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Jun 10 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Cherokee County

Honorable J. Mark Hayes, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTERIUS BRAESHUN SMITH,

APPELLANT

APPELLATE CASE NO. 2021-000608

RECORD ON APPEAL

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9
10 March 19th - 21st, 2021
11 Gaffney, South Carolina

12
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15
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1 P R O C E E D I N G S

2

3 THE COURT: All right. Just so that y'all know it, I,
4 I think everybody knows this, I do not send the indictment
5 back. So don't make the argument that take the indictment.

6 Okay. For everyone's knowledge, I am -- I have
7 selected Juror Number 175, Brian Zeichhefer, as the
8 foreperson. So, he will be sitting in the first seat on the
9 front row on my left.

10 THE CLERK: And, Judge, once they take their seats, if
11 you will remind them to stay in that seat each time they
12 come out.

13 THE COURT: And the alternate, she'll -- they'll sit
14 down in the front?

15 THE CLERK: Yes, sir, that's correct.

16 THE COURT: Anything before we bring the jury in?

17 SOLICITOR BARRY: Your Honor, just briefly.

18 Mr. Epps and I have stipulated that four photographs
19 are going to be admitted into evidence. Those are State's
20 Exhibits 3, 4, 5, and 6, Your Honor.

21 THE COURT: Those are the photos of the house?

22 SOLICITOR BARRY: They are, Your Honor.

23 THE COURT: Okay.

24 (WHEREUPON, State's Exhibit Nos. 3 through 6 were
25 received into evidence at this time.)

1 THE COURT: All right. Then I need to find my law
2 clerk. We're fixing to bring the jury in. He just needs to
3 --.

4 Okay. All right. Let's bring the jury in.

5 (WHEREUPON, the following takes place within the
6 presence of the jury.)

7 THE COURT: All right. Good morning, ladies and
8 gentlemen. Thank you all for appearing on time.

9 As I will explain later, there are times when I have to
10 take care of matters in front of the -- with the lawyers
11 that are outside of your presence. So, we have been trying
12 to get things organized so that the trial will run as
13 efficiently as possible. So, I appreciate your patience
14 with us.

15 Mr. Zeichhefer, as the bailiff has probably told you,
16 you will be the foreperson. You will always take that seat
17 during the trial.

18 And, ladies and gentlemen, given that we are still
19 under the orders from the Chief Justice related to COVID, I
20 hate to ask you, but I ask that you please wear your masks,
21 and I also ask, if you would, each seat that you are in now,
22 if you would, when you reenter the courtroom, go to that
23 same seat as well. We're still, again, going to try to
24 sanitize and take care of all of the COVID precautions, and
25 that way it helps us to be sure that you are as safe as

1 possible.

2 But, again, thank you very much for being here on time.

3 To start this trial, the Clerk of Court, she has to
4 administer an oath to you. So, if you would, please stand
5 and raise your right-hand.

6 (WHEREUPON, the jury was placed under oath at this
7 time.)

8 THE COURT: Thank you, ladies and gentlemen.

9 Ladies and gentlemen, we are now going to begin the
10 trial of the State versus Anterius Smith.

11 Now, ladies and gentlemen, this -- before we begin this
12 trial, I want to tell you that this trial probably will be
13 different from what you may expect. Many people do not have
14 the chance to attend an actual Court session as you are
15 doing now, and may think, from watching television or movies
16 or reading books, that trials are always full of, of high
17 drama, intense action, and rivetting circumstances.

18 while all of these things may be true at times, this
19 trial is not for entertainment. It is a fundamental part of
20 our democracy and trials are often slow, deliberate, and
21 repetitive, just the opposite of what you may have seen on,
22 on television or in movies or read about in books.

23 Now, this courtroom is a place of honor dedicated to
24 the protection and preservation of citizen's rights through
25 what many have called the greatest justice system ever

1 created.

2 The attorneys before you, they are advocates for the
3 parties that they represent, but first and -- first and
4 foremost, they are officers of the Court sworn to uphold the
5 integrity and fairness of our judicial system. You should
6 expect them to be professional, competent, and ethical in
7 the representation of their client's interest.

8 But remember that you have taken an oath to try this
9 case and reach a fair and just verdict, and you are also
10 expected to be professional, reasonable, and ethical. And I
11 thank you for accepting the important responsibility of jury
12 service and for your contribution today to our justice
13 system.

14 what I will say now is intended to serve as an
15 introduction to the trial of this case. Now these remarks
16 are not a charge on the law of the case. I will instruct
17 you on the law applicable to this case at the end of the
18 trial before you retire to consider your verdict. This is
19 merely an explanation of the procedure that we will follow
20 in the trial of this case so that you may better understand
21 what may be happening.

22 Now, the Defendant in this case is charged by way of an
23 indictment filed in this Court with the crimes of attempted
24 murder and possession of a weapon during the commission of a
25 violent crime. Now, the elements of the -- will be

1 explained to you later.

2 Now this indictment is simply the charge by which the
3 case is brought into Court. It is not, in any sense,
4 evidence of any of the allegations contained in the
5 indictment. The Defendant has pled not guilty to this
6 indictment. The State, therefore, has the burden of proving
7 each of the elements of the indictment beyond a reasonable
8 doubt, and it will be your duty, ladies and gentlemen, to
9 decide whether or not the State has met that burden.

10 Your purpose, as jurors, is to find and determine the
11 facts. You are the sole judge of the facts. If at anytime
12 I make any comment regarding the facts, you must disregard
13 my comments. You are to determine the facts from the
14 evidence you hear and any other evidence that is introduced
15 in this courtroom. It is up to you to determine the
16 inferences you may feel may properly be drawn from the
17 evidence that is presented to you.

18 It is especially important that you perform your duty
19 of determining the facts diligently and conscientiously
20 because, ordinarily, there is no way to correct an erroneous
21 determination of facts made by a jury. On the other hand,
22 and with equal emphasis, the same law that makes you the
23 judge of the facts makes me the judge of the law.

24 The law, as given by the Court, is the only law that
25 you may consider. You must accept and follow it even though

1 you may disagree with it. I can not tell you what the facts
2 are, and you can not disagree with me about what the law is
3 or what the law should be.

4 Your job is to take the law as I give it to you and
5 apply it to the facts as you find them from the testimony of
6 the witnesses and any other evidence that is introduced
7 during trial. After doing that, you will render your
8 verdict, a true and just verdict, under the solemn oath that
9 you just took as jurors.

10 Now, as I told you yesterday, until I advise you to
11 begin your deliberations, you must not discuss the case with
12 anyone including your fellow jurors, friends, family
13 members, and anyone involving this case. Now this includes
14 any discussions face-to-face and by those by telephone,
15 email, text, blog, or any other method of communication.
16 You may not use a computer, a cell phone, or other
17 electronic devices with communication capabilities at any
18 time while in this courtroom or during the deliberations.

19 Now, during your break or on meals or overnight, you
20 can use those devices, if necessary, but you can not use
21 them to do any type of research, investigation, or make any
22 type of communication about anything involving the case.

23 Now, I do not anticipate that there will be any type of
24 media coverage of this trial while you're serving as jurors.
25 But in the event that there are any newspaper reports,

1 radio, or television reports, you must not read those
2 articles, see -- watch the reports or find out any type of
3 information about the case from any other source other than
4 what you hear in this courtroom.

5 After the case is admit -- submitted to you, you should
6 discuss it only in the jury room with your fellow jurors.
7 The attorneys and the parties in the case have been advised
8 that they are not to talk to you at all.

9 So, if you see anyone involved in the case when you're
10 coming and going from the courtroom, and they not -- and
11 they do not even say hello to you, they're not being rude or
12 unfriendly to you, they are simply following my
13 instructions.

14 Ladies and gentlemen, it's important that you keep an
15 open mind and to not decide any issue in the case until all
16 of the evidence has been presented, the parties have made
17 their closing arguments, and I have been -- instructed you
18 on the law applicable to the case.

19 It is your solemn responsibility to determine the guilt
20 or innocence of the Defendant, and your verdict must be
21 based solely on the evidence as it is presented to you in
22 this trial, and on the law as I instruct you during and at
23 the close of the trial.

24 Now, in just a moment, the solicitor will make what is
25 called an opening statement in which the solicitor will

1 explain to you the issues in the case or at least what the
2 solicitor thinks the issues are in the case. The attorney
3 for the Defendant may also make an opening statement
4 although he is not required to do so.

5 what the attorneys tell you during their opening
6 statements is not evidence in the case. It is only their
7 contention as to what the issues are. The evidence in the
8 case will be presented to you by the testimony of sworn
9 witnesses from this witness stand and any exhibits that may
10 be introduced during the course of the trial.

11 Now, from time to time, you may hear one of the lawyers
12 say, Your Honor, may -- I believe I have a question of law
13 or a matter of law to discuss with you, or they may say Your
14 Honor, may we approach the bench, or sometimes I myself may
15 find it necessary to excuse you from the courtroom for a
16 short while so that the attorneys and I can discuss what is
17 referred to as matters of law.

18 Now, the reason that you are excluded from these
19 conversations is because you are the judge of the facts in
20 the case, and sometimes, when I'm discussing matters of law,
21 it is necessary for me to make comments about the facts of
22 the case. In order that you will not be influenced at
23 anything I say in ruling on matters of law, we will exclude
24 you from those conversations. So, in advance, I apologize
25 for, for excluding you.

