful activity and who is, in fact, in another place where he has the right to be.

I'm not saying that he was in his home or his vehicle.

THE COURT: I understand, but you've got to read the statute in the context of whether they're trying to

promote. And they say that -- the purpose of the statute is to protect the person in his home, occupied vehicle and place of business.

Are y'all aware of any cases where there've been immunity hearings regarding 16-11-440 and 450 that don't involve a person's home, vehicle or place of business?

MR. BULSA: Not that I recall being reported on, Your Honor.

MR. IANUARIO: I have been unable to find one, Your Honor.

THE COURT: Sir?

MR. IANUARIO: I've been unable to find one.

THE COURT: Well, I think there's a reason for that. All of the statutes I've been --

MR. BULSA: I -- I appreciate the Court's putting it into context, and I agree the statute's not cleverly written, but that phrase is the reason I brought it to the Court's attention, because I felt somewhere down the road the Court might extend it to a situation like this.

THE COURT: All right. Well, based upon what's been presented I find that the statute is not applicable to the circumstances.

But even if it is, I find that the defendant has failed to establish by a preponderance of the evidence that he acted reasonably, that he was attacked, and that he had

a reasonable fear of imminent peril or death or great bodily injury, and that it was reasonably necessary to use deadly force in order to prevent that death or great bodily injury to himself.

So motion for dismissal pursuant to 16-11-450 is denied.

All right. Anything else?

MR. IANUARIO: Nothing from the defense, Your Honor.

MR. BULSA: No, sir.

THE COURT: All right. Court is in recess until 2:30.

(Whereupon, a recess was taken.)

THE COURT: Mr. Ianuario, do you have a witness list by any chance?

MR. IANUARIO: No, Your Honor.

No, Your Honor. At this point in time I believe I'll be using the same witnesses as the state --

THE COURT: Okay.

MR. IANUARIO: -- as soon as I make a determination. Otherwise, I'll notify the Court.

THE COURT: All right.

MR. BULSA: May we approach?

THE COURT: All right.

(Bench conference held off the record.)

THE COURT: All right. Any other matters we need to address before the panel is brought around?

MR. BULSA: Not by the state.

MR. IANUARIO: No, Your Honor.

THE COURT: How about drawing me a list of 40? How many do we have total -- 65 or 70? Let's do 40.

MR. BULSA: Your Honor, are we going to know which 40 we're going to be selecting from?

THE COURT: You will when they get called up here.

MR. BULSA: That might affect how I use the strikes.

THE COURT: It always does, but you don't get --

MR. BULSA: Okay. By selecting 40 you're going to remove some that's potential. I'm going to have to save my strike for somebody I know is not going to be impaneled.

THE COURT: Well, they're going be sitting right behind you. You can have a look at them.

MR. BULSA: I'll be saving the strikes that are not even on the list.

THE COURT: Well, do you know who you want to strike?

MR. BULSA: Pretty much.

THE COURT: Well, have a look at them when they come in.

(The following takes place in the presence of the jury venire.)

THE COURT: Good afternoon, ladies and gentlemen.

We are ready to begin with jury selection in the first case that's going to require some of your participation.

And the title of the case is the State vs. Antwon Michele Baker, Jr.

Mr. Baker has been accused by the prosecutor by way of indictments -- and indictments are legal documents. They set forth the charge brought against someone else sort of like an arrest warrant except the grand jury is the one that returns the indictments. But it's a charging paper.

It's not evidence of anything; it's not proof of anything. But it does state the charge against a person when they come to court so that everyone will know what the charge is and the defendant will be put on notice as to what crime the state claims he committed.

But in these two indictments the state accuses Mr. Baker of having committed the crimes of murder and of the unlawful possession of a pistol.

The state alleges that on or about June the 3rd of 2012 Mr. Baker did wilfully and with malice aforethought cause the death of Anthony Teccelle Young by shooting him with a handgun and that Mr. Young died as a proximate result of that gunshot wound.

They also allege at the time that this offense was committed that he was in the unlawful possession of a pistol.

Now, as to those allegations and as to those charges the defendant has entered a plea of not guilty. And a plea

of not guilty places upon the state because they brought the charge to establish the allegations that they have set forth in each of the indictments, to prove each of the essential elements that make up the crimes alleged against the defendant; and therefore the burden is upon the state to establish the defendant's guilt to the satisfaction of 12 jurors beyond a reasonable doubt before a verdict of guilty could be returned.

And so we're going to be selecting actually 13 of you. There'll be 12 primary jurors and one additional juror to serve as an alternate so that if something happens to one during the trial the alternate will take that person's place.

Before we begin with that jury selection I've got some folks that I'm going to introduce to you. They're people that are involved in the trial of the case. And they're being introduced to find out if you have any connection with them, so we'll find out if you have any reason why you think you could not be fair and impartial if called upon to serve as a juror in the case.

After I introduce those people to you I'll also ask you some additional questions in order to determine your ability to be fair and impartial.

So during the course of this process should a question apply to you, you need to respond to it, just please stand

and I'll address those responses with you.

Now, first of all, as I've told you, the defendant, the person who is accused of having committed these offenses, is Antwon Baker, Jr.

Mr. Baker, if you will, stand and face the jury panel please.

(Whereupon, the defendant stood.)

THE COURT: All right. Mr. Baker is being represented in this case by Robert Ianuario and Matthew Canady. Those are his lawyers. They'll be assisting him during the trial of the case.

(Whereupon, Mr. Ianuario and Mr. Canady stood.)

THE COURT: Thank you.

Presenting the case on behalf of the state are Derrick Bulsa who is a deputy solicitor for the 7th Judicial Circuit and Lindsey Overby who is an assistant circuit solicitor for the 7th Judicial Circuit.

(Whereupon, Mr. Bulsa and Ms. Overby stood.)

THE COURT: The person who is alleged to have been the victim of this charge is Anthony Teccelle Young.

Are some of these his family members present? And who's present?

MR. BULSA: His mother and other members.

Y'all stand up.

(Whereupon, the victim's family stood.)

THE COURT: All right. I'm going to ask these folks to stand up.

These are relatives -- if you will, turn and face the jury panel. These are relatives of Mr. Young. And the reason they're standing is so by seeing them you might know who Mr. Young was. And you may have some connection with them.

All right. Thank you. You may be seated.

In addition to those people who have been introduced I'm going to recite a list of potential witnesses.

I also need to find out if you have any connection with any of these people. Do you go to church with them; do you go to school with them; do you work with them; do you socialize with them; do you have any connection with them; do you know them; have you met them somewhere?

And in addition to those who've already been introduced the potential witness list includes Kiara Byrd-Glover, Justin Davis, Danny Foster, Vonte Fuller, Antwon Gist, Brandon Glover, Chassity Glover, Jonathan Goldwire, Tanisha Martin, Jakeem Middleton, Darrin Moore, Amy Padgett, Darrian Tolliver, Hillary Wilkins, Rodney Wofford.

The next four potential witnesses that I'm going to recite have been or are employed by the Waffle House.

Sherry Burnett, Joshua Hance, Stephen Kahler and

Charles Mauney.

Also, have JoAnn Dixon employed by Spartanburg Communications, 9-1-1.

And the following 16 or so witnesses all work for the Spartanburg County Sheriff's Department.

They include Jeremy Byrd, Andrew Crisp, Richie Foster, Dwight Garcia, David Hogsed, Charles Littleton, Andrew Metcalf, Angela Nelson, Sean Nix, Calvin Smith, Cody Stepp, Robert Talanges, Lorin Williams, Alan Wood, Teri Carter and Joey Lathan.

We also have four individuals employed by the state law enforcement division.

They include Betty Butler, James Green, Paul Meeh, Quintus Young.

And we have Taylor Bouknight and David Wren employed by Spartanburg Regional Medical Center. Dr. Wren is a pathologist. And Taylor Bouknight is what capacity?

MR. BULSA: She works in the morgue.

THE COURT: Works in the morgue. And Delton Cease.

Okay. Does any juror know anybody who has just been introduced for your benefit? If you do, I'm going to ask that you please stand so I can address that with you.

And in addition to those I've introduced to you, I'll also ask if any member of the jury panel knows anybody employed in the 7th Judicial Circuit Solicitor's Office.

All right. I am going to -- what I'll do is I'll start to my right, front row to back, and then I'll jump the aisle, front row to back.

Your name and number, please, ma'am.

JUROR NO. 3: Kimberly Allen, Juror No. 3.

THE COURT: And who is it that you know?

JUROR NO. 3: I know Chuck Littleton, one of the deputies.

THE COURT: How do you know him?

JUROR NO. 3: I worked with his wife 15 years.

THE COURT: Would that have any bearing on your decision in this case if you were selected?

JUROR NO. 3: No, sir.

THE COURT: Thank you. You may be seated.

JUROR NO. 3: And I also know another name.

THE COURT: Okay.

JUROR NO. 3: I don't know if I know them or not, but I taught for 15 years at a District 6 school, and one of the names is familiar.

THE COURT: Do you remember which one it was?

JUROR NO. 3: Antwon Gist.

THE COURT: Okay. Antwon Gist.

Is Mr. Gist present?

MR. BULSA: He's out in the lobby.

THE COURT: Let's bring him in. Antwon Gist.

How long ago has that been?

JUROR NO. 3: I taught kindergarten for 15 years. It's been -- I had kindergarten for six years.

THE COURT: One you know from kindergarten. Okay.

JUROR NO. 3: And I also had boys and girls club, so I had 30 fifth-graders.

THE COURT: Okay. You might able to recognize. I don't know if it's him, if it's the same one.

All right. That's Antwon Gist right there.

JUROR NO. 3: Yes, sir.

THE COURT: Okay. Mr. Gist, you can step back outside. Thank you.

All right. And how did you know Mr. Gist?

JUROR NO. 3: He was probably one of my students at the boys and girls club.

THE COURT: Students. All right. Would that have any bearing upon your decision in this case if you were selected?

JUROR NO. 3: No, sir.

THE COURT: Okay. Thank you. You may step down -- excuse me. You may be seated.

All right. Yes, ma'am. Your name and number, please.

JUROR NO. 35: No. 35, Candice Cabiness. Joshua Hance is a nephew.

THE COURT: Joshua Hance is your nephew.

JUROR NO. 35: My nephew, yes, sir.

THE COURT: Okay. And tell me your number again, please.

JUROR NO. 35: Thirty-five.

THE COURT: And would that have any bearing upon your decision in the case?

JUROR NO. 35: No, sir.

THE COURT: Have you had any discussion with Mr. Hance about his testifying in this case or anything about the case?

JUROR NO. 35: I've heard a little bit, but, I mean, I don't see him that often, but no, sir. I don't know what happened or anything.

THE COURT: All right. Thank you, ma'am. You may be seated.

All right. I'll start with you, sir, in the stripe shirt.

JUROR NO. 146: Randy Rutter, 146.

THE COURT: Who is it that you know?

JUROR NO. 146: Richie. I just know. I met a few years ago. He worked for a close friend of mine and participated in a mud run.

THE COURT: Participated in a what?

JUROR NO. 146: A mud run in Greenville.

THE COURT: Okay. And your number again was what?

JUROR NO. 146: 146.
THE COURT: All right. Would that have any bearing upon your decision in this case?
JUROR NO. 146: No, sir.
THE COURT: Thank you. Be seated.
Yes, ma'am.
JUROR NO. 36: I'm Juror 36. I did an internship with Alan Wood like 18 years ago.
THE COURT: And would that have any bearing upon your decision in the case?
JUROR NO. 36: No, sir.
THE COURT: Thank you. Be seated.
Yes.
JUROR NO. 102: No. 102, Patricia Manning. You called Darrin. I'm not for sure his last name.
THE COURT: I called out Darrin Moore.
JUROR NO. 102: I don't know if that's the last name.
THE COURT: I also called out a Darrian Tolliver.
JUROR NO. 102: This -- this guy, he's out here because I saw when I came in.
THE COURT: Oh, and so that's somebody you do know.
JUROR NO. 102: He goes to church with me.
THE COURT: All right. And you know him because y'all go to church together.
JUROR NO. 102: Yeah.

THE COURT: And would that fact have any bearing upon your decision in the case?

JUROR NO. 102: No, sir.

THE COURT: All right. Thank you. You may be seated.

Anyone else know anybody who has been introduced? If so, please stand.

(No response.)

THE COURT: Now, this is a case which the state alleges occurred back on June the 3rd of 2012, a year ago. And it is alleged to have occurred at the Waffle House located on Highway 29 in Spartanburg.

Does anybody think you might have heard, seen or read anything about the facts that relate to this case?

In other words, have you been exposed to any type of information about this case from any person or any other source? Television, radio, newspaper or individuals talking about the case. If you've been exposed to any type of information about the case I would ask that you please stand.

All right. I'll start again on the front row with Juror No. 3.

And tell me what source you believe you've been exposed to information from.

JUROR NO. 3: Newspaper.

THE COURT: Newspaper?

JUROR NO. 3: Yes, sir.
THE COURT: And how recent have you read something in the newspaper?
JUROR NO. 3: I don't remember reading it until now, until I heard about the case.
THE COURT: All right. But, I mean, it was something that happened a year ago, or something more recent?
JUROR NO. 3: No. When it first came out.
THE COURT: Okay. And do you specifically recall anything that you read?
JUROR NO. 3: No, sir.
THE COURT: Do you believe that anything that you might have read would have any bearing upon your decision in the case?
JUROR NO. 3: No, sir.
THE COURT: All right. Thank you. You may be seated. Yes, sir.
JUROR NO. 172: Yes, sir. I heard about it on the news.
THE COURT: All right. Tell me what your number is, please.
JUROR NO. 172: I just heard there was a shooting.
THE COURT: No. Tell me what your number is.
JUROR NO. 172: My number is 172.
THE COURT: 172?

JUROR NO. 172: Yes, sir.

THE COURT: And you heard something about it on the news.

JUROR NO. 172: Yes, sir.

THE COURT: And how long ago did you hear something?

JUROR NO. 172: Oh, it was -- it was around that time last year.

THE COURT: Okay. And is there anything about what you heard that you remember? Don't tell me what it was. Just tell me if you remember anything.

JUROR NO. 172: No, sir.

THE COURT: Just --

JUROR NO. 172: Just -- just kind of remember that happening. That's about it.

THE COURT: Okay. And is there anything that you were exposed to that would have any bearing upon your decision in the case?

JUROR NO. 172: No, sir.

THE COURT: Do you think you could still be fair and impartial?

JUROR NO. 172: Yes, sir.

THE COURT: Thank you. Be seated.

Yes, ma'am. Juror --

JUROR NO. 35: No. 35.

THE COURT: Thirty-five. And you told me that you

heard something.

JUROR NO. 35: From my nephew through my mother.

THE COURT: Through your mother.

JUROR NO. 35: Yeah, my mother because it's her -- my mother is his grandmother, great-grandmother.

THE COURT: Okay. And is there anything about what you heard from your mother that would have any bearing upon your decision in the case?

JUROR NO. 35: No, sir.

THE COURT: And if it were something that didn't come out during the course of the trial but you remembered her saying something about it would you be able to put that out of your mind and not allow it to influence your decision?

JUROR NO. 35: Yes, sir.

THE COURT: All right. Thank you. You may be seated.

Yes, ma'am, 102.

JUROR NO. 102: Yes, sir.

THE COURT: And from what source did you get some information?

JUROR NO. 102: I -- just over the T.V., and then hearing different peoples talk about it the night that it happened.

THE COURT: Okay. And do you remember any of that thing you saw on television or those discussions?

JUROR NO. 102: I just heard that it was a shooting.

That's all.

THE COURT: Ma'am?

JUROR NO. 102: I just heard that it was a shooting at the Waffle House.

THE COURT: Okay. And is there anything about what you did hear that would have any bearing upon your decision in the case?

JUROR NO. 102: No, sir.

THE COURT: All right. Thank you. You may be seated.

Anyone else believe you may have been exposed to information about the case? If so, please stand.

(No response.)

THE COURT: Has any member of the jury panel or any members of your immediate family -- and let me define an immediate family member as a parent or a spouse or a child or a sibling -- a parent, a spouse, a child or a sibling. Have you or any members of your immediate family as I just defined it ever been the victim of any type of violent criminal offense, or have you or some family member ever been accused of having committed some type of violent criminal offense?

I'm going to include in the definition of a violent criminal offense the crimes of murder, manslaughter, assault and battery with intent to kill, criminal domestic violence of a high and aggravated nature, criminal sexual

conduct, armed robbery, common-law robbery, aggravated assault and battery, or any other similar type of criminal offense.

Have you or a family member ever been the victim of such or have you ever been -- you or a family member ever been accused of having committed such? If so, please stand.

All right. Your name and number, please, sir.

JUROR NO. 122: 122, Ray Morton.

THE COURT: 122?

JUROR NO. 122: Yes, sir.

THE COURT: All right. And was it you or a family member?

JUROR NO. 122: My brother.

THE COURT: All right. And do you mind responding to the question where you are?

JUROR NO. 122: Oh, yeah. He was attacked, robbed --

THE COURT: He was a victim?

JUROR NO. 122: -- with a gun.

THE COURT: All right.

JUROR NO. 122: And beaten -- beaten with it.

THE COURT: Okay. And is there anything about that experience that your brother has had that would affect your judgment in this case?

JUROR NO. 122: No, sir.

THE COURT: All right. Thank you. You may be seated.
Yes, sir.
JUROR NO. 49: Juror 49.
THE COURT: Forty-nine. And was it you or a family member?
JUROR NO. 49: It was me.
THE COURT: And do you mind responding to the question where you are, or would you prefer not to?
JUROR NO. 49: I was robbed and beaten down in Summerville, South Carolina, about two years ago.
THE COURT: All right. And is there anything about that experience that would affect your judgment in this case?
JUROR NO. 49: No, sir.
THE COURT: Thank you. You may be seated.
Does any member of the jury panel regularly or frequently eat at a Waffle House restaurant? If so, please stand.
All right. Your name and number, please.
JUROR NO. 34: Caroline Bush, 34.
THE COURT: Thirty-four?
JUROR NO. 34: Yes, sir.
THE COURT: Is there anything about that fact that would affect your judgment in the case?
JUROR NO. 34: No.

THE COURT: Be seated.

Thirty-five. You do also. Anything about that fact that would affect your judgment in the case?

JUROR NO. 35: No, sir.

THE COURT: Thank you. Be seated.

All right. Your number, please?

JUROR NO. 7: No. 7.

THE COURT: Seven. And you do?

JUROR NO. 7: I do.

THE COURT: And is there anything about that fact that would affect your judgment in this case?

JUROR NO. 7: No, sir.

THE COURT: Thank you. Be seated.

Yes, ma'am.

JUROR NO. 72: Seventy-two.

THE COURT: Seventy-two. And you also do?

JUROR NO. 72: Uh-huh.

THE COURT: Anything about that fact that would affect your judgment in this case?

JUROR NO. 72: No, sir.

THE COURT: Thank you. Be seated.

Yes, sir.

JUROR NO. 144: 144.

THE COURT: 144. You also do?

JUROR NO. 144: Yes, sir.

THE COURT: And anything about that fact that would affect your judgment in this case?

JUROR NO. 144: No.

THE COURT: Thank you. Be seated.

Okay. I've introduced the witnesses to you. I've introduced the defendant to you; family of Mr. Young. I've introduced the lawyers to you. I've introduced the potential witnesses to you and told you basically what the case is about.

Having heard all of that and understanding all of that does any juror know of any reason whatsoever why you believe you could not be fair and impartial to both sides in this case if you were selected to serve as a juror?

If you have any reason whatsoever why you think you could not be fair and impartial, I would ask that you please stand.

(No response.)

THE COURT: None responding.

Any other questions requested by the state?

MR. BULSA: No. 3.

THE COURT: Okay. I missed a couple.

All right. I've introduced the defendant to you. Does anybody know the defendant or any member of his family? If so, please stand.

(No response.)

THE COURT: Does any member of the jury panel possess a concealed weapons' permit -- possess a concealed weapons' permit? If so, please stand.

All right. Your juror number was?

JUROR NO. 49: Forty-nine.

THE COURT: Forty-nine. Thank you. Be seated.

Yes, ma'am.

JUROR NO. 7: Seven.

THE COURT: Seven.

JUROR NO. 143: 143.

THE COURT: 143.

JUROR NO. 5: Five.

THE COURT: Five.

All right. Any other questions requested by the state?

MR. BULSA: No, sir.

THE COURT: By the defendant?

MR. IANUARIO: No, Your Honor.

THE COURT: All right. The way a jury is selected is that your names are in the computer. They're drawn randomly by the computer.

You'll be asked to come forward. You'll see where the lawyers are seated at the desks.

Just if you're towards the center aisle, come up the center aisle. If you're towards the wall, you can come

around the desks.

I need you to take a stance just about two steps from the lawyers' tables towards me. Turn and face your fellow jurors.

Each side has an opportunity to have you excused from service in the case, or they may agree to have you seated.

If either asks that you be excused just go back and have a seat where you are now.

If both agree to have you seated for service in the case you'll be having a seat in the jury box to your right and to my left.

So please simply come forward as your name is called. You'll be instructed if you're to be seated for service or excused from service in the case.

THE CLERK: No. 10, Abbie Bagwell.

What says the state?

MR. BULSA: Please present the juror.

THE CLERK: What says the defense?

MR. IANUARIO: Please excuse the juror.

THE CLERK: No. 73, Andrea Green.

What says the state?

MR. BULSA: Please present the juror.

THE CLERK: What says the defense?

MR. IANUARIO: Please excuse the juror.

THE CLERK: No. 12, Jason Bass.

What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please swear the juror.
THE CLERK: No. 143, Robert Rogers.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please swear the juror.
THE CLERK: No. 63, James Foster.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please swear the juror.
THE CLERK: No. 40, Theresa Carpenter.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please swear the juror.
THE CLERK: No. 106, Jerry Martin.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please excuse the juror.
THE CLERK: No. 23, Brandon Brazell.

What says the state?
MR. BULSA: Please excuse the juror in this case.
THE CLERK: No. 144, Laymond Rookard.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please swear the juror.
THE CLERK: No. 66, Crystalen Gault.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please excuse the juror.
THE CLERK: No. 5, Rhonda Arnold.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please swear the juror.
THE CLERK: No. 129, Jennifer Pace.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please excuse the juror.
THE CLERK: No. 122, Raymond Morton.
What says the state?
MR. BULSA: Please present the juror.

THE CLERK: What says the defense?
MR. IANUARIO: Please swear the juror.
THE CLERK: No. 20, Timothy Bosier.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. BULSA: What was that juror number again, please?
THE CLERK: Twenty.
MR. IANUARIO: Please excuse the juror.
THE CLERK: No. 44, James Cobb.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please excuse the juror.
THE CLERK: No. 34, Caroline Bush.
What says the state?
MR. BULSA: Please excuse the juror in this case.
THE CLERK: No. 7, Monique Austin.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please swear the juror.
THE CLERK: No. 57, Donald Dzedzy.
What says the state?
MR. BULSA: Please present the juror.

THE CLERK: What says the defense?
MR. IANUARIO: That juror number again?
THE CLERK: Fifty-seven.
MR. IANUARIO: Please excuse the juror.
THE CLERK: No. 147, Jerry Sanders.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please excuse the juror.
THE CLERK: No. 107, Troy Martin.
MR. BULSA: What number, madam clerk?
THE CLERK: 107.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please swear the juror.
THE CLERK: No. 146, Randall Rutter.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please swear the juror.
THE CLERK: No. 36, Mary Camp.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?

MR. IANUARIO: Please swear the juror.
THE CLERK: No. 138, Makeba Roberson.
What says the state?
MR. BULSA: Please excuse the juror in this case.
THE CLERK: No. 149, Chelsea Shropshire.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please swear the juror.
THE COURT: This will be for the alternate.
THE CLERK: No. 154, Raynold Sumpter.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please excuse the juror.
THE CLERK: No. 72, Patricia Grayson-Wright.
What says the state?
MR. BULSA: Please excuse the juror in this case.
THE CLERK: No. 67, Nigel Gentry.
What says the state?
MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please excuse the juror.
THE CLERK: No. 17, Joyce Benson.
What says the state?

MR. BULSA: Please present the juror.
THE CLERK: What says the defense?
MR. IANUARIO: Please swear the juror.
(Whereupon, a jury was impaneled.)
THE COURT: All right. Those selected, I'll ask you to please go with a bailiff to a jury room, and I'll bring you back in just a few minutes to begin with the trial.
(The following takes place outside the presence of the jury.)
THE COURT: Are there any matters that need to be addressed regarding jury selection by the state?
MR. BULSA: No, Your Honor.
THE COURT: By the defendant?
MR. IANUARIO: No, Your Honor.
(Whereupon, the remaining members of the jury venire were excused.)
THE COURT: All right. Any matters to address before the jury is brought in?
MR. BULSA: Not by the state, Your Honor.
MR. IANUARIO: None from the defense, Your Honor.
THE COURT: Bring them in.
Ask Mr. Foster, James Foster, to take the foreperson's seat.
(The following takes place in the presence of the jury.)

THE COURT: All right. Ladies and gentlemen, we are ready to begin with the trial of the case for which each of you have been selected.

And, Mr. Foster, I'm going to ask you to serve as the foreperson of the jury. As the foreperson you'll have three specific duties that none of the other jurors will have.

First of all, you're going to be asked to serve as the spokesperson for the jury. And that just means if something occurs during the trial of the case that needs to be brought to my attention -- you or a fellow juror has some difficulty, problem or question -- it will be you who will let me know either directly or through the bailiff. And I'll address those issues or answer those questions.

Secondly, you'll be called upon to preside over jury deliberations when the time comes at the trial's conclusion. After the evidence has been received and I've instructed you on the law you'll be called upon to preside over those jury deliberations simply to ensure that those deliberations are carried out in some orderly fashion.

And, thirdly, you'll be asked to actually write the verdicts or the decisions of the jury. You'll do that on verdict forms that I'll provide you at the trial's conclusion on which you will indicate the jury's unanimous decision.

Now, the foreperson has those specific duties that I have just indicated. That does not however mean that he is any more important than any of you other jurors, and that's because the decision of a jury is the unanimous consensus opinion of all 12 jurors. And so all of you and each of you will have an equal say and equal vote in what the ultimate decision will be in the case.

Someone simply has to be delegated those responsibilities that I have just indicated, and I have delegated those to Mr. Foster in appointing him as the foreperson.

But all of you jurors are equally important so far as the ultimate decision in this case is concerned because, as I've stated, the verdict has to be unanimous. All 12 of you must be in agreement.

Ms. Benson, you've been selected as an alternate juror. And the function of an alternate juror is to take the place of one of these 12 if during the trial one of these 12 cannot continue to serve for some reason.

And so if a juror is called away and unable to continue, then you would take that person's place. In that event you become the 12th juror. In that event you participate throughout the trial including the jury deliberations at the trial's conclusion.

If however when the time does come for jury

Jury sworn

deliberations the original 12 are able to participate your service ends, and you don't participate any further. And that's because the decision of a jury is that of 12, and no more than 12 can engage in that deliberation process.

But it is important that you pay just as careful attention as we ask of all of the jurors in the case because it does occur from time to time for one reason or another one of these 12 may be unable to continue. In that event you become the 12th.

So we do appreciate your participation as an alternate juror, just as we appreciate the participation of each of you jurors who have been selected for the purpose of deciding the verdicts in this particular case.

You may swear the panel.

(Whereupon, the jury was duly sworn.)

THE COURT: All right. As you know, each you have been selected for the purpose of deciding the verdict in the case of the State vs. Antwon Michele Baker, Jr.

As you also know, Mr. Baker has been accused by the prosecutor by way of these indictments with having committed the crimes of murder and unlawful possession of a handgun.

As I have told you, as to each of those charges and the allegations contained in those indictments the defendant has entered a plea of not guilty. A plea of not

guilty places upon the state the burden of proving the allegations that they have made against the defendant, the burden of proving each of the essential elements that make up the crimes of murder and of unlawful possession of a handgun; and therefore the burden is upon the state to establish the defendant's guilt to the satisfaction of you 12 jurors beyond a reasonable doubt before any verdict of guilty could be returned.

Any person who is accused of a crime is always presumed to be innocent of that charge. That presumption of innocence remains with every defendant as it does with this defendant from the time that he is placed under arrest and throughout the course of the criminal process and even throughout the course of the actual trial in the case.

That presumption of innocence is with Mr. Baker now, and it'll be with him when you go back to begin with your deliberations at this trial's conclusion. And that presumption of innocence will be with him in that jury room, and it'll be with him forever unless you 12 jurors determine that he's no longer entitled to that presumption of innocence.

In other words, after you've carefully considered all the evidence in the case, and from that evidence you have determined what you believe to be the true facts as they relate to these allegations, and after deciding those facts

you apply the law that I will have provided you, if you 12 jurors unanimously determine that his guilt has been proven beyond a reasonable doubt, then he would no longer be entitled to that presumption of innocence. But it is only if, unless and until you are satisfied of his guilt beyond a reasonable doubt that the presumption of innocence would no longer be applicable.

Now, the way the trial will proceed is that in a moment the lawyers are going to address you in what are called opening statements.

There are two occasions in the trial of case where lawyers are permitted to address the jury. That is at the beginning of the trial before any evidence has been introduced, then again at the conclusion of the trial after all of the evidence has been received.

But keep in mind, as I've just indicated, that what the lawyers tell you in their statements is not to be considered by you as evidence in the case. And that's because these lawyers don't know anything about this case of their own personal knowledge, experience or perception like witnesses will be testifying to.

The lawyers won't be taking the witness stand. They won't be placed under oath. They won't be subjected to direct and cross-examination like each of the witnesses will be.

That's why what they tell you in their statements is not to be considered by you as any evidence upon which you will base your decision, because the evidence comes in between the opening and the closing statements accomplished by the lawyers. But even though their statements are not evidence you should listen to what they have to say because those statements do serve a purpose.

The opening statements serve to provide you with a basic understanding as to what this case is about from both the perspective of the state and of the defense so that you'll have some context in which to place the evidence that we will be receiving shortly thereafter.

The closing statements occur after all of the evidence has been presented. And, again, while those statements are not evidence you should listen to what the lawyers have to say because it does afford the lawyers an opportunity in their closing statements to discuss with you the evidence that you have seen and heard during the course of this trial. And through that discussion each will have an opportunity to try to persuade you or to convince you that the evidence in the case does or does not support a particular decision depending upon who is making the argument.

And, as I stated, it's in between the opening and the closing statements that we actually receive the evidence

upon which you will base your ultimate determination of fact and ultimately your decision.

The state has the burden of proof. The state must prove a defendant's guilt beyond a reasonable doubt because they made the charge against him. So the state will go forward first in its presentation of evidence.

After the state has concluded with its presentation of evidence any defendant in a criminal trial has a right to take the witness stand and testify, to call witnesses, to produce evidence. But a defendant is never under any obligation to testify or to call a witness or to produce any evidence, because while the burden is on the state to prove his guilt beyond a reasonable doubt, the burden is never upon a defendant to prove that he or she is not guilty or to prove that he or she is innocent because in some cases that might not be possible.

So while a defendant does not have to present evidence, every defendant is afforded an opportunity to present evidence. But where a defendant does not testify or call a witness that's not a circumstance or a fact that the jury may hold against the defendant in the slightest degree.

You cannot consider that in any way during your deliberations or in your determination as to whether or not his guilt has been proven beyond a reasonable doubt, and

that's because, as I've stated, the burden is not upon a defendant to prove anything. The burden is on the state to prove his guilt beyond a reasonable doubt.

So after all of the evidence has been received and after you hear the final summations of the lawyers I will then instruct you fully on the law as it relates to the criminal law generally and as it relates to these particular crimes specifically.

Then you'll be asked to go back to your jury room and to begin with your deliberations. And through that process you're simply going to be called upon through the exercise of good judgment and common sense conscientiously applied to the testimony and evidence in the case to decide what you believe to be the true facts as they relate to these allegations.

Then once you decide those facts you'll apply the law as I will have provided it to you, and you will determine whether or not the defendant has been proven guilty. If he has, then your verdict's guilty. If he has not, then your verdict is not guilty.

So all that we're going to ask for you to do is to pay careful attention through the course of the trial. Give every witness the same degree of attention as they testify, because sometimes you have a conflict in testimony.

Where there is a conflict in testimony and that

conflict relates to a particular fact that you must determine in order to arrive at a decision in the case you are the persons who decide the facts.

You are the persons who judge the credibility and the believability of witness testimony. So you decide what testimony to accept and what testimony to reject.

You can believe everything that a witness testified to. You may choose to believe none of it. You may believe some portion of a witness' testimony and reject some other portion of that same witness' testimony.

But in order for you to be in a proper position to be able to fairly assess and evaluation a witness' credibility it's important that you give each witness the same degree of attention so that when you go back to begin your deliberations you'll be able to evaluate the witness' credibility in light of not just that witness' testimony but in light of all of the testimony and all of the evidence received during the course of the trial.

And of course it's also important that you keep an open mind throughout the course of the trial. And that just means that you are not to begin making up your minds or formulating your opinions as to what you think the ultimate decisions in this case ought to be until all of the evidence has been presented, until I've instructed you on the law that's applicable in the case and until you've

been asked to go back and to begin with your deliberations. That is the process that is designed for you 12 jurors to arrive at a fair and just decision in the case.

So I do want to thank you in advance for your participation, as well as for your careful attention. I would ask that you please give the lawyers your attention now as they give you their opening statements.

Mr. Bulsa.

MR. BULSA: May it please the Court.

Good afternoon, ladies and gentlemen.

Exactly one year ago today Anthony Young lost his life. He was gunned down in the Waffle House on Highway 29 just below Target.

You'll hear from a pathologist the number of wounds he had. He had 12 bullet holes in his body. All weren't through and through. A total of five shots went into him. One went in and out -- in and out. He was shot five times in that parking lot, several of those being from -- from behind as he was running away from the person shooting at him.

You're going to hear that the person that killed him was the defendant. I submit to you that's pretty clear, that he is the killer.

You're going to hear from witnesses that were at the Waffle House and worked at the Waffle House and

investigators from -- of that case as to what occurred that morning. This is about 5:00 o'clock in the morning of June 3rd of 2012.

The police broke this case pretty quickly not because of the defendant but because an officer was pretty alert and astute and began looking for the -- his -- the defendant's car in some neighboring apartment and townhome complexes. And just by chance they did find that car, and he found the defendant, and he was arrested that morning.

You're going to hear a little bit about why that incident occurred. You may not hear the full story, but you'll hear some of what caused that.

This isn't a situation where the defendant did not know Mr. Young. They might not have known each other's names, but they knew each other. There'd been some history between the two of them.

I submit to you the defendant -- the evidence will show the defendant took this opportunity to end what had been going on between the two of them.

This is a murder case, ladies and gentlemen. Murder is the unlawful killing of another person with malice aforethought. I submit to you 12 bullet holes is malice.

The defendant was not in rightful possession of the pistol. He was old enough to own a gun. It's not like he couldn't own a gun. But you can't just take a gun and arm

yourself when you go into a Waffle House.

When you are transporting a gun you can have it on your property. You can transport it from your property to another location. You've got to have it in the vehicle in a glove box or in the trunk, in a closed console.

You can't arm yourself when you go into a restaurant. That's not the way the law works. This isn't the Wild Wild West, but that's what it sort of became that night or -- excuse me -- that morning when he armed himself and drew his weapon and gunned down Anthony Young.

Now, there are some friends of Anthony's that got a little overzealous and did some things that I'm sure they regret that ultimately led to Anthony's death. But listen closely to the investigators in this case as they unravel this case as to what Mr. Young's role was. I submit to you he got killed because of something that happened in the past that this man was tired of.

We submitted a lot of names as potential witnesses. All of those won't testify. Perhaps half of them will.

This is a serious case. We're going to build the case by showing you the surroundings of the incident and the investigation that led to the detection of the defendant, because he didn't stay there to tell the police what happened. He fled. He went home and changed clothes, hid the gun. And only by chance and good investigation did the

police find him.

I thank you for your time and attention. I pray that you pay close attention to each and every witness as you will be deciding the facts of this case, and at the close you'll find the defendant guilty. Thank you.

THE COURT: Mr. Ianuario.

MR. IANUARIO: Thank you. May it please the Court.

Good afternoon. I would like to start off by thanking you for your service. As being a part of a jury you're the unbiased part of the legal process that makes this everything that it is.

I'm biased. I think my client is innocent. The solicitor is biased. He thinks my client is guilty.

You get to hear all of that. You just got a brief -- a little bit of a summary of the facts. We'll get a lot more into that.

I can understand none of y'all want to be here. I'm going to do everything I can to respect your time and try to make this go as quickly as I possibly can for you.

That said, if you ever found yourself on trial for something I would like for you to give the same attention to this case and the same attention to the details that you would expect from the jury should you be on trial for something.

Okay. We are going to be spending a couple of days

together, so you may as well get to know us. I -- I'm 34 years old. I've got a three-year-old daughter. I didn't grow up in a lawyer family. I grow up as a mechanic. I was a mechanic 12 years ago until I decided it just wasn't paying the bills. I somehow ended up in law school.

I also want to let y'all know this is the first murder case that I've handled. So if you see any bumbling and fumbling on my part, please do not hold that against Antwon. That's me.

Solicitor Bulsa has been doing this a lot longer than I have.

MR. BULSA: Objection, Your Honor. May we approach?

THE COURT: Okay.

(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)

MR. IANUARIO: The gentleman in the glasses is my associate attorney, Matt. He's going to be helping me. You're not going to hear a lot from him. He's going to be whispering in my ear.

And on the end we have Antwon Baker. Twenty-eight years old. Lived in the Upstate his entire life. Five kids. He's got a good turnout of his own family here to support him.

He's been steadily employed since the age of 18. He never been having -- took any government handouts or

anything. Hard worker. He was working at Timken as a forklift driver when this all occurred.

What we're talking about is the facts. And then y'all as the jury have to interpret the facts. The facts are that Antwon went to the Waffle House late at night, pulled into the parking lot, saw somebody he had a beef with a time or two in the past.

And he grabbed his firearm and stuck it in his waistband. Did he do it with the intent to kill Anthony Young? Did he do it because there may have been ten other dudes standing around in the parking lot that looked sketchy? We will get to that later.

He goes inside the Waffle House and orders a carryout meal. Somebody asked him to come outside and talk to Mr. Young. He steps outside. He says, "I don't want to fight. I'm over it. It's a done deal."

And he turns around to walk back inside. And Mr. Young's own cousin hit him in the back of the head and started the attack.

There was issues as to what was said in that altercation and the moments leading up to it. You'll have to decide was Antwon adequately provoked, was he about to be lynched in that situation, was he about to be robbed, did he grab his gun with the intent of killing Anthony Young or did he just grab a gun to carry it because it was

a bad situation.

When he turns back inside, and he gets back in the head, with the rest of it you'll figure out. Is it an argument for self-defense? Did he go above and beyond? Did he shoot down somebody in the back as they were running to get away from him, or did he shoot somebody that was running to go get a gun? We'll have some testimony that'll flush some of that out later on. But that's an issue.

Did he flee as the solicitor said he ran, or did he want to get out of the scene where there's just a shootout and a whole bunch of people scattered and they were probably going to be coming back? We believe there was another gun, somebody else there that evening had a firearm. You'll hear witness testimony that will allude to that.

When you hear all of this up and you hear all the evidence, hear the witness testimony, you've got to decide who's believable and who's not. And sometimes that testimony is going to conflict.

You've got to look at all of that and determine is my client guilty. The levels of proof that we look at, the lowest level is preponderance. That just means 51 percent of the evidence.

If you want to sue your neighbor over something -- tree fell in your yard -- 51 percent of the evidence is in

your side, you win.

The next level is clear and convincing evidence, and there's no number on clear and convincing evidence, no statistical amount. Clear and convincing evidence just means that it's clear and convincing but not necessarily beyond a reasonable doubt.

Clear and convincing evidence is all that is required to take someone's child from them in family court for a child custody matter.

Then you get to the criminal defense, criminal level, beyond a reasonable doubt.

What is beyond a reasonable doubt? We put a cat and a mouse in here and we all go out to lunch, and we come back in. The cat's sitting here and the mouse is gone. The cat must have eaten the mouse.

But there's a crack under that door. We went over there. There's also places the mouse could be hiding in here -- under a chair, in a chair.

Unless we cut open the cat and examine the contents of the stomach we don't know if that cat actually ate the mouse or not.

And one of the fundamentals of the criminal justice system in the United States is it's better to let the guilty go free than to convict.

MR. BULSA: Objection, Your Honor.

THE COURT: Overruled.

MR. IANUARIO: I'll wrap it up really quick on that one. I know we want to get into it and get y'all out of here.

My whole basic argument is the state cannot prove beyond a reasonable doubt, first off, that Mr. Young or Mr. Baker was not acting in self-defense, and the state cannot prove beyond a reasonable doubt that he acted with malice aforethought in the taking of Mr. Young's life. Thank you.

MR. BULSA: The state calls Justin Davis.

JUSTIN DAVIS, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BULSA

Q Mr. Davis, speak up when you talk. Okay. The jury needs to hear you.

A Yes, sir.

Q Would you introduce yourself to them?

A I'm Justin Davis.

Q We need the microphone to hear you. Okay?

A Which one is it, this one?

THE COURT: That black one -- the black one.

A All right. I'm Justin Davis.

Q How old are you, sir?

A Eighteen.

Q Are you in school?

A No, sir.
Q How far did you go in school?
A Say that again.
Q How far did you go in school?
A Eleventh grade.
Q Where did you go to school?
A Byrnes.
Q Do you know Anthony Young?
A Yes, sir.
Q How did you know Mr. Young?
A He was a good friend.
Q How long did you know him?
A About a year.
Q Okay. Do you remember the day of his death?
A Yes, sir.
Q Where did it happen?
A The Waffle House.
Q How did y'all get to the Waffle House?
A Brandon Glover.
Q Brandon Glover. So he drove. Answer yes or no.
A Yes, sir.
Q What did he drive?
A I think it was Bubba -- the Chevy Impala.
Q Okay. And who rode with Mr. Glover to the scene?
A Me and Anthony.

Q You and Anthony and Mr. Glover. Why were y'all going to the Waffle House?
A To meet Darrin and Brandon's sisters.
Q Okay.
A Just to eat.
Q So y'all were going there to meet some other friends?
A Yeah.
Q About what time did y'all get there?
A I'd say about 2:00 o'clock -- 2:00 or 3:00 o'clock in the morning.
Q That morning. Had you been out that night?
A About 2:00 o'clock in the morning.
Q Where were y'all coming from?
A Anthony's house.
Q And where did Anthony live?
A In Timberland Apartments.
Q Timberland Apartments. So y'all had been chilling out at his apartment?
A Well, Anthony wasn't with -- Anthony wasn't with us. It was just me and Brandon. But Anthony arrived. And we left from Timberland Apartments and went to the Waffle House.
Q So you and Brandon were waiting at Anthony's apartment for him.
A Yeah.

Q Okay. And then y'all were going to meet some friends. Did y'all get a meal?
A Yes.
Q When this happened were y'all fixing to leave?
A Yes, sir.
Q Okay. Would you in your own words tell the jury what you saw happen?
A We was leaving the Waffle House, and that's when the gentleman right here walked -- pulled up. And that's when Anthony was like that's the dude that pulled a gun on me a week before or whenever before. And that's when -- it was -- little Brandon went out and told him to come outside or whatever.

He came outside, and we approached him or whatever and asked him what happened over there. And then the dude was like -- you know what I'm saying -- you robbed my -- you know what I'm saying -- you put a gun in my homeboy face or whatever -- you know what I'm saying -- you fixing to have to fight or something -- you know what I'm saying. And that's what I told him. And that's when he tried to walk back in the Waffle House. Then Brandon hit him in the head, and he pulled out a gun and started shooting.

Q So Brandon actually hit him.
A In the back of the head.
Q Did you know this guy at all?

A No. Ain't never seen him.
Q Had you seen him before?
A No.
Q Okay. Now, all of this happened because of something Anthony had said?
A No. All of it happened because of what took place a month or a week or before when he pulled out a gun and he hit him in the face and knocked his teeth out with it.
Q So Anthony had told y'all something had occurred before.
A Yeah.
Q And then Brandon went and spoke to the defendant.
A Brandon told him to come outside. And we all asked him about it.
Q Okay.
A And he tried to walk back in the Waffle House, and that's when Brandon hit him in the back of the head.
Q Did you know he had a gun?
A Na-uh.
Q Did any of y'all have a gun?
A Na-uh.
Q What did you do when the defendant turned around and started shooting?
A I ran behind the building the opposite way.
Q Did you see where everybody else went?

A Na-uh.
Q Do you recall how many shoots there were?
A I'd say about -- about eight or nine.
Q Okay. And did you see what happened to Anthony?
A I mean, when I was looking back he said he was coming after me. And I just seen them chasing him and shooting him in the back. And I was going the opposite way. So, I didn't see no more after that.
Q You saw the defendant chasing Anthony?
A Shooting him.
Q Which one was Anthony running?
A Like towards -- I can't think of that little plaza name right there, but he was running towards the mall, and I was running towards the Wellford way.
Q Okay. You were running up towards the Target way.
A Yeah, I was running towards Target, and Anthony was running towards the mall.
Q Okay. And there's a little strip mall parking lot opposite --
A Yeah.
Q -- the Waffle House.
A Yeah.
Q Okay. All right. What did you do after the shots stopped?
A I was walking towards -- back towards the scene. Then

I seen somebody else. Somebody else came and picked me up, and we rode back to the scene. That's when the policeman --

Q How far -- how far did you actually run?

A Like two buildings down.

Q Then you --

A I think I ran past IHOP. IHOP is like right beside it, and I ran past there. And I can't remember what the other building called.

Q And somebody picked you up and you went back to --

A Went back to the scene.

Q Why did you go back?

A Because I seen the police was there, and I knew everything was fine.

Q And you went and talked to the police?

A Yeah.

Q So the police got there pretty quick.

A Yeah.

Q Okay. Well, where was Anthony when you got back?

A On the ground in front of the Waffle House.

Q In the parking lot?

A Uh-huh, in the Waffle House parking lot.

Q Yes. Okay. So you last saw him running towards the other parking lot.

A Yeah.

Q When you saw him he was back in the Waffle House parking lot.
A Uh-huh.
Q Answer any questions Mr. Ianuario may have.

CROSS-EXAMINATION

BY MR. IANUARIO

Q You said somebody picked you up on the way back. Do you know who that individual was?
A I don't -- I didn't know. I didn't know her personally. It was a white girl.
Q Was there anyone else in the car?
A I think it might've been her boyfriend was in the car. No. Her boyfriend's little brother was in the car. Her boyfriend was still at the scene.
Q And that was it, just the three of y'all.
A Yes, sir.
Q What was the guy in the car with your little brother, what was he wearing, do you remember?
A I don't remember what he was wearing, but I know his brother had a bandanna on around his head.
Q Okay. And that was the one that was at the scene --
A Yeah.
Q -- when you were picked up. And did you sit in the back seat of the car, or the front seat?
A I think it was the back seat -- the back seat.

Q And do you remember the statement that you gave the night or the day of the shooting when you were being spoken to by Detective Wood? Do you remember giving a statement to the police?
A Do I remember giving a statement? Yes, sir.
Q And could you just tell me the part about where you hear the gunshots again, like when you first heard them and then what you saw and --
A No. I saw Brandon hit in the back of the head. When he hit him in the back of the head, that's when he came up to hit -- the might -- Jason.
Q Okay. Where were you when Brandon hit Antwon in the back of the head?
A Like beside him, kind of like Anthony was on this side and Brandon was right here, and I was like beside Brandon.
Q So you could hear what was being said between Antwon and Anthony?
A Yeah.
Q What was being said?
A He was just like he pulled a gun like whatever -- you know what I'm saying. He ain't got no gun now or whatever, so that's fight. That's what Anthony was saying.
Q So Anthony wanted to fight him.
A Yeah.
Q And Anthony wasn't scared to fight a guy that had

pulled a gun on him in the past.
A No.
Q What did Brandon say to Mr. Baker?
A Basically, fixing to have to fight -- you know what I'm saying cause --
Q For what?
A Because he pulled a gun out on him a week before and knocked his teeth out.
Q Did he have to say you're going to fight-or, or did he just say you've got to fight?
A You fixing to have to fight.
Q There was no "or".
A No.
Q And you didn't have a gun that night.
A No.
Q You don't know of anyone that had a gun that night.
A I know we didn't have a gun that night.
Q The shots that you heard, you said you heard eight or nine shots. Was it eight or nine -- bam, bam, bam, bam, bam -- or was it clusters -- one, two here, a couple over here?
A Rapid.
Q Rapid fire.
A Rapid fire.
Q All of them?