1 In determining what the true facts are in the case, you
2 must decide whether or not the testimony of a witness is
3 believable. It will be my responsibility to rule, as a
4 matter of law, whether or not certain testimony is
5 admissible at all or not. But once a testimony is admitted,
6 whether or not you believe it is solely up to you.

7 In deciding whether to believe a witness, you have the
8 right to consider the interest of any witness, the bias of
9 any witness, the prejudice of any witness, the opportunity
10 for the witness to have seen the matters and things about
11 which the witness may testify, and the way the witness acts
12 on the witness stand. You have a right to consider anything
13 that is in the record that will help you evaluate the
14 testimony of the witnesses.

15 Now what that means is that it is your duty to pay
16 close attention to these witnesses, to observe the
17 witnesses, to listen to the witnesses, and to pay close
18 attention to the attorneys and to the Court. Do not let
19 your thoughts wander. But give strict, strict attention to
20 the testimony in the case so that, at the end of the
21 testimony, after the arguments of counsel have been made, I
22 have instructed you on the law applicable to the case, you
23 will then be in a position to determine what the true facts
24 are, and apply the law to those facts, and thus render a
25 true and just verdict.

1 Now, it is your added duty, Mr. Foreperson, to preside
2 in the jury room and to be the jury spokesperson here in
3 Court. It will also be your duty to write the verdict, and
4 I will give you further instructions about that at the
5 conclusion of the case.

6 Ladies and gentlemen, in order to preserve everyone's
7 rights, I will give the parties any -- an opportunity to
8 object to anything that I have said during these preliminary
9 instructions to you.

10 Any objection from the State?

11 SOLICITOR BARRY: Nothing from the State, Your Honor.

12 THE COURT: Any from defense?

13 MR. EPPS: No, Your Honor. Thank you.

14 THE COURT: Ladies and gentlemen, at this time we will
15 now receive the opening statements from the attorneys.

16 SOLICITOR BARRY: Thank you, Your Honor.

17 May it please the Court, Mr. Epps.

18 Ladies and gentlemen of the jury, good morning. I just
19 want to echo what the Judge said. Thank you for your
20 service here today and throughout the day today and possibly
21 tomorrow. Without you the judicial system could not work
22 especially during COVID times. Weird times. Everybody's
23 wearing their masks and in plexiglass. So, thank you for
24 your service today.

25 So, why are we here today, ladies and gentlemen?

1 We are here today because the Defendant, Anterius
2 Smith, who's sitting right over there, is charged with
3 attempted murder and he's charged with possession of a
4 weapon during the commission of a violent crime.

5 So, what does that mean?

6 That means that on March the 28th of 2017, Anterius
7 Smith attempted to kill Tyler Vassey, who is sitting right
8 here, with malice aforethought, and expressed or implied, by
9 shooting him. Tyler Vassey was shot on March the 28th of
10 2017.

11 You're gonna hear from various witnesses. First you'll
12 hear from Detective Blanton and Detective Blanton responded
13 out to 505 Holly Street on that date, and there were a lot
14 of people on scene, and he spoke to several people, and, at
15 first, nobody knows who shot Tyler.

16 Tyler is at the hospital, and law enforcement responds,
17 and they talk to Tyler, and you'll hear from Tyler, and
18 Tyler will tell you that he knew who shot him. He
19 recognized him, but he didn't know his name.

20 Throughout the course of the investigation, Detective
21 Blanton continues to talk to people, and one witness in
22 particular, Phaedra Hall, who you will also hear from, gives
23 the name of Anterius Smith, and she says the person that
24 you're looking for is Anterius Smith. She shows him a
25 Facebook photo of what he looks like, and he is fit -- he

1 fits the description of what witnesses tell Detective
2 Blanton throughout the course of the investigation, a short
3 black male with shoulder length dreads.

4 So, after he talks to Ms. Hall, he develops a photo
5 lineup, and he shows that photo lineup to two people. He
6 shows it to Tyler and he shows it to Brittany Whisnant and
7 Brittany Whisnant will testify that she drove Tyler to the
8 Holly Street location. Both Tyler and Brittany are able to
9 pick Anterius Smith out as the shooter. They circle it,
10 they initial it, and they say that's who it was.

11 You're also gonna hear from Kaitlin Hall. She's
12 Phaedra's daughter and she was at the incident location that
13 day, and she will be able to tell you that Anterius was
14 there, and he had been drinking all day, and he was drunk.
15 She sees Tyler arrive and she sees Anterius approach Tyler,
16 and an argument ensues, and she has seen Anterius throughout
17 the day with a gun in the front of his pants. And she sees
18 Anterius pull that gun, but she does not stick around to see
19 Anterius shoot Tyler.

20 She is walking home. She lives around the corner.
21 She's walking home and she hears the gun go off.

22 Tyler is driven to the hospital by Brittany Whisnant.
23 She drops him off and he's treated by the medical personnel
24 there, and then he goes to Spartanburg Regional.

25 So, ladies and gentlemen, this is the testimony that

1 you are going to hear today, and I have to prove this beyond
2 a reasonable doubt.

3 And, ladies and gentlemen, right now you are a jury of
4 12, 13 with my alternate, and you have 12 sets of ears, 12
5 sets of eyes to see the evidence today, and to hear the
6 testimony. And when you go back there, you become a jury of
7 one. You can go over everything that you've heard today,
8 everything that you've seen throughout the course of this
9 trial, and I ask that you listen carefully, pay attention,
10 and that you view everything with your commonsense. We
11 always tell our jury you don't leave your common sense at
12 the door. You bring your common sense and your life
13 experiences with you, and I ask that all of that remains
14 true throughout the course of this trial. And when you go
15 back there, and when you deliberate as one jury, I'm gonna
16 ask that you find one verdict, ladies and gentlemen, and I
17 ask that that verdict be guilty.

18 Thank you.

19 THE COURT: Yes, sir.

20 MR. EPPS: Thank you, Your Honor.

21 May it please the Court and may I approach?

22 THE COURT: Yes, sir.

23 MR. EPPS: Thank you.

24 I take notes. So I'm gonna use a lecturn and I
25 apologize.

1 I hope y'all are doing well. To say that life has
2 changed drastically in the past year would be a minor
3 statement.

4 we hadn't done this in a long time. So I also
5 appreciate your being here.

6 I echo many thoughts that have already been said.

7 I am in this career because I love it. I am not gonna
8 lie to you. I am fired up right here. God didn't make me a
9 linebacker or a tightend. Dorman tried and they failed. I
10 have wanted to be a lawyer my whole life. I am happy to be
11 here.

12 Do not mistake my exuberance and happiness and all of
13 that for the likely fear you're gonna see right there. That
14 is not fear because of guilt. That is fear because this
15 man's life is in your hands, all 12, 13 possibly. I need
16 you to think about that.

17 I need you to do me a favor, and for every time you are
18 thinking about Tyler, and you should, I need you to also
19 think about Anterius Smith, and you should because the
20 decisions we're gonna be making, the evidence we're gonna be
21 presenting to you over the next -- I mean I'll be honest
22 with you. It's gonna take probably a couple days. That is
23 two days for the remainder of his, and his, and your lives.
24 So, I can not impress upon you how serious this is.

25 I am a realist. I like to say it in nice terms. My

1 wife says I'm the wet blanket. I take that with a grain of
2 salt.

3 I'm not George Sink and I'm not Johnny Cochran. I'm,
4 I'm just a lawyer.

5 I'm gonna say things like I suspect you're gonna hear,
6 I suspect you're gonna hear some evidence about alcohol, and
7 drinking, maybe even some drugs.

8 why do I say I suspect?

9 I'm the defense. The way our Government is set up, I
10 can sit in that chair like a potted plant and do pretty much
11 nothing if I want to because I have no burden of proof. I
12 have no requirement to do anything. I can say uh-huh or
13 probably yes, Your Honor, no, Your Honor will be better. I
14 can stand up a couple of times. I can say a few words, trip
15 over my feet, and y'all can get this case after they present
16 the evidence cause, if they don't present the evidence,
17 folks, there's no case.

18 I don't have the burden of proof but y'all know that.
19 Again, I'm a realist. Y'all know Miranda as good as
20 Detective Brian Blanton over there, and I know y'all are now
21 thinking about yeah, you have the right to remain silent,
22 anything you say can, will be used against you, et cetera.
23 we all know that. we all know about reasonable doubt. we
24 know about the right to remain silent. we know all of that
25 and this isn't gonna be CSI. It's not gonna be a woo,

1 exciting case.

2 But y'all know what you need to know when you woke up
3 this morning. But I have a job.

4 I truly enjoy Adrienne. We have cases together. But I
5 suspect, over the next couple of days, you will see us
6 fighting, or, or going back and forth at least, like we're
7 brother and sister or at least like me and my younger
8 brother use to when we were growing up. We have jobs to do.

9 My job is to make sure y'all are aware of the issues,
10 of the problems, of the inconsistencies, of the doubt. I
11 don't have a burden to prove anything to you, but I can tell
12 you I'm not gonna be sitting down, and there is so much I
13 want to tell you about this case.

14 The fact that my client pleads not guilty, the fact
15 that we're standing here defending ourself is nothing more
16 than us preserving our right, and I want you to think about
17 rights when you're thinking about this case, duties. I
18 don't know where y'all might be on the, the spectrum of
19 immigration. But understand that the rights we have in this
20 country, there are people, regardless of the walls or
21 barriers we put -- that will die to come here and live
22 because of what we have, what y'all have available to you
23 right now as a jury.

24 The fact that we are maintaining our innocence, you --
25 what you're gonna hear is 50 months ago, four years and, and

1 two months, this man was shot. No doubt. Don't dispute it.
2 He was shot. You're gonna hear a story that this gentleman,
3 Tyler, was taking a pot over to this lady's house. You'll
4 likely get to meet her. Not pot. A pot. A pot. That's
5 where this case starts. Something about a fish fry.

6 Tyler got into a car driven by his friend, Brittany.
7 Tyler got out, got the pot out. Tyler got shot. No doubt
8 about it. Brittany and Tyler get back in Brittany's car.
9 Brittany takes him to the hospital. Brittany leaves. He's
10 in the hospital. Tyler talks with law enforcement.
11 Eventually my client is arrested.

12 Now, that little snapshot happened just like that.
13 Real quick. Ba, ba, ba, ba, bah, just spat it out.

14 I want you to pay attention to timelines cause it
15 didn't happen that fast, and there are a lot of things that
16 I want you to pay attention to that -- it's, it's like
17 there's a sandwich here. This ain't a PB&J. It's like that
18 old comic strip, Dagwood, where he put the sandwich in, it's
19 got all that stuff. There's a lot of that. But I think
20 what you'll also find is they're a lot of pieces missing out
21 of that sandwich.

22 Ultimately, when the State presents its case, and, and
23 when we do what we do, and, again I, I can't tell you what
24 that is right now, it depends on a lot of factors. I don't
25 have that burden. But when the case is over, I believe you

1 will see that my client did not attempt to murder anyone. I
2 think you will see he didn't shoot anyone.

3 I think you'll, you'll be able to see that the question
4 today, who, what, when, why, I'm not going to be able to
5 answer. I think the problem you'll also see is they won't
6 be able to either.

7 Keep in mind in that -- I'm sorry. In that -- I'm not
8 suppose to do that six foot thing.

9 In this four years and two months that Tyler Vassey's
10 had to deal with this, my client equally has been waiting on
11 this day. This is a monumental task that y'all have and we
12 appreciate your time, and your energy, and your effort. But
13 I would ask, instead of when you just go back there, I ask
14 that you wait until the final time you go back there, and,
15 at that point, when it is all said and done, then, then you
16 put it together, and, when you do, you will see reasonable
17 doubt from start to finish and y'all know the law. That
18 means not guilty.

19 Thank you.

20 THE COURT: Is the State ready to call their first
21 witness?

22 SOLICITOR BARRY: State's ready, Your Honor.

23 State would call Detective Blanton to the stand.

24 THE COURT: Sir, just come right up here and let the
25 Clerk of Court swear you in if you would.

Brian Blanton - Direct examination
by Solicitor Barry

1 BRIAN BLANTON, being first duly
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY SOLICITOR BARRY:

5 Q Good morning, Detective Blanton.

6 Could you state your full name for the jury please?

7 A Christopher Brian Blanton.

8 Q And where are you currently employed?

9 A The Gaffney City Police Department.

10 Q And how long have you been employed with the police
11 department?

12 A Twenty-three and a half years.

13 Q And what are -- is your role with the police department
14 today?

15 A I'm a investigator, detective division.

16 Q And how long have you been an investigator?

17 A Twelve years.

18 Q And what are your duties as an investigator?

19 A Investigate various cases. It changes day-to-day, week
20 to week.

21 Q And were you called to investigate a crime on March the
22 28th of 2017?

23 A Yes, ma'am.

24 Q And what were you called to investigate?

25 A It was in reference to a shooting.

Brian Blanton - Direct examination
by Solicitor Barry

1 Q And where did you respond?

2 A By the time I got the call the patrol officers had
3 advised me that the victim was fixing to be transported from
4 Gaffney to Spartanburg. So, I actually went straight to
5 Holly Street where the incident occurred.

6 Q And do you know the address of the Holly Street --?

7 A I believe it's 505 Holly.

8 Q And is that within the city limits of Gaffney?

9 A Yes, ma'am.

10 Q Here in Cherokee County?

11 A Yes, ma'am.

12 Q And when you arrived, what did you do?

13 A Upon my arrival, we had -- I think there was four of
14 our uniformed officers that were there at the scene. Just
15 got some brief information from them cause they had just
16 left the hospital from speaking with Mr. Vassey. There were
17 numerous people at -- in the roadway and at the residence
18 where the incident occurred. So, at that point, just
19 gathering information.

20 Q And what information were you able to gather at that
21 time?

22 A That a shooting had occurred. Some of the patrolmen
23 had located a couple of individuals that were on the
24 property, but I guess you'd call it in a little storage
25 building. I think they were speaking to them, and, at that

Brian Blanton - Direct examination
by Solicitor Barry

1 point, just trying to determine what happened leading up to
2 the shooting.

3 Q And do you remember who all you talked to?

4 A I remember speaking to our patrol officers and I
5 believe I spoke to P.J.---

6 Q And---

7 A ---or Phaedra. I'm sorry.

8 Q And out of all of the people that you spoke to, were
9 any of them able to tell you who the shooter was?

10 A No, ma'am, not at that -- not that night, no, ma'am.

11 Q And when you leave 505 Holly Street, where do you go?

12 A I actually went back to my office at the police
13 department to attempt to locate Brittany.

14 Q And were you able to locate Brittany?

15 A Yes, ma'am, I, I found a phone number in our computer
16 system that she had used in a past incident report and made
17 contact with her by phone. Asked her to come to the police
18 department.

19 Q And did she come to the police department?

20 A Yes, ma'am.

21 Q What did Brittany tell you?

22 A Basically that she had picked Tyler up a little bit
23 earlier, and that Tyler had a -- I think she described it as
24 like a cast iron pot, some kind of pot to cook in, and he
25 had asked her to give him a ride to Tisa's house and that

Brian Blanton - Direct examination
by Solicitor Barry

1 she carried him over there.

2 Q And was she able to tell you about the shooting?

3 A Yes, ma'am, she stated that, when they got there, Tyler
4 got out, was in the pro -- process of taking the pot out of
5 the car. She stated a shorter black male with shoulder
6 length dreads approached the car, and basically said
7 something like y'all get out of here before I rob you or
8 something to that effect. She then heard one gunshot. She
9 said, at the time, she thought that he had fired into the
10 ground or into the air, and then she heard Tyler say oh, my
11 God, take me to the hospital. That's when she realized he'd
12 been hit.

13 Q But she was not able to give you a name of the shooter.
14 Is that correct?

15 A No, ma'am.

16 Q And once you spoke to Brittany -- did you speak to
17 anybody else that night?

18 A I don't believe so.

19 Q When do you speak to Tyler for the first time?

20 A We, myself and Captain Skinner at the time, went to
21 Spartanburg Regional to talk to Tyler at the hospital.

22 Q And what was a -- what was Tyler able to tell you?

23 A Basically that he went to school with the person that
24 shot him, but he did not remember his name from school. But
25 he knew who it was.

Brian Blanton - Direct examination
by Solicitor Barry

1 Q And did he give you a description of the shooter?

2 A Yes, ma'am.

3 Q What was that description?

4 A It was similar to what Brittany had told us. Kind of a
5 short in stature black male with shoulder length dreads.

6 Q What is the next step in the investigation for you?

7 Kind of walk the jury through, after you speak to
8 Tyler, what happens in the process?

9 A At that time, try to develop a suspect. Go back, watch
10 the body cam footage, make sure we didn't miss any details
11 that anybody had told our patrol officers at the, at the
12 scene, and just stay in contact with the victim.

13 Q At what point does Anterius Smith become a suspect?

14 A We were -- I was given information from one of our
15 narcotic agents at the time that P.J., Phaedra Hall, I'm
16 sorry, wanted to talk to us about the incident that
17 occurred. So, I think Captain Skinner was with me.

18 We rode down Holly Street that day and actually, when
19 we turned, Phaedra was actually standing in the roadway. So
20 we stopped and spoke to her, and told her basically what we
21 were there for, and she gave us the name of Anterius Smith.
22 She asked us if we knew him. Neither one of us did. And,
23 at that time, she showed us a -- I guess like a Facebook
24 profile of Mr. Smith.

25 Q And did he match the description that Mr. Vassey and

Brian Blanton - Direct examination
by Solicitor Barry

1 Brittany Whisnant had given you?

2 A Yes, ma'am.

3 Q And what do you do with that information?

4 A At that time I contacted the State Law Enforcement
5 Division and sent a formal request for them. It's just a --
6 it's like a Word document and we included name, driver's
7 license number, sex, race, incident type, incident date,
8 that kind of information, submitted it to SLED for a photo
9 lineup.