A All of them.
Q Now, as soon as Antwon was hit and he came up with his gun drawn did you run?
A Yeah.
Q And you ran toward -- like if this is the Waffle House door, you'd be looking out, so you would run off to the left side towards 29?
A No. I ran behind the building, like behind it, the back of the building. I didn't to -- I didn't run towards 29. I ran behind the building.
Q Okay. And then you --
A Like behind the side of the building.
Q Was there anyone talking to Antwon besides yourself, Brandon Glover and Anthony Young?
A No.
Q So it was just the three of y'all. And he was in the doorway at the Waffle House.
A Him, yeah.
MR. IANUARIO: Nothing further, Your Honor.
MR. BULSA: Just briefly.

REDIRECT EXAMINATION

BY MR. BULSA

Q Justin, did you know the girl who picked you up?
A No.
Q Did you know her boyfriend?

A No.
Q Or her brother?
A No.
Q Her boyfriend's brother. Why did you get in the car with them?
A Because they seen what happened. They was right there and they -- they saw me running behind the building, and they just brought me back to the scene. They came and picked my up and brought me back to the scene.
Q Okay. And I think you testified you only saw one gun that night.
A Yeah.
Q So you didn't see anybody else shooting.
A Uh-uh.
Q Okay. Thank you. That's all I have.

RECROSS-EXAMINATION

BY MR. IANUARIO

Q And you said you didn't know the girl that picked you up, right?
A No, I didn't.
Q But you were picked up by the girl. And her boyfriend with the blue bandanna was not in the car, right?
A Yeah. He wasn't in the car.
Q Do you remember if you would have told the police that you were perhaps picked up by the male in the blue

bandanna?
A No.
Q You don't remember if you would have told them that, or, no, you weren't?
A I don't remember.
MR. IANUARIO: Nothing further, Your Honor.
THE COURT: You may step down.
MR. BULSA: Your Honor, we ask that Mr. Davis be excused. His family is going on vacation.
THE COURT: He may be.
(Whereupon, the witness was excused.)
MR. BULSA: The state calls Andrew Metcalf.
THE COURT: You are excused.
(Whereupon, the witness was excused.)

ANDREW METCALF, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BULSA

Q Officer, please introduce yourself to the jury.
A Deputy Drew Metcalf.
Q And who are you employed with?
A Spartanburg County Sheriff's Office.
Q In what capacity?
A Deputy sheriff, uniform patrol.
Q How long have you been an officer?
A About four years now.

Q All of it with the county?
A Two years with Greenville County; two years in Spartanburg.
Q Okay. So back when this occurred you'd been an officer for about three years.
A Yes, sir.
Q What were your duties back in June of 2012?
A I was assigned to uniform patrol here in Spartanburg County.
Q And by being assigned to uniform patrol what did you do?
A Basically answered 9-1-1 calls. That's our main job.
Q What shift do you work?
A Night shift 7:00 -- 7:00 in the afternoon to 7:00 in the morning.
Q So you were working June the 3rd.
A Yes, sir, I was.
Q It would have been the night of June the 2rd and the morning of June the 3rd.
A Yes, sir.
Q Did you get a 9-1-1 call to respond to the Waffle House?
A Yes, sir, I did.
Q Is that the Waffle House on Highway 29 up past Westgate Mall?

A Yes, sir.
Q That is in Spartanburg County?
A It is.
Q Is that the area you normally patrol?
A It is close to it. It's my bordering zone. My area was a little bit higher north in the county, I guess you could say, but it bordered my area. So I -- I mean, I was always pretty close to it.
Q Do you recall about how long it took you to respond to that call?
A Two to three minutes, most.
Q Were you one of the first officers that arrived?
A Yes, sir. I -- I was the first, yes, sir.
Q Would you describe for the jury what you saw when you arrived?
A Basically, when I pulled in -- I guess, you know, as you -- as you can probably imagine it was pretty -- it was pretty panicky. There was a parking lot full of people. You know, if I had to guess I would say approximately between 15 to 20 people standing around the Waffle House parking lot.

As soon as I got there I seen the victim, Mr. Young. He was pretty much middle of the -- of the Waffle House parking lot. He was laid face down. He was motionless. He didn't appear to be breathing. He had what appeared to

be blood coming out from underneath his body.

And, like I say, there were several people, you know, around him in the parking lot. It was just pretty much just panic, you know.

So I got out and was basically trying to secure the scene and make sure everything was safe for the people that were there, trying to calm the scene down and see what happened, see where the shooter was.

You know, at this point I had no idea. So the -- you know, my first three to four minutes on scene were, you know, pretty hectic just trying to calm everything down.

Q Did you actually pull into the parking lot yourself?

A I actually stopped. I'd probably say a little bit of my car was still actually probably setting in 29. I did not pull fully into the parking lot. I went to make the turn and that's when -- you know, that's when I seen the victim and a huge crowd. So I just stopped right there.

Q Were there cars in the parking lot?

A There were, yes, sir.

Q Okay. Was anybody attending to the victim?

A Nobody was attending to him, no. There was a -- there was a female, a black female, that was -- I can't remember if she was sitting down beside him or she was kneeling down beside him. She was pretty close to him. She was crying and yelling. That was -- that was the only person that

was, you know, right near him.
Q Were you -- did you get a description of who the shooter might be or what he might be driving?
A I did. After -- you know, after being there for, you know, not long at all, probably a matter of seconds, you know, I had multiple people telling me at the same time, you know, the person that did this had already left.

You know, basically I got a really quick description of a black male that was driving a white mercury Grand Marquis-Crown Vic type car, I believe with -- with black wheels, I believe is what I got, like no hubcaps.

I probably got that within the first minute of standing there. I mean, I put that on the radio as soon as I got it, so probably a minute or two on the scene I'd put that out on the radio.
Q Did you have a mike, a body mike, on?
A I did, yes, sir. I don't have it on now, but I normally have a radio on and a have a mike to -- you know, that's with me at all times.
Q All right. So you got that information and put it out and then tried to calm the scene until the other officers arrived.
A Yes, sir. I -- I was -- I was there, I don't know, not long, minutes, you know. There were probably six, seven or eight other deputies there with me.

E.M.S. got there, you know, fairly quick. It was a matter of minutes. I know it wasn't long.

Q Did you do anything to try to locate any items of evidence?

A I didn't so much. I helped tape -- tape the area off pretty much.

There were a few other deputies. I think an I.D. officer that was on the scene that was kind of, you know, looking for shell casings and that kind of stuff. I didn't really take part in -- in looking for evidence too much, no, sir.

Q But you helped move the people away from --

A I did. I helped. I helped separate people, you know, away from the scene, kind of trying to get them in separate areas, get them away from the immediate scene, rope it off, that kind of stuff, yes, sir.

Q Did the supervisor come on the scene and kind of take charge?

A Yes, sir.

Q I don't think -- I meant to ask you this question. But what time was it when you got that call?

A It was a few minutes before 5:00 in the morning. I mean, I can't remember exactly. I remember it was slightly before 5:00 o'clock in the morning.

Q Based on your clock.

A Yes.
Q And do you recall what the lighting was around?
A Yeah. It was -- I mean, it was -- it was actually starting to get daylight. It was -- wasn't pitch black dark. It wasn't bright and sunny either. It was kinda, I guess, dawn. It was dawn.
Q Okay. Do you recall if there were lights in the -- street lights or anything out?
A No. I couldn't tell you. I don't remember.
Q Did you have any trouble seeing when you got there?
A No, I did not.
Q Did you take place in trying to locate who did this?
A No, sir.
Q Were other officers dispatched to try to find him?
A Yes, sir. Basically, when I -- you know, when I put it out over the radio we had a few deputies that were basically doing nothing but riding around kind of the immediate area. And one deputy did locate a vehicle that matched the description not far down the road.
Q Okay. Thank you. That's all I have. Answer any questions Mr. Ianuario may have.

CROSS-EXAMINATION

BY MR. IANUARIO

Q Thank you, Deputy.
You said you were the first on the scene.

A I was.
Q And there were 15 to 20 people standing around when you arrived.
A If -- if I had to guess, somewhere close to that, yes, sir.
Q Okay. So, and you were the first to secure the scene too.
A Yes.
Q Did you interview anyone on the scene, take any statements from anyone?
A I attempted to take a statement from one -- one guy on the scene.

We had so many deputies, you know, taking -- trying to get statements from people, you know, that I think I tried from one person, and he was -- he was pretty intoxicated, and I was not able to get too much out of him, so.
Q Were you able to determine if he had anything to do with the groups of people that were there, or did he just happen to be at the Waffle House when this happened?
A Yeah. I mean, my -- my take on it was he was -- he was there. But, like I say, I didn't feel comfortable getting a statement from this person because he was so intoxicated.
Q Nothing further. Thank you.

(Photograph marked State's Exhibit No. 3 for

Identification.)

REDIRECT EXAMINATION

BY MR. BULSA

Q Deputy Metcalf, let me show you what's been marked State's Exhibit No. 3 for Identification. Do you recognize what that shows?

A Yes, sir.

Q Is it an accurate depiction of what you saw that evening?

A Yes, sir.

Q Is that pretty much the view you would have had as you parked your vehicle looking into the parking lot?

A Yes, sir. That's -- I mean, that's basically it minus the -- you know, the extra people.

Q Okay.

MR. BULSA: Your Honor, the state would offer State's Exhibit No. 3 into evidence.

MR. IANUARIO: No objection, Your Honor.

THE COURT: It's admitted.

(Photograph marked Defendant's Exhibit No. 3.)

MR. BULSA: That's all I have.

MR. IANUARIO: Nothing, Your Honor.

THE COURT: You may step down.

MR. BULSA: Your Honor, we ask that he be excused.

THE COURT: He may be.

(Whereupon, the witness was excused.)

MR. BULSA: The state calls Dwight Garcia.

Your Honor, while he's coming in may I publish this to the jury, just have them pass it around?

Garcia didn't make it yet.

Okay. Let's bring in Deputy Byrd.

JEREMY BYRD, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BULSA

Q Officer, please introduce yourself to the jury.

A My name is Deputy Jeremy Byrd.

Q And who are you employed with?

A I'm employed with the Spartanburg County Sheriff's Office.

Q In what capacity?

A I work on the uniform patrol division.

Q How long have you been a police officer?

A A total of six years.

Q How many of those have been with Spartanburg County?

A A year and a half.

Q So back on June 3rd of 2012 what were your duties with Spartanburg County?

A I was assigned to the uniform patrol division, Charlie shift.

Q Charlie shift. Is that the late shift?

A Yes, sir.
Q Did you receive a call to go anywhere that evening or that morning?
A Yes, sir, I did.
Q What did you receive?
A I responded to the Waffle House on Highway 29 to assist other deputies that were responding to a shooting.
Q What was taking place when you arrived?
A Other deputies were on the scene. I assisted in speaking with one of the witnesses and taking a statement from one of the witnesses.
Q At any point during your time on the scene were you directed to go to another location?
A Yes, sir, I was.
Q Where were you directed to go?
A I was advised to go to Magnolia Townhomes which is located in the city limits of Spartanburg to assist another officer.
Q Okay. And who were you going to assist?
A That would be Deputy Garcia.
Q And where is Magnolia Townhomes in relation to the Waffle House?
A Estimate about a mile away.
Q About a mile away.
A Yes, sir.

Q What street was it off of?
A Blackstock Road.
Q That's the Blackstock that runs in front of the mall?
A East Blackstock Road is what it is, yes, sir.
Q Okay. Runs from the mall and behind the Dorman Center.
A Yes, sir.
Q Okay. So past Lowe's and Best Buy?
A Yes, sir.
Q Okay. So if you take -- so you headed up 29 back towards town?
A Yes, sir.
Q And then took a right on East Blackstock.
A Yes, sir.
Q And Magnolia Townhomes are on the left.
A Yes, sir.
Q Is that right?
A Yes, sir.
Q Okay. Sort of just past that far entrance to Dorman Center.
A That's correct.
Q All right. And where did you respond to when you got to that location?
A I pulled into the apartment complex, which is the first entrance. And as I proceeded through there I

stopped. The road bears off to the right to go to some other apartments. I stopped right there at the intersection. Deputy Garcia was there as well.

Q Okay.

(Photograph marked State's Exhibit No. 4 for Identification.)

Q Let me show you what's been marked for identification as State's Exhibit No. 4. Do you recognize that aerial photograph?

A I do, sir.

Q Does it show the area of town that we've been discussing here through your testimony?

A Yes, sir. It is.

Q Does it show the location of the Waffle House in question?

A Yes, sir.

Q How is it marked?

A It's marked with the letter "A".

Q Okay.

MR. BULSA: Your Honor, the state would offer State's 4 into evidence.

MR. IANUARIO: No objection, Your Honor.

THE COURT: It's admitted.

(Photograph marked State's Exhibit No. 4.)

Q Deputy, do you remember about how long you were at the

Waffle House before you got the call to go help Deputy Garcia?

A Yes, sir, approximately 45 minutes.

Q Forty-five minutes. Okay. And just look on the map here, State's 4. Can you see it from there? Do you need to step down?

A I can see it.

Q Here is a pointer. If you would using the pointer point to the area where the Waffle House is.

THE COURT: Let's do this.

Excuse me. Let me ask you to step down. Do you see this microphone hanging from the ceiling?

THE WITNESS: Yes, sir.

THE COURT: Kind of stand below that. You don't have to look up at it, but it'll pick your voice up. That's good.

(Whereupon, the witness left the stand.)

BY MR. BULSA

A Right there, letter "A".

Q Letter "A".

A Yes, sir.

Q Okay. And show us where Magnolia Townhomes are.

A That's Magnolia Townhomes right there.

Q Okay. Just below the Dorman Center.

A Yes, sir.

Q Okay. Do you know what the letter "B" designates towards the bottom of the map?
A That's the intersection of Reidville Road and I-26. That's also Blackstock Road right there. There's another Waffle House located there as well.
Q Okay. The Waffle House where the shooting occurred was up there at "A".
A Yes, sir.
Q Okay. And about how long did it take you to get there during that drive?
A Less than a minute.
Q Were you -- were you with lights and siren?
A To -- from letter "A" to Magnolia Townhomes.
Q Yes, sir.
A Less than a minute.
Q Were you lights and sirens?
A No, sir.
Q Okay. Normal speed of traffic?
A Yes, sir.
Q Okay. You can step back to your seat.
(Whereupon, the witness returned to the stand.)
(Photographs marked State's Exhibits Nos. 5 and 6 for Identification.)
Q Officer, what occurred when you got to Magnolia Townhomes? Where was Deputy Garcia?

A Deputy Garcia -- if you don't mind -- he was located in -- he was located right around in here at this little intersection right here. I pulled into this inter -- pulled into this entrance right here, and he was located off to my right.
Q Okay. Was he in the patrol car as well?
A He was, yes, sir, patrol S.U.V. -- patrol S.U.V.
Q Was it marked?
A Yes, sir.
Q And your car was a marked car?
A Yes, sir.
Q Were there any other officers in the area?
A Not at that time.
Q Okay. So did it appear he was watching something?
A I believe so.
Q Okay. And I show you State's Exhibits 5 and 6 for Identification. Do you recognize what they show?
A Yes, sir. This is a white Grand Marquis vehicle with black rims on it -- Ford.
Q Is that the vehicle he was watching?
A I had found out later, yes, sir, it was.
Q Okay. And does that vehicle fit the description that was given by persons at the Waffle House?
A Very similar, yes, sir. The BOLO we were given was a Ford Crown Victoria, yes, sir.

Q Okay. And this is a Mercury Grand Marquis.
A Yes, sir.
Q Same family.
A Yes, sir, yes, sir.
MR. BULSA: Your Honor, the state would offer State's 5 and 6 into evidence.
MR. IANUARIO: No objection, Your Honor.
THE COURT: They're admitted.
(Photographs marked State's Exhibits Nos. 5 and 6.)
Q Okay. This car was found at Magnolia Townhomes?
A Yes, sir.
Q Other than the description did it stand out in any way?
A Other than the description, no, sir.
Q Okay. All right. And had a Florida tag, is that right?
A Uh-huh, yes, sir.
Q When you pulled up did you meet with Deputy Garcia?
A No, sir.
Q What did you do when you pulled up?
A As I pulled in I got out of my vehicle, and a subject approached me.
Q Okay. And who was that subject?
A That -- that would be Mr. Baker.
Q The defendant?

A Yes, sir.
Q All right. Was he with anybody?
A He was walking up alone.
Q Do you remember how he was dressed?
A Yes, sir, white shirt and dark colored pants.
Q Okay. And what occurred when you approached you?
A As I exited the vehicle I spoke with him. I said, "What's up, Man?" And he proceeded to say, "I did it. I did that thing at the Waffle House."
Q Did you have any idea who he was when you pulled up?
A Not at that time, no, sir.
Q Did you -- when he was approaching you the comment you made to him, was that -- why did you ask him that, "What's up?"
A Just being cordial.
Q Okay. So it's not like you would have been investigating.
A No.
Q You just asked him a question, and he blurted out he did that.
A Yes, sir.
Q Did he give you any more of a description?
A No, sir.
Q What did you do -- do when he told you that?
A I advised him at that time I was going to place him

under investigative detention, and I had him sit in the rear of my vehicle.

Q And then what did you do when you put him in the vehicle?

A At that time myself and Deputy Garcia spoke. He contacted the other units that were on the initial scene at the Waffle House. And that was it.

Q Did they send a detective over?

A Yes, sir.

Q Okay. And what did you do when the detective arrived?

A I advised him the gentleman's in the rear of my car. He got the gentleman out and continued his investigation.

Q What did you do?

A I stayed on the scene until I was relieved by a day-shift unit.

Q Okay. You actually stayed at the Magnolia Town?

A Yes, sir.

Q Okay. All right. Thank you. Answer any questions Mr. Ianuario may have.

A Okay.

CROSS-EXAMINATION

BY MR. IANUARIO

Q Thank you, Deputy.

You say that Antwon walked right up to you?

A Yes, sir.

Q And freely admitted it.
A I'm sorry, sir?
Q He freely admitted to doing that thing at the Waffle House?
A He walked up to me and stated, "I did it. I did the thing at the Waffle House."
Q Did he resist arrest in any way, shape or form?
A No, sir.
Q Did he give you any hard times?
A No, sir.
Q Was he anything other than polite and respectful?
A Yes, sir. Very polite and respectful.
Q Did he happen to indicate which direction he was coming from when he stopped at the Waffle House?
A No, sir.
MR. IANUARIO: Nothing further.

REDIRECT EXAMINATION

BY MR. BULSA

Q Deputy Byrd, did you go to the townhomes in response to a 9-1-1 call?
A No, sir.
Q Do you know if a 9-1-1 call was made from that location?
A Not to my knowledge.
Q So do you know if the police had been called to that

location by the defendant?
A Not to my knowledge.
Q Okay. Thank you.
MR. BULSA: That's all I have.
THE COURT: You may step down.
MR. BULSA: Your Honor, we ask that he be excused.
THE COURT: You may be.
(Whereupon, the witness was excused.)
MR. BULSA: The state calls David Hogsed.
THE COURT: Mr. Bulsa, let me see y'all just a minute.
(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)
DAVID HOGSED, having been first duly sworn, testified as follows:
DIRECT EXAMINATION BY MR. BULSA
Q Please introduce yourself to the jury.
A I'm David Hogsed.
Q And what is your occupation?
A I am a sergeant with the crime scene unit of the Spartanburg County Sheriff's Office.
Q Crime scene unit with the sheriff's office. How long have you been with the crime scene unit?
A With the sheriff's office since 2005.
Q How long have you been an officer?
A Right at 24 years. I was with the city of Spartanburg

for almost 16 years.
Q Were you with their crime scene unit also?
A Yes. I started crime scene unit investigation in 1998, latter part of '98 and '99.
Q Officer, were you called to this scene?
A Actually, I wasn't called. I was working that night. And I heard it dispatched and just responded on my own.
Q When you say you heard it dispatched, describe for the jury what you mean.
A We all carry -- all have radios in our trucks, cars, whatever we drive -- and on our hips. And of course the call came out that there had been a shooting incident at the Waffle House at 8121 Warren H. Abernathy. And I was actually on Highway 29 probably a mile or a mile and a half away and responded.
Q And when a dispatch goes out is that in -- typically in response to someone calling 9-1-1?
A Yes. Someone called 9-1-1. And, basically, what they'll do is they'll -- they'll call a certain zone officer and dispatch them to it. But of course with a call such as this type if we're close, we're going.
Q Okay. Someone called 9-1-1, and 9-1-1, Spartanburg communications, dispatches officers in the area. And you overheard that and you went to the location.
A That's correct.

Q Because based on your experience you thought they might need your services?
A Yes. We -- we had a report of a shooting. And at the time when I responded I had no idea someone had actually been shot or not. So I'm going. If there's a victim there they need us, and we're going.
Q Okay. So it didn't take you that long.
A No. I was there within four to five minutes.
Q So you were one of the first officers actually on the scene.
A Like the first or second there, yes, sir.
Q Okay. So what did you observe in your trained eye?
A What I observed, there was a lot of people in the parking lot going in several different directions.

Deputy Metcalf was with me. He was basically in front of me. He actually pulled into the parking lot of the Waffle House itself.

If you're facing the Waffle House from Highway 29 the shopping center is to its left. I pulled into that parking lot.

When I got out and went into the parking lot Deputy Metcalf was instructing people to come to him. What I observed to and what I went to was there was a black male laying pretty much face down in the center of the parking lot. And there was a female that was pretty much holding

him and crying and talking to him.

I went up to her, saw what I thought to be blood underneath him, told her who I was and asked her to stand up and come with me, that I needed her to -- to come with me. And I walked her to a deputy's patrol car and then went back over to Mr. Young's location.

I felt for a pulse on his arm and did not feel one. He didn't appear to be breathing. Of course went through radio communications with our 9-1-1 dispatchers telling them to get E.M.S. there and start making notifications of everybody else to come.

Q After you made that call what did you then do?

A We started separating witnesses. And we had a lot of people there.

I observed -- basically, I got everybody away from where Mr. Young was laying because I observed what we refer to as a fired cartridge casing laying beside his body and a hat laying down by his feet.

There was three gentlemen going to a car up in the parking lot where I had parked. And, well, they were down there with us, and I walked them over to their car and asked them just to stay in the car, just stay there until we could get everything straightened out. And there I noticed there was two fired cartridge casings near their car. And I just told them shut it down, guys, need you to

stay in your car, don't move the car until I can get this -- this crime scene, you know, under control and we get everybody situated.

Q Now, which parking lot did you see those other two casings in?

A It's actually the shopping center to the left of the Waffle House if you're facing it from Highway 29.

Q Okay.

(Photograph marked State's Exhibit No. 7 for Identification.)

Q I show you what's been marked State's Exhibit No. 7. This is an aerial shot taken off a computer. Does that show that Waffle House and the adjacent buildings?

A It does.

Q Okay. Is that an accurate depiction of the -- that location?

A It is.

Q Now, of course it's not a picture representing the date in question, because we see a number of cars in the parking lot. It's actually a daytime picture?

A This is a Google map picture.

Q Okay. But it does actually show it.

A Yes. I -- you have the Waffle House. IHOP is to its right, and then the parking lot and the shopping center. I don't know what all stores are here.

MR. BULSA: Your Honor, the state would offer State's 7 into evidence.

MR. IANUARIO: No objection, Your Honor.

THE COURT: It's admitted.

(Photograph marked State's Exhibit No. 7.)

Q All right. I will put it in there with the Google upside down, but let's see.

The road running the front of these buildings is Highway 29?

A Can I step down?

Q Yes.

(Whereupon, the witness left the stand.)

A This is Highway 29 here. This is IHOP, Waffle House. And this is -- this is actually an "L" shaped building when you see the whole interior or the whole building. It's like an "L" shaped building.

Q Whereabouts did you see Mr. Young's body?

A Approximately right in this area.

Q Okay. And the shell casings you talked about seeing?

A Well, there was one close to him, and then the other ones were over here. But I don't remember the exact location where they were at. But the car that was in question was -- is right in here.

Q Okay. So you actually saw shell casings past those bushes.

A Yes. This is actually sort of like a little retaining wall here. You have to step up to it.
Q Okay. And which way was Mr. Young facing?
A His head was here. Feet was on this end.
Q He was facing back towards the Waffle House?
A Back towards the Waffle House, yes, sir.
Q Okay. You can have a set.
(Whereupon, the witness returned to the stand.)
Q So you wanted to preserve the evidence in the position it was in?
A That's correct. Once we got everybody pretty much settled down, or separated I should say, notifications were being made for a violent crimes investigator, the coroner's investigators.
Once E.M.S. had arrived and had actually pronounced that Mr. Young was deceased we called the coroner, investigator. With the items that I had already seen I went back to my truck and I got out some numbered placards that we use to mark evidence. And I just stuck them down by -- they were in no discernable order. It was just to put them out so that you'll see the guys that were going to be arriving, would see those bright yellow markers to help the violent crimes investigators as well as the actual crime scene team that was coming in to work the crime scene.

Q Can you put down all of the markers?
A I only put down four, which was the four items that I had seen, which was the shell casing by -- by Mr. Young, the hat that was near his feet and the two casings that was by the car in the other parking lot.

Of course we call in. We actually -- we actually have an on-call team at all times, and we called that team in to actually process the crime scene.

So basically when that team got there they would have taken my markers up and put theirs down and put any others down of any other potential evidence that was found.

Q Okay. Just so the jury can have a perspective of what you're talking about, I show you a couple more pictures.

(Photographs marked State's Exhibits Nos. 8 and 9 for Identification.)

Q All right. Let me show you State's 8 and 9 for Identification. Do you recognize the locations those photographs are depicting?
A These -- these are not the markers that I put down. They are the type of markers I put down.
Q Okay. But do they look -- do they identify the same areas that you marked?
A Yes, they do.
Q Because you said they came in and somebody else processed the scene.

A Correct.
Q So the jury can have a perspective of your testimony, are those in the same general location?
A Yes, they are.
Q Okay.
MR. BULSA: Your Honor, I would offer these into evidence State's 8 and 9.
MR. IANUARIO: No objection, Your Honor.
THE COURT: They're admitted.
(Photographs marked State's Exhibits Nos. 8 and 9.)
Q Okay. Now, State's 8, the two markers towards the middle of the parking lot, are those in similar locations as the ones you marked?
(Whereupon, the witness left the stand.)
A Yes.
Q Okay. Where would Mr. Young's body have been lying?
A In this area here.
Q Okay. You said you saw something towards his feet, which would have been what?
A Well, probably be a ball cap. The evidence has been picked up.
Q Okay.
A Investigator Talanges came in and worked the crime scene. He -- my markers were picked up and his was out and --

Q Okay. Just so there were two items in the middle of the parking area.
A Two. One -- one right by his body and one at his feet, and then two in the other parking lot by the car.
Q Okay. And this is State's 9. Is that the other parking lot?
A Yes. This is the other parking lot, and that's the general area where I did mark the two casings, the two fired cartridge casings.
Q Okay. So looking at State's 7 showing the -- show on this overhead where this two fired casings were.
A It would be here.
Q Okay. So they were out past the -- near the first parking lot.
A Right. There's your triangle. Here's your triangle. Close to the building.
Q All right. Okay. You can have a seat.
(Whereupon, the witness returned to the stand.)
Q How long were you on the scene, Officer?
A I arrived at about 5:00 a.m., approximately 5:00 a.m. there, but I moved locations and arrived there at nine minutes to 7:00.
Q And why did you move locations?
A I received a call that two of our deputies, Deputy Garcia and Deputy Byrd, were out with a possible suspect

vehicle and a suspect at Magnolia Townhomes on Blackstock Road in the city. And I was asked to meet Investigator Williams, Lorin Williams, at that location. And so I went to that location.

Q And what did you do at that location?

A When I arrived Investigator Williams was sitting in his car talking to a gentleman. They were talking.

Investigator Williams got out and told me was speaking with an Antwon Baker and asked me if I would do a gunshot residue kit, G.S.R. kit, on his hands. And I told him, yes, I would. And he said give me just a few minutes. I gave him a few minutes.

They stopped talking. And when Investigator Williams come back out of the car I then completed the G.S.R. kit on Mr. Baker's hands.

Q Did you go through any questions with Mr. Baker prior to doing that?

A Yes. One of the first things I always ask anybody, is I ask them if they've been Mirandized. Of course he told me yes. And there is an information sheet.

Q What does Mirandized mean?

A Have you been given your -- your Miranda warnings, your rights, so have you had your rights read to you. But there's an information sheet that's within the G.S.R. kit, and it asks several questions -- of course his name, date

of birth, are you right-handed or left-handed. And then it has the subject living, deceased and so forth.

Then it asks your occupation, if you have any hobbies. And one of the -- and it asks what they've done from the time of the shooting until the G.S.R. kit is done. And it asks from the time of the shooting until G.S.R. kit if this person has washed their hands.

And as we were going through the information sheet I asked Mr. Baker if he'd washed his hands, and he told me that, yes, that he had used a restroom and had washed his hands. And I denoted that on the -- on the sheet.

Q Is there a place to note whether he changed his clothes?

A No, there's not.

Q All right. So you processed his hands.

A Yes, sir.

Q Did you have any further conversation with him?

A No. That was pretty much it. And then Investigator Williams came back over there. And to be honest with you, I don't know where he went from there.

Q What did you do after that?

A We -- we were told or I was told that there was a white Mercury Grand Marquis with a Florida tag and a black Honda in two different locations of Magnolia Townhomes. And we were -- I was asked to take photographs of those.

And I was told that they were doing a -- search warrants were being done for Apartment [redacted] and for the black Honda. But we were going to tow the white Mercury to our county shop for later processing.

So I just took digital photographs of that area and those -- those two cars and downloaded those into our digital crime scene computer later. And that was pretty much my -- my entire involvement.

Q Did you do any other processing of the vehicles other than taking the pictures?

A No, I did not.

(Photograph marked State's Exhibit No. 10 for Identification.)

Q Show you State's Exhibit No. 10. Do you recognize that view?

A Yes. That's the black Honda that was setting right outside of Apartment -- in the area of Apartment [redacted]

Q Okay. And State's 6, is that the black -- the white vehicle in the photograph?

A Yes, it is.

MR. BULSA: Your Honor, the state would offer --

A It was actually in front of [redacted]

Q Okay.

MR. BULSA: The state would offer State's 10 into evidence.

MR. IANUARIO: No objection, Your Honor.

THE COURT: It's admitted.

(Photograph marked State's Exhibit No. 10.)

Q So you didn't know what the involvement of these cars were.

A Not -- not the black car. I knew what the white car was.

Q Okay.

A We knew we were looking for a white car with black rims with an out-of-state tag.

Q You turned over the processing of this to Officer Talanges?

A Yes.

Q Okay. Thank you. Answer any questions Mr. Ianuario may have.

CROSS-EXAMINATION

BY MR. IANUARIO

Q The hat. Did I understand correctly that the hat was close to the body when you arrived on the scene?

A Near his feet area. I won't give a distance because I didn't do any measuring that day, but it was down below his feet area.

Q I am horrible at distance, so don't worry about it. Are we talking a country mile away or --

A No.

Q That's fine.
A No.
Q And it was at the opposite end of the parking lot?
A No. His -- his body's here.
(Whereupon, the witness left the stand.)
A I won't give a specific location because I'm not exactly sure. His body was in this area. Shell casing was right beside him. The hat was down near in here.
Q Okay.
A Like going back towards the wall.
Q Okay.
(Whereupon, the witness returned to the stand.)
Q And you just initially marked the evidence. You didn't actually process it. Did I understand?
A No. I put the markers out so that other officers that were arriving on the scene -- they see those markers. They know there's potential evidence there. They watch their -- watch where they step.
Q I understand. Do you recognize these items here and here?
A I don't. I marked those four, and that was it.
Q And aside from the G.S.R. kit on Mr. Baker, did you take G.S.R. samples from anyone else?
A No, sir, just Mr. Baker.
Q Nothing further. Thank you, sir.

MR. BULSA: Nothing further, Your Honor.

THE COURT: You may step down.

We're going to recess for the afternoon.

Let me caution the jury that you're not to talk about the case with anybody during the overnight recess. You also are not to conduct any research. Don't do your own investigation. You don't -- of any kind.

You have to base your decision upon what you see and hear during the trial.

You're never permitted to supplement your knowledge by conducting research outside of this courtroom or by talking about the case with other people to get advice. You just base your decision upon the evidence presented during the trial.

So no discussions, no research, no media exposure. Don't watch anything on television; don't read anything in the newspaper; don't listen to anything on the radio that might relate to the case.

Do have a good evening, and please report to your jury room at 9:30 in the morning, 9:30 in the morning. Have a good evening.

(The following takes place outside the presence of the jury.)

THE COURT: Mr. Bulsa, can I see you and Mr. Ianuario, please?

(Bench conference held off the record.)

THE COURT: Court's in recess until 9:30 in the morning.

END OF PROCEEDINGS JUNE 3, 2013

(Proceedings June 4, 2013)

(The following takes place outside the presence of the jury.)

THE COURT: Are there any matters to address before the jury is brought in?

MR. IANUARIO: None from the defense, Your Honor.

THE COURT: Bring them in, please.

(The following takes place in the presence of the jury.)

THE COURT: Good morning, ladies and gentlemen.

As you know, when we recessed yesterday the state was in the midst of their presentation of evidence, so we'll continue with that presentation this morning.

Mr. Bulsa.

MR. BULSA: The state calls Officer Dwight Garcia.

DWIGHT GARCIA, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BULSA

Q Deputy, if you would, introduce yourself to the jury.

A My name is Officer Garcia, Dwight Garcia. I've been employed with the sheriff's office for the last seven years.

Q And what are your duties with the sheriff's office?

A I work crime scene investigations with the sheriff's office.

Q Back in June of 2012 what were your duties?
A I was also a crime scene investigator at the time.
Q Okay. And did you participate in the investigation of a shooting at the Waffle House on Highway 29?
A Not in full extent, no. I was initially --
Q How did you become involved?
A I became involved as I responded to the call for the shooting at the Waffle House off Highway 29.
Q Were you on duty at the time?
A Yes, sir.
Q And what kind of vehicle were you in?
A I was in semi-unmarked black Durango.
Q Okay. And how were you dressed?
A I was dressed in officer's uniform.
Q Okay. But you weren't a regular patrol officer.
A No, sir.
Q All right. And how did you get the call to respond?
A I was in the office and overheard the call provided by Spartanburg communications that a shooting had occurred at the Waffle House off Highway 29.

My supervisor at that point told me to run to the front desk and call the on-call crime scene homicide unit to come out. And once I made that phone call I got in my vehicle, and I responded.

Q Okay. And where did you go?

A If I might refer to my notes.
Q If you need to, yes, sir.
A The address at the Waffle House on Highway 29 is 8121 Warren H. Abernathy in Spartanburg County. That's where I responded to.
Q And do you recall approximately when you got there?
A At approximately 4:57 in the morning on June 3rd of 2012.
Q What was taking place when you arrived?
A When I arrived you had several officers. Basically, everyone that was working on shift responded to that call. There was not many priority calls holding or anything, so everyone responded -- naturally responded to that call.

You had officers taping off crime scene area apart from the Waffle House where the incident had occurred. You had people separating witnesses, possibly involved suspects, things -- things of that nature.
Q So when you arrived there were several officers already kind of separating people and securing the scene.
A That's correct.
Q What did you do when you arrived?
A Once I initially concluded that everything had been taken care of and my services were no longer needed I had obtained information on a possible-suspect direction of travel. And I just reverted back to investigative tactics

and patrol tactics and went in search of the suspect and suspect vehicle.

Q Okay. Well, tell us what you did.

A Is it all right if I refer to my notes?

Q If you need to, yes, sir.

A Once I obtained that suspect information I started patrolling the surrounding areas.

The information we had received or was that put out through the radio was suspect had fled in a white possibly Crown -- late model Crown Victoria headed towards Warren H. Abernathy in the city. At that point the vehicle had been lost.

I knew in my mind at that point the vehicle couldn't have been far, was probably going to be parked somewhere close by. So I started patrolling, patrolling, patrolling.

As I was listening to my radio I overheard that Spartanburg City Police Department, the Department of Public Safety, had possibly gotten out with a vehicle matching the suspect description at Camelot Drive, which is near John B. White, Sr. Boulevard in the city limits of Spartanburg.

I started in that direction. When I got there there were no officers in sight. I went down Camelot, neighborhood of Camelot off Camelot Drive.

I rode up and down John B. White, Sr. Boulevard,

couldn't find anyone. So I parked at 1598 John B. White, Sr. Boulevard which is McDonald's off John B. White, Sr. Boulevard.

And I contacted Spartanburg communications via my county-issued cellular phone to confirm the information I had overheard over the radio was correct. They confirmed, yes, Spartanburg city had been out with a vehicle matching that description but it turned out not to be the suspect.

While I was on the phone Spartanburg communications provided me an updated information regarding the suspect information and suspect vehicle. And they -- that information they provided me -- if you give me a minute to refer back to my notes -- was a heavyset black male wearing black hat, a white t-shirt, blue jeans, featuring short hair and dreadlocks and facial hair driving a white Crown Victoria or a Mercury Grand Marquis with no rims.

Upon concluding my conversation with Spartanburg communications I continued to patrol the area to which I eventually ended up at [redacted] East Blackstock Road, which is Magnolia Townhomes, and discovered a vehicle.

Q Let me stop you right there.

It sounds like you were searching different locations in the area of that car.

A That's correct.

Q Is that what you were doing?

A Yes.
Q How were you selecting the areas you were looking?
A Well, they -- they said right there at the start of Warren H. Abernathy is where they lost the suspect vehicle.

So I figured that's East Blackstock, was the first thing that came to mind, and Camelot Drive, which is actually a neighborhood.

I had actually gone on Camelot Drive initially when I was trying to find the officers, ruled that out. And then I made my way through East Blackstock trying to head backwards Warren H. Abernathy.

And I thought, well, there's an apartment complex that's off this road, it'd probably be wise to check into those, which I did. I went into the hunt club, didn't find anything matching that description. And the next stop was obviously Magnolia Townhomes where I concluded.

Q Did you have any information to believe that the person lived in any of these areas?
A No, sir, none.
Q So you're just taking a chance to search these locations to see if you see something.
A That's correct.
Q And were you successful?
A Yes.
Q Howso?

A Upon my arrival at Magnolia Townhomes I encountered a vehicle matching the description. It was an older model Crown Victoria. I got out and ran the tag through Spartanburg communications. They returned the information.

I went to check the vehicle's engine block and see if it was warm. The vehicle's engine block was cold. The vehicle looked like it had not been operated possibly overnight, maybe a day.

So when they gave me that information I made that determination that vehicle had not been operated. Common sense tells you if the vehicle has been operated recently it's going to be warm. I ruled that vehicle out.

And I just continued my search of the apartment complex, and I came across a late model white Grand Marquis with no -- no hubcaps or rims. It was just solid black wheels.

The one thing that stood about -- stood out was the Florida tag. I thought, you know, that's unusual. Every -- most of the tags in the town homes complex were all out of South Carolina.

So after that I got out and ran the tag information. They gave the tag information like before.

I went and touched the -- I checked to see if the engine block of that vehicle was warm, which it was. And I -- something just told me that this description is

just -- is just too coincidental this close to the crime scene. So I just -- I stuck to my guns and stayed with the vehicle.

Q Okay. When you ran that vehicle information did it come back to Antwon Baker?

A No, sir.

Q It did not?

A No, sir.

Q Okay. At that time you had no name of the suspect, did you?

A No, sir, I did not.

Q So even though it didn't come back to him, it didn't really matter in your investigation.

A No, sir.

Q All right. Let me show you what's been entered as State's Exhibits 5 and 6, two pictures of the vehicle. Is that the vehicle that you found?

A Yes, sir. This is the exact vehicle.

Q Okay. And it's our understanding that you then waited at another spot in the complex watching that vehicle?

A Correct. I waited across -- it's hard to describe to you -- the B building and C building. I was parked across from the B and C building conducting surveillance.

(Photograph Marked State's Exhibit No. 11 for Identification.)

Q Show you what's been marked State's Exhibit No. 11 for Identification. Is that an overview of those -- that complex?
A Yes, sir, it is.
Q Are those apartments or townhomes?
A Sir, to be honest with you I don't -- I know the complex is called Townhomes. I've never actually been inside one of these buildings to -- to tell you if it's actual apartment style or if it's actual townhomes.
Q Okay. Let me see. I'll show you this picture, State's Exhibit No. 4. This is an aerial picture showing the Waffle House location and then the Magnolia Townhomes.
THE COURT: Be mindful of the microphone, please.
Q Is that showing pretty much the area where you -- you kind of looked around?
A Yes, sir. That's correct.
Q Okay. Just to reorient the jury this morning, let's look at...
MR. BULSA: First, I would offer State's 11 into evidence.
MR. IANUARIO: No objection, Your Honor.
THE COURT: It's admitted.
(Photograph Marked State's Exhibit No. 11.)
Q Okay. State's 4.
THE COURT: Please be mindful of that microphone.

Q Just kind of look this way. Don't -- if you need to, step -- let's step down.
A Okay.
(Whereupon, the witness left the stand.)
Q Here's a pointer using the red button.
A Okay.
Q That label up there noted as "A" will be where the Waffle House is.
A Okay. That's the -- that's the Waffle House. That's where the incident location actually occurred.
I started conducting my -- my search here at East Blackstock. And here is the -- the -- I was unable to find that vehicle. Eventually, I made it to here.
THE COURT: Excuse me just a minute.
I'm going to have to ask you. Do you see that microphone hanging from the ceiling? Come towards that. Thank you.
BY MR. BULSA
A I arrived here, which was [redacted] East Blackstock Road.
Q Let me show, and let me publish State's 11.
A This is a larger picture I believe of the complex. This is where I first came in and started my search, made my way around through here. And this is where the suspect vehicle, the white Grand Marquis with Florida plate, was -- was located. And I conducted my surveillance here.

My vehicle was facing out towards the B building and C building.

Q Was your vehicle readily identifiable as a police vehicle?

A The way it's -- I had it setting at that point in time, no, it was not.

Q While you were watching that vehicle, what happened?

A While I was watching this vehicle I observed two gentlemen come out of the C building and kinda just hang out here. Appeared to be conversing amongst one another.

I didn't find anything readily suspicious about that until after a while they started looking at my vehicle. But I figured that was just going to be commonplace since my vehicle -- you know, most -- most people in a neighborhood or community know if that vehicle belongs there or not. I figured I was probably sticking out something like a sore thumb and they knew I didn't belong in that neighborhood.

After a while a gentleman exited the B building here. And I observed him walk through here and talk with two other gentlemen. And they all appeared to be in conversation. And they continued to look in my general direction.

And after a while the gentleman that had left from here, the B building to C building, started walking back.

As he was walking back I exited my vehicle.

Actually, at that point in time I had requested for another unit, another patrol unit, to meet me at this location so that I could conduct a field interview with this individual and see if he knew anything about the incident.

At that point in time the subject was already in the midst of approaching as I was getting out of my vehicle to approach him.

Q Now, at this point did you have any reason to believe that that person was connected to the white Grand Marquis?

A No, sir. At that point in time I didn't. The purpose of me exiting my vehicle to make that approach was just a field interview to see if he had any information regarding the ownership of that particular vehicle.

Q All right. And then what occurred when you approached him?

A I was -- he and I were in the middle of approaching. Officer Jeremy Byrd arrived, came in through this way, this entrance here, and met me at this point. And that's when all three of us were engaged with the defendant.

Q Was Officer Byrd in a marked vehicle?

A Yes, sir.

Q And what took place when y'all came in contact with each other?

A I said that I -- I went to identify myself. I said, hey, I'm so and so with the sheriff's, I'd like to talk to you for a minute, at which point he -- he, the defendant, made a comment. Actually, Jeremy Byrd also introduced himself and said, hey, we'd like to talk to you. And at that point the defendant made a comment to both of us.

Q What was that comment?

A If you wouldn't mind if I can refer back to my notes.

Q Sure. You can go back and have a seat.

A Okay.

(Whereupon, the witness returned to the stand.)

Q Set that there on the counter.

A At that point I referred in my -- for the purposes of a report I referred to him as the subject because I had not identified him at that point in time.

When we made initial contact with the subject the subject replied, "I did it. I did that thing over there at the Waffle House."

At that time Deputy Byrd and I informed the subject he was being placed in investigative detention until further notice, at which point I used a Miranda card and Mirandized him and gave -- read him rights and asked him if he understood at the conclusion of those rights to which he replied, yes, he understood.

Q Did you have any further con -- conversation with him?

A No, sir. After we put -- after I Mirandized him we escorted him to the back of Deputy Byrd's patrol vehicle, and I waited for violent crime investigators to arrive and seek further in detail regarding this incident.
Q After you made the comment you called for an investigator?
A Yes, yes.
Q Okay. But you were an investigator at that time.
A Yes.
Q Why did you not continue with your interview?
A I didn't continue the interview because my role is not to investigate directly first hand individuals involved in violent crimes.
Q So you were an investigator of the separate portion, different type of crime at that time?
A I just -- my -- my duties at that time were crime scene investigation. Typically, I get called out to a scene after an event has happened. I don't typically and can't do any kind of interrogation or interview --
Q I've got you.
A -- of suspects for -- for all intents and purposes because that's -- that's their primary job function.
Q And who arrived?
A There were several investigators. I want to believe -- I believe if I remember correctly -- I didn't

document here -- but it's Investigator Lorin Williams, is one of the investigators that arrived on the scene. And I believe Richie Foster also arrived on the scene.

Q Thank you. That's all I have. Answer any questions Mr. Ianuario may have.

CROSS-EXAMINATION

BY MR. IANUARIO

Q Thank you, Deputy.

You say your job is processing a crime scene.

A That is correct. That's -- that's one of many jobs I am able to discharge.

Q As part of your criminal investigation, is more investigating the crime scene than the person.

A That's correct.

Q Okay. You said that you determined or you had a description of the suspect vehicle and the direction of travel. Who gave you that description?

A Spartanburg communications.

Q Okay. And I might have missed this. A marked car, or unmarked?

A It was a semiunmarked vehicle.

Q Had lights with no stickers?

A No. The vehicle actually has lights. It's all blacked out, a Dodge Durango, late-model Dodge Durango, and it has two stars, one on each of the back glass side

windows.
Q But it doesn't scream police car when you look at it?
A Depending on how you look at it.
Q Yeah.
A If it's -- if it's facing from the side you can tell it's -- it's a marked vehicle. If I'm -- my driver's seat facing you, you wouldn't be able to tell.
Q Okay. I understand. And you -- were you in uniform at the time?
A Yes, sir, I was in full uniform.
Q And did Baker give you any sort of an issue when you were placing him in investigative detention?
A Not at all, sir. He was highly cooperative.
Q Nothing further. Thank you.
MR. BULSA: Nothing further.
THE COURT: You may step down.
MR. BULSA: Tanisha Martin.
TANISHA MARTIN, having been first duly sworn, testified as follows:
MR. BULSA: May we approach briefly, Your Honor, about another matter?
(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)
DIRECT EXAMINATION BY MR. BULSA
Q Ms. Martin, introduce yourself to the ladies and

gentlemen of the jury.
A My name is Tanisha Martin.
THE COURT: Let me ask you to use that black microphone. Pull up close to it and speak loudly so everybody can hear.
Q This machine makes some noise. You're going to have to speak up over it. Okay?
A Okay. My name is Tanisha Martin, and I live in Gaffney, South Carolina.
Q And did you used to live at Magnolia Townhomes?
A Yes, sir.
Q When did you live there?
A From October till June last year.
Q October of 2011 through June of 2012?
A Yes, sir.
Q Were you renting a place there?
A Yes, sir.
Q Who were you living with there?
A Antwon Baker.
Q Okay. How did you know Mr. Baker?
A Through Facebook.
Q You met him through Facebook?
A Yes, sir.
Q And then y'all got together and lived together?
A Yes, sir.