10 Q And is that normally how you would create or get a
11 photo lineup?

12 A Yes, ma'am.

13 Q Do you remember what day or date you sent that
14 information to the SLED Fusion Center?

15 A The request was sent on April the 18th, 2017.

16 Q And did they send you one back?

17 A Yes, ma'am.

18 Q Now, are you able to do photo lineups at the police
19 department?

20 A We can now. In 2017 we could not.

21 Q Okay. And when SLED generates the lineup, what
22 information do they send back to you?

23 A The only -- normally they only send back the photo
24 lineup that contains your suspect information, and then five
25 random -- I guess they generate it through the height,

Brian Blanton - Direct examination
by Solicitor Barry

1 weight, race, sex, that kind of thing.

2 Q So they don't send you names back of who all's in the
3 lineup?

4 MR. EPPS: Objection.

5 THE COURT: I'll allow that question.

6 Q They don't send you names back of who all's in the
7 lineup?

8 A No, ma'am.

9 Q And did you show Tyler the lineup?

10 A Yes, ma'am.

11 Q When did you show him that?

12 Do you remember?

13 A It would either been later that day on the 18th or
14 the -- the email was sent to SLED on the 18th at 3:30PM.
15 So, more than likely it would of been the following day. Be
16 April the 19th.

17 Q And where do you show him the lineup?

18 A At -- I believe it was his grandparent's house.

19 Q Did anybody go with you to show him the lineup?

20 A Not that I recall. Seem like I went by myself.

21 Q And approximately how much time has passed since the
22 crime?

23 A Three and a half weeks. Something like that. Three
24 weeks.

25 Q Did you tell anything to Tyler prior to showing him the

Brian Blanton - Direct examination
by Solicitor Barry

1 lineup?

2 A No, ma'am, other than I think I may have mentioned to
3 him that we had developed a possible suspect, and we had
4 that suspect in a photo lineup, and I was gonna let him look
5 at it to see if he could pick anybody out.

6 Q And how many photos were displayed in the photo lineup?

7 A Six.

8 Q And that's normal, correct?

9 A Yes, ma'am.

10 Q And all you do is you just show him the six person
11 lineup.

12 Is that correct?

13 A Yes, ma'am, I, I basically just told him that the
14 suspect we had developed was in the photo lineup, and I told
15 him to, once he was handed the, the copy, just to take his
16 time, look over it, and if he seen the suspect, to identify
17 him.

18 Q And did Tyler select a photo in this lineup?

19 A Yes, ma'am.

20 SOLICITOR BARRY: Okay. Your Honor, may I approach the
21 witness?

22 THE COURT: Yes, ma'am.

23 Q Detective Blanton, I'm gonna show you what's been
24 premarked as State's Exhibit 1.

25 Can you tell me what that is?

Brian Blanton - Direct examination
by Solicitor Barry

1 A Yes, ma'am, that's the photo lineup that the State Law
2 Enforcement Division had sent me.

3 Q And is that the photo lineup that you showed to Tyler?

4 A Yes, ma'am.

5 Q And how do you know that that's the one that you showed
6 to Tyler?

7 A He circled the Number 4 and put his initials.

8 Q And is that the original photo lineup?

9 A Yes, ma'am.

10 Q And it hasn't been altered or changed in any way?

11 A No, ma'am.

12 SOLICITOR BARRY: Your Honor, at this time I'd like to
13 admit State's 1 into evidence.

14 MR. EPPS: No objection.

15 THE COURT: Without objection, State's 1.

16 (WHEREUPON, State's Exhibit No. 1 was received into
17 evidence at this time.)

18 Q And do you show another photo lineup in this case,
19 Detective Blanton?

20 A You talking about the, the same lineup to a different
21 person?

22 Q Yes.

23 A Okay.

24 Q Yes.

25 A Yes, ma'am, I showed the other lineup to Brittany

Brian Blanton - Direct examination
by Solicitor Barry

1 whisnant.

2 Q And the same procedure showing Brittany whisnant the
3 lineup?

4 A Yes, ma'am.

5 Q Okay. Did you show it to her the same day or a
6 different day?

7 A It was probably the same, but it was later on cause I
8 had to make contact with her and track her down.

9 Q And did you indicate to Ms. whisnant, prior to her
10 viewing the lineup, that Tyler had picked somebody out?

11 A No, ma'am.

12 Q Okay. And was she able to pick somebody out in the
13 lineup?

14 A Yes, ma'am.

15 SOLICITOR BARRY: And permission to approach, Your
16 Honor?

17 THE COURT: Yes, ma'am.

18 Q I'm gonna show you what's been premarked as State's
19 Exhibit 2.

20 Can you tell us what that is?

21 A Yes, ma'am, it's another copy of the SLED photo lineup.

22 Q And is that the photo lineup that you showed to Ms.
23 whisnant?

24 A Yes, ma'am.

25 Q And how do you know that?

Brian Blanton - Direct examination
by Solicitor Barry

1 A She -- her initials and then she circled Number 4.

2 Q And that's the original, correct, or the one that you
3 actually showed to her?

4 A Yes, ma'am.

5 Q Has it been changed or altered in any way?

6 A No, ma'am.

7 SOLICITOR BARRY: Your Honor, at this time I'd like to
8 admit State's 2 into evidence.

9 MR. EPPS: No objection.

10 THE COURT: Without objection, be State's 2.

11 (WHEREUPON, State's Exhibit No. 2 was received into
12 evidence.)

13 SOLICITOR BARRY: Your Honor, at this -- permission to
14 publish to the jury?

15 THE COURT: You're gonna put them on the --?

16 SOLICITOR BARRY: Yes, sir.

17 THE COURT: -- video?

18 Okay.

19 SOLICITOR BARRY: Your Honor, I'm having technical,
20 technical difficulties.

21 Can I have Detective Blanton publish it to the jury?

22 THE COURT: Certainly.

23 Q Detective Blanton, if you could step down and, and show
24 State's Exhibit 1 to the jury please?

25 THE COURT: Now, Detective, you've moved away from the

Brian Blanton - Direct examination
by Solicitor Barry

1 microphone. Be sure you really speak up because the court
2 reporter's gonna be to your back, and she needs to be able
3 to hear you as well as that last juror over to the side.

4 THE WITNESS: All right.

5 (WHEREUPON, the witness steps down from the stand.)

6 THE COURT: You want to identify what you're showing?

7 SOLICITOR BARRY: Your Honor, he is showing State's
8 Exhibit 1.

9 THE COURT: All right. Thank you.

10 Q And, Detective Blanton, what number is circled on that
11 lineup?

12 A Number 4.

13 Q And, Number 4, is that Anterius Smith?

14 A Yes, ma'am.

15 Q And could you please show the jury State's Exhibit 2?

16 A (WHEREUPON, the witness complies.)

17 Q And what photo is selected on State's Exhibit 2?

18 A Number 4.

19 Q And is Number 4 Anterius Smith in that lineup as well?

20 A Yes, ma'am.

21 Q Thank you, Detective Blanton. You can have a seat.

22 A (WHEREUPON, the witness returns to the stand.)

23 Q And based off of the photo lineups, and the information
24 that you had received from other witnesses, Anterius Smith
25 was charged with this crime, correct?

Brian Blanton - Direct examination
by Solicitor Barry

1 A Yes, ma'am.

2 SOLICITOR BARRY: Your Honor, I have no further
3 questions at this time.

4 Please answer any questions that Mr. Epps may have for
5 you.

6 THE COURT: Yes, sir.

7 MR. EPPS: Thank you, Your Honor.

8 Madam Court Reporter, can you give me a nod and make
9 sure you can hear me okay where I am?

10 THE COURT REPORTER: Uh-huh. (Affirmative).

11 MR. EPPS: Thank you.

12 If not, just look at me weird and I'll -- thank you.

13 CROSS-EXAMINATION

14 BY MR. EPPS:

15 Q Detective Blanton, we talked just a little bit ago
16 about SLED putting this lineup together. You---

17 A Yes, sir.

18 Q ---didn't talk to SLED and tell them how to put the
19 pictures together?

20 A No, sir.

21 Q And to cut to the chase, you have no idea how they put
22 that together?

23 A No, sir.

24 Q Okay. Let's talk about that process.

25 You sent an email to SLED?

Brian Blanton - Cross-examination
by Mr. Epps

1 A (WHEREUPON, the witness nods affirmatively.)

2 Q They sent something back to you?

3 A Yes, sir.

4 Q Okay. And that was a yes, sir on both cause we got to
5 build a record --

6 A Yes, sir.

7 Q -- correct?

8 All right. The emails -- we went over this yesterday I
9 know. They weren't here.

10 The emails you sent to SLED, you have one email from
11 that entire exchange, correct?

12 A Yes, sir.

13 Q All right. And it's just an email where you sent it to
14 SLED, and it has a blank form that you attach with it.

15 That's right?

16 A Yes, sir.

17 Q Okay. You sent that back in April, I believe
18 April 18th of 2017?

19 A Yes, sir.

20 Q Now, is that the only email you sent to SLED?

21 A Pertaining to this investigation?

22 Q No. And I don't want to trip you up, but let me
23 rephrase that before you answer it.

24 It's not the only email you sent to SLED because you
25 had previously gotten another lineup from SLED, right?

Brian Blanton - Cross-examination
by Mr. Epps

1 A Yes, sir.

2 Q Okay. That was on a Jordan Smith character?

3 A Yes, sir.

4 Q All right. Prior to getting that lineup from SLED, you
5 went to Cherokee County and got a lineup on Jordan Smith?

6 A Yes, sir.

7 Q Okay. You said just a little while ago that you
8 couldn't do photo lineups at the time but now the City can.

9 A Yes, sir.

10 Q Okay. Do you have Exhibit 1 in front of you anymore?

11 A It's over there.

12 Q Let me, let me grab these.

13 May I approach, Your Honor?

14 THE COURT: Yes, sir.

15 MR. EPPS: Okay.

16 Sir, I'm gonna hand you Exhibit 1 and 2.

17 These two documents are nothing more than six pictures
18 on a piece of paper, are they not?

19 A Yes, sir.

20 Q Okay. So, back in the olden days say before May --
21 March, excuse me, March 28th of 2017, y'all could just get
22 some pictures, cut them out, stick them on a white sheet of
23 paper, and hand them to somebody, correct?