Q How long did you live together?
A We lived together from October till June.
Q Okay. So the whole time you were there you lived with him.
A Uh-huh.
Q Okay. And was it after he was arrested that you left the townhomes?
A Yes, sir.
Q Do you have family in Gaffney?
A Yes, sir.
Q Now, were you working back at that time?
A Yes, sir.
Q Where did you work?
A Hamricks.
Q Hamricks. Did you have a vehicle?
A Yes, sir.
Q What kind of vehicle did you drive?
A Honda Accord.
Q Did Mr. Baker have a vehicle?
A Yes, sir.
Q What kind did he have?
A He was driving the white Crown Vic.
Q Was that -- okay. You say Crown Vic. That's right there in front of you. Is that the vehicle that's shown in State's Exhibit No. 5?

A Yes, sir.
Q Some people confuse it with a Crown Vic, but it's really a Mercury, right?
A Uh-huh.
Q Okay. But was that his vehicle?
A It was his friend's.
Q His friend's. Okay. And who was his friend?
A Jonathan.
Q Do you know his full name?
A No, sir.
Q Did Jonathan live in that complex too?
A He did with us sometimes.
Q Okay. So Mr. Baker didn't have a vehicle of his own, but he drove a friend of his' vehicle.
A Yes, sir.
Q Okay. Now, do you remember the night that all of this happened?
A Yes, sir.
Q Did you know Mr. Anthony Young at all?
A No, sir.
Q Where had -- had you and Mr. Baker been out that evening?
A Yes, sir.
Q Where had y'all been?
A My mother's.

Q And your mother's the one that lives in Gaffney?
A Yes, sir.
Q Okay. So you and he visited your mother in Gaffney. How long did you stay there?
A For a while. Basically, just about the whole evening.
Q Okay. What time did y'all come back to Spartanburg?
A Between 11:00 and 11:30.
Q Okay. So that would have been the night of June the 2nd. And it turned into June the 3rd.
A Yes, sir.
Q And when you got back home what happened?
A He was downstairs; I was upstairs.
Q Did you go to bed?
A I was cleaning up.
Q Okay. And what did he do?
A He was watching T.V.
Q Did he leave at some point?
A He did.
Q Do you know when he left?
A I don't know what time it was.
Q When y'all had been in Gaffney had you been driving your car?
A Yes, sir.
Q Okay. And then when he left would he have taken your car or the white car?

A No, sir. He left in the white car.
Q Okay. Did you know where he went?
A To a friend's house.
Q Do you know where that friend lived?
A No, sir.
Q Do you know who that friend was?
A No, sir.
Q You don't. Did that friend live in the city of Spartanburg?
A Most likely.
Q Okay. All right. And did he call you or tell you when he was going to be home?
A No, sir.
Q When did you next hear from him?
A When he came home.
Q He actually came home.
A Uh-huh.
Q Okay. Were you aware that he had been to the Waffle House?
A He told me.
Q Did y'all go to the Waffle House on occasion?
A Yes, sir.
Q Which Waffle House did you go to most?
A Both really.
Q Both.

A Because we were in between, so we went to either-or.
Q Okay. So State's Exhibit No. 4. You may not be familiar with this picture here, but we have one Waffle House listed as "A" and one Waffle House listed as "B". This one down here is on Reidville Road near the intersection -- near 26. Then your apartments are right here. Did you say y'all would frequent both Waffle Houses?
A Yes, sir.
Q Okay. Now, when he came home how was he acting?
A Scared, nervous.
Q Okay. Did he change his clothes?
A Yes, sir.
Q Okay. Do you know if he washed up?
A He did.
Q Are you aware of whether he had any firearms?
A Yes, sir.
Q You were? What kind of firearm did you know he had?
A I don't know the name of it. I just know it was a gun.
Q You just knew he had a gun?
A Yes, sir.
Q Was it a pistol, a handgun?
A Yes, sir.
Q Okay. And where did he normally keep that handgun?
A In the box under the bed.

Q In the box under the bed?
A Yes, sir.
Q Would he carry it in his vehicle when he went places?
A Not all of the time.
Q Okay.
(Photograph marked State's Exhibit No. 12 for Identification; photograph marked State's Exhibit No. 13 for Identification.)
Q Ms. Martin, let me show you State's Exhibits 12 and 13 for Identification. Do they show the box and the pistol in the box?
A Yes, sir.
Q Okay. Now, that's under the bed. That's actually in a vehicle, right?
A Yes, sir.
Q Okay. Did you place that in -- in the vehicle?
A Yes, sir.
Q All right.
MR. BULSA: Your Honor, the state would offer 12 and 13 into evidence.
MR. IANUARIO: No objection, Your Honor.
THE COURT: They're admitted.
(Photograph marked State's Exhibit No. 12; photograph marked State's Exhibit No. 13.)
Q Okay. State's 12 shows the box closed and State's 13

shows the box open and the pistol -- some rounds and all.

Now, the police found that in a car, your car, right?

A Yes, sir.

Q State's Exhibit No. 10, is that your car?

A Yes, sir.

Q Okay. And is your apartment right up -- right up in here?

A Yes, sir.

Q Okay. So your vehicle is parked in front of your apartment, right?

A Yes, sir.

(Photograph marked State's Exhibits No. 14 for Identification; photograph marked State's Exhibit No. 15 for Identification.)

Q I show you State's 14 and 15 for Identification. Does that show -- State's 14 show the position of your car to the apartment?

A Yes, sir.

Q And that's where you would have parked it the night before?

A Yes, sir.

Q And State's 15 show a picture of the trunk of it?

A Yes, sir.

MR. BULSA: Your Honor, the state would offer 14 and 15 into evidence.

MR. IANUARIO: No objection, Your Honor.

THE COURT: They're admitted.

(Photograph marked State's Exhibits No. 14; photograph marked State's Exhibit No. 15.)

Q This one here has a better perspective. So when y'all arrived home that night before -- is that a normal parking space for you?

A On a Saturday night, yes, sir.

Q Okay. Now, tell the jury how that pistol box came to wind up in your car. Because you said Mr. Baker would not have driven your car, right?

A Uh-huh.

Q How did that pistol get in your car?

A I was taking him to turn himself in.

Q Excuse me?

A I was going to take him to turn hisself in.

Q That doesn't tell us how that pistol got in the back of your car.

A I put it in there.

Q You put it in there.

A Yes, sir.

Q At whose direction?

A Sir?

Q At whose direction? Who told you to put it there?

A I told myself to put it in there.

Q You did?
A Uh-huh.
MR. BULSA: Can I get some lights?
Q All right. Now, State's 15 shows the positioning of the box in your trunk, right?
A Uh-huh.
THE COURT: Please answer yes or no when you respond to a question.
A Yes, sir.
Q Now, ma'am, you know when you carry a pistol in your car you're supposed to have it in a locked compartment, either the glove box or the trunk.
A I didn't know that.
Q You didn't know that. Okay. But you had put it in the right spot. Okay. But you're saying that Mr. Baker told you to -- no. You said you put it in there on your own.
A Yes, sir.
Q When did you call 9-1-1?
A I didn't call 9-1-1.
Q When did Mr. Baker call 9-1-1?
A He didn't call them, not that I know of.
Q Okay. So no one called 9-1-1. Okay. You remember talking to the police that night, right?
A Yes, sir.

Q And you actually wrote a statement for them.
A Yes, sir.
Q And you wrote it out in your own hand.
A Yes, sir.
Q Meaning they gave you the paper and said please write down what you know about this, right?
A Yes, sir.
Q Okay. Let me ask you to read to yourself, let you refresh your memory. Right here, the last statement you wrote, where it begins with, "Officer". Just read it to yourself. I'm going to ask you a question.
(Pause.)
Q Okay.
A Okay.
Q All right. Now, I'm going to ask you who had you to put that gun in your car.
A He asked me to put it in my car, but I put it in there.
Q Of course you put it in there, but at his direction, right?
A It was his.
Q Huh?
A It was his.
Q His what?
A His.

Q His what?
A He asked me to put it in my car.
Q He asked you to put it in there. Okay. And read that to your -- read the whole statement to yourself if you would, and then I'll ask you another question about it.
(Pause.)
Q Okay. At what point was he going to turn himself in?
A After he came. He had told me what happened, and he was saying I have to turn myself in.
Q Okay. But that was after he had come home. He had changed his clothes, washed up, got you to put the gun in your car.
A Yes, sir.
Q Right?
A Yes, sir.
Q Okay. And, in fact, do you remember when the police arrived?
A Not what time. It was like everything happened so fast.
Q Well, so they got there pretty soon after he got there.
A Not too long after, yes, sir.
Q Okay. So about how long had he been there?
A I'm going to say probably 30 minutes.
Q Thirty minutes.

A Yes, sir.
Q Okay. So 30 minutes. He tells you -- he gets changed, cleaned up. Y'all aren't walking out the door to go to the police department, are you?
A No, sir.
Q No. In fact, he walked out and went and visited with some buddies down the -- down the sidewalk, right?
A I was in the house.
Q So you don't know where he went.
A No, sir.
Q You just know he walked out.
A Yes, sir.
Q Okay. And it was just by chance that the police happened to arrive.
A Yes, sir.
Q Because y'all hadn't called them there, had you?
A No, sir.
Q When he changed his clothes did he also change the shoes he was wearing?
A I'm not sure if he did because I was downstairs. He was upstairs.
Q Okay. All right. Did y'all share the same bedroom?
A Yes, sir.
(Photographs marked State's Exhibits Nos. 16 through 22 for Identification.)

Q Let me show you a series of pictures. Okay?
A Yes, sir.
Q Marked for identification State's Nos. 16 through 22. They're mostly clothing, but they show a room as well.
Would you look through there and tell me if you can recognize those? Do you recognize those?
A Yes, sir.
Q Do they show your bedroom?
A Yes, sir.
Q And some clothing that would be whose?
A Antwon's.
MR. BULSA: Your Honor, the state would offer State's 16 through 22 into evidence.
MR. IANUARIO: No objection, Your Honor.
THE COURT: They're admitted.
(Photographs marked State's Exhibits Nos. 16 through 22.)
Q State's 16. Is that your bedroom?
A Yes, sir.
Q That's your bed.
A Yes, sir.
Q And we see some clothing on the bed.
A Yes, sir.
Q Right?
A Yes, sir.

THE COURT: Please use the microphone when you're responding to the questions.

A Yes, sir.

Q State's 11 -- excuse me -- State's 17 shows the pants and shirt. Would that have been what he was wearing?

A Yes, sir.

Q Okay. And then 18 is just a closeup of the pants, and 19 is a closeup of the shirt, and 20 shows a hat. Would that have been the hat he would have been wearing?

A Yes, sir, yes, sir.

Q And 21 is another view of the bedroom showing some shoes. And 22 would be the closeup of his shoes. You said you're not sure if he was wearing those. But those are his shoes.

A Yes, sir.

Q Okay. All right. Now, you said you put the gun in the car because you were going to take it to the police. Why didn't you put the clothing in the car and take that to the police?

A I didn't think to take clothes.

Q You didn't. Okay. And, in fact, why are you getting your car involved when you could have easily have driven the car that he was driving during the incident?

A I wasn't thinking.

Q You weren't thinking?

A Not to take that car.
Q Now, you were pregnant at the time, weren't you?
A Yes, sir.
Q Pregnant by Mr. Baker?
A Yes, sir.
Q And you had that child.
A Yes, sir.
Q And how old is that child?
A Soon to be eight months on the 23rd.
Q Okay. All right. I believe that's all I have at this time. Answer any questions Mr. Ianuario may have of you, ma'am.

CROSS-EXAMINATION

BY MR. IANUARIO

Q Thank you, Ms. Martin.

You said Antwon washed up. What do you mean by washed up?
A He got sick and kind of threw up a little on hisself, so he washed hisself up.
Q Did he throw up any on his clothes?
A Not that I know of.
Q Did he wash his hands or did he take a shower?
A Took a shower.
Q So when he got out of the shower, that's when he put on clean clothes?

A Yes, sir.
Q How many pairs of shoes did Antwon have?
A Too many.
Q Approximation. Too many being six; too many being 600?
A I'm going to say 20.
Q Did he have a pair that he wore all of the time?
A He switched up all of the time, so.
Q Did you ever see him switch up throughout the course of the day?
A Yeah. He would change clothes, change shoes, hats, everything.
Q Would you describe him as pretty clean?
A Yes, sir.
Q You said he normally kept the gun under the bed in a box and that he did not carry it all of the time.
A No, sir.
Q When did he carry it?
A Like if he went out at night alone.
Q Okay. So was that common for him?
A To be out alone?
Q Well, to carry his gun if he was going out alone.
A Yes, sir.
Q Okay. What were y'all talking about on the way home from your mother's?

A Nothing. We were just listening to music.
Q And you weren't talking about anyone in particular, anything in particular.
A No, sir.
Q When you were going to go turn Antwon in and y'all were going to go down to the police station did you feel that that was an emergency situation warranting a call to 9-1-1?
A I wasn't thinking. I got woke up out of my sleep.
Q You were planning on driving to the police station so they didn't need to send out the SWAT team.
A In my mind, no, not at the time.
Q Okay. Did he often leave late at night to go to a buddy's house?
A Yes, sir.
Q So that was nothing alarming for you?
A No, sir.
Q Did Antwon give you a story about what happened?
A Yes, sir.
Q What were you told?
MR. BULSA: Your Honor, I need to object at this point. That would be hearsay.
MR. IANUARIO: Your Honor, I would like to know what her motivation was what, she was told as to the exigency of the situation to get her not to call 9-1-1 or to just

casually go to the police. Not asking for the truth of the matter asserted. I'm asking as to what she was under the impression of at that time.

THE COURT: I still sustain the objection.

BY MR. IANUARIO

Q Okay. Did Antwon -- did Antwon tell you that he had been in a fight that night?

A Yes, sir.

THE COURT: That's the exactly what he's objected to.

MR. IANUARIO: I'm sorry. I was trying to take it out of the narrative form.

THE COURT: Well, it's hearsay as to whether -- ask her what he told you or whether she tells you what he said.

MR. IANUARIO: I was trying to establish her impression of the events as she understood at the time they were taking place.

THE COURT: Let me see y'all just a minute.

(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)

BY MR. IANUARIO

Q You gave a statement to the police on the day in question, correct?

A Yes, sir.

Q What did you tell the police in regards to the events of the morning?

A Basically, what was told to me.
MR. IANUARIO: May I approach, Your Honor?
THE COURT: You may.
Q Is this a statement you gave? I know it's light.
A Yes, sir.
Q Would you like to skim that over real quick?
A Okay.
(Pause.)
Q Did the police ask you -- did the police ask you what Antwon was doing earlier that morning?
A No, sir.
Q Did Antwon indicate to you that he had been afraid for his life in that conflict?
A Yes, sir.
MR. BULSA: Your Honor, that's hearsay. Objection.
THE COURT: That's hearsay.
It's an out-of-court statement made by the defendant offered to prove the truth of the matter asserted. It's hearsay.
MR. IANUARIO: Withdraw it, Your Honor. Nothing further.
THE COURT: Well, you've already asked it.
REDIRECT EXAMINATION
BY MR. BULSA
Q Ma'am, what was Mr. Baker's attitude or demeanor like?

A He was scared, panicky.
Q He was?
A When he came home, yes, sir.
Q Okay. And did he keep that attitude during that whole morning?
A Yes, sir.
Q All right. Do you know why he went to the Waffle House?
A To get something to eat.
Q Was it for you?
A Him and me both.
Q So you had previous knowledge that he was going to the Waffle House.
A Usually whenever he goes to the Waffle House he will bring me some hash browns, because I was pregnant at the time. So that's what I like to eat from there.
Q And the one he usually went to was the one near Reidville Road, right?
A He would go to either one.
Q Okay. This occurred on a Sunday morning, I believe.
A Yes, sir.
Q Correct? Thank you.

MR. BULSA: That's all.

THE COURT: You may step down.

MR. BULSA: Hillary Wilkins.

HILLARY WILKINS, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BULSA

Q Hey, Ms. Wilkins.

A Hey.

Q Could you introduce yourself to the jury?

A I'm Hillary Wilkins.

Q All right.

THE COURT: Please use -- please use that black microphone when you speak. And you'll need to get closer.

Q And how old are you, ma'am?

A I'm 24.

Q And where do you live?

A I live in Spartanburg.

Q Okay. And do you work?

A Yes.

Q Where?

A Dish Network.

Q Dish Network?

A Uh-huh.

Q And did you know Mr. Young?

A Yes.

Q How did you know him?

A I'm -- I have a little girl with him.

Q And how old is y'all's daughter?

A She'll be four in October.
Q So you've known him for a while.
A Yes. Since 2007.
Q Did you see him the day he died?
A Yes.
Q Could you tell us about that night?
A It was late, because I had been in Charlotte this, the day of the 2nd. And when I was coming back down the road we had spoke, and he asked me to come and meet him to visit. I guess to visit or whatever. And he told me to come meet him at his mother's house.

And when I called back when I actually got to Spartanburg he was like that everybody's going to the Waffle House to eat. And I was like I don't feel like going. But he was like just come up there, and like my two -- my two friends were there also. He was like just come up there and eat and then we'll go back to my mother's house. And I was like okay.

So I went to the restaurant, and we were all there, and we were all sitting around eating.

Q Let me -- let me ask you one question. Just curious. Where is your daughter?
A Now? She --
Q Where was she at that point?
A She was at home with my mother. We had went out

previously for my sister's birthday. Her birthday -- her birthday's on the 3rd. So we had went out that Saturday, because the 3rd's on a Sunday. We had went out that Saturday for her birthday.

Q So you went then to Charlotte on Saturday?

A Yes.

Q But your daughter stayed with your mother.

A Yes.

Q Okay. So she wasn't anywhere around.

A No.

Q Okay. All right. Now back to the Waffle House.

A Okay. When I arrived everybody was in there. We were sitting in the bar. There's a bar. And I went in, and we were all sitting around talking and laughing and speaking about like old times or whatever just having a good time.

And I can't remember. Eating our food. And as I was paying for my food like everybody had went outside. Like my friend, she was hopping. Her ankle was twisted. She was hopping. And everybody had already went outside.

I was still in the Waffle House paying for my food. And then I went out. And in the process of me going out Anthony -- he was like talking to Brandon and was like, you know, that's the guy that pulled a gun on me in Magnolia Apartments before.

And then everything like just went I guess downhill or

whatnot. And like Brandon was drinking, so he was like, you know, don't let nobody disrespect you and like egg Anthony on. But Anthony the whole time was like ain't nobody -- nobody's with all of that, we're not doing all of that or whatever.

And I got -- once I got in my car and I'm like my battery was messed up, so he had to wiggle my wires because they were going bad.

Q Who is he?

A Anthony. He had to wiggle my wires under my -- so I cranked up my car. It had a little shortage in it. And when he did that he dropped my hood. He was like go home. And I was like no.

And so then Ke -- me and my friends were in our car. We took two separate cars. We were just sitting there waiting for, I guess, everybody to get in the car and let's all leave together.

And after he dropped my hood I -- Brandon -- I guess Mr. Baker walked. I guess he was already in there. He was in the Waffle House.

Q Did you know that person at all?

A No. I had never seen him before.

Q Okay.

A And he had already been in the Waffle House. I guess he walked past, you know, the Waffle House and went in.

And I seen Brandon go back in and speak to -- speak with him. And then Brandon came back out and --

Q Were you watching this from your car?

A Yes.

Q Where were you parked?

A My car is parked right in front like -- say parking place like right in front of the building, like I'm parked in the -- like right beside handicap. I'm in the second parking place.

Q Okay. What kind of car did you drive?

A A [sic] Altima, red Altima.

Q I've got a picture here, State's 7. It's not of the night in question, but it shows the overhead of the Waffle House.

A Uh-huh.

Q So the jury has an understanding of where you might have -- where you were parked.

THE COURT: If you need to step down and look at it, you may.

(Whereupon, the witness left the stand.)

A I was parked -- like the door's right here.

Q Let me give you a pointer.

A Okay. Okay. Like the door is right here. There's like a newspaper thing. I was parked here. This parking space is handicap. I was parked here and Karen was parked

there. And Darrin was on the -- well, he was on the other side of the handicap right here. So I was in this parking place, and he was parked beside me. And Brandon's car was over here.

Q All right. Now, you can have a seat.

(Whereupon, the witness returned to the stand.)

Q Do you know how Anthony had gotten to the Waffle House?

A He rode with Brandon.

Q Do you remember what kind of car Brandon was driving?

A A -- a Chevrolet Impala, one of the old ones, the big, long ones.

Q Okay. So he was parked across --

A He was parked -- he was backed in on the other -- on the other side.

Q Okay. Now, so you had a pretty good view of what was taking place.

A Yes.

Q About how close would you say that would have been to your car?

A They were at the door, so probably like 15 feet maybe.

Q Okay. So you didn't leave.

A Uh-uh.

Q But what occurred at that point?

A After Brandon went and spoke with him they came back

outside. Well, Brandon came back outside, and they were talking to Anthony. They was like he disrespected you or whatever, calling him names or whatever, saying, you know, you're going to fight this man and he's going to get that one -- that round with this man or whatever.

And Anthony was like no, and like he walked to the other side of the newspaper stand. He was standing on the other side of it.

And Mr. Baker came out the door too, and Brandon was talking to him and was like, you know, y'all are going to fight or whatever. And even he was like no. You know what I'm saying? He was like no, ain't nobody with it or whatever.

Q All right. Let me -- let me stop you right there and ask you this question. Did it appear from your perspective that Mr. Baker recognized Anthony?

A Yes. I think he knew who he was, but I don't think he like -- nobody was really like on it -- like nobody.

Q But from your viewpoint Mr. Baker didn't want to have anything to do with it, and neither did Anthony.

A No.

Q Okay. All right. And continue on. What happened?

A Okay. So then I think -- I looked down. I was putting a C.D. in or might have been checking my phone. And that's when I just started hearing shots, and that's

when I looked up and I seen Brandon running in front of my car.

And I seen Darrin go across in front of my car. And I seen Anthony run across the parking lot. And Mr. Baker was after -- running after him shooting.

And he was just shooting. And once he started shooting he didn't stop. And just he chased him.

And so Kiara, she started backing out. And we started backing out at the same time. And like so we was about to hit, like it was about to crash. So I stopped and I let Kiara go head.

And when I stopped I was like, you know, thinking he's not in the car with nobody, he's running. So he was running. He like ran across the next parking lot. And when he ran I turned, and he started coming back toward the car.

And then he was running, and he jumped. He jumped over the little bush. He was still running a little bit, but he was about to get in the car with me, and I was going to pull off.

And then I don't know if he got shot. I don't know what happened. He just fell on his face, and then Mr. Baker ran up to him. And I was just sitting there.

I didn't know what was going to happen. So I pulled off. I didn't know like if he was going to shoot me. I

didn't know what he was going to do. So I pulled off.

I was going down the road, and I was blowing. I was like blowing at Kiara and them and calling them. I was like y'all stop. I was like he shot him. And I was like he's not in the car with me. And I was like y'all stop. We left him. It was like we left him, why did we leave him.

And so I turned around and I went back. And in my head I'm like I don't know what I'm going to do. I was like I just going to run, and I don't know, and hit him with my car. I don't know what I'm going to do.

But when I got back he was pulling out and Anthony was laying on the ground. And I just stopped and got out of my car, and I went over to him, and he was coughing and choking on his blood. And his face was down in the ground, the concrete.

And that's when I went over and I picked his head up and I laid it on me. And he just died. I was talking to him and he was coughing and coughing. And he just died right there. And the police came and pulled me away. And that was it.

Q Okay. So when you drove out of the parking lot the last time you saw Anthony he was on the ground with Mr. Baker standing over him.

A Yes.

Q Thank you, ma'am. Answer any questions Mr. Ianuario may have.

Well, let me. Let me ask you one other thing. I'm sorry. Never mind. I won't ask that. Thank you.

CROSS-EXAMINATION

BY MR. IANUARIO

Q Are you ready?

A I'm waiting on you.

Q Okay. You were out with your girlfriends, right?

A No. I was by myself. I drove by myself. They were already there.

Q Okay. So you weren't. Do you remember if a group of indiv -- if a group of males was talking to y'all that night?

A Yeah. They weren't talking to me. They were there talking to them.

Q Do you remember what they were talking about?

A Nothing, like just conversation, boys being boys.

Q Flirting?

A Flirting, yes.

Q How many of those boys were there?

A There was two. There was two. It was two inside, and I think it was one -- I don't know -- waiting in the car that got dropped off or something. But it was two there, two extra guys there. But they weren't with us. They were

with them. They were by theirself, but they came, and they were talking to Kiara and Chassity at the bar and eating. And they had went back outside.

Q Would you describe what those gentlemen were wearing, what they looked like?

A One had dreads in his hair, and the other one, I think he was like Hispanic or something maybe.

Q Okay. Do you remember what color of clothes they were wearing?

A No.

Q Do you remember anything else unusual about them?

A No. I really wasn't paying them any attention.

Q Do you remember giving a statement to the police?

A Yes.

Q And in that statement do you remember describing a gentleman with a red and black bandanna?

A Yes. He had braids.

Q Which one was that?

A He was with another person. I think he was with somebody, a girl. He wasn't with the two other, the two guys.

Q Okay. So he didn't seem like he had anything to do with this.

A No.

Q Okay. Now, in that same report, again, you mention

that Antwon said he didn't want no problems.
A Yes.
Q Do you mind if I approach?
A No.
Q Does that look like the statement you gave?
A Yes.
Q Would you mind reading here to see if anything sounds different?
A I know what I said. I remember it.
THE COURT: Please use the microphone.
A I don't need to read it. I know what I said.
Q Okay. Did you tell the police that Anthony told Baker that he was disrespecting him?
A Brandon. Anthony told Brandon that Mr. Baker had disrespected him in Magnolia Apartments in a previous altercation.
Q Did you see Brandon --
A I can't hear you.
Q I'm sorry. Did you see Brandon throw a punch?
A No.
Q Do you know if you were -- you weren't looking at this altercation.
A No. I was looking -- I stayed -- when Anthony -- when Mr. Baker had came out the door when they were talking, I guess I looked down. I might have been putting a C.D. in

or looking at my phone, but I didn't see. Like the only thing -- when I looked back up the only thing I saw was Mr. Baker aiming and shooting. I didn't see what happened between the time he came out the door and when the gunshots started firing.

Q In your statement you mention a Brandon Byrd.

A Yes, sir.

Q Is that Brandon Glover?

A It's Brandon Byrd-Glover. He has two last names.

Q Okay. I wanted to make sure on that one. Have you ever known Brandon to carry a gun?

A I never seen a gun on Brandon.

Q Did he ever talk about carrying a gun?

A We don't -- no.

Q Do you know if Anthony had a gun ever?

A Anthony doesn't have a gun.

Q Do you know if he's ever had one?

A No.

Q And you were pulling back into the parking lot as Anthony was --

A He was pulling out, uh-huh.

Q Was there anyone else in the parking lot at that point in time?

A I didn't see anybody. The only people that were there, like the people that were working inside.

The only people that were outside like Brandon -- Darrin got in the car with Kiara. I think they ran across in front of my car and got in the car with Kiara. So I didn't see anybody out there. I really wasn't paying attention to look around and see if anybody was outside. I was focused on him laying on the ground.

Q And Kiara took off when the shooting was happening too?

A Yes.

Q Who was the first person you remember seeing after you approached Anthony?

A The police.

Q So no Waffle House employees.

A No. Nobody ran outside to me or nothing. Like it was just me and him, and then the police car pulled up. And then Kiara and Chassity pulled back up.

Q So it was -- did you say Kiara and Chassity pulled back up? Were they in the same car?

A Yeah. They were together.

Q Okay. So when -- in the car that left it was Brandon, Darrian, Kiara and Chassity.

A Yes.

Q Okay. Nothing further of this witness.

MR. BULSA: Nothing further, Your Honor.

THE COURT: You may step down.

We're going to take a short break before we go further.

MR. BULSA: Yes, sir.

THE COURT: We'll take a short break. I'll ask the jury to please go to your jury room. Do not discuss the case in any fashion. It's not concluded. I'll bring you back after that break.

(The following takes place outside the presence of the jury.)

THE COURT: Court's in recess for 15 minutes.

(Whereupon, a recess was taken.)

THE COURT: Are we ready for the jury?

(The following takes place in the presence of the jury.)

THE COURT: All right. Mr. Bulsa.

MR. BULSA: The state calls Amy Padgett.

AMY PADGETT, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BULSA

Q Good morning, Ms. Padgett. Would you introduce yourself to the jury?

A My name is Amy Padgett.

Q And how old are you, ma'am?

A Twenty-two.

Q Where do you reside?

A Do what?
Q Where do you live?
A In Chesnee, South Carolina.
Q In Chesnee.
Okay. And, ma'am, do you remember being at the Waffle House last year and seeing -- seeing something happen?
A Yes, sir.
Q Do you remember how you got there?
A Uh-huh.
Q You need to answer yes or no.
A Yes, sir.
Q How did you get there?
A I had rode with a friend, but it was in my car.
Q Okay. It was your car, but a friend of yours had been driving it?
A Yes, sir.
Q What kind of car were you driving? What was your car?
A A Ford Taurus.
Q Ford Taurus. What -- who were your friends that you were with?
A Jay and Quan.
Q Jay and Quan.
A Uh-huh.
Q Do you know their full names?
A I know their last names are Middleton. I can't --

don't know their first names.
Q Okay. And how long had you known them?
A Like a couple of months maybe.
Q And why had y'all gone to the Waffle House?
A To pick up one of their friends.
Q Did you know who the person was?
A I think his name was D.J.
Q D.J. Okay. And were you able to pick up D.J.?
A Yes, sir.
Q All right. Was that after something had happened?
A Uh-huh.
Q That's --
A Yes, sir.
Q Make sure you answer yes. Okay. Now, where did -- well, who was driving your car, which friend?
A Jay.
Q Jay was driving your car.
A Yes, sir.
Q Where did y'all park your car?
A Facing towards the opposite way of the Waffle House.
THE COURT: Ma'am, can you speak up a little bit louder, please, so everybody can hear?
THE WITNESS: Yes, sir.
Q So were you in the parking spaces facing the Waffle House?

A It was -- the back side of my car was facing towards the Waffle House.
Q Okay. And did you get out and go inside the Waffle House?
A No, sir.
Q Where were you in the car?
A In the passenger seat.
Q Did Jay and Quan go inside?
A I don't know if they went inside, but I know they got outta the car.
Q Okay. And what were you doing?
A Just sitting on the phone.
Q And what, if anything, did you notice?
A Do what?
Q What -- what did you hear?
A I just heard everybody being loud, and then I just seen people running and gunshots.
Q So when you heard people being loud did you look in that direction?
A Not really, no, sir.
Q And what did you hear?
A I -- I mean, I just heard people talking. And then I just seen people running and gunshots.
Q Did you see one person chasing another person?
A Yes, sir.

Q And which direction were those people running?
A The opposite from the Waffle House.
Q Were they running into the parking lot in the next business over?
A Yes, sir.
Q Okay. And then what did you see happen?
A I just -- I was trying to duck down, and then I looked up, and I guess I seen the dude laying on the ground.
Q And where was the other guy that had been chasing him?
A Standing beside him.
Q Did you see them do anything to him?
A I remember seeing them kick him.
Q You saw a man standing over a man on the ground kick the man on the ground?
A Yes, sir.
Q And then what happened?
A After that I just got in my driver's side, and I drove off to find the people I was with.
Q And where did you find them?
A In IHOP parking lot.
Q So they had run on the other side of the Waffle House.
A Yes, sir.
Q Had they run in the same direction you saw the two men running from where the gunshots were?
A No, sir.

Q Did you see anybody else out there with a gun?
A No, sir.
Q Okay. After you picked your friends up, what did you do?
A He had got in -- Jay had got in the driver's seat and then drove off and then made a U-turn to come back. And he parked in the Waffle House parking lot.
Q So you picked them up. Jay began driving again. And instead of y'all driving away, y'all actually came back. Why did y'all come back?
A He had said something about he thought the guy was one of his friends.
Q Okay. And did you learn whether that was correct?
A I didn't.
Q You did not?
A Uh-uh.
Q And did you stay there and talk to the police?
A Yes, sir.
Q Thank you. Answer anything Mr. Ianuario may have.

CROSS-EXAMINATION

BY MR. IANUARIO

Q What time did you pick up Jay and Quan roughly?
A I really can't remember.
Q Did you give a statement to the police?
A Yes, sir.

Q Would you like to review that statement to refresh your memory?
A Yes. I guess.
Q Does that look like the statement you gave?
A Yes, sir.
Q Do you want to read it over? About what time did you pick up Jay and Quan?
A About 3:00 something.
Q And what did y'all do between the time you picked them up and went to the Waffle House?
A Went straight there.
Q And how long were y'all at the Waffle House?
A Probably like 30 minutes.
Q Now, you said you -- just want to make sure I got this correct. There were some people being loud, and you heard some gunshots.
A Yes, sir.
Q And then you saw Mr. Baker chase Mr. Young and you ducked, right?
A Yes, sir.
Q And then when you looked up you saw Mr. Baker standing over Mr. Young.
A Yes, sir.
Q So you didn't see a portion of the conflict.
A Not really.

Q Did you drive off before or after Mr. Baker left?
A After.
Q How did you find your friends?
A I -- I just turned to the left, and I was looking around. And then I seen Jay in the parking lot, and I pulled in there.
Q All right. And did you pick up Quan at the same time? Were they together?
A They weren't really together, but we picked them up at the same time, yeah.
Q Was Quan at the Waffle House or the IHOP also?
A I think he was in the next part like a couple of spaces over maybe.
Q And then after you picked him up you went back to the Waffle House?
A We drove a little bit down the road, and then they turned around and went back in the Waffle House.
Q Why did you not go straight back to the Waffle House?
A I really don't know.
Q Jay was driving though, right?
A Yes, sir.
Q Did y'all stop anywhere before you came back?
A No, sir.
Q After you got back to the Waffle House did you leave again for any reason?

A No, sir.
Q So just to make sure I've got everything correct, you picked up Jay and Quan around 3:00 a.m. and went to the Waffle House. You heard the shooting, ducked and saw some things. And then when you left you picked up Jay and Quan next door at the IHOP. Jay took over. Y'all drove off, turned around and came back. And y'all didn't leave again.
A Yes, sir.
Q Did you pick up anyone else beside Jay and Quan?
A D.J.
Q D.J. Now, where did you pick him up?
A The same place they were at.
Q And that was the IHOP?
A Uh-huh.
Q Where were you sitting in the car?
A In the passenger seat.
Q Front passenger seat?
A Yes, sir.
Q How many shots did you hear?
A Probably about six or seven.
MR. IANUARIO: Nothing further.

REDIRECT EXAMINATION

BY MR. BULSA

Q Ma'am, did you have any trouble seeing what you saw? Was there anything in your way?

A No, sir.
Q And it was light enough for you to tell what was going on?
A Yes, sir.
Q Were you afraid?
A Yes, sir.
Q Okay. And the only person you saw shooting was the man that was chasing another one.
A Yes, sir.
Q Thank you.

MR. BULSA: That's all I have.

MR. IANUARIO: Nothing further, Your Honor.

THE COURT: You may step down.

MR. BULSA: Joshua Hance.

JOSHUA HANCE, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BULSA

Q Good morning, Mr. Hance. Would you please introduce yourself to the jury?
A My name is Joshua Hance.
Q Make sure you speak up and use that microphone. Okay?
A My name is Joshua Hance.
Q Who are you employed by?
A Waffle House.
Q How long have you been employed by Waffle House?

A About three years total.
Q Okay. What is your current position?
A My current position is assistant manager.
Q Which location?
A At Cedar Springs.
Q Did you ever work at the one on Highway 29 up near Target?
A Yes, I did.
Q How long did you work there?
A About a year and a half.
Q Were you working there back in June of 2012?
A Yes, I was.
Q What was your job at that time?
A I was a cook.
Q Okay. And there at the Waffle House, they're all set up pretty much the same, aren't they?
A Yes, sir.
Q Patrons can actually watch you cook their meals.
A Yes, sir.
Q So you have a view of the eating area as well as the outside.
A Yes, sir.
Q Now, on June the 3rd of 2012 did you witness a shooting?
A Yes, I did.

Q Okay. Let me start with some photographs.

(Photographs marked State's Exhibits Nos. 23 through 28 for Identification.)

Q Let me start off with these five photographs, State's 23 through 27 for Identification. Would you look at those and see if they show different portions of the Waffle House?

A Yes, they do.

Q Okay. Do they actually show the Waffle House you worked at on Highway 29?

A Yes, sir.

MR. BULSA: Your Honor, the state would offer State's 23 through 27 into evidence.

MR. IANUARIO: No objection, Your Honor.

THE COURT: They're admitted.

(Photographs marked State's Exhibits Nos. 23 through 27.)

Q Now, how long that day had you been working when this happened?

A About nine hours into the shift.

Q How long is your shift?

A It's a 10-hour shift.

Q So this was toward the end of yours.

A Yes, sir.

Q Was it around 5:00 o'clock in the morning?

A Yes, sir.
Q Does the Waffle House have video cameras?
A Yes, they do.
Q What do those video cameras show?
A It shows different views of the inside of the Waffle House and in the back room.
Q Does it show any view of the outside?
A No, it doesn't.
Q State's 23. Is that the Waffle House you were working at?
A Yes, it is.
Q Is that sort of a strip-mall type area?
A Yeah. It's like it was a shopping center.
Q Okay. All right. Is the door there at the end of the awning?
A Yes, it is. It's right in that area right there.
Q State's 24 would be a picture of the door. But for the posters and all did you have a pretty clear view of the outside?
A Yes. You can pretty much see what's going on out there.
Q Here's another view, State's 25.
A Yeah.
Q Okay. You see some glare from the photo, but are the windows kept pretty clean?

A Yes, they are.
Q State's 26. Does that sort of show the portion of the door area?
A Yes, it does.
Q All right. State's 27. Is that a window over from these two we just saw in 26?
A Yes, it is.
Q Okay. There's no -- there's no poster in that way.
Now, I show you what's been marked for identification as State's...
MR. BULSA: Madam court reporter, did I introduce those pictures? I think -- if I didn't, I'd ask that they be introduced.
THE COURT: Are you talking about the last group, 23 through --
MR. BULSA: Yes, sir.
THE COURT: Yes. They've been introduced.
MR. BULSA: Okay. I'm sorry.
BY MR. BULSA
Q I show you State's 28 for Identification. Do you recognize that?
A Yes, I do. That's a picture of the floor and the dining area with me right there at the cash register.
Q It's actually taken off of one of the videos.
A Yes, it is.

Q Okay. Of the night in question.
A Yes, it is.
MR. BULSA: The state would offer 28 into evidence.
MR. IANUARIO: No objection, Your Honor.
THE COURT: It's admitted.
(Photograph marked State's Exhibits No. 28.)
Q That's a view of the inside. We see the door area here, and the windows. This would be you?
A That is me, correct.
Q Okay. And up here towards the top there appears to be a time and date stamp.
A Correct.
Q June 3rd, looks like 5:1:17, be one minute after 5:00 based on that clock. Okay. And based on your view of what occurred is this a still picture of right as the incident is beginning?
A Right as it's beginning, correct.
Q It shows you watching what's going on.
A Right.
Q Tell the jury what you saw going on.
A I seen Mr. Baker came in and ordered his food. There was another gentleman came inside, and they had some words. They went out the door.
As Mr. Baker was coming back in there was a gentleman came running up beside of the building. He hit Mr. Baker

in the side of the head, and then that's when Mr. Baker pulled out the gun, and he started shooting.

I seen them take off running still shooting. And then by the time I had already made it into the back, and I seen the man fall out there in the parking lot.

And by that time another associate was already on the phone with 9-1-1. And I told them there was a man down in the parking lot.

Q Mr. Hance, let me ask you this. The person you saw run up and hit Mr. Baker, is it the same man that talked to him inside?

A No, it is not.

Q All right. And the man that was on the ground, did you see him doing anything to Mr. Baker?

A No, I did not.

Q Who did you see running?

A As in running?

Q Running as the shots were being fired.

A I seen just a crowd of people scattered and --

Q Did it appear that anybody was chasing anybody?

A Just -- just Mr. Baker was chasing the man with the gun shooting.

Q Mr. Baker was -- was he the man with the gun?

A Yes, he was.

Q Was he chasing the man that was on the ground?

A Yes, he was. He was chasing the man and that was --
Q Okay. Did you see any other guns that night?
A No, I did not.
Q All right. So as this was going on were you walking towards the back room?
A Yes, I was.
Q Had all the other employees been -- gone in the back room?
A All but one other employee.
Q Why did y'all go back there?
A Just safety. Just getting out of Dodge.
And then we was back there watching the camera, and we saw him come back in the restaurant. I'm assuming he was wanting his burger that he had ordered that night. And he wasn't in there no more than about three or four seconds, and he left again.
Q Okay. Somebody was already on the phone with 9-1-1.
A Yes.
Q Okay. Thank you. That's all I have. Answer any questions Mr. Ianuario may have.

CROSS-EXAMINATION

BY MR. IANUARIO

Q Hey, Josh.
A How are you doing?
Q In the time leading up to the shooting did you

recognize Mr. Young, the deceased?
A No.
Q And do you recall about how long he had been inside the Waffle House?
A He came -- he came in with some friends or what not. They was probably in there like 20 or 30 minutes.
Q Did his friends come in too?
A Yes.
Q And did you get to overhear any of the conversation?
A No, I did not.
Q All right. The fight started in the doorway, correct?
A Correct.
Q And you saw a gentleman in a white shirt hit Mr. Baker, correct?
A Correct.
Q Did he have braids, dreads, short hair?
A No, no.
Q That was not the same gentleman that was talking to him earlier in the Waffle House?
A No.
Q How many shots did Baker fire from the doorway?
A From the doorway, probably two from the doorway.
Q In the back room of the Waffle House do you have doors that exit towards the rear?
A Yes, we do.

Q Did y'all decide -- did you decide to exit through the rear?
A No.
Q Do those doors have windows on them facing the back parking lot?
A No.
Q Have any windows on them?
A No.
Q So once you're in the back room you're pretty much limited to what you can see from the camera view, right?
A Correct.
Q And then you saw Mr. Baker walk in and leave. And about how long after you saw him walk out of the building did you exit?
A I didn't come out until I seen a reflection from the blue lights pull up in the parking lot.
Q All right. So you didn't come out until the cops got there.
A Correct.
Q When Mr. Baker was standing in that doorway how many gentlemen were approaching him? How many gentlemen were in front of him?
A There wasn't nobody directly in front of him that I could tell.
Q Okay. And how big is that entry area approximately?

A Maybe about six by ten or something.
Q And if you're entering into the Waffle House that door that we can see in the picture, would you would push that open to enter or pull it to enter?
A Pull it enter.
MR. IANUARIO: Nothing further.

REDIRECT EXAMINATION

BY MR. BULSA

Q Just briefly, Mr. Hance.
Mr. Ianuario asked you about how many shots you heard fired from the doorway, and you said there was two.
A Correct.
Q Were there additional shots after that?
A There was.
Q Was that as they were running away?
A He was firing as he was running.
Q Thank you. That's all I have.

RECROSS-EXAMINATION

BY MR. IANUARIO

Q Approximately how many shots did you hear total?
A At least four or five shots total.
THE COURT: You may step down.
MR. BULSA: Your Honor, I ask that Mr. Hance be excused to go to work subject to recall if necessary.
THE COURT: He may be.

(Whereupon, the witness was excused.)

MR. BULSA: Antoine Gist.

ANTOINE GIST, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BULSA

Q Pull up close to the black mike there. Introduce yourself to the jury.

A I'm Antoine Gist.

Q How old are you, sir?

A Twenty-four.

Q Where do you live?

A Spartanburg, South Carolina.

Q Are you employed?

A Yes, sir.

Q What do you do?

A I work at Burger King.

Q Okay. You've got a soft voice, so speak up. Okay?

A All right.

Q Sir, had you been -- were you at the Waffle House last year when a shooting happened?

A Yes, sir.

Q Okay. Had you actually been at the Waffle House?

A No, sir.

Q How did you happen to be there when the police got there?

A Because I seen what was going on.
Q Okay.
A I was riding by and I seen what was going on.
Q You were riding by in a car.
A Yes, sir.
Q And where had you been coming from?
A The club, a club, a night club in Greenville.
Q A night club in Greenville.
A Uh-huh.
Q So had you taken 85 from Greenville?
A Yes, sir.
Q And you would have taken the 29 exit?
A Yes, sir.
Q So were y'all going back home?
A Uh-huh, yes, sir.
Q Who was in the car with you?
A Me and three other -- two other friends. I'm sorry.
Q All right. Whose car were you in?
A Darrin, my friend Darrin.
Q What's the last name?
A Moore.
Q Darrin Moore's car. Was he driving it?
A Yes, sir.
Q Where were you seated?
A Passenger.

Q Front passenger seat. And there was another man in the back seat?
A Yes, sir.
Q All right. What drew your attention to the Waffle House?
A A large crowd of people outside.
Q All right. And tell us what you saw.
A I seen a lot of people just scattering and running, leaving, somebody laying outside on the ground.
Q Speak up. I didn't hear any of that.
A I said I seen a lot of people scattered and running and leaving and somebody outside laying on the ground.
Q Did you hear anything?
A Gunshot.
Q You heard gunshot.
A Uh-huh.
Q All right. Is that -- is the gunshot what caused people to scatter?
A Right, yes, sir.
Q All right. And did you -- can you be any more descriptive about how you saw the people running away?
A Just running and loud in different directions.
Q Different directions.
A Uh-huh.
Q All right. And then you saw someone on the ground?

A Yes, sir.
Q Did you see anybody at the person on the ground?
A I seen somebody walking back to their car.
Q Somebody walking back to their car?
A Uh-huh, yes, sir.
Q Had that person been over -- standing over the man on the ground?
A He was walking. I'm not sure if he was standing over him, but he was walking from somewhere, I think.
Q You need to read your statement to refresh your memory? Let me let you read over this to yourself.
(Pause.)
Q Does that help you remember?
A A little. It does.
Q Okay. So you saw the man on the ground.
A Yes, sir.
Q And everybody else had scattered. Had cars left the parking area?
A Yeah. There wasn't no cars there.
Q How were y'all actually watching this? Had you pulled your car over somewhere?
A Yes, sir, in the plaza next door to the Waffle House -- in the plaza next door to the Waffle House.
Q Show you State's 23. Just turn and glance up there. The plaza you're talking about is this area over here?

A Yes, sir.
Q Okay. And when y'all pulled into that did y'all pull over towards this part of the parking area?
A Yes, sir.
Q All right. That's good. You can face me again.
All right. And the cars had left. And now that you read your statement do you recall seeing somebody standing over the man on the ground?
A Yes, sir. He was standing over him.
Q And what did that person do?
A He walked up to his car and left.
Q Did he seem like he was -- how did he seem?
A To be honest, I'm not sure.
Q Okay. Did he seem in a hurry, frantic?
A He wasn't in a hurry.
Q I'm sorry?
A I said he wasn't -- he was not -- I don't think he was in a hurry to me.
Q Okay. And what kind of car did he get into?
A A white vehicle, maybe a Crown Vic, I think.
Q Did you write it in your statement?
A I did.
Q What did you write in your statement?
A A Grand Marquis, I think.
Q White Grand Marquis?

A Yes, sir.
Q Okay. Had somebody in your car called for the police?
A Yes, sir.
Q Who was that?
A My friend Vonte.
Q And he was -- was he the one in the back seat?
A Yes, sir.
Q Okay. So y'all are watching this. And he's calling the police while you're watching it on 9-1-1?
A Yes, sir.
Q Okay. Did y'all stay there until the police got there?
A Yes, sir, we did.
Q And you actually gave a statement, written.
A Yes, sir.
Q Thank you. Answer any questions Mr. Ianuario may have.

CROSS-EXAMINATION

BY MR. IANUARIO

Q Thank you, Mr. Gist. So when you were approaching the Waffle House it was on your right side, right?
A Yes, sir.
Q So when you're driving by you don't -- what you first see is the people in the street out front.
A Yes, sir.

Q And that drew your attention to it.
Why did y'all stop in the parking lot next door?
A We pulled over there because the people was scattering and running. We heard the gunshots.
Q Couldn't you have kept -- just kept on driving? Well, no. You weren't driving but --
A I wasn't driving.
Q -- was there any discussion to stop, or did it just kind of happen?
A It just kind of happened.
MR. IANUARIO: May I approach, Your Honor?
Q Okay. Do you recognize the parking lot there? This is the IHOP, Waffle House, and I believe that's the parking lot you said you stopped in.
A Right there.
Q Does that look kind of right for you?
A Yes, sir.
THE COURT: Use the microphone when you respond to a question.
A Yes, sir.
Q Approximately where in this parking lot did you park?
THE COURT: Ms. Gist --
A Close to -- yes, sir.
THE COURT: -- there's a microphone that you keep bumping into. That's what making that noise.

THE WITNESS: Okay. I'm sorry.
THE COURT: Please don't do that.
Q So whereabouts were you parked?
A Close to the bushes on the side.
Q And kind of this area here?
A Yes, sir.
Q Okay. And where was Mr. Baker parked?
A In the Waffle House parking lot.
Q Where at in the Waffle House parking lot?
A In a parking space.
Q Was he in this area up front, this side, this side? Narrow it down a little bit.
A On the side there where the cars are.
Q Right here?
A Where the cars are.
THE COURT: Use the microphone when you respond to a question, please.
Q Was he right in this area here?
A Yes, sir.
Q Okay. You saw him drive off. Did you see anybody else leave after he left?
A No, sir.
Q Approximately how many gunshots did you hear?
A Maybe two -- one or two.
Q Nothing further.

REDIRECT EXAMINATION

BY MR. BULSA

Q From your perspective did it appear that he was the last one to leave the parking lot?

A Yes, sir.

Q While you were there waiting for the police did other cars come back to the parking lot?

A You said -- what was your question?

Q Do you remember -- do you remember people coming back to the parking lot?

A Yeah, people came there.

Q People came back.

A Uh-huh.

Q But that white car did not come back.

A No, sir.

Q All right. Thank you.

MR. BULSA: That's all I have.

THE COURT: You may step down.

MR. BULSA: The state calls Robert Talanges.

ROBERT TALANGES, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BULSA

Q Would you please introduce yourself to the jury?

A Charles Talanges, Spartanburg County Sheriff's Office.

Q What are your duties with the sheriff's office?

A I work forensics and crime scene I.D.
Q And how long have you been an officer?
A About 24 years now.
Q And how long have you been a forensics officer?
A Since 1997.
Q How long have you been with the sheriff's office?
A Going on nine years.
Q And did you respond to the Waffle House on Highway 29 on June the 3rd?
A Yes, I did.
Q Was Officer Hogsed already there?
A Yeah. There were several officers already at the location. They secured it.
Q And Officer Hogsed, he works in a position the same as yours, right?
A Yes, he is. He's a supervisor for our department.
Q Okay. So he is kind of the head over the forensic division?
A The night shift, that's correct.
Q Okay. And was he going off duty when this occurred?
A In a few hours he would have been. It was like 5:00 something in the morning when I got the call.
Q Were you actually on call to go -- were you on duty that night?
A No. I was on -- how it works is we do major-call once

every three weeks. So I was on. For any major calls that comes in, I was to respond.

Q Okay. So approximately when did you arrive?

A 5:00 something in the morning.

Q Had the scene already been secured?

A Yes. It was secured by Officer Hogsed, and several other deputies were there at the scene.

Q So everybody had been moved away from the building and the parking lot?

A That is correct.

Q And what did you go in and do?

A Upon my arrival myself -- and I waited for another deputy named Stepp. He was my partner at that time. He surveyed the scene and he pro -- he started to photograph the incident location.

Q Okay. When you got there was it completely daylight or was it still kind of dawn?

A It was still dark.

Q Okay. Now, we have State's Exhibit 23. That must have been taken later in the morning.

A Yeah. We rephotographed the scene in daylight hours as well.

Q Okay.

(Photographs marked State's Exhibits Nos. 29 through 34 for Identification.)

Q All right. Let me first start with the exhibit that's already been introduced State's Exhibit 3.

Does that sort of show the lighting, how it was when you arrived?

A Yes, it does. It was still dark outside. Dawn hadn't arrived yet.

Q Okay. And this photograph, was it actually taken from sort of the roadway or the entrance to the parking lot?

A That's correct, about the entrance to the parking lot.

Q Okay. Now, let me show you some photographs marked for identification at this point State's 29 through 34. Would you look at those and see if you recognize them?

A Yes.

Q Are those accurate depictions of the scene that night?

A Yes, they are, and also day hours as well.

MR. BULSA: Your Honor, the state would offer State's 29 through 34 into evidence.

MR. IANUARIO: No objection, Your Honor.

THE COURT: They are admitted.

(Photographs marked State's Exhibits Nos. 29 through 34.)

Q Starting with State's 29, that would be the entrance to the Waffle House.

A That's correct.

Q Watch that microphone if you would. You keep hitting

it.

This is sort of a pan of this area. State's 30, does that show the opposite parking lot?

A That's the Master's business in the parking lot located next to the Waffle House.

Q And State's 31.

A That's another view of the other parking lot.

Q Carrying your camera on around, and State's 32.

A Yes. It's a pan of it.

Q And now State's 33. Looks like it's taken from within the parking lot of the Master's.

A That is correct.

Q What are those two markers we see?

A We -- we located two shell casings at the -- in that parking lot.

Q Okay. And State's 34 is a view back towards the Waffle House.

A That is correct.

Q We see the markers again. Those are right there?

A Yes, sir.

Q Okay. Did you create a diagram of this location?

A Yes, I did.

Q What's the purpose of creating the diagram?

A So we can -- if the diagram is not to scale we take triangularization for measurements so if we have to

recreate or place the items back in the location where they're at. It shows the complete layout, is what you would call it.

Q Does it show the items that you would have collected?

A It all -- and all evidence collected as well.

Q What were you actually looking for?

A See -- we went to the shooting scene. So we're looking for any shell casings, guns, bullets and any evidence that would be related to this case.

Q Okay.

(Diagram marked State's Exhibit No. 35 for Identification; list for sketch marked State's Exhibit No. 36 for Identification.)

Q Let me show you what's been marked for identification State's 35 and 36. Is that your diagram and your legend?

A Yes, they are.

MR. BULSA: Your Honor, the state would offer these into evidence.

MR. IANUARIO: No objection, Your Honor.

THE COURT: They are admitted.

(Diagram marked State's Exhibit No. 35; list for sketch marked State's Exhibit No. 36.)

Q Okay. Let's start with State's 35. Kind of walk us through if you would. Just step down here.

(Whereupon, the witness left the stand.)

Q Let me see if I can slip this over.

Walk us through if you would what items you located and your position.

A This is the ledger here and the case number and any time. My arrival was 4:58, so it would have been 5:00 o'clock. I'm the one that did it.

The crime scene sketch, my partner that night was Cody Stepp. And of course Sergeant Hogsed was there as well.

This is the Waffle House parking lot and this is Master's. There were two different locations -- 8855, which would be the Master's, which is the parking lot adjacent to the Waffle House. That's where we found evidence item No. 1 and No. 2. They were tagged. They were spent shell casings. That stamp was -- should be next to it.

And then CCW, plus 12. That's the manufacturer, is what it is.

And then we got evidence No. 3, which is found in the location of 8121 Warren H. Abernathy, which was the Waffle House parking lot. We had No. 3. It's a black ball cap, 5950. It has New York on it.

And we've got No. 4, which is going to be spent shell casing.

No. 5 is a spent shelling case.

No. 6, we were in Waffle House where the suspect was

inside actually ordering and had a menu in his hand. We tagged that as evidence No. 6 and collected that for processing.

And No. 7 was found outside the door. It was outside the entrance door.

Later on that morning we found evidence No. 8, which was a fired bullet and projectile.

Q So that means you found five spent shell casings.

A That's correct.

Q And all had the same head stamp.

A Yes, they did.

Q Okay. But only one spent round.

A Only one bullet.

Q Okay. What areas did you search for evidence?

A Nighttime, we searched from the side of the building as it goes all the way across here and back down. We searched for any type of bullets, stripes, any type of bullet marks, anything that would strike a building.

We searched the Waffle House. We searched the -- both parking lots were searched as well. So basically this whole area here all the way down in the parking lot.

Q Okay. And you said it was daylight before you found No. 8.

A Yes.

Q Did you check the area in the daylight as well --

A Yes, we did.
Q -- that you just described?
A We had to go over it a second time because we located No. 8 which was in the parking lot.
Q Did you find any bullet strikes?
A No, I didn't.
Q All right. You've got several rectangular objects with triangles in there. What are those?
A These here?
Q No. The ones in the parking lot of the Waffle House. Appear to be vehicles.
A Yeah. These are vehicles here. I've got it wrote down. That's what these are in the positions they were when I arrived.
Q Okay. All right. So it appears that several of those are not even parked correctly.
A This one here and this one here. When I -- when I was being briefed by my sergeant he said it was total chaos when he got there. Everybody was running lights. And that's why vehicles came sliding in and parked in different positions.
Q Now, these shell casings that you recovered, did they appear to have been run over or kicked or stepped on?
A No, sir.
Q No. All right. Go back and have a seat.

(Whereupon, the witness returned to the stand.)
(Photographs marked State's Exhibits Nos. 37 through 46 for Identification.)
Q We've seen several of the pictures that were already taken. You put placards out for the -- each item that you recovered?
A That's correct, located, correct.
Q Look at State's 37 through 46 if you would. Do you recognize those?
A Yes, I do.
Q Okay. Do those accurately depict the items of evidence recovered at that scene?
A Yes. They are.
Q Okay.
MR. BULSA: Your Honor, the state would offer State's 37 through 46 into evidence.
MR. IANUARIO: No objection, Your Honor.
THE COURT: They are admitted.
(Photographs marked State's Exhibits Nos. 37 through 46.)
Q State's 37 is item one. Is that a shell casing?
A Spent shell casing, correct.
Q State's 32 is --
A Also a shell casing. Those were found in the Master's parking lot.

Q State's 39.
A That's going to be a 50-59 ball cap.
Q And State's 40.
A A spent shell casing.
Q State's 41.
A That's also a spent shell casing.
Q A little hard to see. Would you point that one out to us?
A I see the corner right there.
Q Okay. Now, State's 42.
A That's the inside the Waffle House. That's the menu that we were told that was held by the suspect.
Q Why did you collect it?
A Put -- put him inside the restaurant.
Q Potential fingerprints?
A Fingerprints, that's correct.
Q State's 43.
A Another spent shell casing.
Q And State's 44.
A That's going to be the fired bullet found in the parking lot.
Q Now, State's 45 sort of gives you a perspective of where No. 7 was found, is that right?
A That's correct.
Q No. 7 was a shell casing.

A No. 7 is a shell casing outside the door almost abutting the -- the parking curb right there.
Q Okay. And State's 46 shows perspective No. 8.
A No. 8 looking back at the Waffle House.
Q These are two pictures that have previously been admitted. State's No. 8. This shows No. 8 again, as well as -- I believe those are what, three and four?
A That's correct, three and four.
Q Okay. State's 9 gives you a perspective of where the other two shell casings were.
A In the parking lot at Master's, that's correct.
Q Now, what did you do with these items as you collected them?
A Everything is collected, packaged. And depending on what's going to be submitted for testing, whatever's going to be submitted, it will be sent to SLED.
Q All right.
(Fired projectile marked State's Exhibit No. 47 for Identification; spent shell casing marked State's Exhibit No. 48 for Identification; spent shell casing marked State's Exhibit No. 49 for Identification; spent shell casing marked State's Exhibit No. 50 for Identification; spent shell casing marked State's Exhibit No. 51 for Identification; spent shell casing marked State's Exhibit No. 52 for Identification.)

Q Let me show you what's been marked State's Exhibits 47 through 52 for Identification.

Are these the items that you recovered from the parking lot area?

A Yes, they are.

Q Okay. We see them. They're actually in clear packaging. Do you know what that denotes?

A They've been submitted to SLED. I know that.

Q Okay. SLED is --

A Analyzed them.

Q What is SLED?

A South Carolina Law Enforcement Division. That's our state agency that does all of our analysis and testing.

Q Okay. So when you packaged them for evidence you put them in the Manila envelopes.

A That is correct. We put them in Manila envelopes. Then they're submitted to SLED. SLED repackages them after they do the testing.

Q Okay.

MR. BULSA: Your Honor, the state would offer State's 47 through 52 into evidence.

MR. IANUARIO: No objection, Your Honor.

THE COURT: They are admitted.

(Fired projectile marked State's Exhibit No. 47; spent shell casing marked State's Exhibit No. 48; spent shell

casing marked State's Exhibit No. 49; spent shell casing marked State's Exhibit No. 50; spent shell casing marked State's Exhibit No. 51; spent shell casing marked State's Exhibit No. 52.)

Q Okay. And what would have been the purpose to submit them for?

A We actually had a weapon that was recovered at another location, and we were going to tie the ballistics back to that, those casings, as well as the bullet back to that weapon?

Q Okay. That was the goal.

A That was our goal, that's correct.

Q Okay. Let's talk about that pistol, now. Where was that recovered?

A That was recovered off Blackstock Road, I think, [redacted] Blackstock Road. There's apartments over there. It was in the trunk of a Honda vehicle.

Q Did you go to that location as well?

A I went to that location as well.

Q Okay. All right. And just for clarity, State's 14, does that show the black Honda?

A Yes, it does.

Q Okay. You were directed then to the trunk of that vehicle, State's 15?

A Correct. We did a search warrant on the residence as

well as the vehicle -- was drawn up on it. And the search of the vehicle we -- there's a clear box, clear lid on it, in the back of the trunk area.

Q And we've seen a picture of State's 13. That's how it's packaged.

A Yes, sir, just like that.

(Photograph marked State's Exhibit No. 53 for Identification.)

Q Let me show you State's 53 for Identification. Is that the same pistol that was in the package in the box?

A Yeah, that's the picture. That's the -- the weapon I recovered.

Q That would have been the next picture after this one.

A That's correct. What I did was the magazine if you notice wasn't completely seated, so that would have been taken out. So there was no round in the chamber.

We checked that, cleared it. And then the ammunition was counted. So I had 15 in two magazines. One -- two of those had 15 rounds apiece, and the magazine was in the -- in the magazine well of the weapon only had ten.

MR. BULSA: The state would offer 53 into evidence.

MR. IANUARIO: No objection, Your Honor.

THE COURT: It's admitted.

(Photograph marked State's Exhibit No. 53.)

Q Okay.

MR. BULSA: Could I get one of the officers to render this safe for me?

(Pause.)

Q While he's doing that, did you recover some other items from inside an apartment?

A Yeah, clothing. I think we gave it No. 10.

Q Okay. And did you also recover some shoes?

A Two sets of shoes. I recovered a set of shoes from Officer Nix that he retrieved from the jail and also drive -- looked in the back to the same apartment, and I was instructed by Investigator Foster that there was another set of shoes at the residence that we needed to collect.

Q Okay. So one officer went to the jail to collect shoes that Mr. Baker had been wearing?

A That's correct.

Q But somehow you got information that they might not have been the same shoes he was wearing when this occurred?

A That is also correct.

Q So you went back to Magnolia Townhomes to take another pair of shoes.

A That's correct.

Q So the clothing taken in State's 16 through 20 -- just glance over that -- were taken on the same day as when the pistol was recovered.

A All clothing was recovered and shoes on the same day.
Q Okay. But this was just a later time.
A Right.
Q Shoes in State's 21 and 22.
A Yes, at a later time.
Q Okay. Later time that same day. What was the purpose of collecting those shoes?
A There was a scuff mark on the victim's head, forehead area, that appeared to be maybe a shoe scuff mark.
So what we did is we compared the shoes that we got from the jail -- the sole of it -- to the marking on the head. And it didn't appear to be the same. And we found out later on that possibly he had wore another pair of shoes or had changed shoes.
Q Were you able to make a comparison with those?
A I didn't make a comparison, but we collected the shoes just to have it compared, that's correct.
Q Okay. Do you know if that was actually successful?
A I have no idea.
Q Okay.
(Pistol marked State's Exhibit No. 54 for Identification; ammunition, magazine and Allen wrench marked State's Exhibit No. 55 for Identification.)
Q Show you what's been marked State's 54 and 55 for Identification at this time.

Is that the weapon that was recovered from the vehicle?
A Yes, it is.
Q Fifty-four is the weapon and 55 is the --
A Magazines.
Q -- magazines and the bullets. Okay. And all of this would have been submitted to the state law enforcement agency to compare with the shell casings.
A That is correct.
Q Okay. Did you yourself have any contact with the defendant?
A I'm trying -- I don't think I had contact with him.
Q Your duties were to process the scene and collect any items of potential evidentiary value.
A That's correct.
Q Thank you. That's all I have. Answer any questions Mr. Ianuario may have.
MR. BULSA: Your Honor, I'd offer the gun and rounds into evidence if I didn't do it.
THE COURT: Fifty-four and 55?
MR. BULSA: Yes, sir.
MR. IANUARIO: No objection, Your Honor.
THE COURT: They're admitted.
(Pistol marked State's Exhibit No. 54; ammunition, magazine and Allen wrench marked State's Exhibit No. 55.)

CROSS-EXAMINATION

BY MR. IANUARIO

Q Thank you, Deputy.

When you were -- when you first arrived on the scene you said that Sergeant Hogsed described it as total chaos.

A Yes.

Q Roughly how many people were on the scene when you arrived?

A When I arrived I know that the scene was secured. One, two. I'd say maybe four to five deputies were there. That would include the crime scene guys as well.

Q And did you rope off the parking lot before you started any sort of search?

A Everything was roped off prior to my arrival.

Q Okay. So no one from the crowd could have been in that area to tamper with things.

A Not after it was secured, no.

Q Then you checked for bullet strikes and shell casings.

A That's correct.

Q And you recovered five shell casings and one projectile.

A That's correct.

Q Okay. And Nos. 1 and 2 were the shell casings that were recovered from the parking lot, correct?

A That's correct.

Q And you found no bullet strikes in this area.
A No, sir. I did not.
Q What all parts of the building did you look at? Did you look top to bottom or just the --
A We were looking -- we were looking at the sides, strikes to the curbs, the walls. From the top of the building to the bottom of the building is what we were looking at.
Q Okay. And did you check this back wall on here?
A Yeah. There was a brick wall in the back side, yes, sir.
Q And there are no bullet strikes indicated in there?
A I did not see any.
Q And you checked the Waffle House for signs of a bullet strike also.
A Yes, we did.
Q And there were no signs of a bullet strike there.
A None.
Q Okay. And then projectile No. -- projectile -- it's No. 8 -- was located later you said.
A Earlier in the morning, that's correct, later in the morning.
Q How much later are you talking about -- five minutes, 20 minutes?
A We're looking -- it was daylight hours when it was

located.
Q Okay. And the projectile is somewhere. The projectile is No. 8.
A No. 8, yeah.
Q And what were these three items here located in your file?
A The parking lot, as most parking lots, had trash in it. That was a couple of one-dollar bills.
Q Did you determine if the one-dollar bills had anything to do with the shooting?
A Shooting? We didn't collect it because it wasn't -- we didn't believe it was part of the shooting. That's why we didn't recover it.
Q Okay. And so -- and they were there the entire time that you were there -- the dollar bills?
A Until they blew away, because we left all of the trash and everything in the parking lot.
Q Okay. And how long did it take for you to notice the dollar bills after arriving on the scene?
A They weren't marked. Probably just right after we arrived.
Q Okay. And the projectile here wasn't discovered until daylight hours, is that correct?
A That's correct.
Q Now, going back to this diagram of the Waffle House,

so this is a solid wall and this is a solid wall, correct?
A That's correct.
Q And this back here is a solid wall, correct?
A Yes, sir.
Q And pretty much up until the end of the building this is a solid wall.
A I would say Extreme Pole Fitness, is a solid wall there. Everything else is storefront with glass. So that's the front while we -- going down towards the Waffle House.

The Waffle House has a semi brick wall, and then the rest, the front door, is glass. And there's a back wall that's nothing but concrete.

Q So in this general U-shaped area we only found one projectile and no bullet strikes.
A That is correct.
Q So then would that indicate the potential that either the projectile was traveling at an upward angle and cleared all of the walls?
A I couldn't say that. I just know. We didn't find any.
Q Good enough. How many casings did you find in front of the front door?
A One.
Q One shell casing.

A That'd be No. 7.
Q I am done with -- okay. And this is the firearm that you recovered.
A Yes. Serial No. U.S. 968022.
Q Would you describe the general condition of that gun?
A What you do you mean by describe the general condition?
Q Does it look like it's a brand new firearm, or used?
A I don't know how many rounds -- I couldn't -- I couldn't even estimate how many.

It's a, you know, polymer type lower receiver. You've got another upper receiver, basically almost like a Glock. I couldn't even say. Condition-wise, I guess it's operable.

Q Does the middle on the upper slide appear worn? Does the finish appear worn?
A You know what? It has a mat finish on it for glare. That way it doesn't bother your sights when you're shooting.
Q Okay. And the sights, what condition does it appear to be in?
A I guess good condition.
Q Okay. Are they clean?
A Yeah, about as clean as mine on my weapon.
Q Are they bright white?

A I don't know if they're the type -- I don't know if they're type -- I didn't know if they're Tritium on-sights. I don't know what kind of sights are on here.
Q Okay. And they look like stock sights. There's no markings indicating an after market.
A It looks just like a stock gun, stock pistol.
Q Okay. Was there anything else in the case when you recovered that firearm?
A Two -- well, the picture shows two magazines, each having 15 rounds per.

The magazine that was in the magazine well but not seated had ten rounds in it. And the capacity of each mag is 15 rounds.
Q Okay. One more time. I'm sorry. What is this item that's in the box?
A It looks a piece of paper, price tag maybe or -- because they said he bought it or it was purchased recently.
Q Maybe you can see it a little better.
A Some kind of papers, like I say.
Q Does that look like -- does that look like it says four thirty-nine ninety-five on it? Does that look like it's a price tag?
A It could be.
Q Was there a laser recovered with the firearm?

A Yes, there was.
Q Was that laser mounted on the firearm at the time it was recovered?
A The picture shows that it's not.
Q And is that laser in evidence anywhere?
A It was all packaged and put in as one unit.
Q And that would be the unit?
A Yeah. That's going to be it.
Q How does that mount to a firearm?
A Well, this Allen-wrench screw here, it's called the tactical slide, which is here. It slides on, and it actually just tightens down. And it looks to have either a thumb switch or a -- yeah.

It's a -- it's a thumb switch on here versus a pressure switch, which would be on your slide or grip area.

Q And that was not mounted on it when it was recovered.
A Uh-uh.
Q And so did you agree it looks clean?
A Pardon me?
Q Would you say that that looks like it's clean or covered in gun powder like it's been used a lot or --
A I would say that -- I can't say if it's -- I don't know what condition the -- they take care of the weapon like mine.
Q Okay. Nothing further.

REDIRECT EXAMINATION

BY MR. BULSA

Q Sir, what is the purpose of the laser?

A That's a -- it's an aiming mechanism. You see that on more tactical type weapons. It's a laser pointer. It's supposedly the bullet's going to strike at when you point your weapon. If there's a laser pointer at a certain -- certain location that's where the bullet should be targeted to hit.

Q And it actually mounts up underneath the barrel?

A Yes. It's a tactical-slide mechanism.

Q Underneath the barrel instead of on top?

A Uh-huh.

Q Okay. So if that were on there it would make aiming it easier?

A Well, it's -- looking through yours sights you're looking where the dot is --

Q Okay.

A -- on the -- the laser.

Q So if that had been mounted it would be easier to target somebody.

A That's correct.

Q And it's just as -- is it fairly difficult to mount, or is it easy to mount?

A Appears to be pretty easy. You've got an Allen-set

screw that tightens to the tactical rail.
Q Okay. So we can tell from the picture that somebody clearly dropped the clip, right?
A Uh-huh.
Q So somebody could easily have removed the laser.
A It's possible.
Q Okay. Did you attend the autopsy of Mr. Young?
A Yes, I did.
Q Did you recover any bullets from his body?
A We recovered no bullets. And that is after even looking through the x-rays. We didn't find any bullets or bullet fragments.
Q And he was shot multiple times.
A Entrance and exits, that's correct.
Q The fact that you didn't find any other rounds, what does that tell you?
A Depending on the positioning of the shooter, the positioning of the victim, you're looking at horseshoe type from the Waffle House to the Pole Fitness area.

If anything would have been shot or fired in this direction here you're looking at -- it could have been infinity. It could have struck Ingles across the way or could have struck miles away, because bullets can travel a great distance.

Q Do you always find every piece of evidence?

A No.
Q Sorry?
A No, we don't always find every piece of evidence. Bullets are real tricky to find because, like I said, they travel for a great distance.
Q It's clear in this case you didn't find everything.
A That's correct.
Q Thank you.

RECROSS-EXAMINATION

BY MR. IANUARIO

Q Do you have any experience with lasers on firearms?
A Have experience or have I used?
Q Are you familiar with how they work?
A Yes, I do. I have used lasers on a weapon, that's correct.
Q Okay. So the laser mounts a couple of inches below the barrel?
A Some. Some mount below the barrel. Some actually mount inside the grip.
Q But the particular one we have in evidence.
A This one here is mount -- that's right. It's -- the weapon has a tactical slide, and that's -- that's what it's made for is a laser sight or a flashlight.
Q So if the bullet's going straight and the laser is supposed to indicate where the bullet's going, the way to

do that would be to slightly raise the elevation of the laser so they cross at, say, 25 yards. Then the weapon is sighted in for 25 yards.

A That's right. The laser would be adjusted to that, that's correct.

Q And closer distances or further distances than that you're going to have a disparity between the bullet placement and the laser.

A You shouldn't, no. Greater distance, you would. But up close, you would not.

Q Okay. But there would be a linear distance over time. The laser has to be aimed slightly upwards in order to get to the point of impact.

A That's correct.

Q As a law enforcement officer are you given the option to use a laser on your firearm?

A Well, I've done -- I've used different types of weapons at work. So, yes, I have.

Q SWAT aside.

A Okay.

Q Standard duty would you -- do you carry a laser on your side arm?

A No, I do not.

Q Why not?

A I don't need to carry one.

Q Do you know of any officers that use lasers?
A Other than the SWAT?
Q Other than the SWAT. Standard agency.
A Not in our agency, no.
Q Okay. Create issues with aiming under bad situations for an officer? You've been in more panic situations than I have.
A Pardon me?
Q If in a panic situation would that laser cause a distraction?
A That -- that particular one has to be -- it's a thumb drive for -- or has a switch on it. It's not a kind -- I've used were pressure switches, would be great on the grip. So when the weapon's in your hand as soon as it -- you -- as soon as you pick up the weapon or grab it, it actually -- it turns it on, as this one here has to be physically turned on.

MR. IANUARIO: Nothing further.

MR. BULSA: Nothing further.

THE COURT: You may step down.

MR. BULSA: Ask that he be excused.

THE COURT: He may be.

(Whereupon, the witness was excused.)

THE COURT: We're going to break for lunch.

Let me caution the jury again not to discuss the case,

not to engage in any research or investigation. Also, don't permit yourselves to be exposed to any type of media coverage that might relate to the case.

Do have a good lunch. Please report to your jury room at 2:15, at 2:15 this afternoon.

(The following takes place outside the presence of the jury.)

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

(Whereupon, a recess was taken.)

(Shoes marked State's Exhibit No. 56 for Identification.)

THE COURT: All right. Are we ready for the jury?

MR. BULSA: Yes, sir.

THE COURT: Bring them in, please.

(The following takes place in the presence of the jury.)

THE COURT: Good afternoon, ladies and gentlemen. We're going to continue with the state's presentation.

MR. BULSA: The state calls Angela Nelson.

ANGELA NELSON, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BULSA

Q Good afternoon. Introduce yourself to the jury, please.

A Angela Nelson.

Q Slide up to the microphone.
Who are you employed with?
A Spartanburg County Sheriff's Office.
Q In what capacity?
A I work under the evidence technician.
Q You keep evidence secure at the sheriff's office?
A Yes, sir.
Q Okay. And specifically in this case involving the death of Anthony Young did you take some items to the South Carolina Law Enforcement Division --
A I did.
Q -- In Columbia? Okay. Do you have records showing what you took?
A Yes, sir.
Q Specifically, did you take five spent shell casings and a fired bullet?
A I did.
Q Specifically, were those the items that are denoted by State's Exhibits Nos. 47 through 52?
A This is them.
Q Okay. And I show you what's been marked for identification at this point State's 56. Do you recognize that object?
A I do.
Q How so?

A It's a package that when we prepare anything to go to SLED we check to make sure that it's sealed in the capacity in which it came in to us. We make sure the case number is correct, the item's correct. And -- and we put it in another package or a box and take it down to SLED.
Q Would that have been placed into evidence by Officer Talanges?
A It was.
Q And it denotes the items being sneakers?
A Correct.
MR. BULSA: Your Honor, the state would offer this into evidence as State's 56.
MR. IANUARIO: No objection, Your Honor.
THE COURT: It's admitted.
(Shoes marked State's Exhibit No. 56.)
Q Were those sneakers also taken to the state law enforcement division?
A Yes, sir.
Q Was everything in a sealed package when it was taken down there?
A Yes, sir.
Q And do you know what happened when it was taken to SLED?
A When I dropped it off with evidence technician, sometimes they will either place it in another package to

go to whatever department it needs to go to for analysis or they will place it in a box.

Q But when you leave it's in a sealed condition.

A Correct.

Q Even if it's broken open at SLED, they seal it in your presence.

A Yes. And we would have to put our initials and the date on it, whatever they sealed it with.

Q So and is that so if things weren't -- do not get contaminated?

A Correct.

Q Okay. Thank you.

MR. BULSA: That's all I have.

MR. IANUARIO: I have no questions for this witness, Your Honor.

THE COURT: You may step down.

MS. OVERBY: The state would call Taylor Bouknight.

TAYLOR BOUKNIGHT, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. OVERBY

Q Can you please state your name for the jury?

A Taylor Brooke Bouknight.

Q And, Ms. Bouknight, where are you currently employed?

A The morgue at Spartanburg Regional.

Q Can you tell us some of your duties and

responsibilities at the morgue? What would they include?
A I've worked in the morgue for three years. I just became the morgue supervisor in January. I'm responsible for all of our ordering, our charging, paperwork, any details, things that need to be done. Some of my employees don't have the ability to do in assisting with coroners' cases and in-house cases that happen in the hospital.
Q Did you assist in the case of Anthony Young?
A I did.
Q And were you present at the autopsy performed on Anthony Young on June the 3rd of 2012?
A I was.
Q At that time did you observe a blood sample that was taken from Mr. Young?
A Yes.
Q And can you tell us who took that sample?
A Dr. David Wren.
Q And did you observe Dr. Wren take that sample?
A I did.
Q How was it collected?
A Dr. Wren took it from the aorta cavity once we started the autopsy. We get a syringe for him, and a needle, and he takes it that way -- the aorta.
Q After Dr. Wren collected the sample what did you then do with it?

A He'll take. He puts kit in three gray-top tubes, the same type of tubes we use for all of our coroner cases. He then hands it over to me. I put the patient labels. I collect the date and the time that we withdrew the blood and then put those on the blood and then seal it with evidence tape from the coroner's office.

Q These tubes that they were placed in, are they uncontaminated containers?

A Yes. We take them from there. We put them in an evidence bag. We label the bag. I sign off on it as chain of custody, and then I put in a locked refrigerator.

Q And did you do that in this case?

A Yes, ma'am.

Q After labeled and sealed were these samples handled by you in any other way?

A Oh, no, ma'am.

MS. OVERBY: That's all the questions I have of this witness.

MR. IANUARIO: I have no questions.

BY MS. OVERBY

Q I'm sorry. I have one more.

Did you then after the sample was placed in the refrigerator, did you turn it over to the Spartanburg County investigators?

A I did. We do those with all of our coroners' cases.

They take responsibility of the blood after we put it in the locked refrigerator.

Q That's all the questions I have. Please answer any questions Mr. Ianuario may have for you.

A Okay.

MR. IANUARIO: No questions, Your Honor.

THE COURT: You may step down.

THE WITNESS: Thank you.

MR. BULSA: Joy Lathan.

JOY LATHAN, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MS. OVERBY

Q Can you please state your name for the jury?

A Name is Joy Lathan with the Spartanburg County Coroner's Office.

Q Can you tell us in what capacity you're employed with the coroner's office?

A I am a coroner's investigator.

Q And what do some of your duties and responsibilities include?

A Responsibilities may be collecting evidence, transporting evidence to SLED, and photographing and working crime scenes.

Q Were you involved in the investigation of the death of Anthony Young?

A Not directly involved in the investigation. I did transport the blood evidence.
Q And where did you transport that evidence?
A To the state law enforcement division lab in Columbia.
Q Specifically, what items did you take to SLED?
A It was two vials of blood.
Q And when you -- where did you receive those samples from?
A I received them from the morgue. I got them outta the unlocked morgue refrigerator at the morgue. I placed one vial into our hold -- monthly hold bag -- placed the other two vials along with the bag, the evidence bag, and signed it out to me and transported it to SLED.
Q And were those vials sealed upon your receipt of them?
A Yes, ma'am. They were sealed with evidence tape over the caps.
Q And when you turned those items over to SLED did they remain sealed?
A Yes, ma'am.
Q And were these two vials of blood altered or opened in any way by you?
A No, ma'am.
Q Do you recall to whom at SLED you provided those vials to?
A It was a SLED lab tech. I believe her name was

Stephanie. I'm not sure. I don't have the report in front of me.

Q Did you provide this to Amy Stephens?

A Amy Stephens. I'm sorry. Yes, ma'am. She signed over the paperwork to me that day.

Q When you -- after dropping those items off at SLED, when you left those items were they still sealed?

A Yes, ma'am, they were still sealed. Actually, they sealed them I think in a heat-sealed envelope back.

Q No further questions. Please answer any questions Mr. Ianuario may have.

A Yes, ma'am.

MR. IANUARIO: No questions for this witness.

THE COURT: You may step down.

THE WITNESS: Thank you.

MR. BULSA: Quintus Young.

QUINTUS YOUNG, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BULSA

Q Good afternoon, Mr. Young. Would you introduce yourself to the jury?

A Yes. My name is Quintus Young, II.

Q Who are you employed by?

A I am employed with the South Carolina Law Enforcement Division, commonly known as SLED.

Q What is your occupation there?
A There I am a forensic toxicologist.
Q How long have you been doing that work?
A A little over six years.
Q Now, we're not concerned about the toxicology part of this case. But did you receive some vials of blood pertaining to the victim, Anthony Young?
A Yes.
Q And as part of your duties did you supply a sample of that blood to the D.N.A. department at SLED?
A Yes, sir.
Q How would that have been done?
A Once -- once we've done the analysis or as much as we need to do, we then take a small portion and place it in a clean vial and seal it in a new heat-sealed pouch. And we send it to D.N.A.
Q While that blood is in y'all's custody is it -- does it remain in a protective environment?
A Yes.
Q It's safe and secure and untampered with?
A Yes.
Q Okay. So the item -- you did what you needed with your portion and then sent a sample for another possible testing if necessary.
A Correct.

Q Okay. Thank you.

MR. BULSA: That's all I have.

MR. IANUARIO: No questions for this witness, Your Honor.

THE COURT: You may step down.

MR. BULSA: We ask that he be excused, Your Honor.

THE COURT: He may be.

(Whereupon, the witness was excused.)

MR. BULSA: Betty Butler.

(Pause.)

MR. BULSA: She's in the restroom, Your Honor. We will move to John Green.

JAMES GREEN, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BULSA

Q I called your name as John, but it's really James. James, would you introduce yourself to the jury?

A My name is James Green, and I work at the South Carolina Law Enforcement Division.

Q And in what capacity?

A I'm a firearms examiner in the forensic services laboratory.

Q What kind of training have you had in the area?

A When you start at SLED you go through the SLED course instruction in firearms and toolmarks. It's approximately

a three-and-a-half-to-four-year course of instruction studying under court-qualified examiners.

First, you start watching them do their work, and as you progress through your training you take oral examinations, written examinations, practical problems and do thousands of microscopic verifications or examinations.

At the end of the training cycle you're given a very comprehensive final exam where you're working basically fake cases, cases created in the laboratory, to see if you come up with the correct answer.

Q So would you consider -- do you do all of this so you can become an expert in firearms and toolmark identification?

A Yes, sir.

Q Have you testified in court in that capacity before?

A Yes, sir.

Q Have you been qualified as an expert in that field?

A Yes, sir.

MR. BULSA: Your Honor, the state would offer him as an expert in the field of firearms identification and toolmark identification.

MR. IANUARIO: No objection, Your Honor.

THE COURT: He is so qualified.

BY MR. BULSA

Q Mr. Green, in this case specifically involving the

deceased, Anthony Young, what items did you receive from the Spartanburg County Sheriff's Office?

A I'll refer to the SLED item numbers. I received items two through six -- two, three, four, five and six, which were five fired 9mm NATO caliber or 9mm Luger caliber cartridge cases.

Item seven was one fired bullet; item nine was a Springfield model XD semiautomatic pistol, 9mm Luger caliber with a serial number of US 968022 with three magazines, 40 unfired cartridges and one laser sight with a mount, a plastic gun box and an Allen wrench.

Q Okay. If you would, confirm that these items marked through State's Exhibits 47 through 52, 54 and 55, those items that you just referenced --

A Ladies and gentlemen of the jury, what I'm doing now is when we get evidence into the laboratory we mark it with our lab number, the item number and our initials if it's large enough. So when you see me rolling the packages with my fingers I'm looking through each exhibit to see if these are what I looked at.

(Pause.)

A State's Exhibit 47, 48, 49, 50, 51 and 52 and State's Exhibit 55 are the items of evidence I received in this case.

Q How about the items in the box, State's 54, I think?

Excuse me. That's 55. The pistol is 54 for the record.
A Yes, sir. These are the magazines, the unfired cartridges, the laser sight and mount, and the Allen wrench.
Q Okay. Those three magazines, do they hold an equal amount of bullets?
A Yes, sir.
Q How many bullets do they hold?
A They all hold 15.
Q Okay. And two are completely filled and one had ten?
A Let me refer to my notes as to how they were packaged.
(Pause.)
A When I received them they were in a zip-lock bag. The cartridges were not in the magazines, but one magazine had 14 unfired cartridges with it in the bag, and another bag has 16 unfired cartridges with it in the bag. And then ten unfired cartridges were in a separate zip-lock bag.
Q All right. Did you do anything specifically with those rounds in this case?
A I weighed them just to see what nominal gram weight the bullet was. They all weighed roughly the same. I disassembled one of the unfired cartridges to look at the components. And the bullet, which was the projectile portion of the cartridge, weighed 115 grams.
Q Did they have the same head stamp as the fired

casings?
A Yes, sir.
Q So they were all the same make and model.
A Yes, sir. They were all the same make.
Q Now, what tests did you perform on these shell casings and spent round?
A When we get evidence submitted to the laboratory in absence of a firearm, what we can do is we'll look at them on a comparison microscope, which is a -- two microscopes basically connected by an optical bridge that lets us look at two different items at the same time under different angles of lighting.

And what I did was any time I get a case if there's a gun or not I'll look at the fired evidence components first to see, say, if we have six cartridges cases, or five, how many guns may be represented in those cartridge cases.

Once I get those matched to one gun, two guns, three guns, if we do have a firearm submitted I'll test fire the firearm or firearms to get test specimens from them fired by this particular gun. I know so because I fired them myself.

Then I'll look at the tests against each other to see if the firearms marked inconsistently. And once I do that I'll compare the tests against the evidence.
Q And what were the results of your test?

A Once I test fired State's Exhibit -- I think you said -- 54, was the pistol, I compared them with State's Exhibits 48, 49, 50, 51 and 52, which were the fired cartridge cases.

I determined or concluded that all of those cartridge cases were fired by this pistol.

Then I looked at my test-fired bullets versus State's Exhibit 47 and concluded that that bullet was fired by this firearm as well.

Once we do that we'll write our -- our conclusions down on our worksheets. And then I'll go get a second examiner to come in and look at my evidence and form their own conclusion based on that.

Q How does that firearm fire?

A This is a semiautomatic pistol. If you're somewhat familiar with firearms, I apologize in advance.

A semiautomatic pistol like this one is fed by a magazine, which is this. All you do is you load the unfired cartridges into the magazine. You insert the magazine full into the magazine well, and you'll lock. And you can hear it click.

Then what you do is you pull the slide forward and allow it to go forward under spring tension, and that will top the pistol.

Then you pull the trigger. Without being too

technical, doing so will release the striker or the firing pin. Firing pin will go forward, hit the primer of the cartridge which will cause a small explosion which will send a flame through the flash hold of the cartridge case igniting the powder inside.

The powder will burn at various rates, different rates and bullet pressure. Once a critical pressure is reached the bullet will be expelled from the mouth of the cartridge case down the barrel towards the intended target.

In a law of physics, you know, equal-opposite reactions. As the bullet's going down the barrel the cartridge case will be slammed against the breach face of the firearm obtaining any marks placed on the breach face by manufacture.

The slide will then move to the rear. And you can't see it, but there's an ejector on the slide. It'll grab the fired cartridge case out of the chamber, pull it back. And when the slide hits this more rearward motion the cartridge case will hit the ejector. The ejector expels the fired cartridge case from the firearm.

The slide will go forward and pull the trigger again. That'll keep happening until either the magazine runs dry or you're out of ammunition or you stop shooting.

Q Are there any safety features on that gun?

A This pistol has three safeties built into it. They're

a couple of passive safeties and active safety.

The first is a trigger safety. I don't know if you can see it, but the trigger comes down here, and then there's a little projection that comes out front. That's a trigger safety.

That means unless your finger's on the proper orientation to disable that trigger safety the trigger cannot be pulled. It's -- it's blocked by a piece of plastic.

The second safety is a grip safety. And what that does is you can pull the trigger all you want. But unless the grip safety is depressed and the firearm's functioning properly -- and this one did -- in the absence of the grip safety being pulled the firearm is not fired. You have to make sure the grip safety is depressed while you're pulling the trigger to make the firearm fire.

The third safety is a built-in safety, and it's a firing pin safety. You cannot see it, but it's right here. It blocks the forward movement of the firing pin until the safety is depressed. And all that's done internally by a bar or trigger bar.

When you pull the trigger the bar comes up, which depresses the firing pin safety and allows the firing pin to move forward.

Q Actually, the firearm has to be loaded first, doesn't

it?
A Yes, sir.
Q If it's loaded don't you have to physically pull the slide back?
A Some. There's two ways to do it. Some pistols if you have a loaded magazine you can insert the magazine, and you can hit -- let me try this. You can hit the slide release or the slide lock, and that'll cause the slide to go forward stripping the first cartridge, magazine loading into the chamber, or you can manually do it by gripping the serrations, pulling it to the rear and letting go. And that'll also load the pistol.
Q So even though a magazine can be in it if one's not -- a round's not loaded in the chamber, it won't fire.
A Correct.
Q Right? Okay. So it takes multiple steps to fire this weapon.
A Yes, sir.
Q How hard is it to actually pull the trigger and fire a round?
A Let me see what I tested the trigger for. The trigger-pull weight tested about six and three quarter pounds. So it's roughly two-thirds of the weight of a gallon of milk.
Q What does that mean?

A It takes about roughly six and three quarter pounds of pressure exerted on the trigger to make the firearm fire.
Q Why do you relate it to a gallon of milk?
A Because they weigh roughly eight pounds.
Q So does that mean if you had a gallon of milk trying to raise it with one finger?
A Yes, sir.
Q Okay. So it takes some actual force to pull it.
A Correct.
Q All right. Thank you. That's all I have. Answer any questions Mr. Ianuario may have.

CROSS-EXAMINATION

BY MR. IANUARIO

Q Start with a nice, easy one. We're talking about case ejection. On semiautomatics where do the cases generally eject?
A Generally they go back into the rifle.
Q Back into the rifle.
A Very generally. There's a whole bunch of different factors that can affect it. But as a general rule with the ejection port right here -- the extractor is on the right, the ejector is on the left. When it's being pulled back it's going to want to tend to go that way.
Q The safety features that we're talking about, as soon as you pick up and you grip the gun you activate the grip

safety, correct? And it takes no independent actuation other than picking up the firearm?

A That's kind of a sticky point because if you get a -- if you don't have a good grip on the firearm -- and you can hold it down here. You're not going to get a grip safety. But if you -- if you get a good grip on it, the grip safety will be deactivated by your grip.

Q So it doesn't require a separate movement from grabbing the gun.

A No. It's -- if you're trained to shoot or if you've shot before your first motion will be a good tight grip on the back strap.

Q And the trigger safety. Same way once you put your finger on the trigger. It's automatic. There's no separate actuation.

A Correct. Well, if your finger's on the -- on the -- about midway it'll be deactivated, yes.

Q Okay. So then to lay it on the table the gun would be safe. As soon as I grab it up with my finger on the trigger it's armed and ready to go. All the safeties are off.

A If it's loaded, yes, sir.

Q And no independent action taken up at that point, and that stuff is fine.

A Right. Well, other than the firing pin safety.

Q And that's there to protect. Why is that firing pin safety? What does that protect against?
A If this gun were loaded and I were to drop the pistol straight down, straight up or on the -- on the butt, which is this feature, by inertia it could cause the firing pin to move forward.
So that's a safety feature designed to -- if it's not depressed it's keeping constant pressure on the firing pin to keep it from going forward until it's deactivated.
Q And that safety requires no separate action.
A Just pulling the trigger.
Q How hard is it to champer that weapon? You said you're familiar with it.
A That's -- depends on the gun strength.
Q Let me rephrase that.
When you ratchet it, cock and slide, chamber in it, did it seem unusually hard, very easy?
A I deal with guns every day, so it's just a --
Q So there's nothing remarkable about it.
A No.
Q If you had to chamber a gun in a hurry how quick could you do it?
A Me? Fairly quick.
Q All right. Now, generally speaking a -- somebody -- does it take any special skill to chamber it other than

just being familiar with a gun?
A If you've shot one pistol, you've shot them all.
Q Okay. So if somebody had a gun in their waistband could they pull it out and chamber it really quick, or is that too much of an action?
A It -- it could be done, but you'd have to be in my experience -- you'd have to be familiar with the pistol to help you do that.
Q Okay. That's not outside the question.
A No.
Q Would you describe that pistol in your expert opinion as far as condition?
A On the N.R.A. scale it's good, which means there's little appreciative wear on the working surfaces. It doesn't need any -- any -- any changes in the parts or anything like that to make it function.
Q Was it clean when you received it?
A It had fingerprint powder on it.
Q Okay. Was there blast -- black -- basically, when you handled the gun did you get your hands dirty?
A Yes, sir.
Q Okay. Do you see any aftermarket parts on that pistol?
A I did not. The -- because I actually called Springfield on a case shortly before this. This could be

considered an aftermarket part. It was on the pistol. I don't know if that's what you're getting at. But as far as internal-working-mechanism parts, I did not see anything that ordinarily would not have come from the factory.

THE COURT: Excuse me.

For the record, let me ask you to identify the objects you held up and said it was perhaps an aftermarket part.

A The -- the laser sight and the mount, which I believe was State's Exhibit 55.

Q Approximately what day did you receive these pieces of evidence?

A I don't have the chain of custody in front of me, but I started the examination on July 12th of 2012.

Q And this incident took place on June the 3rd. So maybe six weeks after.

A Yes, sir.

Q Did you do any testing with the laser?

A No, sir.

Q Didn't switch it to see if it was on or had batteries in it?

A You know, I usually do. But, no, I didn't do any examination on the -- on the laser sight.

Q Is there any particular --

A Actually -- I'm sorry. I take that back. I did. It functioned, and it was in off position as received.