24 A If, if we had to do a photo lineup at the City, yes,
25 sir.

Brian Blanton - Cross-examination
by Mr. Epps

1 Q Okay. Really anybody could do that?

2 A Yes, sir.

3 Q Okay. So, it could have been done?

4 A Yes, sir.

5 Q Okay. That email that I was just talking to you about
6 to SLED, when did you produce that email and the attached
7 form in this case?

8 A You, you mean produced it?

9 Q At all.

10 A Okay. Produced it.

11 As far as the investigation is concerned or -- I'm not
12 sure I understand.

13 Q Well, you, you answer however you -- I'll take it on
14 the chin.

15 When did you produce it?

16 A I sent the email to SLED on April the 18th.

17 Q Sorry.

18 Okay. I see what you're saying.

19 When did -- when did you hand it to the Solicitor's
20 office?

21 A The blank I guess word document that we would have sent
22 to SLED pertaining to the photo lineup I think I gave it to
23 the Solicitor's Office on Monday.

24 Q Monday of this week?

25 A Yes, sir.

Brian Blanton - Cross-examination
by Mr. Epps

1 Q Today's Wednesday of my client's attempted murder
2 trial, correct?

3 A Yes, sir.

4 Q Okay. The email back and forth on the Jordan Smith
5 lineup that happened before that one, you don't have a copy
6 of that one?

7 A No, sir.

8 Q You do not have the email from SLED where they actually
9 sent you an attachment that, that incident -- that became
10 Exhibit 1 and 2?

11 A No, sir.

12 Q At this stage in your career, do you maintain those
13 types of documents in your investigative file?

14 A The, the word document that was sent to SLED for the
15 photo lineup is basically saved on my desktop like a
16 template so the personal information, dates, times, incident
17 location, that kind of stuff's changed from case to case
18 when I send it. So, it would have been -- my next lineup
19 after this investigation would of had a different name
20 submitted.

21 Q If I understand you correctly, you reused the form each
22 time you request a lineup or requested a lineup?

23 A Yes, sir.

24 Q All right. Cause now y'all can do it in-house I think
25 I understand?

Brian Blanton - Cross-examination
by Mr. Epps

1 A I believe our computer system now we are capable of
2 doing that, yes, sir.

3 Q But you could -- this was a word document.
4 You could of pressed print, stuck it in your file?

5 A Yes, sir.

6 Q You did not?

7 A As far as the lineup?

8 Q Correct.

9 A well, yes, sir, I did. I did have it in my file. I
10 mean it's --.

11 MR. EPPS: May I approach?

12 THE COURT: Yes, sir.

13 Q I'm gonna hand you what was previously marked as
14 Defense 1-B.

15 Do you recognize that document?

16 A Yes, sir.

17 Q Is this that blank word form we've been talking about?

18 A Yes, sir.

19 Q All right. Is it filled out completely as it related
20 to your questions to SLED in this case?

21 A No, sir.

22 Q Okay. Do you have today a copy that is filled out
23 related to your request for this case?

24 A I do not.

25 Q Do, do -- is it -- was it your policy to maintain that

Brian Blanton - Cross-examination
by Mr. Epps

1 for any case?

2 A I guess it would be up to officer discretion as far as
3 keeping up with the request form.

4 Q Up to officer discretion?

5 A Yeah, pertaining to the case.

6 Q All right.

7 (WHEREUPON, a case file list was marked as Defendant's
8 Exhibit No. 2 for identification purposes only at this
9 time.)

10 Q Detective Blanton, I'm gonna hand you a document that's
11 listed as Defense Exhibit 2.

12 Do you recognize that document?

13 A Yes, sir.

14 Q It's got your name at the bottom of it?

15 A Yes, sir.

16 Q Did you submit that document?

17 A Yes, sir.

18 Q Did you type your name on it?

19 A Yes, sir.

20 Q Did you fill in the boxes on it?

21 A Yes, sir.

22 Q I have seen that document in cases before.

23 Is it a standard document from your office related to
24 an investigative file?

25 A Yes, sir.

Brian Blanton - Cross-examination
by Mr. Epps

1 Q Is there anything special about this document as it
2 relates to any particular investigation or was it just
3 normal?

4 A That's just a generic checklist that's created by the
5 Solicitor's Office.

6 Q Let's look at the, the wording at the bottom.

7 A Okay.

8 Q Did you type -- the sentence starts out this is.
9 Do you see that sentence?

10 A Yes, sir.

11 Q The sentence reads this is vital information that we
12 must have before we can present this case to the Grand Jury,
13 comply with Rule 5, and prepare for prosecution.

14 Did I read that correctly?

15 A Yes, sir.

16 Q All right. Did you type that or was it already there?

17 A It was already part of the document.

18 Q Do you agree with it?

19 A Yes, sir.

20 Q All right. And you dated that June 19th of 2017?

21 A Yes, sir.

22 Q I understand this document to be one of those things
23 that goes -- it's kind of a top of a file that is handed to
24 the Solicitor's Office for a prosecution case?

25 A Yes, sir.

Brian Blanton - Cross-examination
by Mr. Epps

1 Q And it's kind of like a table of contents.
2 would you agree?

3 A Yes, sir.

4 Q And this is where you say here's our file, correct?

5 A Yes, sir.

6 Q All right. My understanding is, when you prepare a
7 case for prosecution, the law enforcement agency hands over
8 its file.

9 Is that your understanding?

10 A Yes, sir.

11 Q Okay. And, and you understand that my role as a
12 defense attorney and my client as a Defendant, we have a, a
13 right to know what it is being used against us?

14 A Yes, sir.

15 Q We don't have to, you know, be in the blind. Let it
16 all hang out.

17 Right?

18 A Yes, sir.

19 Q Let's, let's go through this. Copies of photos. It's
20 the fifth X on there.

21 Correct?

22 A Yes, sir.

23 Q Did you X that box?

24 A Yes, sir.

25 Q P.J., Phaedra JoAnn, sitting there in the gallery,

Brian Blanton - Cross-examination
by Mr. Epps

1 right?

2 A Yes, sir.

3 Q Okay. And you said she was a narcotics informant?

4 A I'm not gonna say she was an informant. But we were
5 just contacted by a narcotics agent who instructed us to go
6 speak to her.

7 Q But Chief Skinner was with you when you talked to her?

8 A Yes, sir.

9 Q Going through this case, there were some videos
10 produced. Body camera.

11 A Yes, sir.

12 Q When did that body cam get produced to Ms. Barry's
13 office?

14 A I'm not sure because we have a evidence custodian that
15 is in charge of the body cam footage and getting all that
16 together and turning it over.

17 Q When did you -- well, let me -- I'm assuming.

18 Did you ever give a copy to Ms. Barry?

19 A I'm not sure I gave her the copy. I think our evidence
20 custodian may have.

21 Q Have you reviewed the videos?

22 A Yes, sir.

23 Q When did you start reviewing the videos?

24 A I watched them a few times during the course of the
25 past few years.

Brian Blanton - Cross-examination
by Mr. Epps

1 Q You're not wearing one of those body cams to my
2 knowledge.

3 Is that right?

4 A No, sir.

5 Q So, you're in them but you're in there because there's
6 someone recording you?

7 A Yes, sir.

8 Q Okay. Was that -- were you not issued a body cam at
9 this time?

10 A No, sir.

11 Q How about Chief Skinner?

12 A No, sir.

13 Q So when y'all met with Phaedra, you don't have any
14 video of that interaction?

15 A No, sir.

16 Q She showed you a Facebook profile?

17 A Yes, sir.

18 Q What did it say?

19 A It was just the -- I guess you would call it the home
20 page or the profile of Anterius Smith.

21 Q I have a Facebook profile.

22 You have a Facebook profile?

23 A Yes, sir.

24 Q Got your name on it?

25 A Yes, sir.

Brian Blanton - Cross-examination
by Mr. Epps

1 Q All right. You ever run across, in your
2 investigations, people that have a nickname or a different
3 name on their profile?

4 A Yes, sir.

5 Q Okay. Sitting here today four years after the fact,
6 can you say, beyond a shadow of a doubt, that you know what
7 that name was on that profile?

8 A It would of been, I'm assuming, Anterius Smith. That
9 was the name that was provided to us by Phaedra.

10 Q And this isn't -- where I'm trying to be very clear,
11 you said I'm assume.

12 She never provided you a screenshot of that profile,
13 did she?

14 A No, sir.

15 Q You never took a picture of her phone with that
16 profile, did you?

17 A No, sir, I was able to search the name on Facebook and
18 find the same profile that she had showed us.

19 Q On your own?

20 A Yes, sir.

21 Q At a desktop computer?

22 A Probably been through my cell phone.

23 Q Okay. Is that a, is that a City provided cell phone or
24 is that a Brian Blanton personal cell phone?

25 A It would be City provided.

Brian Blanton - Cross-examination
by Mr. Epps

1 Q Okay. Have you ever taken a, a screenshot, a
2 screenshot of something you're looking at on your phone?

3 A Yes, sir.

4 Q All right. Did you do that for this Facebook profile?

5 A I don't believe I did.

6 Q So, in the copies of photos on that sheet in front of
7 you, that's not one of the photos we're talking about?

8 A No, sir.

9 Q Could you have used that photograph to create a lineup?

10 A Not necessarily. I've seen some people that's got some
11 pretty crazy profile pics on their Facebook accounts.

12 Q Sure.

13 But you couldn't print out pictures to cut out a face,
14 and cut out some other faces, rudimentary as it may be, and
15 make, make your own lineup?

16 A As a last resort, I mean I -- yeah, we probably could
17 have if we'd of found the proper picture.

18 Q Let me ask you this. A notebook, now I don't know who
19 uses what this day and time, but I know there are some law
20 enforcement officers that carry a notebook, write down
21 notes, and things like that.

22 Do you do that?

23 A I occasionally have a notepad depending on what kind of
24 case, where I'm going, that kind of thing, yes, sir.

25 Q In this case, did you have a notepad or take any notes?

Brian Blanton - Cross-examination
by Mr. Epps

1 A Not that I can remember.

2 Q Okay. If you did, don't you think you'd be under an
3 obligation to turn that material over to the State---

4 A Yes.

5 Q ---to make sure that -- I'm sorry. Answer that
6 question. I'm sorry.

7 A Yes, sir.

8 Q Okay. And, and don't you think it would be not only
9 beneficial but my client's right to be able to have those
10 notes in preparation for his defense?

11 A Yes, sir.

12 Q And not to beat a dead horse, but do you know for sure,
13 one way or the other, if you even took any notes on this
14 case?

15 A I'm pretty sure I didn't or I would of turned, turned
16 those over as part of the case file.

17 Q I don't know if you know. I'm gonna ask. Just below
18 that X are copies of photos. There's a line that says video
19 and/or audiotapes.

20 Is that true?

21 A Yes, sir.

22 Q That box is not X'ed.

23 You prepare this document, right?

24 A Yes, sir.

25 Q So, at this point in time did that mean you just

Brian Blanton - Cross-examination
by Mr. Epps

1 weren't providing them or did you not know they were there?

2 A No, sir, I -- like I said earlier, our evidence
3 custodian's in charge of obtaining the body cam footage.
4 Some officers in our department don't have access to our
5 body cam where it's downloaded. So, they're not able to
6 access them. So, our evidence custodian's in charge of
7 obtaining those and turning them over. So that's why I
8 didn't check it on my list.

9 Q Above that fourth box, there's a line that says
10 statements, and then below is a box that says victim forms,
11 which I guess a victim statement could either be a statement
12 or a victim form. My understanding is there are two
13 statements in this case.

14 A Yes, sir.

15 Q Are you aware of any other written statements in this
16 case?

17 A No, sir.

18 Q Now, that, that line says statements. If oral, include
19 in investigative report.

20 Correct?

21 A Yes, sir.

22 Q So, if someone told you something, like if Phaedra
23 JoAnn Hall said this is your guy, you would need to put this
24 in your investigative statement or investigative report?

25 A Yes, sir.

Brian Blanton - Cross-examination
by Mr. Epps

1 Q Oh, do, do you have your file, or the file I should
2 say, with you?

3 A Yes, sir.

4 Q Okay. Then let's, let's do it this way. I'm looking
5 at the document called case summary.

6 Can you pull that out?

7 A Yes, sir, I've got it.

8 Q You got it?

9 A Yes, sir.

10 MR. EPPS: Can I come approach and make sure I'm
11 looking at the same document, Your Honor?

12 THE COURT: Yes, sir.

13 MR. EPPS: Thank you.

14 Yeah, great.

15 The, the part about Phaedra down at the bottom I
16 believe of that first page, fourth from the last line.

17 Is that right?

18 A Yes, sir.

19 Q You write in there -- well, did, did you type this up?

20 A Yes, sir.

21 Q Okay. So, you did write this in.

22 You say you made contact with one of the witnesses
23 several, several days later on Holly Street.

24 A Yes, sir.

25 Q Next sentence, that witness told us the shooter's name

Brian Blanton - Cross-examination
by Mr. Epps

1 was Anterius Smith and she showed us his Facebook page.

2 Correct?

3 A Yes, sir.

4 Q That witness is Phaedra Hall?

5 A Yes, sir.

6 Q Is there any particular reason why you wouldn't list
7 Phaedra Hall's name there?

8 A None in particular. I know, by speaking with Phaedra
9 that day, that she lives right across the street from where
10 the shooting incident occurred, and she said she was scared
11 that, if her name was mentioned, retaliation or she feared
12 for her life.

13 Q And, and you knew she lived across the street within
14 hours of the shooting?

15 A Yes, sir.

16 Q You talked to her within hours of the shooting?

17 A Yes, sir.

18 Q You know -- so, so, if I understand you correctly, she
19 feared retaliation?

20 A Yes, sir.

21 Q You don't have that at all in this statement?

22 A In the case summary?

23 Q Yes, sir.

24 A No, sir.

25 Q And I'll give you a chance to look it over. There's an

Brian Blanton - Cross-examination
by Mr. Epps

1 incident report in here. I don't know if you prepared it.
2 I think that was a different officer. So, I'll, I'll ask it
3 this way.

4 Are you aware at all, within the law enforcement file
5 in this case, that there is any mention of Phaedra Hall
6 saying she feared retaliation?

7 A No, sir.

8 Q That'd be kind of important to know for a defendant
9 who's charged with attempted murder when preparing his
10 defense don't you believe?

11 A Yes, sir.

12 Q When did you meet with Tyler at Spartanburg Regional?

13 A It would of been the morning following. So, it would
14 of been March 29th.

15 Q And just so we're technically clear with mergers and
16 all that, we're talking about Spartanburg Spartanburg
17 Regional?

18 A Yes, sir.

19 Q As I understand it, there's Mary Black Gaffney, which
20 is now also Spartanburg Regional, and transported to
21 Spartanburg Spartanburg Regional?

22 A Yes, sir.

23 Q And you and former Chief Skinner went there?

24 A Yes, sir.

25 Q There's some discussion at the hospital that you were

Brian Blanton - Cross-examination
by Mr. Epps

1 gonna get a yearbook and show him pictures cause Tyler knows
2 this guy from school.

3 A Yes, sir.

4 Q Did that ever happen?

5 A No, sir.

6 Q Did you ever make a lineup using photographs from a
7 yearbook?

8 A No, sir.

9 Q Yearbooks have pictures, don't they?

10 A Yes, sir.

11 Q Did you ask Tyler if he had a yearbook?

12 A I'm -- I don't think I asked him that.

13 Q One thing that I'm reading in your case summary, I was
14 not there, but one thing I am not reading I guess I should
15 say is I did not hear you say or, or get the impression that
16 Tyler said I know this guy from school, I have a yearbook,
17 I'm gonna tell you who he is as soon as I can get it.

18 Did any of that take place?

19 A Not that I recall.

20 Q Do you know the date that you first put together a
21 lineup in this case?

22 A The lineup that was provided by the Cherokee County
23 Sheriff's Office for Jordan Smith was on April 17th of
24 2017.

25 Q And you believe that one came before the SLED lineup?

Brian Blanton - Cross-examination
by Mr. Epps

1 A No, sir, that would of been -- that was my initial
2 request to the Sheriff's Office for a lineup.

3 Q Okay.

4 A For Jordan Smith. I'm sorry.

5 Q For Jordan.

6 But you didn't use that one?

7 A No, sir.

8 Q You then requested a lineup from SLED on Jordan Smith?

9 A Yes, sir.

10 Q And got another lineup?

11 A Yes, sir.

12 Q Did you take that to Tyler?

13 A Yes, sir, the SLED created lineup I did.

14 Q When did you take that to him?

15 A It would of had to of been on the 17th cause I---

16 Q And what did---

17 A I'm sorry. I, I got that lineup after the one from the
18 Sheriff's Office.

19 Q Okay. So, from March 29th to April 17th there's a
20 gap where no one provided you any pictures?

21 A No, sir.

22 Q And you finally obtain some pictures to take to Mr.
23 Vassey?

24 A Yes, sir.

25 Q Your investigation started out with a man named Jordan,

Brian Blanton - Cross-examination
by Mr. Epps

1 or not a man, named Jordan Smith as a potential lead?

2 A It didn't start out with Jordan Smith. But one of the
3 first names that we got was Jordan Smith.

4 Q well, what did it start out with?

5 A I don't think we got a, a actual name from the time the
6 shooting occurred.

7 Q From March -- from the time of the shooting until
8 April 17th when you showed him this first lineup --

9 A (WHEREUPON, the witness nods affirmatively.)

10 Q -- nobody brought you a photograph. You had to bring
11 it to them.

12 A Yes, sir.

13 Q Earlier -- you mentioned very, very early on in
14 Ms. Barry's questioning, you said there were numerous people
15 at the house when law enforcement came to the scene.