Q And did you see if it was sighted improperly?
A No, sir. That -- that has no bearing on -- on my examinations.
Q Okay. Can that gun be fired one-handed?
A Yes, sir.
Q What affect would firing a gun one-handed have on accuracy and shock placement?
A It depends on your level of skill.
Q Minor level, shot a gun a few times, but definitely not a competition shooter.
A That's a hard question to answer because I -- there's so many variables.
Q Let me rephrase it. What is a proper grip on a firearm?
A Once again, it depends on who's teaching.
Q I'll phrase again.
When holding a firearm two-handed do you take this front hand and use it to push the firearm into your palm so that there's no pressure on the trigger finger?
A Some people do teach that, yes, sir.
Q And if you were to remove that support and to shoot one-handed would the motion of the trigger cause the aim of the gun to go slightly right or left?
A It could.
Q What conditions were the sights on that gun in?

A Well, they're just your standard three dots -- your two dots on your rear and your one dot on your front sight. It just looks like a firearm that's been fired.
Q So those aren't tritium night sights?
A No, sir, just regular sights.
Q Then there's nothing special. If the lights get darker, it's harder to see them.
A Correct. It's just the standard sights put on Springfield XD pistols.
Q Would you describe them as being clean in appearance?
A I can only go as I received it right now. The two rear dots are clean and the front dot is kind of meated in color, kinda like off white.
Q Okay. Do you have any experience with lasers on firearms, personal shooting, not just criminal?
A No, sir. I've seen people use them. I've shot my personal-am issued firearms with weapon lights attached to them, but never laser, no, sir.
Q Is there any particular reason you don't use a laser?
A Don't need one.
Q How would you sight in a laser if it was on a firearm?
A I don't know. I've never done one.
Q But on the firearm that laser mounts roughly an inch or two below, correct? You would extend the loaded barrel.
A There's a laser sight -- the accessory rails here,

which is where you would attach the laser sight using this mount. It would sit right about there, so it'd be roughly maybe an inch underneath the bore, which is the barrel.

Q When you put those things on -- I know you don't have a lot of experience with them -- do you know if they generally come sighted in from the factory, or does it require testing?

A I do not know, sir.

Q If that laser's going to be an inch below the barrel or two inches below the barrel -- and that's a good point -- but in order to find the point of impact you're going to have to angle the laser slightly upward so when it crosses with the bullet, right?

A Right. It'd be like sighting in a rifle scope.

Q So then short -- let's say we've got 25 yards just for example. Below the 25 yards the shots are going to be hitting high. Past 25 yards the laser would cross the trajectory.

A Right.

Q And the laser would be higher, so the shots wouldn't hit well.

A Right.

Q So it's important to have those things sighted in for a safe distance. It affects the accuracy.

A If you're using the "L" effect actually, yes, but when

we have firearms come in with lasers they're usually not sighted. And I keep pointing in here at the ladies over there, whatever, but ideally you would like your laser to meet your point of aim at whatever the given distance is and sight it for that.

Q And you had checked the point of angle on that firearm?

A As far as?

Q As far as the laser.

A No, sir, I didn't attach the laser to it. That's not an examination we are to perform.

Q Okay.

MR. IANUARIO: Nothing further.

REDIRECT EXAMINATION

BY MR. BULSA

Q Did your tests consist of any tests of accuracy for this weapon?

A No, sir.

Q In fact, can't you just fire a gun by pointing it at somebody or anything?

A You can.

Q You don't actually have to pin them down with it -- sight, do you?

A No, sir.

Q Or use a laser sight.

A No, sir.
Q It's pretty simple to shoot.
A Correct.
Q To shoot, right?
A Yes, sir.
Q And these rounds, are they capable of passing completely through a body?
A The full metal jacket bullets, which means it's a totally incapsulated bullet, lead core covered by the jacket, it would make it easier to pass through something. That's not my area of expertise, but, yes, it would make it easier as opposed to a hollow point or a soft-nosed bullet, which tend to expand or slow down.
Q Thank you. That's all I have.

RECROSS-EXAMINATION

BY MR. IANUARIO

Q When you're shooting that firearm in order to accurately shoot your target is it important to look down the sight line?
A Depending on your level of skill, yes.
Q Hollywood aside, you've seen people shoot from the hip in your personal experience -- instructor or anything.
A I could --
Q Expert level aside, how accurate are people usually when they shoot from the hip?

A Not very.
Q How accurate are people generally when they're shooting while running?
A I can't answer that. I've never shot while running.
Q Do you know what it means to lead the target?
A Yes.
Q Would you please explain that for the jury?
A Leading the target is if -- I'm a deer hunter, so I always use deer hunting as an example.

If you've got a walking deer or a running deer if the deer's coming through here and you're aiming here, by the time your bullet gets there the door's going to be passed. You've shot behind it.

So when you lead a target you basically in your mind try to find out where it's going to be and get to a mythical point where you're -- where you want your bullet to strike the deer. So you've got to be a little bit out in front of it.

If it's walking slowly or if it's running full -- I wouldn't shoot anyway -- but you've got to lead a little bit more, shot more, in front of the target in hopes that by the time the target gets to your point the bullet will be there.

Q How did you learn about leading the target?
A Shooting clay pigeons with my granddad.

Q So you didn't pick it up right away. You did a little instruction on it?
A Yes, sir.
Q So it's not a skill that people just pick up a gun and familiar with it.
A No, sir, not --
Q You said the rounds recovered were full metal jackets.
A Yes, sir. There was one bullet received, and it was a -- it was a full metal jacket.
Q Would you describe the difference between a full metal jacket and a hollow point in terms of its affects on its target?
A A hollow point bullet is designed to expand once it hits whatever the target is -- water, like we shoot into where we're test firing or shoot into the dirt or a body, like when people hunt.

The bullet is designed once it has fluid enter the hollow-point cavity or tissue the bullet will tend to expand, which will create a larger bunch-out and create more hydrostatic shock or damage to the target.

A full metal jacketed bullet doesn't have that hollow point cavity, so the bullet will tend to not want to slow down quite as quickly and be more of a -- like a line drive baseball. It'll just go straight.
Q So when the hollow point hits its target it expands.

It grows.

A That's what it's designed to do, yes.

Q And the purpose of that is to -- greater chance of striking something.

A Right. More of what they call hydrostatic shock. It puts more of a traumatic force onto the target.

Q Does the result of that traumatic force usually leave bigger exit wounds?

A I haven't seen autopsies and done that kind of stuff, but shooting a deer with a hollow point cavity, yes, it creates a larger exit wound.

Q Nothing further. Thank you.

MR. BULSA: May I have one more, Your Honor?

REDIRECT EXAMINATION

BY MR. BULSA

Q Do you have to lead a target if you're chasing it from behind?

A I wouldn't think so, I mean, if you're directly behind it.

Q Thank you.

RECROSS-EXAMINATION

BY MR. IANUARIO

Q But you would have to leave a target if you were shooting in the side.

A If you're perpendicular, yes.

Q Okay.
THE COURT: You may step down.
MR. BULSA: I ask that he be excused.
THE COURT: He may be.
(Whereupon, the witness was excused.)
MR. BULSA: Betty Butler.
BETTY BUTLER, having been first duly sworn, testified as follows:
DIRECT EXAMINATION BY MR. BULSA
Q Good afternoon, Ms. Butler.
A Good afternoon.
Q Please introduce yourself to the jury.
A My name is Betty Butler.
Q Who are you employed with?
A I'm employed with the South Carolina Law Enforcement Division, also known as SLED, as a forensic technician in the D.N.A. department.
Q Okay. And as part of your duties do you process items of evidence?
A Yes, I do.
Q And specifically in this case did you receive a pair of tennis shoes?
A Yes, I did.
Q Okay. And what were you asked to do with those shoes?
A With this pair of tennis shoes I was asked to look for

possible touch D.N.A., which means if anyone had touched these particular shoes or any body fluids on these particular shoes.

Q Okay. Specifically, let me show you this item of evidence, State's 56. Would you look at those?

A Do you want me to open it up?

Q If you need to. Can you tell from the packaging?

A Oh, I can tell from the packages. We always have to put the item number, which is SLED items No. 8, my initials, B.W.B., the lab number L126652, and the date that I process, which is 8/8/12.

Q Okay. All right.

MR. BULSA: Your Honor, I'm not sure I actually introduced those. I would offer that into evidence.

MR. IANUARIO: No objection, Your Honor.

THE COURT: They're admitted if they're not already.

(Exhibit previously marked.)

Q Now, you actually took them out of the package of course to look at them. Where did you swab those?

A I swabbed the front portion of the left and the right shoe.

Q Okay. And what would you have done with those swabs?

A Once I swabbed these particular shoe -- shoes -- normally, we use a clean swab. Once the -- and the swab is wet. And we dry it, have to put it into like a gold coin

envelope and let it dry. Once it dries we seal it up. We put our initials and date on it and put it in the heat-sealed pouch and send it to further testing.

Q While you were performing this processing did you have access to anything that would could come from Anthony Young?

A No. This was the only thing that I had, the item eight, the pair of shoes.

Q So would there have been any way for those shoes to be contaminated within your lab?

A No, because every -- every case that we have, we have to spray our tables. Everything that we use, we have to clean it in between every case.

Q Okay. And so you sealed the samples or the swabs that you took from these shoes.

A That's correct.

Q And that was so the D.N.A. analyst could compare those to other standards?

A That's correct.

Q Thank you, ma'am. That's all I have. Answer any questions Mr. Ianuario may have.

MR. IANUARIO: I have no questions.

THE COURT: You may step down.

MR. BULSA: Paul Meeh.

Your Honor, we ask that she be excused.

THE COURT: She may be.

(Whereupon, the witness was excused.)

PAUL MEEH, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BULSA

Q Mr. Meeh, would you introduce yourself to the jury?

A My name is Paul Meeh. I work at SLED in the D.N.A. department.

Q And how long have you been with SLED?

A Five years.

Q What are your duties in the D.N.A. department?

A I'm asked to identify body fluids and to see who they belong to.

Q Are you an expert in any specific area?

A I would say in forensic D.N.A.

Q What kind of schooling or training have you had in the area?

A I got my undergrad in biology from the University of South Carolina in 2001; got my Master's in biomedical science in 2003 from the medical school.

I was working on my Ph.D. until 2007, and I was hired away. I did not finish my Ph.D., but I had about four years in with that.

Then I had a year and a half of training at SLED in the D.N.A. department under another forensic scientist, so.

Q Have you testified in court as an expert?
A Yes, sir, I have.
MR. BULSA: Your Honor, I would offer Paul Meeh as an expert in the field of forensic D.N.A.
MR. IANUARIO: No objection, Your Honor.
THE COURT: He is so qualified.
BY MR. BULSA
Q Agent Meeh, what did you do in this case?
A I was asked to look for touch D.N.A. or body fluids on some shoes or on some swabs from shoes.
Q Okay. Specifically, were those swabs -- how did you receive the swabs?
A They were created by Betty Butler and sent up to me. She was in evidence processing. And she created them and sent them to me to try to figure out if there was any D.N.A. from the person on there.
Q Were they in a sealed condition when you received them?
A Yes. I wouldn't process them if they weren't sealed.
Q What were you comparing those to?
A I had a standard, a D.N.A. standard, from Anthony Young to compare those to.
Q That standard, would that have come through the toxicology department at SLED?
A Yes. This one in particular did.

Q Okay. And what did your testing determine?
A Well, I had two swabs. One was 8.1, which was the left sneaker or swab from the left sneaker. And I had 8.2 which was the swab from the right sneaker.
The D.N.A. profile developed from item 8.2, which is the right sneaker, is a mixture of at least two individuals.
The D.N.A. profile of the major contributor to this mixture matches the D.N.A. profile of Anthony Young. The probability of randomly selecting an unrelated individual having a D.N.A. profile matching the major contributor to this mixture is approximately one in 1.4 quadrillion.
The partial D.N.A. profile of the minor contributor to this mixture is suitable for exclusionary purposes only.
Q So would you say that Anthony Young's D.N.A. was on those -- was on that sneaker?
A In my opinion, yes.
Q Okay. And do you -- is there any way you can determine what kind of substance it was?
A Well, I tested for blood just to see if there was any blood there, and it wasn't that. So I didn't do any further testing for things. We can test for saliva; we can test for other body fluids. But in this case it just wasn't indicated.
And actually the submitting paperwork after I -- after

I'd already tested for the blood, it actually asked me to look for touch D.N.A. as well. So I continued on in that after testing for blood.

Q But from your analysis and in your expertise we can draw from your testimony that those sneakers -- at least one of those sneakers -- touched Anthony Young or touched something.

A It's more -- it's more correct to say that Anthony Young's D.N.A. is present on that sneaker. I can't say when or how it got there.

Q Okay. All right. So somehow Anthony Young's D.N.A. got transferred to that sneaker.

A Correct.

Q You're in no position to say how it happened.

A Correct.

Q Is it consistent with that sneaker striking him in the head?

A It could be. In this example -- touch D.N.A. is different than fluids. Touch D.N.A. comes from your skin, and it requires a good bit of your skin cells or some other body fluid to make this much D.N.A. There was a good bit present here.

So I don't know what exactly that means in terms of how it was transferred. You know, I wasn't there. But it means that some -- at some point Anthony Young, a

substantial portion of Anthony Young, came in contact with those shoes.

Q Thank you. Answer any questions Mr. Ianuario may have.

MR. IANUARIO: Thank you.

CROSS-EXAMINATION

BY MR. IANUARIO

Q You say that was different than a fluid analysis.

A Correct.

Q What other possible ways could somebody get touch D.N.A. on them? I know you've seen it in your experience.

A Sure. Well, the obvious one is that if you and I were handling something like that piece of paper. That's the obvious one. Skin cells directly coming off of there.

There could be just shed cells. A very common one is if we get clothing. If we swab your clothing for ownership, which we'll do the collar here, you've been shedding your own D.N.A.

It's almost never just you either in there. It's -- you know, if your clothes are washed alongside your kids or your spouse or whatever, you end up transferring cells that way too.

So there are many ways to transfer cells. It could be urine; it could be spit. In this case those weren't tested for, for example.

Q Okay. There's no blood found on them?
A That's correct. I tested for blood, and none was found.
MR. IANUARIO: Nothing further.
MR. BULSA: Nothing further, Your Honor.
THE COURT: You may step down.
MR. BULSA: We would ask that he be excused.
THE COURT: He may be.
(Whereupon, the witness was excused.)
MR. BULSA: The state calls Richie Foster.

RICHIE FOSTER, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BULSA

Q Please introduce yourself to the jury.
A My name is Richie Foster, and I work for the Spartanburg County Sheriff's Office.
Q In what capacity?
A Violent crimes investigator.
Q How long have you been an officer?
A Twenty-five years.
Q How long have you been with violent crimes?
A Seven years.
Q Are you the lead investigator in this homicide?
A I am.
Q Did you have occasion to come into contact or speak

with the defendant?
A I did.
Q Where did you first meet up with him?
A I met with him at our office, which we'd call the criminal investigation division, C.I.D.
Q Prior to meeting with him had you been to the scene of the crime?
A I'm sorry. I -- I drove. I think I drove Mr. Baker to the office from -- from the townhomes. And, yes, I did go to the scene of the crime also.
Q Had you been to the Waffle House before you went to the townhome?
A I did.
Q Okay. So did you have a good, fair understanding of what had taken place?
A Yes, sir.
Q So you actually picked him up from the townhomes and took him downtown?
A Yes, sir.
Q Okay. For what purpose?
A To interview him to get his side of the story.
Q Okay. Did -- had he already been Mirandized, so to speak, read his --
A It was my understanding that Investigator Williams did that, yes, sir.

Q Okay. And we actually heard an officer here testify today that he also did that as well. Do you recall?
A Mr. -- Deputy Garcia, I believe, yes, sir.
Q Now, were you able to speak with Mr. Baker?
A I was.
Q What was his demeanor while you were speaking to him?
A He was a little apprehensive, just been involved in a shooting, didn't quite know what we were there for. And I was there just to find out his side of the story.
Q Okay. And take the jury through the process of this interview.
A We go and talk with folks. We don't do like on T.V. and browbeat them or anything. We just sit down with them and try to tell the story and have a conversation back and forth as to what happened.
Q Who all was involved in that interview process?
A Just he and I.
Q And what was -- what were the conditions of the room and --
A I don't remember exactly which particular room we had, but we have five interview rooms. Most of them are probably four by six. Two, three, maybe four, people could fit in there, and sitting down talking to each other.
Q Okay. Did he ever ask to invoke any of his rights?
A No, sir, he did not.

Q Did you in any way attempt to coerce him?
A No, we did not.
Q Okay. Did you just give him a piece of paper and say write down what happened or --
A First, I asked him to talk to me and tell me what happened. And he related his story to me. And then I asked him if he would write this down so we could get it on paper.

And we have what we call a voluntary statement form. It's pretty much just a standardized paper with a lot of lines on it. And you fill out your personal information as you're -- at the top of it. And then you sign it at the bottom.

Q Okay. So he actually wrote his statement out on a whim.
A Yes, sir.
Q I show you what's been marked State's Exhibit No. 1 for Identification. Do you recognize that?
A Yes, sir, I do. This would be the first of two written statements that he gave me.
Q Okay. And does it have his signature on it?
A It does.
Q Okay. What did you do with it once you obtained it?
A I'm sorry?
Q What did you do with that statement once you got it?

A Put it in the file.
Q Did you cease the investigation at that point?
A No, sir, we did not. We actually -- I gathered some more information from the other witnesses that were there.
We had -- I think we had at least four or five other witnesses there at the office in the other rooms talking and getting their side of the story, as well as other investigators out in the field, and talking with them.
And when we'd get through talking with one we'd come out and explain what happened in that room so we can gather all of the same information together and find out what's going on.
Q Okay. So that led you to go back and talk to him some more?
A Yes, it did. There was some evidence we found that -- that he didn't cover in his first rendition of his story to me nor in his written statement to me.
Q Okay.
MR. BULSA: Your Honor, I would offer State's Exhibit No. 1 into evidence.
MR. IANUARIO: No objection, Your Honor.
THE COURT: It's admitted.
(First Statement marked State's Exhibit No. 1.)
Q Please publish that to the jury by reading it.
A "On 6/3/12 at 5:00 in the morning I was on my way

home. I wanted something to eat. I went to the Waffle House off of Greenville Highway. When I pulled up I see a blue Caprice. That same" -- and I can't -- "same" something "at my apartment building before that I had -- that I had beef with before. It was ten to 12 boys in the parking lot. So when I parked I reached for my gun and put it in my waist. Then I got outta the car. I started to walk to the door of Waffle House. That boys didn't say nothing at first. So I went on in and ordered my food. These two boys kept peaking -- peaking in looking. So as I was paying for my food one of them come in and said that his cousin had a problem with me. I told him to let it go. He told -- he told me to say it to his homeboy. So I walked outside of the front door and told the dude to let it go. He was walking back and forward. His friend was telling him to fight me. Then this dude said if I don't fight that they was going to take everything I had. I said one more time to let it go. He was not listening to me. So as I turn around to go back into the Waffle House two of them hit me in the back of my head. I -- I turned back around and pulled my gun out and fired three to eight shots. Everyone ran but except one in the blue shirt. He fell. Then I ran. I ran back in the Waffle House to ask have they called the police. They were scared because I still had my gun in my hand. So I left out to leave. I

jumped in my car and went home so I can call the police and tell them what happened." And that was the end of the statement.

Q Did your investigation reveal a 9-1-1 call from Mr. Baker?

A No, it did not.

Q After you got some other information you interviewed him some more and then he gave a second written statement?

A Yes, sir.

Q Specifically, those questions you asked him -- let me do it this way. I show you State's Exhibit No. 2 for Identification. Would this be the second statement?

A Yes, sir.

Q Written by him again?

A Yes, sir.

Q And how much time had passed since the first statement and the second statement?

A The first statement he finished at 9:10 in the morning, and the second statement was at 10:09 in the morning.

MR. BULSA: Your Honor, I would offer State's 2 into evidence.

MR. IANUARIO: No objection, Your Honor.

THE COURT: It's admitted.

(Second statement marked State's Exhibit No. 2.)

Q Please publish that.
A "On 6/3/12 at 5:00 a.m. I was on my way home. I wanted something to eat. I went to the Waffle House off Greenville Highway. When I pulled up I seen this blue Caprice that I had a problem with two months ago. And it was like ten to 12 boys in the parking lot. So I back up in a parking space like two cars down from that Caprice. So I grab my gun and put it on my waist. Then I got out of my car. I started to walk toward Waffle House front door. And I -- and I can hear boys say it looked like him. I kept on walking. I went in Waffle House. I placed my order. Two-boy kept peaking in saying that is him. So as I was paying for my food one of them in a white shirt came in and told me he heard that I had a problem with his homeboy. I told him to let it go. He said for me to tell his homeboy. So I went outside. For dude approached me was just saying that me and their homeboy is in -- in that blue shirt was going to fight. I told them to let it go. A tall dude in a black shirt was telling him that it was going down, that he had his right hand on his waist band. Hold something on his waist like he had a gun. And a short dude with dreads had a white t-shirt, was saying that they had guns and if I didn't fight them, their homeboy, that they was going to take everything I had. I told the dude in the blue shirt to let it go. As I was walking back and

forward -- as he was walking back and forward I was scared that they was going to gang me. Some girls in a -- some kind of car was yelling one of them to leave me alone. Then the tall dude in black was saying it's going down and I got -- it was going down and get something up." I can't make that out. "And he was going to leave me stumped. I told the dude in white to let it go. And then I turned my back and they -- and tried to walk in Waffle House. Two of them hit me from behind in the back of my head. So I duck and turn around and pull my gun out and start firing it into the crowd. Everybody starts running. So I started to run to my car. I fired another shot because the dude in the blue was running toward his car like he was going to get something. So I ran on the passenger side of my car to around back of it. I turned around to see if anyone was behind me. I -- I tripped over the side way and my gun went off again. I ducked behind my car to see if the coast was -- if the way was clear so I can run back in the Waffle House, and it was. So I ran in, and then they called the police. They were scared because I still had my gun in my hand. So I ran out back to my car, and I left the scene. End of statement."

Q So the second time he didn't say anything about leaving to go call 9-1-1?

A No, he did not.

Q And the first statement he commented he shot between three and five times. He didn't reference any number in the second statement, did he?
A No, sir, he did not.
Q In the second statement he says he shot into the crowd, is that right?
A I just read both of them. Give me one second.
(Pause.)
A Second statement, "He just pulled his gun out and starts firing into the crowd," yes, sir.
Q Okay. Just trying to paint the picture that there were a lot of people surrounding him, is that right?
A Apparently he said ten to 12 in both of them.
Q Okay. And says he fired into a crowd. Did your investigation reveal anybody else had any wounds to them?
A No, it did not.
Q And each statement he indicates -- he does not mention who the person is that struck him, does he?
A No. It doesn't. I think maybe one -- no. He doesn't say. I believe in his rendition of his story when he was telling me he described him as a guy with a white t-shirt maybe. If I had my notes I could be more specific. Some reason that's reminding me of something.
(Pause.)
A I am sorry. It wasn't him that told me that. It was

someone else that it was a white shirt.
Q Didn't you ask him some specific questions in between these statements?
A As far as I can tell when I asked him he did not see who did it.
Q Didn't you ask him the specific question as to who hit you?
A Bear with me just a minute.
(Pause.)
A I think I'm reading that both times I asked he could not describe who hit him. And I'm just trying to read this quickly.
Q Second to last page of your report, Detective. "Then go back upstairs to sit down with Antwon again," that paragraph.
A I asked him if he knew who hit him. He said the short dude with dreads that had the white shirt on.
Q So he did indicate he knew who hit him.
A Yes, sir.
Q Yet in his statements he didn't put that.
A No, he did not.
Q And he didn't shoot the guy with the dreads and the white shirt, did he?
A No, he did not.
Q In fact, in the second statement he referenced a

couple of people maybe reaching for weapons, right?
A Correct.
Q Were either one of those persons shot that night?
A No, they were not.
Q It doesn't describe the victim doing anything. Did he?
A No, sir.
Q Please answer any questions Mr. Ianuario has.

CROSS-EXAMINATION

BY MR. IANUARIO

Q Thank you, Detective.

Between Antwon's first statement and second statement is there any information that's changed to be contradictory, any clear changes of facts that don't sync?
A The -- the reason I asked him about the extra evidence we found, I believe it was the evidence that we found some shell casings in the parking lot behind his car. And I wanted to try to find out how he -- how he got shell casings up to the back of the parking lot.
Q Okay. How -- and how did he say those shell casings got in the back parking lot?
A He -- he says that he ran behind his car and tripped over the -- the curbing there and the shot went off there. But that only accounted for one of the shell casings.
Q Did anyone else -- did you get a description of the

vehicle that Mr. Baker left in?
A Yes, sir, I did.
Q And who gave you that description?
A It was being broadcast over the radio as I was responding up there, and also every officer I talked to when I got there was explaining to me that he left in a white Crown Vic or Grand Marquis type vehicle.
Q Did you take a statement from Mr. Glover?
A I'm sorry? From who?
Q From Brandon Glover.
A I tried to. I think I did actually get one. There wasn't -- I'm not sure. His -- mine and his communication skills together weren't too good, and I did not get a good statement from him at all.
Q How did he appear to you? What mental capacity was he?
A He appeared to be on something. I don't know if it was alcohol or drugs.
Q Okay. Did he indicate to you how many shots that he thought he had heard?
MR. BULSA: Objection, Your Honor. That calls for hearsay.
MR. IANUARIO: I'm looking to the investigation, not the truth of the matter asserted.
THE COURT: Sustained.

BY MR. IANUARIO
Q Did you have -- did a Waffle House employee call 9-1-1 that night?
A If I remember right reading over the 9-1-1 log, I believe a call came from inside the Waffle House, yes, sir.
Q And did he call 9-1-1 in regards to the shooting, or did he call before the shooting?
A I believe a call came out if I understand correctly, that a man with a gun at Waffle House, and then while they were en route they upgraded it to actual shooting at the Waffle House.
Q And were you able to obtain a description of the man with the gun?
MR. BULSA: Your Honor, ask for a more clear question. That's asking for hearsay.
Q Who did you determine that particular individual to be, the man with the gun that led up to the 9-1-1 call?
A Mr. Baker.
Q And no -- correct me if I'm wrong. Wasn't there a Waffle House employee that indicated somebody other than Mr. Baker had the firearm?
MR. BULSA: Objection, Your Honor.
THE COURT: Sustained.
Q Did you get -- did you search the vehicles that were in the parking lot?

A I did not personally, but I think the victim's vehicle was searched. And I'm not sure what else the forensic's officer -- I believe that is all that was searched in the parking lot.
Q Do you know if anything was found in that vehicle?
A Not to my knowledge.
Q Were you able to identify the person Antwon was describing as tall dude in his statement?
A I think if you could point me to the right page that you're looking at it'll speed me up.
Q Not a problem. Give me a second here too.
A Yes, sir. "The tall dude with the bandanna kept his hands in his waist area at the right front pocket like he had a gun." And that is Mr. Baker telling me this, and Jakeem Middleton is who he was describing.
Q And did you have any other independent indications that Jakeem Middleton had a firearm?
MR. BULSA: Objection, Your Honor.
THE COURT: Sustained.
Q Did you speak with Jakeem Middleton?
A I'm sorry?
Q Did you speak with Jakeem Middleton in your investigation?
A I did.
Q And were you able to determine whether or not he had a

firearm?

THE COURT: That would be hearsay, Mr. Ianuario.

MR. IANUARIO: I was going into the results of his investigation as to determine --

THE COURT: Let me see y'all just a minute.

(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)

BY MR. IANUARIO

Q Did you investigate Jakeem Middleton?

A Investigating? What are you asking?

Q Running background on him.

A No, sir, I did not.

Q Did you take any G.S.R. samples from Mr. Middleton? Were any collected?

A No, sir, we did not.

Q And why not?

A There was no indication that he fired a weapon.

Q What do you think Antwon meant when he said they would take everything that he had?

MR. BULSA: Objection, Your Honor. That calls for speculation.

THE COURT: Sustained.

Q Did you ask Antwon -- no. Did you look in the ground behind Mr. Baker's vehicle to see if you could find a projectile?

A I did not personally, but the forensic team went through both parking lots. I think the adjacent buildings. They did not find anything other than the eight items they marked already.
Q Did they dig into the grass at all in the ground?
A I wasn't -- I don't know that they did that.
Q Were G.S.R. samples collected from Mr. Young?
A Yes, sir, there were.
Q And did you receive the results of those samples?
A Yes, sir, I believe so.
MR. BULSA: Objection, Your Honor. That's hearsay as well.
THE COURT: Sustained.
MR. IANUARIO: May I approach?
THE COURT: Is that something that I just sustained?
MR. IANUARIO: It's a document addressed to him with regards to the G.S.R. results.
THE COURT: Was it prepared by him?
MR. IANUARIO: No, sir.
THE COURT: Then it's hearsay. You can get those witnesses here if you want them to testify.
MR. IANUARIO: Okay.
BY MR. IANUARIO
Q One last question, sir. How did you determine to charge Antwon with murder?

A We consulted with the solicitor's office.
Q Okay. Which solicitors in particular?
MR. BULSA: Objection, Your Honor. That's irrelevant.
THE COURT: Sustained.
MR. IANUARIO: Nothing further.

REDIRECT EXAMINATION

BY MR. BULSA

Q Officer, did he tell you, Mr. Baker tell you, where he had parked his vehicle?
A He parked it -- I believe he stated two -- two spaces down. I don't remember if he said from the car or just two spaces down.
Q Actually said he backed it in.
A Backed it in, yes, sir.
Q Would it have been backed in near the bushes at the scene?
A That's correct.
Q The bushes are what separated the two parking lots?
A And a little grass median. I think it's actually elevated also.
Q You testified you asked him a follow-up question when those two shell casings were found in the Master's parking lot, how they got there. And his explanation was he tripped over something?
A Tripped over the curbing.

Q One of the other follow-up questions to him -- I believe it's on the last page of your report. You asked him how many times he shot.

In his first statement he actually noted it was three to eight times, but you asked him a follow-up question. And what was his answer that time?

A He thinks he shot four or five times.

Q Okay. Did you determine if he had a cell phone?

A I don't recall that I brought that up.

Q Okay. Did you question him on his lack of calling 9-1-1?

A I'm sorry?

Q Did you question him on his lack of calling 9-1-1?

A I don't believe I did.

Q Okay. Did he ever comment to you whether he went near the victim's body at any point after he was shot?

A He said -- he does not indicate. When I asked him if he -- why he hit the guy he did not answer me.

Q Concerning why who hit the guy?

A I'm sorry. Wrong -- wrong person.

Q He didn't, Mr. Baker didn't, comment about actually --

A No, sir.

Q -- hitting anybody, did he?

A No, sir. I'm sorry.

Q In fact, he didn't comment about ever coming in

contact with anybody other than somebody hitting him in the back of the head.

A Correct.

Q He didn't put himself anywhere near Mr. Young, did he?

A No, sir.

Q Thank you.

MR. BULSA: That's all I have.

RECROSS-EXAMINATION

BY MR. IANUARIO

Q When you were speaking to Mr. Baker at any point in those statements did you ask him how he stored the weapon?

A Yes, I did.

Q And how did he indicate he stored the weapon?

A He says that he keeps the magazine in the magazine well but no round in the chamber, so if he pulls it out to shoot it you have to rack a round into the chamber.

MR. IANUARIO: Nothing further.

THE COURT: You may step down.

We'll take a break.

So I'll ask the jury to please go to your jury room. Don't discuss the case. I'll bring you back shortly.

(The following takes place outside the presence of the jury.)

THE COURT: We will be in recess 15 minutes.

(Whereupon, a recess was taken.)

THE COURT: All right. Ready for the jury?
MR. BULSA: Yes, sir.
THE COURT: Bring them in.
Let me see y'all just a minute, please.
(Diagram marked State's Exhibit No. 57 for Identification.)
(The following takes place in the presence of the jury.)
THE COURT: All right. You may proceed.
MR. BULSA: The state calls Dr. David Wren.

DR. JOHN DAVID WREN, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BULSA

Q Good afternoon, Dr. Wren. Would you introduce yourself to the jury, please?
A My name is John David Wren, W-R-E-N.
Q What is your occupation, sir?
A I'm a pathologist.
Q With the Spartanburg Regional Medical Center?
A I work for Carolinas Pathology Group which has a contract for pathology services at Spartanburg Regional and Mary Black and Village Hospital and Wallace Thompson.
Q Are you an expert in the area of forensic pathology?
A Supposed to be.
Q You have been qualified as an expert numerous times,

have you not?
A Yes.
MR. BULSA: Your Honor, the state would offer Dr. Wren as an expert.
MR. IANUARIO: No objection, Your Honor.
THE COURT: He is so qualified.
BY MR. BULSA
Q Dr. Wren, as part of your duties did you perform an autopsy on a Anthony Terrell Young?
A Yes. I performed an autopsy on an individual identified as Anthony Terrell Young on June the 3rd of 2012 beginning at approximately 10:35 a.m. in the Spartanburg Regional Medical Center Autopsy Room.
Q And the medical records listed him as 23 years of age.
A Yes.
Q What was his size?
A Size?
Q Yes, sir.
A I measured him as 66 inches in length, which may vary a little bit depending on several circumstances. And he weighed 161 pounds.
Q So approximately 5'6" in height.
A Yes.
Q And in the course of your examination did you examine the head area of him?

A Yes.
Q What wounds, if any, did you find or note on his head?
A He had a slightly patterned, meaning that it looked like it was inflicted by something obliquely or ended abrasion, with mild bruising extending from the medial left upper eyebrow to the hairline that covered about three by a little over 1 inch in diameter.

And those deeper contused and abraded areas were equally spaced but irregular in width. There was a brush type abrasion over the supraorbital area measuring about a little over two by a quarter centimeter, I mean, inch. And there was some abrasions along the left cheek and left periorbital area, as well as the left nose and left lateral space -- left lateral face along the mouth covering an area of about -- I'm doing this by calculations -- a little over three and a half inches in overall dimensions.

He had an old scar about the nose, but he didn't have any fractures there. He had remote fractures of the teeth, Nos. 8, 23 and 24 which are numbered according to dental protocol.

And he had a deep laceration of his chin that measured a little less than an inch in length and about two-tenths of an inch in width along his chin.

Q Did you date any of those wounds?
A Pardon?

Q Did you date, the time or day as to when those --
A They were perimortem meaning that they occurred around the time of death.
Q Even the fractured teeth?
A No. Couldn't tell about that.
Q So those could have been inflicted --
A I said they were remote. So I thought they were -- had already been there.
Q Okay. And you used a lot of technical terms, but in layman's terms he had wounds to his forehead on each side?
A Yes, and along the left cheek and nose and mouth.
Q And then the chin.
A And then the chin. It's laceration.
Q Could those have been consistent with someone striking a blow to his face?
A Could have been, or could have been a falling and collapsing.
Q Okay. Falling to the pavement.
A Yes.
Q Okay. Now, specifically, were you looking for gunshot wounds to his body?
A Yes. I found several.
Q How many?
A There were a total of 12 defects consistent with gunshot defects.

Q Okay. And to assist the jury in your testimony did you prepare a diagram?
A Yes, I did, and a chart.
Q Okay. I need to show you what's been marked State's 57, specifically the diagram. Is that your diagram, or a copy of it?
A Yes. That's a copy of my diagram with my lettering and signature.
MR. BULSA: Your Honor, the state would offer 57 into evidence.
MR. IANUARIO: No objection, Your Honor.
THE COURT: It's admitted.
(Diagram marked State's Exhibit No. 57.)
Q Now, did you recover any projectiles or bullets from the body?
A I don't think so. I'll have to check.
(Pause.)
A No bullets were recovered and x-rays reveal no evidence of bullet-wound fragments in my summary.
Q And you described 12 defects as you called them.
A Yes.
Q Those holes.
A Pardon?
Q Holes in his body.
A Basically holes, yes.

Q Okay. So that suggests bullets passed through and through.
A Yes.
Q Of those 12 how many were entrance wounds?
A Five entrance and one reentry. So there was six all together.
Q So based on the math he was shot --
A Five times.
Q -- five times. One exited and reentered and exited again.
A Right.
Q Okay. Now, as we go specifically through those wounds let me publish State's 57. Do you need to step down, Doctor? It'll be easier.
A Probably.
(Whereupon, the witness left the stand.)
Q If you would, take us through the wounds.
A Okay. Basically, when you -- when one describes wounds on the body we do the front first from head to toe if possible, and then the back from head to toe. And that's the way they're numbered, I try to number them.
No. 1 is an exit in the left upper chest. And the entrance for that is in the right medial midback. So that wound, that gunshot, was going from the decedent's back right toward his left and exited the body. That was the

fatal gunshot wound that passed through his heart and caused extensive internal hemorrhage.

The next gunshot wound the entra -- the exit is -- I didn't put it on this -- this -- this chart. But over here the exit is in the front entrance in the back of his arm, went through the arm, did not hit any vital structures, didn't hit the bone. It just went through the body and continued on.

Can't see those very well. I will have to get my chart.

(Pause.)

A No. 4 passed into his right side and exited in his right side, just passed through the body, and it was going from his back right to his left also. So that is No. 4.

No. 5 went into his left or right hip, passed through the tissues and came out anteriorly just above his -- the bone in front of the pelvis, reentered his left upper thigh and exited his left medial thigh and kept passing, kept going.

No. 6 was the entrance in the back.

No. 7 was sort of in the left back and passed through the body and exited from the front to back.

And then eight, nine and ten were those I've already described.

And then the other two are in the right medial leg

more slightly on the inside. And this one was very difficult to tell whether it was going -- which direction it was going because it looked like it could have been a ricochet type wound. But, anyway, it went through his thigh and did not hit any bone or any tissues and kept going.

Now, the clothing, he did have some clothing with him. And the wounds matched the defects I found in the clothing. So he was clothed when this happened.

Q Would these wounds be consistent with him running away from somebody shooting at him?

A If he was ducking, yes, the ones in the back, these two here. And then he had to have turned in some manner. Either the ones in the right side were first and then he turned and ran, or they could have been inflicted after these. There's no way to tell for sure.

Then this one, definitely he was -- I think in my opinion he was on the ground when this happened, because his heart -- he had his leg way up like this trying to ward something off and someone shot him.

(Demonstration by the witness.)

A Wrong leg. Shot him through like that.

Q Thank you, Doctor.

It's an obvious question, but what is the cause of death?

(Whereupon, the witness returned to the stand.)
A The immediate cause of death was a gunshot wound to the -- to the back.
The other wounds were potentially fatal. And we say they're potentially fatal because we don't know what would happen after that. They could become infected, and he could have died as a result of that.
So there's an immediately fatal gunshot wound to the back. It went through the chest and through the heart and out the front of the chest.
The others were only potentially fatal at the time.
Q Have you been able to --
A Pardon?
Q Would he -- could he have run away while he was being shot like this?
A Yes. You can run as far as your brain will allow you to stay conscious.
Q It's not like Hollywood, you get shot and you drop.
A Not necessarily.
Q Thank you, Dr. Wren. That's all I have. Answer any questions Mr. Ianuario may have.

CROSS-EXAMINATION

BY MR. IANUARIO

Q Thank you, Dr. Wren.
Would you describe the difference between entry and

exit wounds?

A Well, basically entrance wounds are of course when the bullet goes in the body. And an entrance wound and that -- in forensic terms are divided into contact, close range or intermediate range, and distant.

Now, distant gunshot wounds means that there's no evidence that we can see as to how far away it was. It will become more apparent as I talk further, but there's no evidence of soot that comes out of the barrel or burning powder that comes out of the barrel that one can see on the body or on the clothing.

A contact gunshot wound is -- is either a tight contact or loose contact. Tight contact means that the -- the -- of course it was pushed strongly against the tissue that it went in. In that case -- well, let me regress for just a little bit.

A distant gunshot wound the bullet is spinning as it passes into the body usually unless it's been deflected. And it's spinning, and it just bores a hole in the body.

Now, if it goes straight in there's no abrasion border around it. There's no evidence except the hole there.

If it's going in obliquely to the place that it's -- that it goes into it leaves a little abrasion border that one can see as one examines that wound. And it can tell which direction the leading part of the bullet hit the skin

first.

As a bullet leaves the body it does not bore itself out. It tears itself out. So when that happens, is the skin tenses up. It stretches up, and it just tears out. And once you see that wound you can put it back together and there's no defect there. On the other hand, if it's an entrance you can't put that wound back together. So that's what one looks for.

Now, if it's tight contact, as I was saying, when the bullet passes into the body it does leave a hole. But the powder and the expanding gasses that come out of the barrel have to go somewhere, and they blow back around the barrel.

And that tears the skin into we call a stellate wound where the wound is jagged and irregular and can tear up to 2 inches around it.

If it's loose contact basically the same thing happens, but you can see in both cases, you can see charring around the edge of the wound.

Now, if it's intermediate what happens is basically it's like that of a distant gunshot wound except as the powder and the burning -- as the powder, burning powder, and soot come out of the barrel if there's -- if there's something in the way it spreads radially and makes an enlarging circle.

So one can take the ammunition that the person was

using and the gun -- and the gun -- and one can fire that ballistically. And SLED does this where they test it. And they can tell from what we measure on the body how far the burning powder and the soot have -- have expanded. And they can compare that with their results and tell approximately how far away it was. So those are intermediate gunshot wounds or close range.

Any questions?

Q When you're looking at full metal jacket projectiles is the exit wound the same as entry, or are there differences still?

A There's still -- there are still differences, yeah. Any time a bullet comes out of the body it does not usually bore its way out. It tears its way out.

And then on top of that the bullet when it sometimes enters the body it'll start tumbling or it'll hit something and deform itself. And then it will come out and it won't be a round hole or an oval hole. It'll be irregular.

Q And on that shot that exited and reentered, what would a reentry look like?

A Reentry will sort of look like an exit in that the bullet can go in sideways. It can go in distorted. So it doesn't -- it's not spinning like an undistorted bullet would.

Q Is there a noticeable difference in the exit wound

when you're looking at full metal jacket projectile versus a hollow point?

A Yes. A hollow point will expand inside the tissues. And when it comes out it makes a bigger hole if it comes out. Usually it doesn't come out.

Q Were there any wounds that you had trouble rationalizing, something just didn't seem standard?

A Well, only the one in the leg. I said I couldn't tell for sure. But there was no way it could have gone -- hardly any way it could have gone in up in the thigh and come out where it did. So that's why I rationalized it was probably in lower and out up more toward his -- his crotch.

MR. IANUARIO: Nothing further.

MR. BULSA: Nothing further, Your Honor.

THE COURT: You may step down. Thank you.

MR. BULSA: Your Honor, the state would rest.

THE COURT: Let me see y'all just a minute.

(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)

THE COURT: Ladies and gentlemen, that is all of the testimony and evidence to be offered by the state, at least in their case in chief.

Before we go further I've got some legal matters I need to address with the lawyers, and that should take a few minutes. It'll probably take us to the end of the day.

So we'll recess now. We'll resume in the morning beginning at 9:30.

So keep in mind my caution previously given. No discussions, no research, no investigation, no exposure to any type of media coverage.

Have a good afternoon. Please report to your jury room at 9:30 in the morning.

(The following takes place outside the presence of the jury.)

THE COURT: All right. Any motions or other matters to address?

MR. IANUARIO: Your Honor, I'd like to move for a directed verdict and dismissal in that the state has not disproven self-defense beyond a reasonable doubt. And I believe it has been successfully alleged during the state's case.

THE COURT: Mr. Bulsa.

MR. BULSA: Your Honor, it's clear the victim was shot multiple times running away. That's not self-defense.

MR. IANUARIO: Your Honor, there's no ruling that says one gunshot versus five gunshots is self-defense. It's the total of the circumstances.

THE COURT: Well, considering the evidence in the light most favorable to the state as I must do on a motion for a directed verdict I do find that the evidence

presented does present a reasonable jury question as to whether or not the defendant acted in self-defense. And I think they could reasonably find that he did not or they could find that he did.

So based upon it being a jury question I find there is sufficient evidence to submit it to the jury. So your motion for a directed verdict is denied.

MR. IANUARIO: Thank you, Your Honor.

THE COURT: Any others?

MR. IANUARIO: No, Your Honor.

THE COURT: Now, Mr. Ianuario, do you have all of the witnesses or any witnesses that you want to have here that are on the state's list? Do we need to make any arrangements to be certain that they're available?

MR. IANUARIO: Brandon Glover and Delton Sease are with the -- in the Spartanburg County Detention Center. I just need to have them transported.

THE COURT: Glover and Sease are in the detention facility?

MR. IANUARIO: Yes, Your Honor.

THE COURT: Okay.

MR. IANUARIO: I believe that the police officers are on standby. I don't know if I'll need them, but I don't think there'll be an issue with -- I'm happy with them being on standby. We can wait a few minutes if we have to.

And Illa Simmons from SLED will be coming in tomorrow. We've spoken to her on the phone this afternoon. And she will be handling a G.S.R. matter we have here.

THE COURT: Okay. And you've talked to Mr. Baker about his right to testify, as well as not?

MR. IANUARIO: Yes, Your Honor.

THE COURT: Does he indicate a preference to you?

MR. IANUARIO: At this point in time we're not going to put him on the stand, but I would like to reserve that right. And sometimes things change at the last minute.

THE COURT: All right. Mr. Baker, your lawyer tells me that you and he discussed your right to testify, as well as not testify. Is that true?

THE DEFENDANT: Yes, sir.

THE COURT: Do you understand that when you're charged with a crime you always have an absolute right to remain silent, which just simply means that nobody can make you take the witness stand?

I can't call you; the prosecutor can't call you; your own lawyer can't call. You don't have to testify in this case unless you want to.

So you have a choice to make. You have to decide whether or not you want to testify during this trial. It's your decision.

If you elect to testify you'll have to answer

questions asked of you not only by your lawyer but also by the prosecutor even if the responses to some of those questions might tend to prove you guilty of the crime they claim you committed.

And, at the same time, if you make a decision not to testify I will instruct the jury as I have previously. But I will again instruct them that they can't hold that against you in any way, they can't consider it in their deliberations or in their determination as to whether or not your guilt has been proven beyond a reasonable doubt.

Have you and Mr. Ianuario discussed the advantages and the disadvantages of testifying, as well as not testifying?

THE DEFENDANT: He said he'll let me know if he needs me to testify and if I want -- if I want to testify.

THE COURT: All right. Well, have y'all discussed the advantages of testifying, as well as not?

THE DEFENDANT: No, sir.

THE COURT: Y'all haven't discussed the advantages and disadvantages of testifying and not testifying?

MR. IANUARIO: May I?

THE DEFENDANT: Yes, sir.

THE COURT: You have discussed it?

THE DEFENDANT: Yes, sir.

THE COURT: And do you appreciate what those advantages and disadvantages are?

THE DEFENDANT: Yes, sir.

THE COURT: And have you had time to reflect upon your decision as to whether or not you will testify?

THE DEFENDANT: No, sir.

THE COURT: Do you want to take overnight to make that determination?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Now, what we'll do is you understand you have the right to testify or not. You have to make that decision. Do you understand?

THE DEFENDANT: Yes, sir.

THE COURT: And do you understand nobody can make that decision for you?

THE DEFENDANT: Yes, sir.

THE COURT: Your lawyer can't make it; I can't make it; prosecutor can't make it. Only you can make it.

Now, you can listen to advice provided you by your lawyer. That's why you have one. But no matter what his advice is it's still your decision as to whether or not you'll testify because you have to live with the consequences of that decision. Do you understand?

THE DEFENDANT: Yes, sir.

THE COURT: Now, when we resume in the morning I understand that Mr. Ianuario has some other witnesses that he intends to call in the defense of your case.

And so I'm not going to talk to you any more about it, about -- unless you have some questions of me about whether or not you're going to testify. I'm going to leave that up to you.

If you take the witness stand and testify I'm going to assume that you thought about it and made that choice. If you don't take the witness stand and testify I'm going to assume that you thought about it and decided against it. Okay?

THE DEFENDANT: Yes, sir.

THE COURT: So you'll have the choice tomorrow, and you don't have to make it until your lawyer gets ready to conclude the presentation of your case. So you can make it.

But after he rests or after he concludes the presentation of your case you won't be able to change your mind about it. Do you understand?

THE DEFENDANT: Yes, sir.

THE COURT: In other words, you can't wait until after the verdict and change your mind about whether or not you'll testify because it's too late then.

Once your lawyer has the opportunity to present your case, call any witnesses on your behalf, that's when you have to testify or make the decision not to.

Do we understand each other?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Court is in recess until 9:30 in the morning.