16 A When I arrived on scene, there were, yes, sir.

17 Q Let's -- I'm trying to flesh out what you mean by
18 numerous.

19 Do you know how many people were there?

20 A Not a definite number, no, sir. I just remember
21 several people there.

22 Q Kaitlin Hall was around the area?

23 A Yes, sir.

24 Q Phaedra Hall was around the area?

25 A Yes, sir.

Brian Blanton - Cross-examination
by Mr. Epps

1 Q Do you know if Tisa was there?

2 A If she was I didn't speak directly to her.

3 Q Okay. So have -- by this point in time, have you gone
4 through the video to look to see who you could recognize in
5 preparation for today?

6 A Well, the incident happened at night, and it's very
7 dark on Holly Street. I can hear some officers that are on
8 scene mentioning names. But as far as like watching the
9 camera and actually seeing the person, no, sir.

10 Q Did you go through this file that you have in front of
11 you in preparation for today's trial?

12 A Yes, sir.

13 Q You read the notes?

14 A (WHEREUPON, there was no response.)

15 Q Did you read the notes?

16 A What notes?

17 Q Well, the case summary, the other documents---

18 A Oh, yes, sir.

19 Q Okay.

20 A Yes, sir.

21 Q Did, did you talk to the other officers that were there
22 with you?

23 A Yes, sir.

24 Q Are you aware of anybody writing down any names of the
25 numerous people that were at the scene at the time?

Brian Blanton - Cross-examination
by Mr. Epps

1 A No, sir.

2 Q Oh, the envelope.

3 You got an envelope with a shell casing, didn't you?

4 A Yes, sir.

5 Q What happened to it?

6 A Well, at the time when it was, I guess, observed on the
7 street, Phaedra had made mention that the people on that
8 block shoot all the time. It's nothing to hear gunshots in
9 that area and patrol had found multiple shell casings,
10 multiple calibers. And when Officer Stoddard arrived from
11 speaking with Mr. Vassey at the hospital, he had stated that
12 Mr. Vassey told him he was pretty sure it was a revolver.

13 Q Ms. Hall didn't say -- well, let me ask -- at, at the
14 time that this occurred, four years ago, did you carry a
15 revolver?

16 A Did I carry a revolver?

17 Q (WHEREUPON, Mr. Epps nods affirmatively.)

18 A No, sir.

19 Q Did the City of Gaffney issue revolvers as a standard
20 piece of handgun equipment at that time?

21 A No, sir.

22 Q Did they issue what, a Glock?

23 A Yes, sir.

24 Q Semiautomatic?

25 A Uh-huh. (Affirmative).

Brian Blanton - Cross-examination
by Mr. Epps

1 Q So, if someone were to say it was a gun like what you
2 have, you wouldn't expect that to be a revolver, would you?

3 A No, sir.

4 Q You expect it to be a semiautomatic?

5 A Yes, sir, they're -- if they're knowledgeable on, on
6 what we carry, yes, sir.

7 Q Semiautomatic generally fire the rounds, and they
8 discharge it outside or over the top or something like that,
9 there's a, a casing that the bullet remains or whatever you
10 call it?

11 A Yes, sir.

12 Q Revolvers, cylinder, you fire it and it just goes
13 around, and, once you're empty, you got to reload?

14 A Yes, sir.

15 Q So the casings stays with the gun?

16 A Yes, sir.

17 Q Regardless of that fact, you had an envelope with a
18 casing in it that night in your hand, didn't you?

19 A Yes, sir.

20 Q What happened to it?

21 A It would of been disregarded just due to lack of shell
22 casings and everything at the scene.

23 Q Just, just so I am clear -- do -- well, do you remember
24 holding the envelope?

25 A Yes, sir, I believe I did.

Brian Blanton - Cross-examination
by Mr. Epps

1 Q Have you looked at the videos -- and I'm, I'm not
2 trying to trick you. I'm happy to show it to you.

3 But you remember on that video you holding that
4 envelope?

5 A Yes, sir.

6 Q Okay. Do you remember there being a bullet casing in
7 that envelope?

8 A I remember looking in the envelope and making a comment
9 that it appeared the shell casing had been ran over, and it
10 had like a lot of road debris on it.

11 Q And, and Brittany Whisnant, as soon as Tyler's shot,
12 takes him to the hospital, right?

13 A Yes, sir.

14 Q Okay. That could of been one car that ran over it?
15 Possible?

16 A Possible.

17 Q You know anything about any other cars that were there
18 between the shooting and when you had that bullet and that
19 casing---

20 A No, sir.

21 Q ---in that envelope?

22 A I wasn't there when the shooting occurred. So, when I
23 arrived on scene, it was probably, I'm guessing, maybe an
24 hour later, 45 minutes to an hour.

25 Q You drove your pickup truck?

Brian Blanton - Cross-examination
by Mr. Epps

1 A Yes, sir.

2 Q All right. There was a City Explorer?

3 A Yes, sir.

4 Q There was a City Dodge Charger or some Mopar vehicle?

5 A Yes, sir.

6 Q Okay. So that's three other vehicles, in addition to
7 yours, that could of run over it?

8 A Yes, sir.

9 Q But still that was something in an envelope that you
10 have on body cam that may of been a piece of evidence in
11 this case?

12 A Possible. But I, I didn't put much weight in it just
13 because the victim had already told patrol at the scene that
14 it was a revolver.

15 Q Well, I mean if it was a revolver, and there's a
16 casing, probably that means somebody breached the revolver
17 and dumped the casing out?

18 SOLICITOR BARRY: Objection, Your Honor. That calls
19 for speculation.

20 THE COURT: All right. I'm gonna let him answer that
21 question.

22 Q Let, let me back up.

23 Are you certified to carry a handgun in this State?

24 A Yes, sir.

25 Q Did you go to the Police Academy?

Brian Blanton - Cross-examination
by Mr. Epps

- 1 A Yes, sir.
- 2 Q Have you ever done a test fire on a revolver?
- 3 A I have fired revolvers, yes, sir.
- 4 Q Did you grow up around here?
- 5 A Uh-huh. (Affirmative).
- 6 Q Hunting?
- 7 A Not necessarily.
- 8 Q Okay. You ever---
- 9 A I'm not a big hunter.
- 10 Q You ever shot a revolver?
- 11 A Yes, sir.
- 12 Q Are you aware of any revolver where you don't have to
- 13 take some physical action to discharge the shell casing?
- 14 A Am I familiar with a revolver?
- 15 Q Right.
- 16 A No, sir.
- 17 Q So, is it your belief that revolvers typically keep the
- 18 spent cartridge in them until you eject them yourself?
- 19 A Yes, sir.
- 20 Q Which is generally a standard difference from a
- 21 semiautomatic pistol?
- 22 A Yes, sir.
- 23 Q So, if there's a revolver used and there is a cartridge
- 24 found, if that cartridge came from that revolver, somebody
- 25 probably cracked it open and dumped it out?

Brian Blanton - Cross-examination
by Mr. Epps

1 A If the shell casing was from the revolver, yes, it
2 would of had to been manually extracted.

3 Q But we don't know?

4 A No, sir.

5 Q One more little quick thing and I, I -- I'm not trying
6 to beat up on you. I want to make sure of your specific
7 role in here.

8 So you are Detective Sergeant Brian Blanton or you were
9 at the time and I think you still are---

10 A Yes, sir.

11 Q ---a detective. I don't know all the ranks in here.

12 As I understand it, you're kind of the lead
13 investigator especially as it relates to this case?

14 A Yes, sir.

15 Q All right. So, the other officers involved were maybe
16 duty officers, but they weren't investigators?

17 A They're technically a front line investigator once you
18 arrived on scene until an investigator shows up.

19 Q But there's a chain of command and they would be under
20 you, and you're kind of the top as it relates to this case?

21 A Yes, sir.

22 Q Okay. Did -- so, so you were the one kind of tasked
23 with doing the further generation of investigation as this
24 case moved over forward past March 28th, 2017?

25 A Yes, sir.

Brian Blanton - Cross-examination
by Mr. Epps

1 Q Did you ever run any information on suspects, aliases,
2 anything like that, beyond what is in your file?

3 A No, sir.

4 Q And we talked about the lineups. You've got two of
5 them in front you. Prior to that you had two lineups.

6 A Yes, sir.

7 Q I see a three year driver's record, and if you want to
8 follow along, that's okay.

9 Do you have page numbers at the top of yours?

10 A No, sir.

11 Q Okay. I don't know if they're in the same order as
12 mine. So, that's kind of --.

13 A I've got a couple of---

14 Q Didn't you---

15 A ---driver's record, yes, sir.

16 Q See, there's one for my client, Anterius Smith?

17 A Yes, sir.

18 Q There is one for Tyler Vassey?

19 A Yes, sir.

20 Q There's also one for Phaedra Hall?

21 A Yes, sir.

22 Q There is one for Jordan Smith?

23 A Yes, sir.

24 Q Got you.

25 Now, there's another document and pic for Brittany

Brian Blanton - Cross-examination
by Mr. Epps

1 whisnant?