END OF PROCEEDINGS JUNE 4, 2013

(Proceedings June 5, 2013)

(The following takes place outside the presence of the jury.)

THE COURT: Are we ready for the jury?

MR. IANUARIO: Yes.

THE COURT: Okay. Bring them.

(The following takes place in the presence of the jury.)

THE COURT: Good morning, ladies and gentlemen.

I apologize for the delay. Something unexpected came up and had to be dealt with. And that's been resolved now, so we're ready to continue with the trial of the case.

As you know, yesterday the state had rested in their presentation. So we'll now proceed with any to be offered by the defense.

Mr. Ianuario.

MR. IANUARIO: Thank you, Your Honor.

I'd like to call Deputy Talanges to the stand.

THE COURT: Where is he? Robert Talanges?

(Pause.)

THE COURT: Mr. Talanges, you've previously been placed under oath. You're still under oath for the purpose of these questions also.

THE WITNESS: Yes, sir.

THE COURT: Thank you.

Mr. Ianuario.

MR. IANUARIO: Thank you.

ROBERT TALANGES, having been previously duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. IANUARIO

Q Thank you, Deputy.

Just as a brief refresher, would you please state your involvement in this case?

A I was the crime scene investigator and collected all evidence, assisted with photographs, attended the autopsy, drew the crime scene sketch, and sent off items that were going to be submitted for analysis.

Q Okay. Did you take any of the photographs yourself?

A I have taken some. It was mainly at the apartment, and some daylight photos at the scene.

Q And I believe you said you were present for the autopsy when the photos were taken.

A I attended the autopsy.

Q Okay. Did you view the autopsy photos being taken?

A Pardon me?

Q Did you view the autopsy photos being taken?

A Did I view them?

Q Could you verify of I showed you the pictures as the ones that were there that day?

A Yes, sir. I can tell you.

(Photographs marked Defendant's Exhibits Nos. 1 through 17 for Identification.)

Q Do you recognize these photos, Deputy?

A Appear to be photos taken at the incident location as well as the morgue.

Q And do these appear to be accurate with regards to your observations at the time?

A Yes, they are.

MR. IANUARIO: Your Honor, I'd like to move to enter these Defense Exhibits 1 through 17.

MR. BULSA: The state objects as to the relevancy, Your Honor.

THE COURT: Let me see them.

(Pause.)

(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)

THE COURT: Any other objection besides relevance?

MR. BULSA: No, none.

THE COURT: Overruled. They're admitted.

MR. IANUARIO: Thank you, Your Honor.

(Photographs marked Defendant's Exhibits Nos. 1 through 17.)

BY MR. IANUARIO

Q Deputy, would you describe that photo, just generally what it is, no great detail?

A Looking at --

THE COURT: Identify the number, please.

MR. IANUARIO: This would be Exhibit No. 11, Your Honor.

A Appears to be a black tank-type style shirt. It's got one hole. And the other's a -- like a piece of gauze that's showing -- actually not showing the location -- or I want to say highlighting where it's located at.

Q So that's how you -- that's not gauze from anything else. That's helping to highlight the hole in the black shirt --

A Right.

Q -- to save visibility.

A Because if it was black on black you would never see it.

Q Nothing further. Thank you.

MR. BULSA: Your Honor, I renew my objection. No relevant testimony to these pictures as to why they've been introduced.

THE COURT: Well, I've seen them. They appear to be all photos of gunshot holes. So overrule the objection.

MR. BULSA: Okay.

CROSS-EXAMINATION

BY MR. BULSA

Q Why are those pictures entered?

A Pardon me?
Q Why are those pictures entered into evidence?
A The defense wanted them entered. They show location where the -- where the victim was. They show clothing that he had worn.
Q But you can't -- all you did was document the victim laying on the ground, right?
A Correct.
Q With multiple holes in his clothing, correct?
A That's correct.
Q And then some of those clothing were photographed additionally at the morgue showing multiple holes, is that correct?
A That is correct.
Q And then we have a few of the holes in his body that you photographed, is that correct?
A Yeah, and any wounds that we did --
Q And these aren't all the wounds from his body, are they?
A No, they're not.
Q Because we counted 12 wounds, did we not?
A I believe we did.
Q Let's see. State's Exhibit No. -- excuse me -- Defense Exhibit No. 7 and Defense Exhibit No. 3 appear to be both of the arm, is that right?

A Yes. They are.
Q Looking at the --
A Tattoo.
Q -- tattoo.
MR. IANUARIO: Objection, Your Honor. Mr. Bulsa's trying to elicit information that he's not qualified to speak about in terms of medical terminology.
THE COURT: Well, the pictures are in evidence.
Overruled.
BY MR. BULSA
Q Okay. All right. So we have two photos showing the entrance and exit of the arm, right?
A Correct.
Q And then we have three photos -- Defense 4, 5, and 6. What does five show?
A Shows the right-side torso area of the waist area where there's a wound.
Q Okay. And Defense 6 shows what?
A That is going to be the back area or buttocks area, which on the right side as well where it is another wound.
Q Okay. And does that show a corresponding entrance or exit wound?
THE COURT: Excuse me just a minute.
You're going to have to qualify him as an expert if he's going to start testifying about those types of things.

Q Does that show a corresponding hole that would go with it?
A Yes, it does.
Q Where?
A Buttocks area, right side.
Q Does it show another hole, a second hole?
A Should -- upper -- upper right area it does as well.
Q Okay. Defense Exhibit No. 4, what bullet wounds does that show?
A It's the same picture -- it appears to be -- but from a different angle showing the wounds.
Q What wounds does it show?
A It shows the buttocks, the right hip area, and it also shows the back area.
Q Now, of course you're not the expert. You're not the pathologist. So you don't know how these wounds line up to -- one to another, do you?
A No, I don't.
Q In fact, one of these wounds appears to have a rod going through it, does it not?
A Yes. That'd be what he put in there for a trajectory angle.
Q Do you see the other end of the rod?
A No, I don't.
Q Okay. So that wound does not show any -- you can't

tell from this picture which wounds line up one to another, can you?

A No, I can't. Neither is it an entry. I can't say it's an exit or an entry.

Q I'm not asking you that. I'm asking you if any of the holes line up.

MR. IANUARIO: Again, I'd object, Your Honor. He's not the one who performed the medical exam. He observed it.

We don't know what position the body was in when it was shot. May have bent over, standing up. He's not in a position to argue as to which holes line up on the others on the basis of the photographs. We had the diagram that is from the medical examiner if he wishes to come back.

THE COURT: All right. Overruled.

BY MR. BULSA

Q And going back to State's 6. It appears the upper portion of this picture shows a portion of a rod, is that correct?

A That's correct right there.

Q Does that show the rod coming out of the body in any -- in any location?

A Not that I could see.

Q So this picture does not -- okay. It shows one portion of a rod, and it shows a hole to his buttocks area.

A Correct.
Q Okay. Now, do you know which of these wounds match up with which of Dr. Wren's numbered wounds on his chart?
A I do not know.
Q So of the 12 holes that Dr. Wren documented No. 4 shows one, two, three; six shows the one that is shown in one; and five apparently shows a separate one. So we have three, four, and then two in the arm. So we have six of the 12.
A That's correct.
Q Okay. Now, you have no way of knowing which of these holes in the clothing match up with any of these wounds to the body, do you?
A No, I don't.
Q And has there been a picture introduced of the -- of Mr. Young's face showing the injuries to his face?
A I haven't seen it yet.
Q Are there any in this group of pictures that the defense showed you?
A Well, partial face -- facial here.
Q His chin?
A Just his chin.
Q I'm talking about his full face. Is there a picture there of his full face --
A Not the --

Q -- showing the wounds to his face?
A None.
Q Thank you. That's all I have.
REDIRECT EXAMINATION
BY MR. IANUARIO
Q Deputy, how many pictures were taken that day?
A I would say a lot. I have no idea.
Q But every wound was photographed, correct?
A It was photographed from head to toe, that's correct.
Q And every photograph was made available to the prosecution and the defense, correct?
A I believe so.
MR. IANUARIO: Nothing further.
THE COURT: You may step down.
Do you need Officer Talanges any longer?
MR. IANUARIO: No. He may be excused, Your Honor.
THE COURT: You may be excused.
(Whereupon, the witness was excused.)
MR. IANUARIO: I would like to request Charles Mauney, Your Honor.
THE COURT: Who?
MR. IANUARIO: Charles Mauney.

CHARLES DANIEL MAUNEY, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. IANUARIO

Q Good morning. Would you please state your name for the jury?

A Charles Daniel Mauney.

Q And what's what your occupation, Mr. Mauney?

A I'm a waiter.

Q Where at?

A Waffle House.

Q How long have you been there, Your Honor, sir?

A At that store approximately three or three and a half years.

Q Consistent the whole time?

A Yes, sir.

Q Do you miss a lot of work?

A No, sir.

Q Were you there on the night of June 3rd of 2012?

A Yes, sir.

Q Give a brief description of what led up to the event, the atmosphere in the store loading up to the events.

A We had just -- we'd just finished getting most of our crowd, and the store was -- the store was full. And then it began to empty out.

And we had some gentlemen sitting at the high bar

with -- I can't remember whether it was two or three ladies. They were eating and generally just being somewhat bellicose but nothing too over the top. So we let it slide because everyone else was emptying out. We didn't think there was going to be any problem with them.

They all began to file out. And Antwon came in. He had already been in there once that night, I think after he got off of work or something. But he'd come back. And he said he come back to pick up a burger for his girl. And he ordered it.

And about that time I noticed that there was another gentleman who had come into the restaurant and was trying to get my cook's attention to get some change for a hundred-dollar bill.

And I noticed what I believed to be a pistol in his pocket that he was holding -- that he was holding up with his right hand.

So I quickly took Mr. -- I quickly took Antwon's order and went over to the cash register and rang out and dropped all the money in it and tried to get my sales people in the back. And he said that he was going to go outside or to the bathroom or something. I don't remember at this point in time.

And I went in the back and called the cops and told them that this guy had been in here and he was looking to

see how much money we had and I thought he was going to rob the place.

Q Okay. So were you familiar with Antwon?

A Probably waited on him fifty to a hundred times.

Q So he's a regular in your store?

A At least two to three times a week that I saw.

Q You said that you went back to call the cops because you thought the store might be robbed.

Did Antwon give you any part or any impression that he would do that, or was that completely a random event?

A I never, ever saw the guy that I thought was getting ready to rob the place before or since.

He did not appear to be with the group that was sitting at the high bar. And he came in a couple of minutes before Antwon did. And I really don't think he had anything to do with anyone else in the restaurant.

Q So he seemed suspicious.

A Yeah.

Q Okay. Tell me what happened after you went in the back room to call 9-1-1.

A I heard Josh and Sherry start talking about, you know, it looks like they're going to fight or something. And then Josh -- and then a minute later Josh was yelling that -- that somebody had hit somebody.

At that time I didn't know who done anything to whom.

And then they were yelling about there being a gun. And then I heard shots fired.
Q Okay. Did you witness any of these first hand?
A No.
Q And you were in the back room at the time, correct?
A Yes, sir.
Q Do you have -- what all is in the back room? What areas were back there?
A There's the office which is locked off, and then there's a little alcove that's in between the office and this little wall that leads out to where the bathrooms are.
And the rest of it is just like an open area. There's a small table for us to put like our, you know, purses, bags, you know, do paperwork, whatever, on; a prep sink and a table that holds two -- depending on the time of year -- two to three steam tables for the breaks and things like that. And then the door in the commissary and the back door. And the ice machines are beside the sink.
Q Okay. And did that particular store have a security system?
A It has cameras.
Q Cameras. And are you able to view the live events on -- on those cameras?
A Yes, sir. When we went in the commissary we were watching. We were watching to see if anyone else was

coming back into the store, and we were trying to watch for headlights to see if we could see when the cruiser pulled up.

Q Okay. Did you have any cameras in the parking lot?

A No, sir.

Q But the -- the monitor -- the viewing would have took place in the back room or --

A Yes, sir.

Q Okay. Do you recognize this disc?

A Yes, sir.

Q And what is this disc?

A It looks like one of the copies of the everyday log.

Q Have you watched this disc?

A Yes, sir.

Q And did it appear accurate as to a depiction of the events?

A Yes, sir.

MR. IANUARIO: I would like to move, enter, this as Defense 18, Your Honor.

MR. BULSA: No objection.

THE COURT: Admitted.

(C.D. marked Defendant's Exhibit No. 18.)

Q While we're waiting on that to warm up, you said that you had been at the Waffle House for three to three and a half years.

Has there been a lot of violence at that particular location?

MR. BULSA: Objection, Your Honor, as to relevance.

THE COURT: Sustained.

BY MR. IANUARIO

Q Have you been a party to any other law enforcement investigations that have taken place at the Waffle House?

A No, sir. I've had to call them a couple of times because someone needed to leave and they didn't want to leave after getting more rowdy, but there's never been any, you know --

Q To the best of your knowledge that's the only shooting that has taken place during the time you've worked there.

A To the best of my knowledge that's the only one that's taken place there since it was built.

Q Would you describe each of these camera angles here, please?

THE COURT: If you need to step down from the witness stand, you can, but I ask you use that microphone hanging from the ceiling.

THE WITNESS: Actually, I can see.

THE COURT: Okay.

(Whereupon, the video was played.)

A The one in the top left-hand corner is looking at the register.

(Whereupon, the witness was given a pointer.)
A Thank you.
That one is looking down at the register. Its source is approximately 4 or 5 feet inside of the door up on the ceiling.
This one is if you'll look right here, it's approximately -- its source is approximately right where I had the pointer a second ago looking down over the register.
It's to make sure that -- it's to provide another angle in case someone comes in and tries to rob the place or in case they suspect an employee of, you know, fiddling with the money.
This is the back room. It shows the manager's office and the door out onto the floor.
And then this one just shows the entryway.
Q Okay. And are there any other camera angles? Are there any other cameras in the store?
A There should be one that faces back towards the back door and the commissary door. But I don't know if that one, if that particular one, if there is --
Q Does that appear to be it?
A Yes, sir.
Q Okay. And to the best of your knowledge these cameras were working during the course of the entire event,

correct?
A Yes, sir.
Q Can you tell what time it is according to this program?
A 4:39 in the morning.
Q Okay. Is that what that big number in the corner is, the timestamp?
A Yes, sir.
Q Okay. Okay. Where are you in this series of --
A I'm right beside the door.
Q That's you mopping there?
A Sweeping actually, I think, but maybe.
Q Okay. So you were out from behind the counter at that point.
A Yes, sir.
Q And you could see a variety of angles of the customers.
A Yes, sir.
Q I'm waiting for the point that I want to show, but I have a still of that particular image.
(Pause.)
Q Does that appear to be you?
A Yes, sir.
Q Okay. And, again, you're continuing with your cleaning duties.

A Yes, sir.
Q And we'll come to this spot here in roughly a minute. That's you coming into the picture there, correct?
A Yes, sir.
Q And who are the women on your left?
A They were some S.M.C. student that had come in with the guys at the time they left the club, I believe I remember overhearing.
Q Okay. So they were at the club beforehand?
A Yes, sir, university.
MR. BULSA: Objection, Your Honor. That's hearsay.
MR. IANUARIO: I'll withdraw that.
THE COURT: Sustained.
A Well, you can actually see the pink band from the club on their wrist.
Q And were the girls hanging out with anyone in particular that evening?
A No. They just were up there chatting with the guys. They seemed like they had just met, didn't really --
Q I promise you we're almost there. Who is this gentleman entering the picture?
A I hadn't seen him before this point, but he's the gentleman who I thought had the firearm and was about to rob the store.
In a moment he'll hold up his left hand, and you'll

notice that his right hand stays down by his side. He's actually waving a hundred-dollar bill at the cook, Joshua, trying to get him to agree to open the drawer and break it. And I'm -- and Joshua goes yeah, yeah, I think we can, and Chuck come over here and do it.

And I'm telling Josh, no, Josh, we don't have the money. I dropped it already. It's in the safe. Because I could see from that angle what I thought was a firearm.

Q And how were you able to identify it was a firearm instead of something else?

A The butt of a gun looks very much like the butt of a gun and not much else, unless he had something, you know, like a wooden, carved replica in his pocket. I can't imagine that it would have been anything else.

Q Okay. How long was he in the store?

A He came in, and then after I told him that we didn't have change for a hundred and he might want to, you know, try back in, you know, ten or 15 minutes or whatever, he left the store very shortly after that.

I don't know whether he left the property though. He may have, because I thought he was going outside to wait, and that's when I went to call the police.

Q Was he by himself?

A As far as I could tell.

Q Okay.

A Because no one in the store appeared to be with him, but he may have had someone outside in a vehicle or something that I couldn't see.
Q I'm good. Do you recognize these photographs?
A Yes, sir.
Q What are they of? Do you mind flipping through them?
A They were taken yesterday at the store where your assistant took me out to go back over the whole --
Q You recognize them. Is that the Waffle House that these events took place at?
A Yes, sir.
Q Is that an accurate depiction of what you saw yesterday?
A Yes, sir.

MR. IANUARIO: I move to introduce as Defense Exhibits 19 through 23.

MR. BULSA: I object as to relevance. Those were taken a year after the fact.

THE COURT: All right. Let me see y'all just a minute.

(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)

THE COURT: I sustain the objection.

MR. IANUARIO: Nothing further.

MR. BULSA: Nothing further?

CROSS-EXAMINATION

BY MR. BULSA

Q Go back to the video, Mr. Mauney. I don't believe I saw what you testified to.

It appears that this video -- the recording started at 4:38 when it was downloaded for the police, right?

A Yes, sir.

Q And that shows all five camera angles.

A Yes, sir.

Q I think you said two of them showed the cash register area.

A Yes, sir. One of them shows from -- from like over our shoulder to the cash register, and one shows the cash register from the front.

Q Camera one appears to be --

A Yes, sir.

Q -- from the doorway area looking back into the store.

A Yes, sir.

Q So that camera would be in the ceiling near the door.

A About placed approximately 4 to 5 feet or so in front of it maybe.

Q Okay. And the cash register area would be right here?

A Yes, sir.

Q Okay. And so you have a counter area here --

A Yes, sir.

Q -- which we see in camera two, right?
A Yes, sir.
Q So this -- the camera showing this would be somewhere up here.
A Yes, sir.
Q Okay. Camera two is then taken from the back of the building down the hallway or down this aisleway.
A It's that booth beside the juke box. If you come about 4, maybe 5, feet toward us in image one.
Q Okay. Right down there?
A No. Back over towards the wall a little more.
Q Okay. Right there?
A Yeah. Now coming down the floor it's -- and over about --
Q Okay.
A -- where the -- it's right in there.
Q So one and two are going this way showing views opposite each other, right?
A Pretty much.
Q Okay. So they're crossing there sort of in this area. I've got you. Camera three would be somewhere over here?
A Yes, sir.
Q Shooting down the aisle, in the kitchen-aisle area?
A Yes, sir.
Q All right. And that also shows the cash register,

right here.
A Yes, sir.
Q All right. Camera four would be --
A Focusing on the office door of the entryway to the back.
Q Office door. This door here is this door here.
A Yes, sir.
Q Right? Okay. And this is the back door. This would be the exit going out the building.
A Yes, sir. And the other one is the entryway to the commissary.
Q And that is basically this way coming here.
A Yes, sir.
Q Okay. All right. The one to the camera five is not really relevant in this case, is it?
A Not really.
Q Okay. So I'm going to split it down to the four cameras, which is one, two, three and four, right? Okay. And let's see. How many workers were working that night?
A It was me and Josh, Shell, Terry and Sherry. Terry left 5 or 6 minutes before everything started happening really.
Q Okay. So that would have left four employees?
A Yes, sir.
Q You and Josh. Josh testified yesterday, because we

saw a picture where he actually was standing there watching.

A Yes, sir. And Sherry Burnett was also out there when everything happened.

Q Sherry didn't give a statement to the police, did she?

A No. They never attempted to take one from her or Shell.

Q Watch this. We'll watch a little bit more of this video than what Mr. Ianuario showed you. Okay?

A Okay.

Q See if I can make this thing jump to 4:55. It's obviously going to be fast. Let me ask where you started. Right there. Let's see. You commented that the pink band goes to some club.

A Yeah. Universal Entertainment gives out pink, neon green and blue bands to show that people are of age to drink.

Q Do you know that from experience?

A Yeah, from about three or four hundred, throwed them away at least.

Q Okay. All right. Did you know Mr. Young, the guy that got killed?

A No. Actually I'd never -- the group at the high bar -- I don't recall having ever seen any of them before. You know, I might have seen them, but they didn't make any

sort of impression.
Q Okay.
A And if I had seen them, I hadn't seen them often enough to recall them.
Q Did they make any impression that night?
A They were kind of ruckus, but, I mean, I've seen the same out of everyone else. That's why I was really -- thought too much about it.
They kept making a couple of comments that apparently made one of my other coworkers nervous, because I didn't understand them at the time. But generally, no, they weren't any more ruckus. I couldn't just point and say, you know, that.
Q Okay.
A But, I mean.
Q You said you saw the guy in the black. You thought he was drunk. We see a patron here, this white gentleman in the white shirt.
A Yes, sir.
Q He would have been seated back here in the preview.
A Yes, sir.
Q So he is --
A I believe he was in the second booth that night maybe.
Q He's leaving. He's paying to leave. And then we have the three ladies right there together.

A Yes, sir.
Q And we have this gentleman here coming in. Do you know who he is?
A That's --
Q Nothing out of the ordinary has happened yet.
A No.
Q Okay. Do you know who this gentleman is in the black?
A He was one of the guys with the group at the high bar.
Q Okay. We see the two gentlemen in the white shirts. Apparently they're leaving together.
A Yeah. I want to say he was the other customer. I don't know him any more than I knew --
Q Okay. So at this point those two gentlemen are leaving. And we have the three girls. And this one appears to be a black male in all black.
A Yes, sir.
Q Appears to be kind of goofing off, is that right?
A They were moving back and forth from the high bar to there because two or three of them didn't eat at first. And then I think one or two of the others ordered something later. And he came up and got something and stood at the high bar beside the screens and ate and then went and sat back down. He was just, you know, milling around freely.
Q And now he's dancing with this girl. One, two. We have the three girls. This is camera two for the record,

4:54, almost 4:55. It appears that those were the only three customers in the store at this time.

A Yes, sir.

Q And the gentleman we see in front of them, would that be Josh?

A Yes, sir.

Q Okay. I have it 4:55. Called it 50, but it's a second or two before. We see this other person walking in, and I believe that's the person you identified to Mr. Ianuario as the one you said that you thought had a gun, is that right?

A I believe so, but I won't really be sure until he gets up towards the register.

Q Let's go back to the four.

A Yes, sir.

Q Be the right place. Move down. All right. So he is up to the register. I'm trying to look for you.

Where are you at now? Go back. There you are. You are up there sweeping. Looks like your attention is directed to sweeping. The girls are leaving. He's at the register, is that right?

A Yes, sir.

Q Okay. This gentleman in the white shirt, is that the defendant?

A Yes, sir.

Q He comes in at 4:56 and approximately 30. Oops. All right. Let's see. There's somebody in the red shirt coming behind him. Do you know who that person is?
A No, sir.
Q Had he been in there before?
A Not that I can recall.
Q You don't remember seeing him that night?
A No. I hadn't seen him at all prior to.
Q Okay. Looks like this guy is wearing a long shirt. Where is the view that you said you saw again?
A When I was taking Antwon's order before I came back around the corner.
Q So I need to rewind it?
A Yes, sir.
Q Oops. How high is that counter where the register is?
A With the little bar piece that comes out, it's, all things, right about here or so on me.
Q Just below your chest?
A Yes, sir.
Q Okay. Where is -- where are you seated again?
A I'm still around on that side when I saw it. It was -- I looked up and from the angle I was at --
Q All right. Are you talking about it was before this?
A Keep going back. He was yell -- he was fussing for Josh's attention there, and I could see along -- I could

see along here.
Q You could see along here?
A Yeah.
Q Through this partition?
A That partition doesn't block the angle of sight from where I was. I could see because he's far -- he's far enough out.
Q Where is it now?
A It's on his right side.
Q Right side, which was up against the partition?
A It was up against the partition. He's got a clearance of about 6 or 7 inches.
Q All right. I'm still looking at his foot here at the floor. He wasn't leaning up against it. Okay. This is an important point, so.
A See, he's got his hand lined up almost with the shoulder right where that --
Q His left hand.
A Right where that little divider-rise thing is.
Q Wait a minute. Are you talking about his right hand?
A No. His left hand.
Q His left hand is up --
A See where that little divider-rise in between the counter and the register is?
Q Yes, I do.

A Yeah. It's like two --
Q Yeah. Right there?
A -- from two and a half feet to the other divider unless he's wider than I am in the shoulders by 6 or 7 inches, he's not up against the wall.
Q Okay. You're telling us this spot and this spot is about two and a half feet.
A Two, two and a half feet, yeah.
Q Okay. And that's where people actually stand and pay their bill. Okay. And you're still over there sweeping. Have you seen the gun by this point?
A No. It's just -- it's when I look up here in just a moment. Right as I -- I looked up and saw it out of the corner of my eyes.
Q All right.
A My head didn't jerk up. I didn't react because --
Q Wait a minute -- wait a minute. I saw you raise your head up at one point, but I'm still trying to figure out how you see through that partition. Here is -- that's when you're looking up. You're telling us you can see through that partition --
A No. That's not --
Q -- to a gun in his waist?
A If you come back when my head comes up just a little bit --

Q Before this one?
A Yeah. When I -- when I'm starting to pick up everything I've -- I've started looking around because at that point he's trying to get Josh's attention.
Q Okay.
A And that's what made me look up and notice him.
Q Okay. Tell me when to stop it.
A Right about there actually.
Q Right as Mr. Baker comes into the picture?
A Yeah. You'll notice my head comes up.
Q Okay. I see you come -- you look like a quick glance at Mr. Baker walking in.
A No. I -- I --
Q Not only do you now have the partition between you and him. You have Mr. Baker between you and him.
A Mr. Baker was not between me and him. If you could actually -- if you'd actually -- it's hard to explain.
Q I hate to belabor this point, but this is on camera. So you're saying you saw a man with a gun and there was a shooting that night.
A Here's the thing. At that point Mr. Baker is not in between me and him and he's not up against the partition. The angle that I'm at is wider than the angle that the other camera comes from. If you look at this from the other camera --

Q Do I need to look at the other angle? Is that what you're telling us? I'll be happy to. You want me to look at it from which angle?
A Number --
Q Two?
A Yes, sir. See, I'm about here. I'm in between --
Q You are where?
A If you were -- I'd be right about where the load slide button is on this but a little bit further back.
Q You're telling us you could see something here?
A Yes, sir.
Q Okay.
A Because he doesn't stay up against -- he doesn't stay behind it the whole time. He's moving back and forth a little bit and everything else.
Q Was it -- did you see the gun before Mr. Baker came in?
A Honestly, there's a chance I might have saw something that I might have -- that tipped me off. But at this point it's been a year, and I can't completely sequence everything.
Q Are you throwing the gun into this because the guy was waving a hundred-dollar bill?
A No. If you go back and ask Mr. Hance, I honestly thought he had a firearm and that he was using the

hundred-dollar bill as an excuse to get us to open the register to see if he had -- to see if we had anything worth him pulling out from us. I mean, I've had people come and ask us to break hundred-dollar bills all of the time.

Q Okay.

A I have no -- you know, other than that -- other than seeing what I thought was the butt of a firearm, there was nothing else to tweak me that this is any different from any of another hundred random times.

Q But you agree that the video clearly does not show.

A The video doesn't have the resolution to show it.

Q Okay.

A Nor does it have the angle, because I'm at a different angle than where the camera is from where -- from where my point of view I can see in between that partition and his hips.

Q Well, Mr. Mauney, that's why I was showing --

A From the other angle?

Q -- the other angle because I was watching your hip. And it doesn't appear that you look up that often. And it only appears you looked up when Mr. Baker came in.

I don't mean to belabor this point, but we have the man that shot somebody. Somebody's trying to infer that this guy could have done it.

Let's just play it out. Off-camera angles. Is that Mr. Baker in there now? Appears you're taking his order at this point, right?
A I'd actually already gotten his order at that point. I was writing it down. Calling to Josh at the register.
Q What I call taking an order is writing it down and you're calling it out. Okay. And this other gentleman is still here. And now the register -- it's still here.
A Actually, that might have been when I saw it. That would actually make more sense now because that would be when Josh was looking over too. In fact, that's why Shell's still standing beside me, because I was telling her to get rid of her money.
Q I lost you in the picture.
A I'm still up there in the corner.
Q Up there. Am I going backwards? I'm going forward.
A No. You're going forward.
Q Now that leaves just Mr. Baker in the store, right?
A Yes, sir.
Q And that is at 5:50 -- 4:58 -- 55 -- before 5:00.
A Mr. Baker pays. I drop all of the money in the register, go by Josh and tell Josh what I just thought I saw, go tell Sherry the same thing and then go in the back and call cops.
Q Do you see this -- let's go to camera two. Did you

actually see this taking place?
A No. At that point in time I was focused on telling Josh and Sherry what I just saw and had pretty much stopped paying attention to everything but getting in the back and calling police.
Q Okay. Did you know this gentleman, the small gentleman in the white shirt?
A I believe he was with the other group earlier but --
Q Okay. It appears they're having a conversation, and this gentleman is pointing at his hand. Is that what it looks like to you? Okay. 4:59:43. Okay. And a few seconds later they both walk out together, right? And it appears that -- is that you still?
A Yes, sir.
Q Are you watching them go out?
A No. Actually, I was looking at Sherry and telling Sherry she needed to hide whatever tips she had on her and go to the back.
Q Let's see. I guess this will be Sherry. Actually, she's looking towards the back this way. Josh is looking that way. And you're basically looking -- play this now. This is the only one that shows any portion of the outside. We've got this glare from the lights, so you can't actually see what's going on. But we can see the two men leaving the parking lot.

A Exiting the building.
Q I guess actually one other view does show that. Okay. They're outside. You're doing something up here.
A I'm getting some stuff for Josh real quick and call Shell over to me to tell her to get rid of her money. Again, to go to the back.
Q Two men in white shirts have been outside for a few seconds.
A And that's where I pulled out my phone and started dialing as I went to the back.
Q Did you notice anything going on outside?
A I wasn't really paying attention to the outside any more.
Q Okay. So five. Now, this -- this time is just the time of this machine, right?
A No. It should actually be --
Q You don't know how accurate it is.
A It should be within a matter of -- accurate.
Q Okay. So right around 5:00 o'clock. It appears -- play. So you're coming back here. See your thumb. Did you have any trouble getting through?
A No. Second, third ring. And that's when they said they're fighting. And then Sherry and Josh yelled that they had -- that they saw a gun. And right about here is --

Q Back it up.
A -- when the shots --
Q Back it up. I'm sorry. So we actually have a picture in evidence of Josh looking this way. It appears he was in a position to see what was going on outside.
A Him and Sherry both, yeah.
Q Josh is watching as he walks. Okay. Everybody comes back in the back. That would have been around 5:01, and 17, I think is the picture. Y'all apparently have all gone to the back.
A Yes, sir.
Q Now camera five comes into play. Is that Sherry looking through the window?
A Yes, sir.
Q Up here, camera two, we see what appears to be -- come back in at 5:02:30.
A Yes, sir.
Q Okay. From State's Exhibit 28 we see the timestamp there, 5:01:17, right?
A Yes, sir.
Q All right. So a minute and 13 seconds left -- minutes and 15 seconds he's coming back in. He's in and out in five seconds. Nobody ever spoke to him in there, did they?
A No, sir. He called out, but I can't remember. It was like --

Q Did you see his gun?
A -- hey, guys, or something. No, we didn't actually. Sherry and Josh saw him.
Q I asked did you see the gun.
A No.
Q You didn't see his gun. Okay.
A But we did hear him call out coming back in the store, and then we retreated back to the back.
Q What --
A Like, hey, you guys or something, or hey, or something like that.
Q All right. Did anybody else come back in?
A No, sir.
Q Have you heard your 9-1-1 call in my office?
A Yes, sir. You put it back.
Q Yeah. Have you listened to it?
A Yes, sir.
(C.D. marked State's Exhibit No. 58 for Identification.)
Q State's 58 for I.D. This shows Waffle House showing 9-1-1 call. Do you have any reason to believe that's not your -- your call?
MR. BULSA: Your Honor, I would offer 58 into evidence and publish his 9-1-1 call.
MR. IANUARIO: No objection, Your Honor.

THE COURT: It's admitted.

(C.D. marked State's Exhibit No. 58.)

(Whereupon, the C.D. was played for the jury.)

Q Try it different. I am going to start it over because it appears.

(Whereupon, the C.D. was played for the jury twice.)

Q Okay. Appears it was played over. Okay. I'll stop it. Okay. It played over.

Now, I don't recall hearing you say anything about a guy in the store with a gun.

A Because by the time that I got ahold of the 9-1-1 operator everything that was outside was starting to happen. They'd yelled that the guys were fighting outside.

Q And in your description you said just some African-Americans.

A Yes, sir, because I didn't know. At that point I didn't know who was fighting and who was doing what.

Q You didn't describe any clothing or anything?

A No, sir.

Q All right.

A Because honestly at that point for all I knew two new cars had pulled up in the parking lot and people had gotten out and started fighting. But I assumed that it was members of the group that had been in there previously.

Q Now, I'm not in with this -- the guy that you thought

had a gun in the store, you said that it appeared he was by himself.

A Yes, sir.

Q So he was no way connected to the girls at the counter, the guys that were with the girls.

A He appeared to know them, but he wasn't there with them earlier.

Q Okay. All right. But you know Mr. Baker.

A Yes, sir.

Q Did you know him by name?

A I knew -- I know his first name, but I didn't know his last.

Q Okay. How did you know him?

A He just came in there on a regular basis, like I said, two to three times a week that I saw him earlier, maybe -- maybe more on my days off.

Q When y'all saw him come back in the store why didn't y'all go out there to see what he wanted?

A Because at that -- that's the point where they told me that they had seen him as the shooter.

Q Thank you.

MR. BULSA: That's all I have.

REDIRECT EXAMINATION

BY MR. IANUARIO

Q Charles, do you have any problems with your eyes?

A I think I --
Q Look over there for me, please, in that direction. Hold your head towards me. Roll your eyes that way. What's the furthest thing that you can see?
A The piece for the bottom of the screen, the cord-pull, whatever it's called.
Q Roll your eyes all the way that way. What's the furthest thing that you can see?
A Her bag or trash can or whatever that is right there.
Q So you've got a pretty wide field of vision.
A Yes, sir.
Q And you said that you didn't jerk your head when you saw the gun, right?
A No, sir. I'm -- I've been robbed before, and I know better than to react.
Q Is the detail in this video good enough that we could have seen your eyeballs?
A No, sir.
Q What's the Waffle House policy on breaking large bills after hours?
A We're not supposed to do it unless someone buys something.
Q What is the reason that you're not supposed to?
A It's a risk of robbery or getting a forged bill.
Q And you did call 9-1-1. So you believe that you saw a

gun.
A Yes, sir.
Q And then when the shootout happened you were watching the video, correct?
A No. I was standing near the office entrance when the shots were fired.
Q How did you know that Antwon came back in the store?
A Sherry. If you'll look on the video, Sherry and Josh moved back up towards the door and are looking out and say that he -- and say, yeah, oh, God, he's coming back in. They didn't specify who it was other than the guy that -- other than the shooter. But that's all they said.
Q Okay. So all they really knew is that the guy with the gun walked in the store.
A Yes, sir.
Q Do you think they would have recognized Antwon?
A I don't think Josh would have. Sherry probably would have.
Q If you had recognized Antwon were you on a friendly enough basis you would have said...
A But I never actually saw him come back in. I never made it to the door to see anything.
Q All right. And the police showed up, didn't they?
A Yes, sir.
Q Did you speak with the police?

A Yes, sir.
Q Did you give a written statement to the police?
A Yes, sir.
Q Does this look like it?
A Yes, sir.
Q What specific part of the firearm did you describe to the officer that took that statement?
A I didn't actually describe what specific part. I said that he had a gun in his pocket.
Q Sorry. I believe that was the one, the investigator's report. Did you tell him any specific part of a gun that you saw?
A At this point I honestly don't remember what I said to them.
Q Did the investigator seem very interested in that particular gun?
A No, sir.
MR. IANUARIO: Nothing further.

RECROSS-EXAMINATION

BY MR. BULSA

Q You said you don't change a bill that late at night because there's risk of robbery. Explain what you mean by that.
A Waffle House doesn't want its employees breaking large bills out of the register. They don't want us pretty much

opening the register late at night for -- you know, for no particular reason to change out large bills because they don't want anyone seeing in the register and seeing how much money's in there.

It's also the reason why we're not supposed to keep but three to four twenties in the drawer at a time and, you know, about the same amount of tens and drop everything else in the safe.

Q Okay. So it's because changing a large bill would reveal how much money might be --

A Because you'd pick out the twenties to count out however many you need.

Q Okay. Or you --

A Or you could -- or if the bill -- if the drawer was opened for someone who hasn't been sitting there eating it's, you know -- Waffle House's view is why is this person coming in, why do they want this bill broke, you know, why do they want us to open the register.

Q And you say another reason is for a forged bill?

A Yes, sir.

Q Okay. Y'all get forged bills a lot?

A No, not in this area, but I've heard of it happening in others where people come in, hey, can y'all break this for me, I need to go get such and such, and then, you know, pass off a fake hundred. And then Waffle House gets stuck

with it.
Q And you commented that Sherry and Josh exclaimed, oh, God, he's coming back in.
A That's what I believe Sherry's words were exactly.
Q As in fearful.
A Yes, sir.
Q Thank you.

REDIRECT EXAMINATION

BY MR. IANUARIO

Q Did you see what Sherry saw?
A No, sir.
Q So then you have no way of knowing why she said, oh, God, he's coming back in.
A No, sir.

MR. IANUARIO: Nothing further.

THE COURT: You may step down.

THE WITNESS: Thank you, Your Honor.

MR. IANUARIO: Your Honor, may Mr. Mauney be excused, please?

THE COURT: Let me see y'all a minute before you leave.

Just have a seat over there, Mr. Mauney.

(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)

THE COURT: All right. We're going to take a short

break.

I'll ask the jury to please go to your jury room. Don't talk about the case. I'll bring you back shortly.

(The following takes place outside the presence of the jury.)

THE COURT: During Mr. Mauney's testimony the defense wished to introduce five photographs as exhibits that Mr. Mauney would have been asked about because he was present when he and Mr. Ianuario made a --

MR. IANUARIO: It was Mr. Canady that took the photograph, Your Honor.

THE COURT: Excuse me. Mr. Canady who -- and Mr. Mauney were at the Waffle House and some photographs were made. And Mr. Mauney was going to testify about the photographs and what they showed. It appears to be the parking lot of the Waffle House.

We had a bench conference. Mr. Ianuario indicated that he wished to introduce the photographs because one of the photographs depicts some type of a hole in a cinderblock wall surrounding the Waffle House parking lot near a dumpster. And Mr. Ianuario contended that that was not investigated and -- investigated by police and it could have been a bullet hole.

There's also a photograph of an awning of a building across the street that has what appear to be rivet holes,

and also another hole that does not appear to be a rivet hole, that Mr. Ianuario contended should have been investigated in order to determine whether or not the hole was indeed a hole caused by a fired projectile from a weapon.

The solicitor objected on the grounds of relevance, and I inquired of Mr. Ianuario if Mr. Mauney or anybody else would testify that the holes were, in fact, bullet holes and when -- when and what -- when they could have been made and what they could have been made by.

As I understood from Mr. Ianuario -- correct me if I'm wrong -- Mr. Mauney would not be able to testify whether that hole appeared in that wall on June 23rd or sometime before or sometime after even up until today. Is that true?

MR. IANUARIO: Yes, Your Honor. That's correct.

THE COURT: And the same would be the case with the photograph of the sheet metal across the street on a roof or an awning?

MR. IANUARIO: Yes, Your Honor.

THE COURT: Okay. We'll make those photographs as part of the record. They were excluded based upon the objection because the witness could not identify if the hole was a bullet hole, and if it was when or how it was made. And therefore I determined it not relevant to the

case.

(Photographs marked Court's Exhibit No. 1.)

THE COURT: All right. Anything else we need to address before we break?

MR. IANUARIO: Nothing, Your Honor.

THE COURT: All right. We're going to be at ease for 15 minutes.

(Whereupon, a recess was taken.)

MR. IANUARIO: Your Honor, the defense would request Brandon Glover to the stand.

THE COURT: Okay. Bring Mr. Glover out. He's in the back room.

MR. IANUARIO: May I approach, Your Honor?

THE COURT: Yes.

(Bench conference held off the record.)

THE COURT: Don't put him over here yet.

Bring the jury in, please.

(The following takes place in the presence of the jury.)

THE COURT: All right. Mr. Ianuario.

MR. IANUARIO: I would like to call Brandon Glover to the stand.

BRANDON GLOVER, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. IANUARIO

Q Would you please state your name for the record, sir? Would you please state your name for the record?

A Brandon Glover.

THE COURT: You need to get closer to that black microphone, please, sir, and use it.

A Brandon Glover.

Q And are you familiar with the events that took place on the night of June 3rd of 2012?

A Yes, sir.

Q And on that evening did you encounter Mr. Antwon Baker?

A Yes, sir.

THE COURT: Could you speak up? Let me ask you to get closer to that microphone. You can adjust it if you need to. There you go. Speak up loudly so we can hear you.

BY MR. IANUARIO

A All right.

Q Would you give us a little background of the night, how you ended up at the Waffle House and everything leading up to Mr. Glover?

A It was me -- me, a friend of mine, and another friend. We was just sitting, and at my cousin's house.

Q Which friends are these?
A Darrian -- Darrian Tolliver and a friend named Justin.
Q Okay. Go ahead.
A We was playing video games, and then we decided we'd chill some, go get something to eat.
Q All right. About what time did you get to the Waffle House?
A Don't really remember the time.
Q Okay. At any point in that evening had you been drinking any?
A A little bit.
Q Any drugs?
A Nah. Just a couple of drinks.
Q Okay. So when you arrived -- do you know Anthony Young?
A Yes, sir.
Q Would you tell me a little bit about your relationship with him?
A He's my cousin.
Q And did you meet him at the Waffle House?
A No, sir. He actually pulled up right when we was pulling off to go up to the Waffle House.
Q Okay. Did y'all ride there together, or did he follow behind him?
A We rode there together.

Q And what kind of car did you ride in?
A A blue Chevrolet Caprice.
Q Okay. Where were you at the Waffle House the first time you saw Mr. Baker?
A Where was I?
Q Were you in the parking lot, inside eating?
A Leaving outta the Waffle House.
Q Okay. What happened after Mr. Baker arrived?
A He went in the Waffle House, and I was told that was Mr. Baker.
Q Okay. Who told you this?
A Anthony.
Q What else did Anthony tell you about Mr. Baker that night?
A He was the guy that pulled out a firearm on 'm and hit 'm a couple of weeks earlier.
Q Do you if Anthony called the police in that event?
A No. I'm not sure.
Q Did you approach Mr. Baker that evening and speak with him?
A Uh-huh.
Q Was this inside the Waffle House or in the parking lot?
A Right on -- right in the entrance of the Waffle House.
Q Okay. But did you go in and speak with him at any

point inside the Waffle House?
A No, sir, not to my knowledge. I think the whole conversation we had was on the outside of the Waffle House --
Q Okay. Bear with me just a moment.
A -- to my memory.
Q Okay. Can you see this, Mr. Baker -- I mean Mr. Glover?
A Yes, sir.
THE COURT: Mr. Glover, they're going to be asking you to look at that film. I understand you have to look up at it, but any time you respond to a question you've got to turn back and speak into that microphone.
THE WITNESS: All right.
(Whereupon, the video was played.)
BY MR. IANUARIO
Q Does that appear to be you, Mr. Glover?
A Yes, sir. Looks like me.
Q What were y'all talking about at this point in time?
A I do not remember.
Q All right. But you walked up to him, and then y'all stepped outside?
A Yes, sir. That's all I remember being outside.
Q All right. I'm going to skip over the next couple of minutes. After the shooting occurred what did you do?

A When it was all done?
Q Uh-huh.
A Finished with?
Q Yes, sir.
A I stayed there for the police to arrive.
Q Okay. And did you see Mr. Baker leave?
A No, sir.
Q And so you couldn't identify his vehicle.
A Yes. I seen what kind of car he pulled up in.
Q Okay. But you didn't see which direction he pulled out from?
A No. We passed 'm coming back.
Q You passed him coming back? You just said you didn't leave.
A You said did I stay there until -- did I say there the whole -- what I after the police --
Q You said you stayed until the police came. And then you just said you passed him coming back. Where were you coming back from, Mr. Glover?
A Went to the gas station.
Q You went to the gas station after the shooting.
A Uh-huh.
Q So you didn't stay there to wait for the police like you just said.
A No, sir.

Q Is there anything else that you'd like to go ahead and tell us now? In that fight did you throw the first punch?
A Yes, sir, I did.
Q Did Mr. Baker tell you that he didn't want to fight?
A No, sir.
Q He didn't tell you that he wanted to fight -- didn't want to fight?
A No, sir. We got into argument.
Q Did he turn around to leave?
A Uh-uh.
Q He didn't try to walk back in the store? Have you seen Antwon since this event occurred?
A Yes, sir.
Q Have you spoken with Antwon since this event has occurred?
A No, sir.
Q You haven't spoken with Antwon at all since this event occurred.
A No, sir.
Q Again, I'd like to remind you are under oath.
A Not that I remember. Well, we're -- we're in the same pod at the detention center.
Q At the detention center. And are you in the -- in the detention center for anything to do with this particular evening we're discussing?

A No, sir.
Q Did you have a gun on the evening in question?
A No, sir.
Q Have you ever carried a gun?
A No, sir.
Q You've never carried a gun?
A I mean, yes, sir, I have. I have charges for unlawful carrying.
Q Charges, plural?
MR. BULSA: Objection, Your Honor.
A One charge.
THE COURT: Sustained.
Q At the time of this shooting did you have any pending charges?
MR. BULSA: Objection, Your Honor.
THE COURT: Let me see y'all just a minute.
(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)
THE COURT: Sustain the objection.
BY MR. IANUARIO
Q When you went up to the gas station after the shooting who did you go with?
A My sisters.
Q All right. Who was driving?
A My older sister.

Q What's her name?
A Kiara.
Q Were you in her automobile?
A Yes, sir.
Q All right. And which seat were you sitting in?
A The back seat.
Q All right. And Chassity Glover would be your other sister.
A Yes, sir.
Q And they were there that night, correct?
A Yes, sir.

MR. IANUARIO: Nothing further.

CROSS-EXAMINATION

BY MR. BULSA

Q Mr. Ianuario stated, Mr. Glover, a couple of minutes, so I want to go to those couple of minutes.

Tell us what occurred outside the Waffle House between you and Mr. Baker.

A I asked him why did he pull out a firearm on Anthony, hit him.
Q Okay. Say that again.
A I asked him why he pull out a firearm on Anthony and hit him.
Q Why did he pull out a firearm on Anthony and hit him?
A Yes, sir.

Q And what was his response?
A "F y'all."
Q Okay. And then what happened?
A We argued, and I hit 'm.
Q How many times did you hit him?
A Once.
Q And then what happened?
A And then he started shooting.
Q Where did the gun come from?
A Off his hip.
Q Did you see him pull it off his hip?
A Yes, sir.
Q Where was Anthony at this time?
A In the parking lot.
Q Was he between you and Mr. Baker?
A No, sir. He was more to my left.
Q Okay. And how many other people were out there in the parking lot?
A Anthony. I'll say five or six people.
Q Okay. And let's name them for us.
A It was Anthony, my two sisters, Darrian. He might have been sitting in the car. Justin, Hillary, and might have missed some more people, the car --
THE COURT REPORTER: I don't understand.
THE COURT: Say that again. Might have been some more

people and what?
A It might have been more people.
Q Were those people with you?
A All of us people I just named was --
Q In your group.
A Yeah. People I know.
Q Was there another group?
A Yes. I remember some males being there.
Q Okay.
A I remember seeing them after it -- after it happened. I don't know if they there when it all happened.
Q Okay.
A But they was there when -- when it was all done. And I remember seeing them in the Waffle House before.
Q Okay. And when Mr. Baker pulled the gun and started shooting what did you do?
A I ducked and ran.
Q Which direction did you run?
A To the right.
Q So it would have been away from the door toward the end of the parking lot.
A In front of the door like towards the street.
Q Okay. All right. Towards the street, because you're facing, actually facing, the Waffle House, right?
A Yeah.

Q You're facing the door, and Mr. Baker's back is to the door?
A Yes, sir.
Q You take off to your right.
A Yes, sir.
Q Do you look back and see what else is going on?
A Yes, sir.
Q What did you see?
A When I -- I got to like the second car, and I ducked beside it. I looked up, and he was chasing Anthony.
Q Where was he chasing Anthony?
A Into the next parking lot.
Q All right. And what did -- what did -- tell us what -- what else you saw.
A He was chasing him, shooting him.
Q Did you sit there and watch it all?
A Yeah. They was chasing him, shooting him close range. I guess Anthony felt like he couldn't run but so far and tried to turn around and fight 'm off. He still kept shooting 'm. And once he realized he couldn't fight 'm off he started running back towards the Waffle House, and he continued chasing 'm shooting 'm.
Q And what happened?
A And once Anthony dropped I got in the car with my sisters. They were screaming for me to get in the car --

my sisters.

As we was pulling out I seen them standing over 'm. I don't know. I can't quite say if he shot some more or what. I just seen him moving around. He might have been kicking on the floor. I'm not real sure. And we sped off to safety. When I came back --

THE COURT REPORTER: I can't hear him.

Q I'm sorry. You said you sped off to safety?

A Yeah. We sped off to the gas station. And we got back. Anthony was laying in the same place he was laying when we pulled off.

THE COURT: You need to speak up louder.

A We went to the gas station, and when we got back Anthony was laying in the same place that he was when we had left.

Q He was in the same place when you'd left.

Okay. Did you see the defendant leaving the area?

A Yes, sir.

Q I think you testified you saw him in his car passing you.

A Yes, sir, on the highway.

Q On Highway 29.

A Yes, sir.

Q He would've been going towards town.

A Yes, sir.

Q And you would've been coming back to the Waffle House.
A Yes, sir.
Q Did you know Mr. Baker at all?
A Not -- not really. I just knew he was a neighbor of one of me-and-Anthony friends, close friends.
Q So you knew -- you and Anthony knew a person that lived at Magnolia Townhomes?
A Yes, sir.
Q And who is that person's name?
A Rock -- Rodney.
Q Rodney. Okay. Where did this supposed assault on Anthony take place?
A At Magnolia.
Q Did you witness any of that?
A No, sir.
Q Prior to the night of his death had Anthony told you anything about that before?
A Yes, sir.
Q Okay. So this wasn't the first time you'd heard about it.
A Uh-uh.
Q Did you know what kind of car this man drove before this night?
A Him?
Q Yes, sir. Mr. Baker.

A Yes. It's a white sedan, I remember.
Q No. But did you know it before that night? Did you recognize it from Magnolia Townhomes?
A Yes, sir.
Q Okay. What I'm trying to get at is when he pulled up did you yourself have any recognition of him.
A I kind of remembered him a little bit, but I didn't.
Q Okay. But it was Anthony's calling your attention to him that made you remember.
A Yeah.
Q All right. So Anthony remembered him.
A Yes, sir.
Q Could you tell if the defendant recognized Anthony?
A Yes, sir. I think they gave each other some eye contact.
Q Okay. Now, you got into an argument with Mr. Baker about hitting Anthony in the past. Were you trying to get him to fight Anthony?
A No, sir. I was just questioning him, asking him why, why would he go about doing that.
Q Was Anthony involved in that argument at all?
A Anthony really wasn't saying anything.
Q How tall are you?
A I'm 5'5", 5'2" or 5'3", somewhere in that range.
Q And how much do you weigh?

A Like a month ago I was 140.
Q Were you about the same weight a year ago?
A Yeah.
Q Did you have a gun that night?
A No, sir.
Q Did Anthony have a gun that night?
A No, sir.
Q Did any of the people with you have a gun?
A No, sir.
Q Did you see anybody else with a gun?
A No, sir.
Q How many people did you see shooting?
A One.
Q Thank you, Mr. Glover.

REDIRECT EXAMINATION

BY MR. IANUARIO

Q How many shots did you hear that night, Mr. Glover?
A Numerous, a lot of them. I don't really -- I didn't really keep count.
Q And you said you saw Mr. Baker chasing Anthony around the parking lot.
A Yes, sir.
Q At any point was he in the parking lot of the mall across the way -- strip mall?
A Yes, sir.

Q And which direction was Anthony running in that parking lot?
A He was running away from the Waffle House.
Q Was he running -- so he was running away from the Waffle House.
A Yes, sir. And then he turned around.
Q You said you didn't know much about Antwon, right, other than that he had been known to carry a gun?
A Uh.
Q And you're roughly 5'3" and 150 pounds, correct?
A Uh-huh.
Q You're 5'3" and 140 pounds, correct?
A Yes, sir.
Q So what possessed you at 5'3" and 140 pounds to attack a larger man that the only thing you knew about him was that he carried a gun?
A Being upset at what he did to Anthony.
Q Are you sure you didn't have a gun that night?
A I'm positive.
Q Are you sure you didn't plan on robbing Antwon that night?
A No, sir. I don't do that.

MR. IANUARIO: Nothing further.

RECROSS-EXAMINATION

BY MR. BULSA

Q Did you see a gun on him -- Mr. Baker -- before you hit him?

A No, sir.

Q If you knew he had a gun would you have hit him?

A No, sir.

Q Thank you.

REDIRECT EXAMINATION

BY MR. IANUARIO

Q If you had had a gun would you have hit him?

A No, sir.

MR. IANUARIO: Nothing further.

THE COURT: You may step down.

MR. IANUARIO: I'd like to call Delton Sease as my next witness, Your Honor. He should be quickly.

THE COURT: Is he up here?

MR. IANUARIO: He's downstairs.

MR. BULSA: May we approach on that matter?

(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)

THE COURT: Ladies and gentlemen, we're going to excuse you for lunch.

I'll ask you to report back to your jury room at 2:30.

Don't discuss the case; don't conduct any research; don't allow yourself to be exposed to any type of media coverage that relates to the case. Have a good lunch. Be back at 2:30.

Court is not in recess.

(The following takes place outside the presence of the jury.)

THE COURT: All right. The next witness is Delton Sease?

MR. IANUARIO: Yes, Your Honor.

THE COURT: Solicitor, do you think there's -- you have an objection to his testimony?

MR. BULSA: Yes, sir, as to the proper -- whether it's proper at this point. Rule 613(b), he's seeking to offer extrinsic evidence of a prior inconsistent statement.

The rule states that if a witness does not admit that he made a prior consistent statement extrinsic evidence is admissible.

The witness, being Mr. Glover, was never specifically questioned about that prior inconsistent statement. He was merely asked whether he talked to Mr. Baker in the jail, and that was the extent. He never confronted him about any specific statement.

MR. IANUARIO: Your Honor, I then also asked if he told Antwon that he had a gun which is the basis of that

statement that was overheard. He denied it.

Mr. Sease's testimony would contradict that.

THE COURT: Mr. Sease would testify as to what, now?

MR. IANUARIO: That he overheard a conversation that took place between Mr. Baker and Mr. Young while in the same pod as them.

THE COURT: Who?

MR. IANUARIO: I'm sorry. Mr. Baker and Mr. Glover.

THE COURT: All right. So he will testify he overheard a conversation between Mr. Baker and Mr. Glover in which -- wherein Mr. Glover said what?

MR. IANUARIO: He would admit testimony along the lines of, yes, we had guns, yes, we were planning on robbing him but we weren't planning on killing him.

THE COURT: Okay. Well, that's clearly contrary to what he testified to.

MR. BULSA: Well, okay. I don't think it's proper format but --

THE COURT: Well, if he denied the material fact that he's calling Mr. Sease to testify to it. He's asked him if he had a gun. He said no. He asked him if he was going to rob him. He said no. And Mr. Sease is going to testify that he said he was, he did have a gun and he was going to rob him?

MR. BULSA: No. He's saying Mr. Glover told Mr. Baker

that in the jail after the fact, not that he told him that night that that was what was going to happen.

THE COURT: Oh, I understand -- I understand.

MR. BULSA: And when he was questioning Mr. Glover about whether he spoke to Mr. Baker, Mr. Glover commented that, yeah, we're in the same pod together. But then he stopped his questioning and never went into whether they had a conversation in the jail.

THE COURT: Well, Mr. Baker's -- I mean, Mr. Glover is still available. He's not going anywhere. So if y'all need to call him we'll have him back here. Just keep him down there.

All right. Court is in recess until 2:30.

Have -- we need Mr. Glover and we need Mr. Sease. We need them in that holding cell this afternoon at 2:30.

MR. IANUARIO: Your Honor, may I request those witnesses be sequestered, be kept separate?

THE COURT: Well, sure. Do we have any way of separating them up here?

MR. IANUARIO: Can we keep Mr. Sease in the holding cell?

THE COURT: Just keep Mr. Glover downstairs. Bring Mr. Sease up here.

(Whereupon, a recess was taken.)

THE COURT: All right. Mr. Ianuario, I understand

that you want to or intend to impeach Mr. Glover's testimony by calling another witness to testify to his making of what you contend to be a prior inconsistent statement. And of course during Mr. Glover's testimony you didn't ask him if he made such a statement. So you're going to have to lay that foundation before you can impeach him with it with additional testimony.

MR. IANUARIO: Thank you, Your Honor.

THE COURT: All right.

MR. IANUARIO: Thank you, Your Honor.

THE COURT: Mr. Glover's here?

THE BAILIFF: Yes, sir. Across the hall.

THE COURT: Let's get him over here.

(Pause.)

THE COURT: All right. Bring the jury in.

(The following takes place in the presence of the jury.)

THE COURT: All right. Good afternoon, ladies and gentlemen.

We're going to continue with the state's presentation -- excuse me -- the defense's presentation of evidence.

Mr. Ianuario.

MR. IANUARIO: Thank you, Your Honor. I'd like to call Brandon Glover.

THE COURT: All right. Mr. Glover, come back around. You have previously been placed under oath, and so you're still under oath for the purpose of these questions. Have a seat in the witness chair.

BRANDON GLOVER, having been previously duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. IANUARIO

THE COURT: Okay.

Q Thank you, Mr. Glover.

Do you know a young man by the name of Delton Sease?

A Seen 'm.

Q And how you are you familiar with him?

A I'm not really familiar with 'm if I'm thinking of the same guy. I'm not really sure.

Q Is he in the detention center with you?

A Yes.

Q Have you ever spoken to Antwon in the presence of Mr. Sease?

A No, sir, not -- no, sir, not I know.

Q So then in the presence of Mr. Sease you never had a conversation with Antwon concerning what your intentions for the night of June 3rd of 2012 were.

A No, sir.

Q So then Mr. Sease would not have overheard you tell Antwon that you had a gun that night.

A No, sir.
Q And then of course Mr. Sease would not be able to testify that you told Antwon in his presence you had planned on robbing him that night.
A No, sir.
Q Nothing further, Your Honor.

CROSS-EXAMINATION

BY MR. BULSA

Q Which pod are you in in the jail?
A Pod four.
Q Pod four?
A Uh-huh.
Q Which pod is the defendant in?
A Same pod.
Q Same pod. Is that a pod where you can mingle together, you can be out at the same time?
A We come out one -- one at a time. Like he's upstairs. He come out at one time. Then I come out the other time. But there's plenty of times that we come out. It's possible.
Q Okay. Did you ever have any conversations with him?
A With Antwon?
Q Yes, sir.
A No, sir.
Q In the jail?

A No, sir.
Q Was Mr. Sease ever in that same pod with y'all?
A Yes. He is. He's upstairs with Antwon.
Q He's upstairs. Is he in the same pod and the same cell?
A He comes out at the same time when Antwon come out.
Q Okay.
A They around each other all the time.
Q Thank you.

MR. IANUARIO: Nothing further, Your Honor.

THE COURT: All right. You may step down.

MR. IANUARIO: I would like to call Delton Sease.

(Pause.)

DELTON SEASE, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. IANUARIO

Q Would you please state your name for the jury, sir?
A Delton Sease.
Q And how old are you, sir?
A Seventeen.
Q And where are you currently residing?
A At the county.
Q Okay. Which pod are you in?
A Pod four.
Q Do you know a gentleman by the name of Brandon Glover?

A I don't know his name, but I know who you talking about.
Q Would you give a description of him?
A Dark-skinned dude with long dreads, and short, about 5'3".
Q Okay. And do you know Antwon Baker?
A Yes, sir.
Q All right. Do you know both of them through county?
A Yes, sir.
Q Did you know either one of them before?
A No, sir.
Q Have you ever overheard the two of them talking?
A Yes, sir.
Q What did they talk about?
A The Glover dude had told Antwon to come here. And Mr. Glover told Antwon all he wanted Antwon to do was fight his cousin. And Antwon told Mr. Glover he didn't want to fight him, so why did you put him into it. So Mr. Glover said I just wanted you to fight him. He talking about I had a gun and I would rob your -- and Antwon told -- asked him who hit me in the back of my head. He told him, yeah, I hit you on the back of my head. So that was it. I had got up and walked off.
Q Okay. So just to be clear, you heard Brandon Glover tell Antwon Baker that he was trying to start a fight with

his cousin. And after Antwon said he wanted no part of it, then Mr. Glover admitted to having a firearm and had the plan on robbing him and he hit him in the back of the head.

A Yes, sir.

Q Is there anything substantially different or anything that I may have missed?

A No, sir.

MR. IANUARIO: Nothing further, Your Honor.

CROSS-EXAMINATION

BY MR. BULSA

Q Mr. Sease, when were you arrested?

A May the 11th of 2012.

Q 2012?

A Yes, sir.

Q So you've been in the same pod the whole time?

A No, sir.

Q How long have you been in pod four?

A Since November the 9th.

Q How were you let out of your cell in pod four?

A How am I let out of my cell?

Q Yes, sir. Did you go out with other people?

A Sometimes. Just stand up.

Q Are you upstairs or downstairs?

A Upstairs.

Q Where is Mr. Baker's pod or his cell?

A Forty-four across from, all the way down on the other side.
Q He's on the top?
A Yes, sir.
Q And you talked to him through his cell?
A Uh-uh.
Q No?
A Uh-uh.
Q But you talk with him when you're out together.
A Yeah. I talk to him sometimes.
Q And how long have y'all been in the same pod?
A Since I first came.
Q Since he first came?
A Since I first came in.
Q You came in first then.
A I guess so. I really wasn't paying attention.
Q You got to know him well enough to call him Antwon, right?
A Yes, sir.
Q But you didn't get to know Mr. Glover.
A No, sir.
Q You didn't even know his name.
A No, sir.
Q How is it that you came to tell this story?
A When I was sitting down at the T.V. I was just

watching T.V. And next thing I know all I heard was some yelling coming through the door. And I asked Antwon who that was, and he said that's my victim, he was the person who was there when -- at the Waffle House and stuff. And I was like, oh. And I just left it alone.

Q Was he yelling through the door?

A Yes, sir.

Q Explain that a little more.

A Man who was yelling at the door was Mr. Glover. He was yelling at Antwon, telling him all I wanted you to do was fight my cousin. And, yeah, I hit you in the head, and, yeah, I had a pistol and I would rob you.

Q So were there other people out there?

A Yes, sir.

Q Okay. And how is it that you came to tell somebody that you overheard this?

A Because I was sitting right beside them.

Q I know. But who did you tell?

A Who did I tell?

Q Yes, sir.

A I had told his -- both of them.

Q His attorney?

A Yes, sir.

Q How did you come to talk to his attorney?

A I had -- he asked me to come and help him talk.

Q Antwon asked you to come and help him?
A Yeah. He asked me did I hear what happened in the courtroom -- in -- in the T.V. area. And I told him, yeah, I heard. He asked me would I be like help him and, I told him yes, sir.
Q Of course you and he had talked about this case before though, hadn't you?
A No, sir.
Q You didn't know why he was in there?
A No, sir.
Q You never talked to him about it.
A No, sir.
Q You're 17 years old?
A Yes, sir.
Q What's your birthday?
A [redacted] 1995.
Q '95. So you went in -- so you weren't that much older than 17 when you got arrested.
A I was 16.
Q You were 16.
A Yes, sir.
Q Turned 17 in June.
A Yes, sir.
Q You've been convicted in juvenile court for shoplifting, haven't you?

A Yes, sir.
Q Okay. Nothing further.
REDIRECT EXAMINATION
BY MR. IANUARIO
Q One quick question, Mr. Sease.
Does everyone in the jail talk about their case freely?
A No, sir.
Q Do a lot of people stay tightlipped about their case?
A Yes, sir.
MR. IANUARIO: Nothing further.
THE COURT: You may step down.
MR. IANUARIO: The defense rests, Your Honor.
THE COURT: Any reply?
MR. BULSA: Yes, sir. The state would recall Dr. Wren.
THE COURT: You've previously been placed under oath, so you are still under oath. Thank you.
DR. JOHN DAVID WREN, having been previously duly sworn, testified as follows:
DIRECT EXAMINATION BY MR. BULSA
Q Dr. Wren did you bring a copy of your --
A Pardon?
Q -- in this case -- did you bring a copy of your report in this case?

A Yes, I did.
Q We've previously talked about your diagram, State's Exhibit No. 57.
Okay. Dr. Wren, I think you testified -- but we didn't introduce it -- that you had prepared a chart to go along with the diagram.
A Well, actually when I did the autopsy -- I always, as I stated in the previous testimony, I identify the wounds. And I call those out to an assistant, who in this case it was probably Teri Carter, the coroner's investigator, because she usually does -- does them for me.
Q Okay.
A And once I've done that I do not try to prepare the diagram until I go back, and sometimes I don't even prepare one. But I prepared one in this case at their request because there were so many bullets. And I did it after I got the chart. Now, the chart is correct.
(Wound chart marked State's Exhibit No. 59 for Identification.)
Q Okay. Show you what's been marked as State's 59 for Identification. Is that the chart that would go along with this diagram?
A Yes.
Q It consists of two pages?
A Pardon?

Q It consists of two pages.
A Two pages, yes. There were 12 wounds. We only have space for ten on each diagram. So when I get to ten I take another page and label it 11 through 12 in this case.
Q Okay. And, in fact, it's -- the chart is actually labeled as a stab-wound chart, but you crossed it out and wrote bullet.
A Right.
MR. BULSA: Your Honor, the state would offer State's 59 into evidence.
MR. IANUARIO: Objection, Your Honor. Solicitor Bulsa had a chance to enter this into evidence during the state's case. He's now trying to come back in and get a second bite at the apple after he's seen the defense case.
THE COURT: Overruled.
(Wound chart marked State's Exhibit No. 59.)
Q And you since compared your chart with the diagram.
A Yes.
Q And is the information on the chart correct?
A As I stated, like I said in the previous testimony, I do a wound chart, and then I do a diagram if necessary or requested. And that's what happened.
Q Okay.
A And I have compared them. And I might add with pictures that have been provided that were taken at the

autopsy.
Q Okay. Your testimony change at all as to the number of wounds to Mr. Young's body?
A As well as I could tell at the autopsy.
Q Okay.
A It actually matched up with the wounds. For instance, if you have three holes and two bullets, then something's wrong. If you have three holes and one bullet, then you would explain or try to explain as one of the bullets from one of the wounds. The other two would have to be postulated and proven to be an in-and-out.
Q First off let me ask you. Did you go to the scene of the crime?
A No.
Q So the defense put in some pictures, some of those being of the victim at the scene of the crime. Those would not be relevant to your testimony. And he also put in a group of photographs of clothing Defense Exhibits 1 and 2, 8 through 11. Will you look at those first?
A No. 2 is actually three holes in the left upper chest of the shirt which is not entirely inconsistent ever with a bullet coming out with the -- with the shirt folded in some manner to where it goes in, out, in and out -- I mean out, in, and out.
Q Defense No. 2.

A Well, No. 10 has six holes in it. I have no idea where it's from. It's sprained out in a picture taken of holes in a linear line like would go in and out, in and out, and in and out.

Q Defendant's No. 10.

A No. 8 is a photograph of the pants, long pants. One can see one of the wounds on the lower portion of the pants. And I don't believe there's another hole in there down in that area. But there are possible holes up in the left upper portion. But I can't tell for sure.

Q State's No. 8.

MR. IANUARIO: No objection, Your Honor.

Q I mean Defense 8, not state's.

Were all of these taken at the autopsy?

A Well, I recognize my watch here. So I was holding some of them, but I think they were taken at the autopsy.

Q Okay. Anything remarkable about the other photos?

A Well, the one of the shorts, undershorts, No. 9, I don't see any obvious holes in that. There's no background to it. So sometimes you can't tell. There's blood on that one.

Q That's No. 9.

A No. 1 appears to be some -- I've quoted that he had on some black denim jeans with blue woven belt through the loops. And I believe this is consistent with that. I

can't -- they're so closeup I can't tell the orientation, but it looks like a brand name of a patch on it with a defect beside it.

Q Defense No. 1.

A I stated that he had on a black short-sleeve pullover t-shirt, a black tank tee -- top t-shirt, which I believe No. 11 is that's -- I can't tell whether this is a torn area or exactly what it is. But there is a defect just below that torn area, what looks like the straps at the top there.

Q That's Defense No. 11. Okay. Did all of these defects appear to line up with the wounds underneath?

A Yes, yes, as well as I could tell.

I can read the -- my description. I said, "There are three defects present anteriorly in the left upper portion of the pullover t-shirt. There are a linear set of defects in the right lower portion anteriorly," which I believe that was what I talked about first. "There are five defects posteriorly in the shirt. There's a single defect anteriorly in the tank top t-shirt along the neck seam, and an additional defect is present along the right lower side, and a third defect is present posteriorly mid to midline in the midportion. Inspection of the pants reveals a single defect along the right medial knee, a separate defect along the left anterior pocket, a defect near the waistband

posteriorly near the midline and at least three defects in the crotch region with two on the right and one along the left more inferiorly and laterally. The boxer shorts contain only a single defect posteriorly along the right lateral side and a separate defect along the right inferior crotch region along with an additional defect anteriorly along the left upper thigh near the midportion. Most of these defects overlie associated wounds in the body to be described subsequently."

Q The --

A "The defects are photographed." Pardon?

Q The fact that the boxer shorts only had two wounds, two defects, but the pants had four --

A Right.

Q -- in the crotch area suggests in and out.

A Right.

Q Okay. All right. Now, the defense introduced these pictures as well, three through seven. What do those mean to you?

A Well, No. 6 shows a -- what I believe is an entrance defect in the right upper hip area lateral to the superior crease of the buttocks. I don't see any others.

Q All right.

A No. --

Q No. 6. Would you --

A And that was --
Q -- hand --
A Actually on my -- pardon?
Q Go ahead. Tell us.
A That was actually on my chart described as gunshot wound No. 7 which appeared in the right superior hip 30 inches from the top of the head and three and a half inches to the right of midline. And it measured 0.27 inches in diameter.
Q So would that be an entrance or an exit wound?
A It was entrance, looks like an entrance.
Q State's 59 -- excuse me -- 57. This is the diagram that was introduced.
A That was the one I introduced, yes. But the posterior diagram is -- posterior diagram is inaccurate.

I have trouble sometimes calling left and right, but it should have been over on this side. And the bullet was going in the opposite direction from what that is.

Now, the one here is basically sort of correct, but it is also going more superiorly. I mean, I'm sorry. It's going -- No. -- gunshot wound No. 7 is an entrance in the right hip. It communicated with exit wound in the right lateral anterior iliac crest which is the hipbone in the front subcutaneously.

The entrance was 30 inches from the top of the head

and 3 and a half inches to the right of midline as I described, whereas the exit was 28 inches from the top of the head and 5 inches to the right of midline.

So that bullet was going upward to the decedent's right and anteriorly instead of the way it's diagrammed. That was entrance four and seven.

Q Would you correct that on a blank sheet?

A Pardon?

Q Would you correct that on a blank sheet?

A Sure.

(Pause.)

A As I stated, No. 7 was an entrance in the posterior hip 3 and a half inches to the right of midline. So I'll put it about where it was in the posterior diagram.

And the exit was more superiorly but on an anterior surface. So I'm going to dot that in because from the back one cannot see it. And I'm going to draw an arrow in the direction it was coming. I'm going to dot it between the two. And then it starts out dotted and then becomes solid as it reappears from the body.

Now, I can put it on the anterior diagram, but it'll be opposite in that the entrance is dotted in this area because it's behind the body, and the exit is more laterally and a little bit higher.

And so that bullet is dotted coming in, dotted through

the body, and then solid coming out. So that's No. 7, is the entrance. No. 4 is the exit.

I'll have -- if you want the others put in I'll have to put them on there, or we can leave them out, whichever you want.

(Diagram marked State's Exhibit No. 60 for Identification.)

A Continuing with your --

Q Let me stop you a minute, Dr. Wren.

A Okay.

Q Let me do something.

MR. BULSA: Your Honor, the state would offer No. 60 into evidence.

MR. IANUARIO: No objection, Your Honor.

THE COURT: It's admitted.

(Diagram marked State's Exhibit No. 60.)

Q All right. Now, this is what you just drew making the corrections.

A Yes.

Q Did you compare the rest of the bullet holes and arrows to your chart?

A Yes. Those are correct.

Q Those are correct. Okay. But for this -- well, this one is correct.

A Well, basically it's going sort of in a wrong

direction.
Q Okay.
A But those wounds were -- it was hard to put those on there after I had drawn the in-and-out, then my in-and-out.
The one diagonally across is from his right down to his left lower side, which was a little bit more horizontal than had actually -- but when I tried to put the other one in it'd been right on top of it, so I sort of messed up with that one.
Q Okay. And Defense Exhibit No. 6 shows wound --
A That shows that one. Now, this one --
Q No. 7?
A That's No. 7.
No. 4, Exhibit No. 4, shows that one again plus the one that came in from his right side laterally, which is entrance No. 5.
Do you want me to put that on there -- five and four and seven? Put seven on there and four on there -- I mean, five on here.
Q Well, this is an exhibit already.
A Okay.
Q So Defendant's Exhibit No. 4. Point to those if you would.
A This is wound in his right upper hip slightly -- well, see, he's at an angle now, but the straight-on picture

showed it was at the upper border of his buttocks, crease of his buttocks.

This is No. 7 right there. Same one.

And this one over here laterally in this picture -- move it back over. This one here is No. 5 --

Q All right.

A -- on the diagram, which is an entrance.

Q That'll be No. 5.

A Right here.

Q So he's got entrance wounds --

A Right here. It went from five to eight, to nine, to ten and kept going.

Q Okay. All right. How about on the other pictures? What do they show?

A Now, I might be wrong, but it looks like -- well, actually No. 5 shows the exit of the wound that went into his back buttocks, upper hip. That's No. 7, this one. Exhibit No. 5.

Q That would be No. 4?

A Yeah. That would be No. 4 wound, yes.

Q No. 4 wound, but it's Defense Exhibit --

A Yes. And like I described previously, that wound is irregular, and it's probable that this bullet that went through there either hit his iliac bone, the hipbone, or grazed through it and started tumbling and came out at an

irregular angle or distorted.
Q So these two -- let's see. Defense Exhibit 6 and Defense Exhibit 5 show these two wounds that are actually --
A There's the entrance and there's the exit.
Q Okay. Clearly see the distinction in the shape.
A Pardon?
Q Can you clearly see the distinction in the shape?
A Yes. Well, not clearly on that one, but that's it pretty -- right there in back.
Q Okay. All right. What about the other picture?
A The other picture I believe is the -- I did not dictate. I usually don't dictate when they have a lot of tattoos, but I believe this is the in-and-out of his arm, but I am not absolutely sure, which is No. 3. And No. 7 I believe is where I approximated the wound together, one of the wounds, to show it was an exit, which is No. -- Exhibit No. 7.

You did say that he had tattoos on the arms bilaterally, but I don't know which is which. I believe that's the left arm there, but I'm not sure.
Q Okay.
A And then this one is where the -- where I approximated to show that it tore out instead of bored in, which is No. 7.

Q All right. So Defense No. 3 appears to be looking at him laying on his back.
A I think -- no. Wait a minute. Turn it the other way. Turn it.
I believe this is the posterior armpit and this is the anterior armpit. And there's the bullet coming -- no. Wait a minute. This is probably the anterior and that's posterior. And there's the bullet hole. Went through his left arm.
Q Okay. Is that -- which way did it go, front to back, or back to front?
A Well, actually when I -- when I wrote it down I put that the entrance was slightly lower than the exit -- than the exit.
On the diagram I called it posterior lateral, which is lateral and posterior. It's not in the front. So it's in the back of his arm.
And I said that the -- I did not give the distances, but I did give the dimensions and said that the exit which was No. 2 -- I probed that wound backward, neither up nor down, and laterally.
The other one I said was going forward, which was an entrance, neither up nor down, and going medially in the body.
Q Okay. So in your diagram, State's Exhibit 57, on the

frontal view you don't even see that wound.
A No. I didn't show it. I did not show it. It's hard -- it's hard to diagram something on the side with the arm when you've got -- when you've got a front view and a back view.
Q So it's predominantly towards the back part of the arm, this wound.
A Yes. The entrance was more toward the back. The exit was more toward the front. And it was going sort of horizontally instead of exactly the way that is.
Q And Defense Exhibit No. 7. This would be the same wound but without the rod. What does that show?
A It shows that this is an exit. And that's a grazing entrance.

Now, I -- that looks like the armpit. I'm not sure what this is.

Usually when you take pictures you're supposed to take one far enough to where you can get some orientation, and you take a closeup. And without the benefit of the closeup it's a guess as to where that is. So I can't tell you exactly where it is.

I believe that's the hand, the praying hand, probably there. And then this is the wound.

There's the back entrance and -- well, this is the through-and-through.

Q Does it really matter which way it came in and out?
A Pardon?
Q Does it really matter in the arm which way it came in and out?
A Well, it would tell where the person was that fired it.

I thought it went in the back, but these wounds are really -- this one has a large abrasion border. Did not hit anything. And I said that the -- it was abrasion from 9:00 o'clock to 12:00 o'clock up to 0.28 inches in width. And it was the anterior wound.

There was discoloration around the posterior wound from two to six up to 0.16 inches in width. And it was posterior.

So this -- this bullet as it passed through was almost -- it was -- almost missed him. And it would have been -- it would have been going towards the skin. It would have been what most people call almost a grazing wound. One can see that it's -- it's not very deep. It's just going through here.

Q Okay.
A And I thought more likely it was from posterior to anterior or from back to front because of the -- of the wound in the back --
Q Okay.

A -- which was the fatal one anyway.
Q Let me show you Defense Exhibit No. 4 again. Do you see the two wounds?
A The entrance -- the entrance -- the entrance in the back was right up in here. I can't tell for sure. Let me see the picture again. Can I see the photograph?
Q Showing you State's -- I mean, Defense Exhibit 4.
A Yes. Here it is. I mean, I can see it very easily here.
Q Okay. There's no doubt that's an entrance.
(Photograph marked State's Exhibit No. 61 for Identification.)
Q Let me show what's been marked for identification as State's 61. This is a black-and-white picture showing -- what does that show us?
A It shows abrasions on his forehead that I described earlier, and barely see the laceration on his chin. It shows the abrasions on the right side -- left side of his face. And down in this blood and so forth is probably the exit. But I can't see it very well on here. There is a picture of that though. There's the entrance right there.
MR. BULSA: Your Honor, the state would offer State's 61 into evidence.
MR. IANUARIO: No objection, Your Honor.
THE COURT: It's admitted.

(Photograph marked State's Exhibit No. 61.)
Q So the jury can see what you're describing, point out --
A This is abrasion, abrasion, abrasions that I described. And the laceration was right at the tip of his chin. And I can't tell exactly where the exit is here.
Q Okay.
A You do have pictures of it.
Q Let me show you these and see. Which one is the better one to use?
A This one shows it better, but this is a little closer.
Q Okay.
(Photograph marked State's Exhibit No. 62 for Identification.)
Q Show you State's 62. Is that a picture you feel shows it?
A Yes. It shows where it is, right.
Q Okay.
MR. BULSA: Your Honor, the state would offer 62 into evidence.
MR. IANUARIO: No, objection, Your Honor.
THE COURT: It's admitted.
(Photograph marked State's Exhibit No. 62.)
Q Similar view, just a little different angle.
A There's a -- the wound there with some blood trailing,

because probably this picture was taken after he'd been turned to take a picture of solely the back. And they took another picture, and the blood ran out of his chest and drained to his left side.

Q And that is the fatal wound.

A Yes, without a doubt.

Q Thank you, Dr. Wren. That's all I have. Answer any questions Mr. Ianuario may have.

CROSS-EXAMINATION

BY MR. IANUARIO

Q Thank you, Dr. Wren.

Did you review your report and your notes for your testimony today?

A Pardon?

Q Did you review your notes and your reports and graphs and everything for your testimony here today?

A Yes. I looked at them.

Q Did you look at them for your testimony yesterday also?

A Pardon?

Q And did you look at them for your testimony yesterday also?

A I looked at them cursory, but I did not notice that there was a discrepancy between the sides on the front and back view.

Q Okay. And when did you become aware of that discrepancy?
A When it was brought to my attention this morning.
Q And who brought that to your attention this morning?
A Mr. Smith. That there was a question about it.
MR. IANUARIO: Nothing further, Your Honor.
THE COURT: All right. You may step down.
MR. BULSA: Your Honor, that's the state's reply.
THE COURT: Let me ask the jury to please go to your jury room. Do not yet discuss the case. I'll bring you back shortly.
(The following takes place outside the presence of the jury.)
THE COURT: Any motions or other matters to address?
MR. IANUARIO: Yes, Your Honor. I'd like to move for a directed verdict at this point in that the state has not disproven self-defense beyond a reasonable doubt as required by state law and case law. I don't feel there's enough of an issue to put forward to the jury in this one, Your Honor.
THE COURT: All right. That motion is denied as it was previously.
Any others?
(No response.)
THE COURT: All right. I think we're going to have to

conclude in the morning. I've got some other stuff I've got to do this afternoon.

So we will recess for the afternoon. I'll need to see the lawyers about jury instructions.

All right. Bring the jury back, please.

(The following takes place in the presence of the jury.)

THE COURT: Ladies and gentlemen, as you've heard, both the state and the defense have rested in their presentation of evidence.

What remains to be done are the lawyers' final summations, after which I'll provide you with the instruction on the law. And then you'll begin with your deliberations. And that's likely going to take longer than what we have left for the balance of the afternoon.

I do have some other matters that are scheduled however.

So we're going to recess this case for today. We will resume in the morning at 9:30 at which time you'll hear the lawyers' final summations. I'll instruct you on the law. Then you can begin with your deliberations in the case.

So during the overnight recess keep in mind you're still not to talk about the case. Don't discuss it in any fashion whatsoever with any person whatsoever.

Don't conduct any research. Don't do your own

investigation into any issue. Do not permit yourselves to be exposed to any type of media coverage that might relate to the case whether it be from television, radio or newspaper.

Have a good evening. Please report to your jury room at 9:30 in the morning, 9:30 in the morning. Have a good afternoon.

(The following takes place outside the presence of the jury.)

THE COURT: All right. This matter is in recess until 9:30 in the morning.

I need to see the lawyers in chambers regarding jury instruction requests.

END OF PROCEEDINGS JUNE 5, 2013

(Proceedings June 6, 2013)

(The following takes place outside the presence of the jury.)

THE COURT: Are there any matters we need to address before the jury is brought in?

MR. BULSA: Have we decided on jury charges, Your Honor?

MR. IANUARIO: May we approach, Your Honor?

THE COURT: Yes, sir.

(Bench conference held off the record.)

THE COURT: First of all, let me address with Mr. Baker.

Mr. Baker, obviously you did not testify during the trial of the case. You and your lawyers discussed that, and you did make a final decision not to testify in the trial.

THE DEFENDANT: Yes, sir.

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

THE DEFENDANT: Yes, sir.

THE COURT: And you're satisfied with that decision?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. Any other matters we need to address regarding the instruction requests?

MR. BULSA: Yes, Your Honor. The state believes that

while the jury could certainly find malice based on the extent of the shooting and the number of shots, the state also believes they might find that there was no malice or the malice was negated by sufficient provocation, the defendant acted in heat of passion. Therefore, we would request a lesser offense of voluntary manslaughter.

THE COURT: All right. Mr. Ianuario.

MR. IANUARIO: Yes, sir. Thank you, Your Honor.

I request simply a murder charge in this case. It's not voluntary manslaughter. This issue has been addressed as a murder from day one.

I believe all of the facts that are in the case are substantial enough that we can go through and attack the charge of murder.

With regards to the voluntary manslaughter charge -- one moment, Your Honor.

(Pause.)

MR. IANUARIO: I question whether or not there's enough legal provocation in order for that charge to sustain.

THE COURT: All right. Well, of course I am required to charge the law as it relates to the facts and any reasonable inferences that can be drawn from those facts by the jury.

In this particular case I believe that there is

sufficient evidence of an unprovoked attacked by someone against the defendant that could give rise to a sufficient leave provocation in order for him to act as he did under the circumstances.

So, based upon those, that evidence existing, it could reduce the crime from that of murder to that of voluntary manslaughter. So I think a voluntary manslaughter charge is applicable to the facts as presented by the evidence in the case and from any reasonable inferences that might be drawn from that evidence.

So, based upon the existence of sufficient evidence to establish him guilty of only the lesser offense I will instruct the jury on the lesser offense of voluntary manslaughter in addition to the charge of murder, and of course self-defense.

Any others?

MR. BULSA: None other than that, Your Honor.

MR. IANUARIO: Nothing else, Your Honor.

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

(The following takes place in the presence of the jury.)

THE COURT: Good morning, ladies and gentlemen.

As you know, when we recessed yesterday all of the evidence had been received, and what remained to be done

are the lawyers' final summations, after which I'll instruct you on the law. Then you can begin with your deliberations.

So please give the lawyers your attention now as they give you their final summations.

Are y'all going to be using that screen?

MR. BULSA: Yes, sir.

THE COURT: All right. Let me ask you to move the rope so the jurors can move down.

(Pause.)

THE COURT: All right. Mr. Ianuario.

MR. IANUARIO: Thank you, Your Honor.

Good morning, ladies and gentlemen.

(Pause.)

MR. IANUARIO: I apologize about that. Good morning. Thank you for the past three days and your time today. It really means a lot that you are a part of the legal system, that you are the voice that can speak and determine all of these facts in an unbiased perspective.

I'd like to ask that you return a verdict of not guilty for Antwon Baker. The state however would you have believe that Antwon Baker is a murderer, that he took the life of Anthony Young and he did so intentionally with a reckless and wanton disregard.

And of course the state's evidence, they presented a

lot of information, a lot of information that you're going to be asked to interpret one way even though nothing else seems to make sense.

You're going to be asked to overlook the fact, for example, that Antwon Baker, an alleged murderer, got out of his car with the intent to kill somebody but he did not chamber a round in his gun? If he was going on the hunt why would he not put a round in his gun? You're going to be asked to overlook that fact.

If you believe that Antwon chased Anthony Young down and he shot him repeatedly in the back, then you should probably return a verdict of guilty. But in order to do that we have to look at all of the evidence. Does everything add up, or can I create a reasonable doubt in your mind that Antwon Baker is not guilty of murdering Anthony Young?

The state would have you believe that Antwon fired five shots and that each one of these five shots struck down Mr. Young. He fired these five shots while shooting one-handed in low light, dusk, with this firearm.

If you can see the sight picture of this gun, it's dirty. These are not Tritium night sights. This is not a bright white easy-to-pick-up dot. In low light while running one-handed he somehow hit five shots out of five on his moving target from a bunch of different directions with

this sight picture.

Now, the state will argue that Mr. Baker pulled off this amazing feat because he used a laser on that firearm, a laser that was not attached to that firearm when it was recovered.

No witnesses report seeing a little red dot going anywhere. And, honestly, how bright is that little red dot going to show up on a black shirt at dusk? Well, that doesn't show up on a black shirt at dusk or dawn, twilight hours.

The SLED forensic guy, the gun expert, he even said most of the lasers he sees aren't sighted properly, they go off this way. So the chances of Antwon actually using that laser are very slim. Doesn't really add up.

Let's take a little bit more closer look at these wounds and how they were incurred. Let's start with the fight that took place and the chase across the parking lot -- the chase across this parking lot.

Notice how dark it is. Now, now that we have low light in the room, take another look at the sight picture. Can you clearly see the three white dots on this dirty firearm? Could you make the same shot five times while running in low light with this sight picture?

This is this parking lot during the day. These indicate the shell casings that were located in the parking

lot. And this is the diagram.

Now, according to the testimony that we've heard the fight took place here, and then you've got to think that Mr. Baker chased Anthony Young through this parking lot shooting at him and that's how these two shell casings, Nos. 1 and 2, got to be in this fight -- if he was chasing him in this parking lot and shooting at him.

Now, keep in mind we also heard the SLED expert say that a shell ejects to the right and back. So in order to have shell casings be here to the right and in the back, that would mean that Antwon is somewhere approximately in this area shooting, as Brandon Glover said, at Anthony Young running straight towards the Extreme Pole Fitness. That would explain how those shell casings get there.

But could somebody explain to me how there's no broken glass in the store? There's no broken glass anywhere around here. No projectiles recovered from around here.

This whole shootout took place in a giant u-shape, a horseshoe, and only one projectile was recovered out of the five. Something was probably overlooked here. Can't guarantee anything, but it doesn't add up.

However, Mr. Baker says in his own statement that when he was running from the shooter and his car was parked approximately here across from the doorway, his car was, say, here or here. We don't know, because No. 3 is where

the hat was. We know this car wasn't here.

And the shell casings hit back and to the right. He's hiding in this corner and he's peaking around and the gun accidently discharges once, it's going to kick a shell casing over here.

The state would argue that Antwon only said a shot went off, not two. If you're going to believe that logic also keep in mind that several witnesses heard more than five shots. So other witnesses, their statement of events, was taken through as where, but this very logical explanation of how these two shell casings ended up here wasn't even investigated.

The state would argue that Antwon came up with the idea of ducking behind the car and accidently discharging after the state went back and/or the detective went back and asked him something doesn't add up, let's talk about these shell casings over here. And Antwon said he ducked behind the car and a shot went off.

They're going to say he's lying. If he was going to fabricate this story from the evidence that he was just presented with wouldn't he have said that he fired off two shots instead of one? That'd be a much better fabricated story to explain that. But he only had one shot.

I'd argue that his recollection was misconstrued. Lord knows everyone else heard multiple gunshots. Some

people say they heard one, some people say they heard three, four. Somebody said six to eight. There's a difference in everybody's recollection. Everybody else's recollection, oh, that difference is accepted. But Mr. Baker's recollection there's a difference in anything, they're trying to use that to get him for the murder.

Let's talk about the rest of those shots. Now, we don't have any testimony as to the exact route that Anthony Young was running on this day.

Item No. 7 is a shell casing. Items 4 and 5 are a shell casing, and one and two. Total of five shell casings recovered.

Now, if you take a look at this chart here -- take a look at this original chart that we got yesterday after we got this one two days ago.

It shows bullet passed going this way. One going this way and this way and this way. The problem is that the doctor put the bullets on the wrong side. The doctor put the bullets, holes, on the wrong side of the diagram, and he's the state's expert.

He misplaced a major wound. This isn't, oops, I was a quarter inch off. You're on the wrong side of the body. And he didn't catch it because he gave his file a cursory glance before he came in and testified.

Ladies and gentlemen, Mr. Baker deserves more than a

cursory glance on this case. He deserved a full investigation. He deserves accurate information. You need accurate information so you can make your determination as to whether or not these shots were actually what happened on that night.

Now, there's no arguing that this is a fatal shot that went through the back kind of at a weird angle. It's not straight into the back. The medical examiner hypothesized that maybe he was bending over.

We've got this shot that goes across the hips. Now, two days ago the medical examiner said it went through and it didn't touch anything. Yesterday he said that this wound over here seemed odd and perhaps the bullet grazed the hipbone and started tumbling.

Which is it, Doctor? You don't know your left from your right? One day you say a bullet didn't hit anything. Now you say it grazing something. What other mistakes did he make?

You can't trust which wounds are labeled an entry wound and exit wound because he doesn't know his left from his right -- left from his right.

I think there's a big difference, and it's important to know, which wound is an entry wound and which wound is an exit wound. And we cannot say anything with any sort of accuracy from this medical exam.

You saw the doctor on the stand yesterday. This shot in the leg, his hypothesis for this shot, because this looked more like an entry style wound in this and this in this area looked more like an exit wound -- his original hypothesis was that Mr. Young was laying on the ground and was shot.

It would have come in from an angle. It would not have run the length of his leg unless Antwon Baker was laying on the ground 4 inches above it, pulled the trigger and it went up his leg. Where's the projectile? We don't know.

What if these wounds were reversed? What if it says a bullet going in his knee and coming out of his thigh, it went in his thigh and out his knee?

What if Anthony Young was reaching for a gun and accidently shot himself? Well, there would be gunshot residue for that. The medical examiner said he didn't see any gunshot residue. Well, he didn't see a lot of things.

Take a look for ourselves at what we can see. If Mr. Young had a gun in his waistband and reached down and grabbed it in a hurry and pulled the trigger and accidentally shot himself, then gunshot residue would be in this area of his pants. Do you see any gunshot residue on the underwear?

MR. BULSA: Objection, Your Honor. He's arguing facts

not in evidence.

THE COURT: Overruled.

MR. IANUARIO: I don't see anything except for a messy pair of undershorts that is inconclusive and dark colored. We saw the medical examiner's eyes yesterday. Forensic officer didn't take samples from this, and all that we have is the medical examiner stating that he didn't see any G.S.R.

He also didn't see any G.S.R. on these black pants. Of course you probably wouldn't be able to see gunshot residue on black pants. What do we see on these black pants? We have a hole in the knee on these black pants.

Now, if you were to believe the medical examiner's theory there'd be another hole somewhere around in here. There's not.

So let's take a better look at that hole in the knee and figure out exactly what we're looking at. There it is at the crime scene. Looks a little different. Let's have a closeup of it. Sure looks like the fabric's blown outward.

I'd imagine that if it gets blown outward that would indicate that a bullet was exiting, not entering, through the knee. Very good theory.

We didn't take G.S.R. from the clothes. We relied on a medical examiner's visual cursory glance to determine

whether or not there was G.S.R. on that.

Now, now we've got potential self-inflicted gunshot wound. Should at least do a little more digging -- G.S.R., clothes -- to see if that's actuality what it was. No digging was done. They just went ahead and assumed that it must have gone in through here and up here with no exit wounds through somewhere. But that, that's supposed to be a sign of a bullet going in.

And keep in mind that on the scene they put white gauze underneath the pants leg, the same white gauze that the medical examiner couldn't identify when it was used to highlight the holes in the black shirt. He didn't even recognize medical gauze that had blood on it. He didn't recognize medical gauze. He saw it as a rip. It was a ripped shirt, a white ripped shirt, with a white cotton filling.

If you're going to believe the saying about Anthony Young shooting himself in the leg, where's the gun? There's not a gun, so we've got to do a little more work on this, if you're going to believe that. Otherwise, you have to accept Dr. Wren's theory of how everything went down, and stretch.

So what else was missing besides that gun? No other personal property. Did Anthony Young have a wallet, identification or money? Who's going to go out to eat and

not take money? Who goes out without a wallet and identification in this day and age?

MR. BULSA: I think he's arguing facts not in evidence again. He's supposed to ask questions --

THE COURT: Well, he can argue -- he can also argue the lack of evidence. Overruled.

MR. IANUARIO: All of the personal property was entered into evidence on this case, what's in the trial.

I'll move on -- I'll move on. He didn't have a wallet. That's all.

I guess that's probably why he couldn't make change for Jakeem Middleton -- Jakeem Middleton, the man that was trying to break a hundred-dollar bill at the cash register, the same man that's suspicious behavior coincided with that of a robbery, because the Waffle House's own corporate policy said do not break large bills late at night. Customers that walk in off the street, should you open the register? And then they get robbed.

Mr. Monsey -- Mauney saw a gun on Jakeem Middleton.

Now, we heard Solicitor Bulsa talk to Charles yesterday repeatedly about how he could have seen the gun from that angle. He didn't move. I don't know what he saw over there -- I don't know what he saw over there.

I do know that whatever he saw concerned him enough that he called 9-1-1 and just -- he accidently got the

shootout on audio. Go back and listen to the audio when you get in the jury room and see how many gunshots you can hear clearly. I think I can hear several. Played it for other people. We all get different numbers. The whole shootout was captured on that 9-1-1 audio.

When you're in the deliberation room listen and see if the gunshots that you can hear match up with the way the shell casings were recovered. If you hear two in quick succession do you see two shell casings close by? If you hear three shots in quick succession do you see three shell casings in the room? Figure out the number of shots that you hear and see if it matches up with the shell casings.

Charles Mauney also told the police that this guy, Jakeem Middleton, had a gun. He said the police didn't seem very interested in that.

How can you investigate a shooting when you have a witness that says somebody in there had a gun. My client gives a description in the statement to the investigator that later determines to be the same man, Jakeem Middleton.

So now we've got two people saying that Jakeem Middleton had a gun. When they asked Jakeem Middleton about it, I don't have no gun. And they take him at his word. They don't take Antwon Baker at his word. They take Jakeem Middleton at his work that he didn't have a gun.

I have a theory as to why that gun was never found.

Y'all probably didn't think I was going anywhere with this and it was moot. And I promise I wasn't wasting your time. Let's take a look at two different stories.

First, our first witness, Justin Davis. Justin Davis said that after the shooting he ran down the road. He was picked up by Quan and Amy. And her boyfriend Jakeem was found at the Waffle House.

Let's take a look at Amy's story. Amy said that she picked up Jakeem in the IHOP parking lot, he took over driving, they went down the road. Even though the shooting had stopped, they went in the opposite direction and turned around and came back.

What are they trying to hide? It's a pretty big discrepancy as to whether or not three people were in the car, or four, who's driving and where the man with the gun is. Huge discrepancy. Not investigated.

Here you have an aerial view of the Waffle House. This is a parking lot where the shell casings were recovered. This is the Waffle House parking lot. And this is the IHOP. Amy Padgett went to go pick up Jakeem Middleton from the IHOP. Why couldn't he have walked back? Why couldn't he have gone in the IHOP?

When she picked him up here in this huge parking lot it was full of cover with a building that had customers in it where it would be safe. They chose to exit, drive off

in the opposite direction, and then just randomly decided to turn around and come back.

But keep in mind we don't know who was in that car because none of the stories match up. What are they trying to hid? Something. It's pretty big detail. Jakeem was at the Waffle House and Jakeem was driving. You don't screw that detail up.

So Jakeem Middleton had a gun and he was looking to make some money. At least that's the impression that the Waffle House manager got. Keep in mind the Waffle House manager said he sees rambunctious individuals all of the time. It's obvious, put arm bands on, and he has to take them off before he hammers people. And he doesn't need to call the cops.

So something about Jakeem Middleton and something about what was going on in that parking lot disturbed him enough that he decided to call 9-1-1 before the shooting ever took place. It's a reasonable man in a situation that sees what's going on, sees what's unfolding. He's very familiar with his clientele.

He sees a regular come in the store. He sees a whole bunch of regulars he doesn't recognize. Some dude walks in off the street and asks for change for a hundred. He's concerned. He's got a fear. He calls the police.

Meanwhile, Jakeem Middleton goes outside. They don't

know what happens outside. So we're going to be speculating in this. This is hypothesizing. Believe as much or as little as you want.

Jakeem Middleton was looking to make a buck, and Jakeem Middleton's gun was showing it.

Now, Brandon Glover by most accounts is fairly intoxicated and looking to fight. Anthony Young had an ongoing beef with Mr. Baker. And we heard in the physician's report, assuming that he measured properly, Anthony Young was 5'6". Brandon Glover was 5'3". And Antwon Baker is about 5'9". He's a larger man.

Anthony Young had no problems telling anybody that would listen that that man pulled a gun on him in the past. You heard him going here.

You got two little guys. You've got a big guy that's going to carry a gun. You plan on jumping him, plan on doing something to him, when you get to go a gunfight when you take a gun to a gunfight.

Two little dudes and a dude known to carry a gun. It makes sense that they would jump him? And I've got Jakeem Middleton walking around out here looking to make a buck flashing his gun around.

Who did they -- say walk up to and say, hey, man, do you want to make a buck. That's robbing.

You heard testimony yesterday said Brandon Glover had

a plan to rob Mr. Baker. He could either fight his cousin or get the crap picked out of him and be robbed, beaten, leave him stinking. I don't know what that means, but dead bodies stink.

So let's say Middleton, Young and Glover all get together. Let's jump this guy. Brandon Glover gets his fight. Anthony Young gets his reputation back. Jakeem Middleton gets a quick lick. Make sure every money he's got on him -- makes way more sense, doesn't it?

So what unfolds next? Brandon Glover goes inside the restaurant, walks up to Antwon Baker and tells him he needs to come outside and fight. Antwon says he doesn't want any part of that. He tries not to fight. Mr. Glover says, well, go outside and tell that to my homeboy. That's what Antwon does.

Here in the top corner we can see Mr. Glover talking to Antwon Baker. See what happens. They're talking. Can't understand what they're talking about.

Antwon looks outside. I believe that's the part where he says you need to go outside and tell it to my homeboy. And watch this. See that? Antwon's walking outside towards Mr. Glover. Mr. Glover walks out behind him -- behind him.

This is the doorway that Antwon Baker was led out. This is where Antwon Baker was standing. And as soon as

that door shuts Glover is no longer standing behind Mr. Baker. He's around at the front.

Might be kind of tough to see, but this picture is in evidence, and you can take a look at it. This door says push, which means that if Mr. Baker decided he didn't want to get in a fight and he didn't want to go out in the parking lot, they're in the prime opportunity to jump him. He had no place to go. That room is maybe ten by six max, a door that you'd have to stop and pull open and step back toward the attackers and then go through.

Then he's going to run into the Waffle House. And somehow he's supposed to magically find cover in this open area where he's supposed to magically hurdle this countertop, this high countertop, and get behind it for cover. That's where he supposed to retreat, into the Waffle House, into the wide open area.

Don't pay attention to Hollywood. These things won't stop a bullet. He'd have to get behind the counter in order to get to safety. There's no guarantee he can get in the back room. If he can't get in the back room, he's stuck.

There's an exit door over here to the side. Antwon doesn't know what's outside. He said there were ten to 12 individuals in the parking lot. Waffle House manager said there's a large group of individuals in the parking lot

people didn't recognize. Antwon was a regular there. If those people are regulars there Antwon would probably recognize all of them. He didn't know who was waiting for him on the outside the door. He was trapped in this doorway.

Now, even when presented with this option he says I don't want to fight. That is one of the few things that each and every witness agreed on, is that Antwon Baker tried to walk away from that fight. Even biased witnesses, witnesses that were friends with the deceased, said Antwon Baker didn't want to fight.

He's not a man that went out looking for murder. He's not a man that overreacts. If he wanted to fight, if he wanted to kill Anthony Young, he had a chance right there in the doorway. He could have pulled his gun and did it. He said I don't want to fight.

He turns around to walk back inside, and they jump him. They hit him in the back of the head, and he can't see what happened.

Now, they've already threatened him. We've heard testimony that Brandon Glover had a gun. Antwon's statement says somebody was gesturing like they had a gun. He goes into this little box, and he's attacked and hit in the back of the head. He doubled over. Bam. I can pull out my gun and hit shoot him there if I was wanting to hit

him in the back of the head.

He's got a reasonable fear for his life. They just threatened him. They said they were going to leave him stinking. He is hit in the back of the had. He comes around and ratches his firearm and fires off a shot. He's not aiming.

This is one of those magical miracle shots that somehow hits Mr. Young. Maybe he hit that shot. People could get lucky. But four more times? I don't know -- I don't know.

So let's go back to figure out what really happened in that doorway. This is Joshua Hance. This is Joshua Hance looking at Antwon Baker as he's getting struck.

Joshua Hance works at the Waffle House. He don't a dog in that fight. He's got no bias. He doesn't care who wins or loses. He was just recycling what he saw over here. Recycling what he saw here. And looking at it.

Do you remember his testimony? You remember he said he heard two shots? He heard two shots -- he heard two shots. And that's the only shell casing that was recovered from the doorway.

Now, if Anthony Young had a gun and reached up and pulled it and shot himself in the leg and that gun was a revolver we wouldn't have an extra shell casing on the ground, now, would we? We'd hear two shots and one shell

casing. That matches the story. That matches the wound, not Antwon Baker acting in intentional disregard for human life. He was trying to defend himself because there was another gun.

Anthony Young shot himself in the leg. Even if he didn't shoot himself in the leg somebody had a gun because there's one shell casing, two shots. One of those guns was a revolver. We know that one gun was hidden. We don't know. Jakeem Middleton left the scene. Then he comes back with no gun. It could have been a revolver.

Maybe Jakeem Middleton fired the shot which doesn't explain where Anthony Young's gun would have gone, but that issue alone, two shots, one shell casing, means there's a revolver.

Now, after those first two shots everyone scattered. You've heard testimony that Antwon chased down Anthony Young. That testimony is corroborated by entry wounds in the rear and the exit wounds in the front.

That testimony is corroborated by scientific evidence you can no longer trust, because the doctor can't tell his right from his left. If he can't tell right from left, how does he know the front from the back, entrance and exit? Didn't assume exit. It's irrelevant. I believe it is.

While we're going on in this chase in the parking lot Brandon Glover did say that Anthony ran and turned around

to fight him and then turned around to run again.

Was he running for his life, or is he running to get away so that he can turn around and fire another shot? That makes more sense. Did Antwon shoot the guy in his back four times after saying he didn't want to fight?

Keep in mind this is a man the police said was polite and courteous the whole time. You haven't heard one single statement that Antwon Baker was a violent man except for Brandon Glover. If you want to believe his testimony, please go ahead. I wouldn't.

So now was he shooting Anthony Young in murder, was he shooting Anthony Young because the threat wasn't neutralized yet? Because Anthony Young was running. The doctor did say that this wound wouldn't slow him down. The doctor even said that that you can have traumatic life-ending wounds and keep moving until the engine runs out.

So somehow Mr. Young is running around the parking lot and turns around to reengage Baker and turns around and then runs again.

Turns around, fires a shot or two at Baker. Those were mystery shots. He would have been in the direction that he wouldn't have hit any of these buildings. That's not what the testimony was.

Turns around and fires another couple of shots at

Baker. Crap. He's gaining on me. Turns around again. When he turns around, because he runs out of ammo, he turns around to gain more ground. Does that means he's mistaken?

But you still have the right to attack him. Lord knows he tried to attack you in a small glass room with no exits and three of his friends. That's a dangerous man.

We don't know if he turned around because he said stop, don't shoot, here's my gun, I'm done, or if he just turned around to reengage. I believe he was trying to put some distance between him and Mr. Baker so we're engaged. That would explain some of his extra shots that have been kinda heard.

Now, at some point in time it is universally agreed upon Anthony Young fell on the ground. We don't know when he died. Ms. Wilkins said that he was still making sounds when she showed up when Antwon was leaving. So when Antwon left he was still alive.

Now, Antwon stood over him. We've got evidence that Antwon kicked him in the head. That seems pretty damning. I'll admit that.

Let's back up a step. With the target disengaged, his attacker laid off because it's dark. He's dressed in all black. Antwon can't see if he's hit. He can't see if he's bleeding. He can't see anything. It's a black man wearing black clothes in twilight hours.

There's no way he can see if he hit Mr. Young. Mr. Young falls on the ground. He may have tripped. He may have gotten back up. We don't know what's going on. We don't know if he was trying to get his gun, if he was trying to get back up. But Antwon kicked him in the head.

Is that the action of a murderer? You probably think yes. But if Antwon Baker wanted him dead, he was on the ground, and bam. That's all he had to do.

If he wanted to kill Anthony Young he had his prime opportunity right there. He kicked him in the head to neutralize him to make sure that he was down because he didn't want to kill him. And it's only then as he's standing over him and sees the blood slowly start to run out that he panics. He's scared. He realizes that he's actually shot a man. I've never shot a man. I don't know what those emotional feelings are like. But I've heard it's hell.

So now he's scared and he doesn't know what to do, so he goes in the Waffle House. Says he's going to go in the Waffle House and call 9-1-1.

What's significant about this? He didn't get in his car and flee right away. He went inside to see if they'd call for help.

Keep in mind no one else called 9-1-1. None of Mr. Young's friends called 9-1-1. No one else in that

parking lot called 9-1-1. The two 9-1-1 calls we have are from the Waffle House employee that called because Jakeem Middleton was highly suspicious and a random person that happened to be driving by.

Why didn't his friends call 9-1-1? Antwon Baker is the only person that actually went inside to even see if anybody was calling for help.

And then when he goes inside he's a million things going through his mind, and he realizes that I'm a black man in Spartanburg and I've got a gun in my hand and there's a shooting and I don't know who's coming back or I know if the cops going to be the ones to get here first or it's going to be the guys that left? And do I need to go hide guns or leave to go get more guns? I need to get home. When you're injured and you're hurt and you're scared you want to go home.

He went home. He threw up on himself according to his girlfriend. He takes a shower. Now, the state would have you believe he took a shower to dispose of the evidence. He showered regularly according to his girlfriend. He changes clothes all the time.

The state would have you believe that he changes shoes to hide evidence. You heard his girlfriend. They don't know how many shoes he's got. He's got too many. He changes them all the time. He wasn't trying to hide

anything.

He told his girlfriend to go put the gun in the trunk of the car because they were going to go down to the police station and that's a murder weapon. They didn't take the white Crown Vic or the white Grand Marquis because that was his buddy's.

When the cops show up to arrest Antwon Baker or just they show up looking Antwon's talking to somebody. Now, the state would argue that Antwon's telling the grand old story about how he shot and killed somebody.

We don't know what the nature of that conversation was. We don't know what the mannerisms were. We don't know if it was a friendly conversation, a drawn-out conversation. We don't know if that was Antwon Baker's buddy saying, here, man, here's your car keys back, look after my pregnant wife, I might be gone a while.

So remember Tanisha Martin was also upset, and Tanisha Martin was getting ready to go to the police station too -- this pregnant woman at 5:00 o'clock in the morning emotionally disturbed. She is going to need a few minutes before she can calm down and drive.

They weren't trying to hide anything. He walked right up to the cups and said yow, I'm the guy you're looking for, I did it. And he was polite and courteous the whole time, aided in the investigation, told them where the gun

was, didn't try to hide anything. Is that the actions of a murderer? Is that the actions of a guilty man? Doesn't add up.

That's a nice resolution for the story right there, isn't it? Antwon Baker kills him, he goes home, gets arrested, case closed.

Let's talk about what happened after Antwon. You heard the police officer describe the scene as total chaos, 15 to 20 people standing around. Total chaos does not sound like a secured crime scene to me.

Who left the scene and who came back? We know that Middleton left the scene and came back, along with Amy and Justin Davis. We know that Brandon Glover and his sisters Kiara and Chassity left and came back according to Hillary Wilkins' testimony.

Hillary Wilkins testified that they left while the gunshots were still being fired. Hillary Wilkins left very briefly but came back just in time to see Antwon Baker leave, and she gave in her testimony that no one else left that parking lot. She was there the whole time. She was with Anthony Young.

I guess that means that Antwon Baker must have taken the gun off of Anthony in order to hide it. All the witnesses say Antwon stood over the body. No one said anything about kneeling down. No one said anything about a

possum body. No one said anything about it. No one said anything.

There's a blood stain. Corresponding pictures show that we can accurately tell which part of the body it is. Bear with me for a moment. I missed one.

(Pause.)

MR. IANUARIO: There's blood stain next to the left leg, and you kind of see the edge of a shoe here. The edge of a shoe, cuff turned up, cuff turned up, shoe lace, shoe lace, blood stain, blood stain.

What's the problem with this blood stain? There are no wounds in his left leg. There's a puddle of blood. It's not running out from underneath the body because, look. You'd see it running out. There's clear asphalt all through here. And it's his left leg. It wasn't shot in his left leg, was he?

How did this blood stain get over here when there are no injuries in the left leg, no injuries around this ankle, and you can clearly see it didn't pour out from underneath the body? Somebody moved his body. Hillary said it didn't happen, so it must not have happened, or somebody's mistaken in their testimony.

You know in talking about mistakes in testimony, we talked about the car rides. Hillary testified that she saw Kiara, Chassity, their friend Darrian and Brandon get in

the car and speed off. Hillary drove separate.

Brandon's story doesn't mention a steering guy. Don't you think she'd know how many people were in the car when you left the murder scene?

Keep in mind Mr. Glover first said he stayed until the cops came. Then he slipped up, and he said I saw them when we was coming back. He didn't volunteer that. He slipped up. He was lying on the stand. That's your star witness lying on the stand. What's he trying to hide?

In order to believe that there's absolutely no gun on Mr. Young you have to believe Dr. Wren's testimony about this going in here and coming up the leg, and you'd have to believe that any chaos or crime scene this guy described as chaos -- nobody tampered with any evidence.

Now, if you remember this has been paused. This is at 4:59:55 in the morning. Antwon just went outside. Right there in the corner you can kind of see the white shirt a little bit. See him walking around. And I've got to play this slow so we don't miss anything. I apologize about that. But, again, I want to make sure that no detail is overlooked. Lord knows enough has already been overlooked in this case.

Remember talking about this waving, the other two employees, the two girls. They're in the back side of the restaurant. They didn't get a statement from them.

Again, keep in mind that this is playing slow. Joshua Hance looks up. Joshua Hance sees a scuffle. Note the time 5:01:18. Josh Hance is now walking inside.

Josh Hance is now in the back room. Josh Hance saw the first 12 seconds of the fight. He didn't see everything. He was looking right at those first two shots that were fired. You kinda have to believe on that. The rest of this he's in the back room. So in a 72-second gunfight he sees the first 12. We don't know who's chasing who around the parking lot.

Came in the store -- commotion at that point in time. Let's keep watching. Still playing. Something's going on. Here comes Antwon back in 5:02:30. Roughly 71 seconds later, again, not going to fidget with it to get the timing just right, but I'd like for y'all to not have to come back tomorrow. Approximately 70 seconds. So Joshua Hance saw 12 seconds of a 70-second fight. But he did see the first 12 seconds. We know that. And he was looking right at the first shots that were fired. Shots, plural.

Now, Antwon's walked back outta the building. Keep in mind according to testimony that we have a police investigation.

Antwon's car is parked directly across from the door, door here, directly across being either here or here and a place that would line up with these shell casings if they

were ejected back and to the right if he was -- the gun like he said. So you're not going to see his hands.

Now, we've got about a minute. Takes two and a half to three minutes until the police arrive. Baker's already gone. Plenty of time for somebody to toss a body. Cops still not there yet.

Now I'm going to go to this frame by frame. What is that glimmer that just appeared in the top corner? Do you see it? Right here is a glimmer. It's not there in the screen before. Now it shows up.

If you look carefully you see a little dot there and a little dot there. Might be headlights.

Let's see what the next screen holds. Wow, look at that. More headlights there, and headlights here. And now you've got a clear view of them. You know why you have a clear view of them? Because they're swerving around a dead body. Do you know why they're swerving around a dead body? They knew it was dead.

A non-guilty human being would see somebody lying on the ground bleeding and stop and help them. You know why they didn't stop? Because they knew he was dead because they tossed the body. Over a minute has gone by since Antwon has left. Cops still aren't here yet. And you can see in two frames headlights, headlights, gone. They got out of there in a hurry.

Somebody else could still be tossing a body, but all we know is a car left and then afterwards drove around a dead guy. Still no cops.

That's why I probably ought to hit play now. There we go. Now, the car's already left, and there's still no cops. Car drove around a dead body a minute after the assailant left.

If they're sitting in that parking spot they saw Antwon Baker leave. They knew there was no longer a threat. Why did they take a minute to leave? Why did they leave at all? We still don't have the cops here yet. There's nobody else to be running around in the parking lot.

Hillary Glover testified that -- I'm sorry -- Hillary Wilkins testified that nobody came in that parking lot. You just saw lights leave. Testified nobody left that parking lot and nobody missed the body.

Who else had -- here comes Mr. Hance out. Kinda watch up in the top corner. You'll see a very faint blue light. The cops had arrived.

How much time elapsed between the time you saw Antwon walk into the Waffle House, walk out of the Waffle House? Plenty of time for somebody to toss a body, take the gun and leave. And we saw somebody leave even though Ms. Wilkins said that nobody left.

We've still got another two minutes for the cops to get here. Plenty of time to disturb a crime scene. Plenty of time to pick up your own shell casings if you were so inclined and smart. Plenty of time to hide a revolver. Plenty of time to do anything.

Remember Brandon Glover testified that he didn't have a gun. We heard direct conflicting testimony. Brandon Glover testified he didn't have a plan to create an act of violence, to rob Mr. Baker. You heard conflicting testimony.

Brandon Glover was a cousin of Mr. Young. Hillary Wilkins was a mother of Mr. Young's child and friends with the Glover family. So clearly she lied about who was leaving the parking lot. Who would she be lying for? Why would she be lying? Somebody just killed her baby's daddy. Don't you think she'd say, hey, police officer, somebody in this case just left. And you saw the headlights like I did. You saw them swerve around the body like I did. She left that part out completely. She must be trying to hide somebody in her family.

Take a look at the statements. Brandon Glover. He broke down under testimony. He said he didn't leave and went to the gas station. And then he couldn't give me a reason to go to the gas station. I got a reason he went to the gas station. To get rid of his gun and to get rid of

Anthony Young's gun and any other things they might have.

And then the guy took his dead cousin's wallet and took his money. Shameful. He didn't incur one single criminal charge out of this, and he started the fight. Unconflicted testimony he started the fight. Didn't even get charged with assault and battery, and Mr. Baker's on trial for murder. It's not fair. It's not right. Because Mr. Glover acted as a criminal. He hid the evidence for his crime. He hid his dead cousin's gun.

Mr. Baker handed over everything. He walked right up to him. All he did was go home and come to terms with what happened and make sure nobody else showed up and shot him. Having a rough day, he was, but he's not guilty. Just means he's going through a troubling time.

It didn't happen until after he realized that Mr. Young was dying. He didn't become upset and emotional until after, not during the commission of the crime. During the commission of the crime we are trying to figure out if he's realizing an attacker, Mr. Young running to gain ground or running for help. Nobody said there was any help. Nobody came to his aid. Nobody did anything, and everybody left the scene. Nobody called 9-1-1. That somehow Mr. Glover's guilty of murder of all of those holes.

Antwon Baker did not murder Mr. Young. He fired a

shot at Mr. Young. We don't even know if he fired the shot that killed him because we heard testimony there are more than five shots heard.

We know at the doorway two shots were fired. One casing was recovered, so something's off. We just say that maybe somebody was shooting at Antwon because he was going after their friend. Maybe somebody's honorable and noble and trying to protect Mr. Young and they accidently hit Anthony. Can't rule it out.

We've got two guns that left the scene. We've got an inept medical examiner that doesn't know his left from his right. We've got a crime scene that's -- doesn't add up to the story. No broken glass, no projectiles recovered in a giant horseshoe.

What we do know absolutely is that Mr. Baker went outside. He was summoned outside by Mr. Glover, lured outside by Mr. Glover.

He went in that little area. The door shuts behind him. Mr. Glover walks around and comes out to the front. Antwon Baker says I don't want any part of this, I don't want to fight, I'm over it.

Numerous witnesses were able to hear that. There weren't too much witnesses, is what Anthony and Brandon were saying. Witnesses could hear Antwon say they didn't want to fight, and they couldn't give specifics of what

they're fighting over, what's being said, who's posturing. Said Mr. Baker said he didn't want to fight -- the same man who turned himself into the police when they showed up at his apartment complex to do an investigation without trouble. Polite, courteous the whole time. A regular at that Waffle House.

Keep in mind we don't know which direction he was coming from, so it may have been out of his way to go to that other Waffle House. Maybe come this way. This is closer. He's a regular here. Mr. Mauney knew it.

When he turned around and walked back inside and got hit in the back of the head, his options, pull the door. He's dead.

Plowed through three guys with guns and go into a parking lot with minimal cover in ten to 12 people, a parking lot that was so rowdy the manager decided to call the cops before a shooting happened.

He doesn't know who's friend or foe in there. He can't go in here. He's in aquarian, clearly shooting fish in a barrel. He was stuck. He had no option but to pull his firearm and shoot. Now, he wasn't carrying that firearm legally, but that does not waive his right to defend himself.

He had no option. He pulled the gun and turned around and he shot. He doesn't know who fired that other shot

that he heard in the doorway. He just knows he heard another shot in the doorway.

I don't know why he selected Mr. Young instead of Mr. Glover or Mr. Middleton or anyone else. We weren't there. He just happened to go after Mr. Young.

I would imagine that Mr. Young was reaching like he was going for a gun and shot himself in the leg, and then Mr. Baker would identify that person as that's the man that has the gun, that's my biggest threat. But he knows there's other people. He describes a tall dude in his statement that also had a gun.

So he doesn't fire that gun and chase Anthony Young down and kill him in cold blood. He says he runs over here to his car that's behind him and he fires off an accidental shot.

If you want to believe he's being chased through this parking lot where are the bullet strikes in this area? You mean to tell me if somebody's running for their life and they're running around like this and somehow all the bullets go in one direction except for the one projectile that was recovered out of five.

And then all in the midst of this Antwon fires five shots and somehow hits him five times. We shouldn't put him in jail. We should put him in a uniform and send him to Afghanistan if he's that damn good.

He had no choice but to shoot to save his life. Mr. Young was running from him, but we don't know if he was saying I give up or running to turn around in cover.

We know that a whole bunch of stuff had been hidden, so what witness testimony can you go by? There's flaws in all of them. There's flaws in the Waffle House guys. He's got nothing in it, but we do know he saw the first 12 seconds and he heard two gunshots. We know that. The rest of it, the part about chasing around in the parking lot, a 70-second fight.

The problem with the state's case is they believe that Antwon is guilty of murder because Anthony Young was shot in the back four times, in the front one time, and count the leg wound going in, and that he kicked him in the head, stood over him and watched him die in cold blood.

The problem with that is we don't know what Anthony Young was doing. We know there's a mysterious wound in the leg. We know there was two gunshots, one shell casing indicating a revolver. We know that the guns left the scene. We know the police didn't investigate the guy that the manager called. He said, hey, he's got a gun.

They didn't take gunshot residue sample from a man at the scene of a shooting that had a gun. How big of a hole in a case is that? Huge.

Antwon Baker had no choice but to do what he did. If

he wanted to murder Anthony Young he would have shot him in the back of the head when he was on the ground. He said he kicked him just to make sure he was down -- neutralize a threat -- not to kill him. Make sure he didn't get back up.

When he sees what's happening he doesn't get in his car and flee. He goes in the Waffle House to see if they called for help. And he's the only person out of the entire parking lot that goes and tries to get help. Everyone else flees and comes back. They didn't go to call 9-1-1. They go to a gas station. Oh, we just go down the road to do a u-turn. Did they forget that the Waffle House is on the right and you're pulling out of the IHOP parking lot? Why did you have to go left?

Two people lied about where they went after the shooting. We know we've got a window of opportunity for somebody to have taken a gun off of Mr. Young, that Mr. Young has a possible self-inflicted gunshot wound. We have no conclusive determination if it is or isn't, because, well, we just don't. And you're supposed to take all of that evidence and to convict Mr. Baker of murder. You're supposed to ruin his life.

The only wrong that he did that night was carry a gun without a permit. And then when he was attacked he defended himself. So carrying a gun without a permit I

guess opens up the door to a lot of possibilities.

The prosecutor will argue that he had a chance just to not go to that Waffle House. Yeah. But he didn't have any intentional threats.

It's a bad idea for me to dress myself in a hundred-dollar bill and carry boxer shorts and walk down the street in the ghetto, but if somebody attacks me I have a right to pull out a gun and shoot them, don't I?

Antwon Baker had a right to be at that Waffle House. He didn't have to leave when he saw them. He didn't recognize most of the people in the parking lot, and neither did the manager. He was going in to get a to-go order.

We don't know anything other than he showed up to get some food for his pregnant girlfriend on his way home. Didn't go out looking for crime. He carried his gun as he always did, which his girlfriend said. When he was going out late at night. Takes out from under the bed, puts it in his waistband as he always did.

Didn't seem to be any indication of drama when they were coming home from her mom's house. He didn't seem like a man that was going out looking for a fight. Didn't seem like a man that was looking out and going to cause a murder.

He's a man that's protecting himself. He was prepared

for trouble because, Lord knows, late at night in parts of Spartanburg it can be pretty damn dangerous. But he didn't go on a hunt. He didn't go out trying to kill somebody. He didn't kill an innocent man that was running away. He killed his own attacker. And we still don't even know who fired the shot that killed him, because we've got an inept medical analysis. We know that two shots were fired, one shell casing recovered. There's just too many holes to convict Antwon Baker of murder.

And, again, keep in mind. This isn't, oh, he just overreacted as he pulled his gun and it was a heat of the moment and he chased him down because he was angry.

Antwon didn't get emotional until he kicked him and he realized he was starting to die. I didn't just kick a guy and knock him out. Wow. I see blood coming out from underneath -- on black asphalt and a black male wearing all black. I better go inside and get some help. And now he starts to panic.

You want to believe the witness statements that said he standing over him and just standing there calm, cool and collected? That's not like a man that's in the heat of the moment, a man that's passionate.

He just all of a sudden realized the aftermath. That's what the people said. That's when he started to go into shock, when he went to get help in the Waffle House.

He went home to shower and turn himself in to the police. You're supposed to take poor medical examination. I could have thrown darts at that diagram and gotten a more accurate result. You're supposed to take that examination and convict Mr. Baker with it.

You're supposed to use a police investigation to convict Mr. Baker with it. But somehow in that investigation they found no other bullets, no other strikes, no broken glass in this giant "U". Plus, the lead investigation, didn't take gunshot residue samples from the man that seemed that we had 9-1-1 call about having a gun. Big holes in the case.

We're supposed to convict Antwon Baker because Mr. Young was unarmed and innocent. Anthony Young brought on it. Brandon Glover clearly brought it on, but I believe they were working in cahoots. They're cousins and hung out. Brandon Glover is the reason Anthony Young's dead.

Anthony Young was armed. Anthony Young was a part of it. And poor Anthony Young shot himself in the leg. Why else would three men, two of them significantly smaller, attack a man known to carry a gun unless they've a gun themselves? And they've got plenty of opportunity for it to be removed from the crime scene. We see the vehicle leaving. Again, witness statements said no vehicle left.

I can't think of any other possible explanation to

resolve all of these inconsistencies than the story I just gave you. My story is not absolute. The solicitor's going to give you one here in a few minutes. I'm sure it'll be much different than mine.

Weigh the two stories. Weigh the evidence. See which one explains everything better, because Mr. Baker's life depends upon it. Thank you.

THE COURT: Does any juror need a short break before we continue with the prosecutor's argument? Anyone?

(No response.)

THE COURT: All right. Mr. Bulsa.

MR. BULSA: I won't be nearly as long, ladies and gentlemen.

I think the evidence is very clear. I respectfully disagree with Mr. Ianuario that this man had a right to be in a Waffle House, a public restaurant, wielding a firearm.

MR. IANUARIO: Objection, Your Honor. Possession of a firearm is not relevant to nullify self-defense.

MR. BULSA: Your argument claimed you said --

THE COURT: Excuse me just a minute.

The objection is overruled.

He is also charged with the crime of unlawful possession of a firearm.

MR. BULSA: The defense conveniently overlooks that.

This man drove into the parking lot of a Waffle House.

Yeah. He had a right to drive there. He sees someone that he had a beef with.

Does he decide to avoid any future conflict and just go to another Waffle House down the street from his house that he frequents just as much as this one? No. He puts a weapon in his pants. I believe if Mr. Maunsey -- Mr. Mauney had seen a gun on him he would have called the police.

Ladies and gentlemen, the evidence is clear. Five wounds, five entrance wounds. These are all scattered now. Five bullet holes, a sixth wound, the reentry, all of them leaving the body.

Five shell casings at the scene, five rounds missing from the magazine of that weapon. All of the rounds recovered. One gun.

There is never, zero, physical evidence that there was any other weapon used. Mr. Ianuario wants you to believe that there was some sort of shootout, yet in one breath he's arguing where's all the other holes in the buildings, the busted glass. Well, it goes the same way against his argument if somebody else was in a shootout with this man.

Ladies and gentlemen, I want you to go back with me. We presented this case in a logical fashion. We began by talking about the crime scene, and we presented some lay witnesses to you. We gave you different perspectives of

different parties.

State's Exhibit 35. It's the diagram. We had Justin Davis who was -- would have been out in the parking lot when it happened. He rode there with Mr. Glover and Mr. Tolliver, he said. No. Excuse me. Mr. Glover and the victim, Anthony Young. Mr. Tolliver drove in another vehicle. It would have been this blue Caprice. He gave you his perspective.

We called Hillary Wilkins who would have been parked somewhere over in this area -- the girlfriend of Anthony -- who says she basically watched him die in her arms.

We called a lady, Amy Padgett, who had no part to any of this, but she had been there with the Middletons. She was parked somewhere back over in here viewing it from this angle.

We called Joshua Hance who was in the Waffle House and had a view from this angle.

And we even called somebody that was driving down the street who saw this commotion and then pulled into this parking lot. We wanted you to deal with it from all of the angles.

It's common sense in human life that everybody's going to have a different perspective. The defendant kept talking about the number of shots that were claimed. Well, everybody is hearing and remembering and seeing things

differently.

I think Justin testified he thought he heard eight.

I don't believe Hillary was asked that question.

Amy said six or seven.

Joshua Hance said four or five.

Antoine Gist said one or two.

What did the defendant himself say? Well, apparently Mr. Ianuario wants you to just throw out his own client's statements, because all of that hypothesizing and theorizing, he says, a zero of that is in this man's handwriting, the man who Mr. Ianuario says is the only one that did the right thing.

He left to go call the police. I seem to recall he didn't call the police. And when he was found some people might call it lucky. I call it providence.

Officer Garcia found the car and found the defendant. He realized he was caught. And he says I did that thing. Not I had to do it. Not somebody was going to kill me. Not that somebody pulled a gun on me. I did that thing at the Waffle House.

But back to my point initially about the number of shots. In his own hand he puts I shot between three and eight times. Five falls right in the middle of that.

Used a laser? We didn't argue that. Mr. Ianuario asked all of those questions about the laser. Apparently

he has some fascination with firearms. And I don't believe you have to sight a gun to shoot it, especially if you have closer range. I'm not a firearm's expert. I don't own a firearm. I don't like firearms. They're dangerous weapons. What is a handgun made to do? Why do you put it in your waistband when you go into a public restaurant?

We even brought in Tanisha Martin, the defendant's girlfriend, because I wanted you to see what this man did, the man who apparently did the right thing, who said in his first statement he left to go call the police, yet he doesn't. He tells his girlfriend instead put the gun in your car. Basically get it out of the house. Hide it.

He washes up and changes clothes and goes about as if nothing was different. But by providence the officer found him that quickly.

I'd like to think the investigation would have revealed if we had a video of him, had a -- the menu that he touched, could possibly got fingerprints off. But it happened. The officers' response so quick they didn't have to go that route.

And then they gave the opportunity, as Investigator Foster said, to tell his side of the story. And he writes it in his own hand. Investigator Foster realizes some things aren't matching up, so he gives the defendant a chance to explain what's not matching up, principally these

two shell casings.

And what is the defendant's response? Oh, I tripped over it. I think he said a sideways. I don't know what he means -- a sidewalk, a curbing or something -- and the gun went off. That's his explanation.

Nowhere does he say Mr. Young pulled a gun on me. Nowhere does he say Mr. Young turned to fire a shot as was so demonstratively demonstrated by Mr. Ianuario. All of that is fiction, all of that is conjecture and speculation and false, because there's zero evidence of that. Apparently some phantom shooter, phantom gunshots, self-inflicted wounds.

So we bring the lay witnesses in to give you their perspectives. Then we brought these officers in. And I talked a little bit about Garcia and how he rode around and did a good job, especially going in a separate circle. He started close to the scene, checked the -- checked the complexes close to the scene, and then the hunt club, and then he goes to the next one.

He happens to find a car that's warm that matches the description, and he waits. And you heard the rest of that story.

We have the two forensic officers. Officer Hogsed and Officer Talanges came in. Their job is to collect all of the evidence. The road deputies had secured the crime

scene and gotten everybody out.

Then they began collecting the evidence and collected everything that is there. They're human. They don't find everything. This isn't C.S.I. Clearly, gunshots went somewhere. He had five through-and-through holes through Mr. Young and only one round recovered. But nothing else. Sad. Your chance. You know what's your providence. They recovered everything that he did.

And then we bring in the investigators who interviewed these witnesses that testified and put the big picture together, and met with the defendant and got his side of the story which I'll go into in a little bit.

Then we have the autopsy that shows the wounds. He wants you to throw out Dr. Wren's testimony. I submit to you Dr. Wren is an expert. He's been doing this for a number of years. He's a human. Everything on the frontal portion of this diaphram is correct but for the direction of the arrow. And if you look at this and you flip it this should have been over here. But he's human just like everybody else. So he corrected it.

We went over the pictures with you to show what -- what they are. He got shot. And the ultimate wound, the ultimate fatal wound, was the shot to his back.

All of these different angles, it's consistent with a man running and ducking and trying to get away from his

assailant.

I've already talked about the gun and the shell casings and the round. The most damaging evidence, I submit to you, ladies and gentlemen, State's 56, a pair of shoes. He didn't trip over him. No. Kick him to neutralize him? I don't know where that came from, because it's certainly not in Mr. Baker's statement.

He kicked him like this as Ms. Padgett said. Ms. Padgett said that that's the purpose for going to get the shoes, sending them to SLED to determine if possibly there's some of the victim's D.N.A. on this man's shoes.

That proves everything, what Mr. Ianuario tries to get you to believe is wrong. It corroborates the testimony presented.

Then we have the motive. Why did this happen? That's not an element of the offense. We don't have to prove motive. But sometimes, most often, juries want to hear why this happened.

I submit to you you heard a little bit about why. You didn't hear the full story, but you heard from Justin and from Brandon. And Hillary made a mention that Anthony recognized the defendant from an earlier altercation.

I submit to you that the defendant recognized Anthony from that earlier altercation which would have taken place at Magnolia Townhomes.

That is why Anthony Young is the one that died in the parking lot. That is why he chased Anthony Young down in the parking lot. Because if you read his statements -- and we'll go over those in a minute -- he doesn't talk about Anthony Young doing much of anything except walking back and forth. He talks about the guy in the white, talks about some guy in blue or black, some tall guy in black reaching in his waistband.

He says Anthony before the shooting is walking back and forth, and yet he mentions Anthony again as if Anthony were running towards the car. So he fired another shot to what he thought was to get a gun.

But I thought he had a revolver in his waist. Wait a minute. No, he didn't. That's not true. If Anthony was running, he was running to get away. He was running in this direction and moves around and dies.

Murder is the unlawful killing of another human being with malice aforethought. Malice does not have to be in your heart or your mind for any length of time.

The judge will explain this to you. He'll use words like a appreciable amount of time. Mr. Young -- Mr. Baker did not have to plan to kill Anthony Young when he pulled into this parking lot and parked and got out and went and ordered. That would be premeditation. It's not the law in South Carolina.

The law in South Carolina is malice aforethought. So I submit to you what happened is when he was out there -- I'm not going to excuse what Brandon Glover did. Brandon Glover regrets what he did. Acted stupidly and wound up getting his cousin killed.

Mr. Young was struck, and he turned. His reaction was to pull a gun. That seems like a harsh reaction, doesn't seem like an equal amount of force to retaliate with.

Look at the back of the head, and you turn around with a gun, not your fist, to hit him back. He pulls a gun. And he shoots and hits Mr. Young and continues to chase Mr. Young.

I submit to you this is the malice. Put it in his head. He's going to kill him.

There are several undisputed facts that this is a Waffle House, public restaurant, open 24 hours. The defendant pulled in. He recognized the car he saw. He did not have to stay. But, no, he chose to stay and back in and arm himself with a weapon and go inside.

He could have gone to the other Waffle House which was not that far out of the way. In fact, I think Ms. -- I don't know where the map is. Y'all recall seeing the map. We've got so much pieces in here.

His residence was pretty much right in the middle. He chose to go inside even though he recognized the guy, the

car of Mr. Young.

Remember, there's nobody else there with any motive to harm Anthony. They were all his friends or some people that were connected to him.

I think the guy you saw dancing in the video -- I should have asked Brandon this question. But I believe that was Anthony. He was wearing black. You can tell by his clothing. He was kind of acting out dancing with a girl. That's how he was acting that night.

He chose to go outside with Brandon. He could have said, no, I'm not going out there. I'm going to stay in here and wait on my food and go home. I'm not going out there.

So he's not afraid of anything. In fact, he goes outside. And hard to believe, he tells him I don't want to have any trouble. So what does he do? He's not afraid even though he claims he saw people reaching. He said they were threatening to do something to him. He turns to go back inside, and then he gets hit. And then he reacts and then he responds and then he continues.

We know he fired at least five rounds. He claims he might have fired more. But the physical evidence suggests that it's five unless he went home and loaded some more rounds into the gun.

I went through everybody's perceptions about the

number of shots. This is a serious case. They're all fleeing, taking cover. Yes. They're getting out of Dodge.

Clearly, Anthony is running away from the Waffle House, because he doesn't fall facing that way. He ran around, which is consistent with everybody's statement how he was fleeing and got chased and came back. He was ironically the only person that ever got struck with a bullet.

The defendant in one of his statements I believe says he turned and shot into a crowd of people. Remarkably, it was just Anthony that got shot.

Anthony had five wounds. Mr. Young had zero. Mr. Young had zero wounds. No injury from the strike to the back of the head. Nothing. Anthony had five wounds.

I'm not going to put it on the overhead, but you're going to have it in your jury room. He had wounds to his face. Three shell casings over here. Two over here. Looks like a trail to me, a fleeing trail. And of course we heard how he died on the scene. We hear how the defendant flees and how he goes about his business.

Now, his girlfriend claims he threw up and he was panicky. Wasn't it kind of ironic when the officers said he came up to me and was pretty calm, he was calm and said I did that thing at the Waffle House? Doesn't sound like any panic or fear or shock.

Talked about the lack of him calling the police, the D.N.A. on the shoe, which is tremendous, tremendous evidence which corroborates Amy's testimony that she says he kept.

Antoine Gist says that he saw him standing over him. And Brandon, who the defense called by the way yesterday, told a remarkable story which is pretty consistent with what happened. But from his vantage point he saw the defendant standing over Mr. Young. He couldn't tell what he was doing.

Hard to believe he was hiding that gun. I'm going to say it. He was hiding that gun in his girlfriend's car. The bullets he used were full metal jacket, which could have easily went through and through. We have the number of shots, the wounds to the head, shot through the heart, the defendant's statements. All of that's uncontradicted, undisputed facts.

You'll have these in your jury room. I hope you can read them because it's a little bit hard to read. I think you heard Detective Foster reading them.

This is the first of Mr. Baker's statement. He says there were ten to 12 bullets. "So I parked and reached for my gun in my waist." Remarkable.

He talks about -- this would be Brandon. "I was paying for my food. His cousin had a problem with me. Let

it go." And then he goes outside.

Here it is. "I told the dude to let it go. He was walking back and forth." All right. Friends tell him to fight. "Don't fight. They're going to take everything I had. Told them to let it go. They would not listen to me. I turned to go back inside."

He says two of them hit him. It's clear only one person did. And remember my followup questions to Mr. Foster? He had a little bit of trouble finding them in his notes, but he had a document. And one of his questions was do you know who hit you. Yeah. The guy in the white with the braids. He doesn't put it in here. Here it is. Fired three to eight shots.

Okay. Everyone ran except the one in the blue shirt. He puts him falling immediately. Hum. And then they ran back into the Waffle House and calls the police -- to call the police.

They were scared. "I still had my gun. I left. I jumped in my car and went home so I can call the police and tell them what happened." That's not what he did and that's not descriptive of what happened.

So the officer said wait a minute, wait a minute. There are some other things here we need to talk about, or two, and which none of this, of course, was talked about in defense's closing.

And here we go again. Ten to 12 boys. Let's see. Pulled up. "I seen a dude we had a problem with two months ago."

Well, we know he had a problem with somebody in that group. Goes to the Waffle House armed paying for his food in the white shirt. And there it is again. Brandon. A little more descriptive of the persons. Told him to let it go. He said tell my homeboy. That's what's going on on the inside when you saw that 20-second conversation inside.

They go outside. He says four dudes this time approach him. First he says ten to 12, and then he says four dudes.

"Just saying that me and the homeboy in that blue shirt." Five. "Tall dude in a black shirt." Well, I don't know who that was. "Tell him it's going to go down right now," because he talks about the guy in the white shirt and the guy in the blue and tall dude in a black shirt.

Saying they had a gun. Didn't say ever saw a gun. Never saw a gun. Said they said they had a gun. In fact, throughout this whole thing he never sees a gun. Yet what was the defense's theory? Antwon had -- I mean Anthony had the revolver and turned to shoot. So he had to shoot in self-defense.

"Ran back to walk inside." Two of them, there again,

says two of them again hit him from behind. "Back of my head." I don't know why he keeps saying two.

He ducks and turns, pulls a gun out and started firing into the crowd. Remarkable.

"Everybody starts running. I started to run to my car, and I fired another shot," because the dude in the blue was running towards his car like he was going to get something -- get something -- not that he pulled a gun and was aiming it at me. Not that somebody else had a gun and aiming at me. Not somebody else had a revolver and shot at me while I was in front of the Waffle House. No. Somebody was acting like they were going to get something.

Somebody went to the passenger side of my car and I turned around to see if anyone was behind me. I trip over here -- I trip over a side something and my gun went off again. I ducked behind my car to see if the way was clear so I can run back to the Waffle House. And he goes back in.

I don't remember him saying anything about tripping over Mr. Young, kicking Mr. Young, because what's fiction is most of what he's got in his statements. I guess he's trying to paint a story of self-defense.

"They hit me so I had to shoot. I thought they were going to get more guns. I didn't see any more guns. I thought they were going to the car to get a gun, so I had

to keep shooting."

But you only get one guy chasing down in the parking lot, so self-defense doesn't quite jive. So you come to court and you start arguing that, wait a minute, all of these other people had guns, even though Mr. Baker didn't see them.

Mr. Mauney thought he saw a guy with a gun. Mr. Baker saw somebody reaching in his waist. No gun. Somebody run to a car, get something. No gun. Got to come up with all of these other guns. And then somehow they remarkably left the scene.

Mr. Ianuario points something out claiming you see some headlights leaving. He used the same frame to show blue lights coming. Did y'all catch that? This is the very same frame or camera angle he says show a car coming this way.

Yet when he points out the blue lights you can see the reflection in the same window. Did the blue lights come here and jump the curb and come around here? No. It's a reflection. These headlights are headlights of people coming back, not leaving from this direction.

Use your common sense. You can't have it one way and then say it the other way. The officers didn't pull into that parking lot. They stopped where they said they did out near the other road. I'm not going to drive through a

crime scene where a man is laying on the ground, people milling, scared, crying, weeping. They're going to stop and take into account what's going on and separate people.

That's what you see in those two headlights that Mr. Ianuario wants to argue were was a car fleeing from the parking lot, or it was a car coming back.

So the judge is going to charge you, ladies and gentlemen, on the law of murder and the law of unlawful possession of a pistol, which I submit to you through his attorney is admitted to. Mr. Ianuario has admitted he's guilty of that crime. So that's an easy conviction.

The judge is going to charge you on murder. I went over what that is.

He will charge you on self-defense because in his statements, in those statements, he tries to claim self-defense.

I submit to you if he shot one time it's a little too much force to respond to a blow with a gun, that would be a true jury question. But you lose your self-defense when you chase a man down. But you'll still have that as a consideration.

The judge will charge you about the -- what self-defense is and the requirements that you have to find that all everything exists before you can excuse a case for self-defense.