2 A You referring like a landscape photo?

3 Q Bingo. That's it.

4 A I got it.

5 Q There's a Crime Stoppers thing, narrative. I don't
6 know what you call it. Tip.

7 would you call it a tip?

8 A Yes, sir.

9 Q Okay. That Crime Stoppers tip does not say anything
10 about Smith, whether it be Jordan or Anterius, does it?

11 A No, sir.

12 Q who does it mention?

13 A I'm trying to find it. I believe the name was Taverus
14 Lee or Ty---

15 Q Tyrus or Taverus Lindsay?

16 A That's it.

17 MR. EPPS: T-Y-R-U-S or T-A-V-E-R-U-S. Lindsay with an
18 A, Madam Court Reporter.

19 Did, did you investigate this individual?

20 A That name was looked up in our City database. But we
21 didn't find anything fitting that spelling or anything.

22 Q You didn't see him that night?

23 A We -- I know there were a Meryl Tyrone Lindsay that was
24 on the scene that night. But not Taverus or Tyrus or either
25 how you spelled it.

Brian Blanton - Cross-examination
by Mr. Epps

1 Q Got you.

2 So, possibly it's a different person?

3 Similar---

4 A It could---

5 Q ---name but it just may be a different person
6 altogether?

7 A Yes, sir.

8 Q I don't see it in this file, and I think I've kind of
9 reached somewhat of the investigation -- end of the
10 investigation -- investigative file. I don't see anything
11 regarding aliases or any other search material or anything
12 like that for any other individual related to this case.

13 Am I missing anything?

14 A No, sir.

15 Q All right. Thank you for your time.

16 A Yes, sir.

17 THE COURT: Any redirect limited to what he went into?

18 SOLICITOR BARRY: Yes, sir, Your Honor.

19 REDIRECT EXAMINATION

20 BY SOLICITOR BARRY:

21 Q Detective Blanton, you have testified regarding a
22 Jordan Smith subject?

23 A Yes, ma'am.

24 Q And you produce, or excuse me, SLED produced a lineup
25 and you showed that lineup to Tyler Vassey?

Brian Blanton - Redirect examination
by Solicitor Barry

1 A Yes, ma'am.

2 Q And did he pick anybody out of that lineup?

3 A No, ma'am.

4 Q Okay. And Mr. Epps mentioned, and, and you actually
5 mentioned it as well, that Phaedra was in fear of
6 retaliation, correct?

7 A Yes, ma'am.

8 Q And nobody brought you any yearbooks to look through
9 and you kind of lose contact with people throughout the
10 course of the investigation.

11 Is that correct?

12 A Yes, ma'am.

13 Q But you are able to or you're told that Tyler was in
14 fear of retaliation, correct?

15 A Yes, ma'am, from his---

16 Q And---

17 A ---grandmother I believe.

18 Q And that's in your investigative, correct?

19 A Yes, ma'am.

20 Q You were -- in your investigative, it says something
21 along the lines of Tyler was in fear of retaliation?

22 A Yes, ma'am.

23 Q Okay. The email that was produced to my office, you
24 know, the beginning of this week, end of last week, that is
25 or that was a blank document that you send to SLED?

Brian Blanton - Redirect examination
by Solicitor Barry

1 A Yes, ma'am.

2 Q That's the template that's used?

3 A Yes, ma'am.

4 Q Okay. Let's see. And numerous people were at the
5 house when law enforcement arrived.

6 That's correct?

7 A Yes, ma'am.

8 Q But nobody told you who the shooter was, right?

9 A No, ma'am.

10 Q The envelope with the shell casing, was there a gun
11 recovered in this case?

12 A No, ma'am.

13 Q So you would not have been able to match any kind of
14 shell casing with any kind of gun because one was not
15 recovered?

16 A No, ma'am.

17 Q The Crime Stoppers tip, you said that no name fit in
18 your system.

19 Is that right?

20 A No, ma'am, according to how the tipster spelled it, no,
21 ma'am.

22 Q The individual who was on scene with the last name
23 Lindsay, he was a Meryl Tyrone Lindsay?

24 A Yes, ma'am.

25 Q And Mr. Epps stated that there is no other search

Brian Blanton - Redirect examination
by Solicitor Barry

1 material providing any other names or information in this
2 case. The names that you were provided were Jordan Smith.

3 Correct?

4 A Yes, ma'am.

5 Q Anterius Smith, correct?

6 A Yes, ma'am.

7 Q And you used that information, Jordan Smith and
8 Anterius Smith, to develop the lineups, correct?

9 A Yes, ma'am.

10 Q And those were shown to Mr. Vassey, correct?

11 A Yes, ma'am.

12 Q And he picked out Anterius Smith, correct?

13 A Yes, ma'am.

14 Q And the lineup with that search material was shown to
15 Brittany Whisnant, correct?

16 A Yes, ma'am.

17 Q And she picked out Anterius?

18 A Yes.

19 Q Correct?

20 A Yes, ma'am.

21 SOLICITOR BARRY: Your Honor, I have no further
22 questions.

23 THE COURT: Thank you, sir. You may step down. Watch
24 your step as you're stepping down if you would. Any of the
25 exhibits, just leave them right there where you are and

1 we'll collect them.

2 THE WITNESS: Thank you.

3 THE COURT: Thank you, sir.

4 All right. Ladies and gentlemen, this is -- we're
5 gonna take a brief recess, let you stretch your legs, go to
6 the restroom if you need to. I need to remind you of my
7 ongoing instruction to you.

8 Do not have any discussions among yourselves or with
9 anyone else about anything involving the case, and do not do
10 any type of independent research or investigation. But, if
11 you would, you may go with the bailiff and we'll get you
12 back just shortly.

13 Thank you very much.

14 (WHEREUPON, the following takes place outside the
15 presence of the jury.)

16 THE COURT: Anything for the record before we take a
17 break?

18 SOLICITOR BARRY: Nothing from the State, Your Honor.

19 THE COURT: All right. Lawyers want to approach for a
20 moment?

21 (WHEREUPON, a bench conference was held at this time.)

22 THE COURT: All right. we'll take a short recess.

23 (WHEREUPON, a short recess was taken at this time.)

24 THE COURT: All right. I am in the process of doing
25 the jury charges. So, you know, as you can feed them to me,

1 the request to charge, you can. We don't need them now.
2 Just whenever.

3 Anything before we bring the jury back in?

4 SOLICITOR BARRY: Nothing from the State, Your Honor.

5 MR. EPPS: Real quick on that point, Your Honor, and I
6 mentioned this to Ms. Barry yesterday.

7 There's a recent Court of Appeals case, State versus
8 John Ernest Perry, it's an April 21st decision of this
9 year. So, I found it in an E blast. It does deal with the
10 jury charge on attempted murder.

11 To be candid with the Court, I have read it a number of
12 times. I pulled it because I have an attempted murder, the
13 Hollis case, came back and Ms. Barry and I can talk about it
14 the other day, I still get a little cross eyed reading it.
15 But it was a reverse and remanded because of the jury charge
16 on attempted murder. So, I think it's probably something we
17 should pay some attention to. If -- frankly, to me, is not
18 a very clear decision. But put that out there for what it's
19 worth.

20 THE COURT: Do you have a copy of it?

21 MR. EPPS: I have my copy. I do not have an extra
22 copy. But I'll be happy to hand it to your clerk, and if
23 you want to make a copy of it.

24 THE COURT: All right. What we'll do is I try to get
25 the jury charges done in advance so that then we have a

Tyler Vassey - Direct examination
by Solicitor Barry

1 chance to do a charge conference prior to jury selection.
2 So, gives y'all a chance to review it.

3 All right. All right. Well, let's bring the jury in.

4 (WHEREUPON, the following takes place within the
5 presence of the jury.)

6 THE COURT: Is the State ready to call their next
7 witness?

8 SOLICITOR BARRY: State's ready, Your Honor.

9 THE COURT: Yes, ma'am.

10 SOLICITOR BARRY: State would call Tyler Vassey to the
11 stand.

12 THE COURT: Come on around, sir. Let the clerk swear
13 you in.

14 THE CLERK: Please raise your right-hand. Place your
15 left-hand on the Bible.

16 THE WITNESS: Yes, ma'am.

17 TYLER VASSEY, being first duly
18 sworn, testified as follows:

19 THE COURT: Yes, ma'am.

20 SOLICITOR BARRY: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY SOLICITOR BARRY:

23 Q Mr. Vassey, could you state your whole name for the
24 jury please?

25 A Tyler Chase Vassey.

Tyler Vassey - Direct examination
by Solicitor Barry

1 Q And how old are you?

2 A Twenty-four years old.

3 Q And are you employed anywhere?

4 A Yes, ma'am.

5 Q Where are you working?

6 A Ameritreads.

7 Q And how long have you been working there?

8 A Past three years.

9 Q And were you working anywhere on March the 28th of
10 2017?

11 A Not on the books, no, ma'am. I was helping my dad.

12 Q Okay. And what were you helping your dad do?

13 A They were in the process of moving houses. I was
14 helping them pack all their -- everything and he has a lot
15 of tools and equipment we were getting together.

16 Q Okay. And do you know Anterius Smith?

17 A I do.

18 Q How do you know Mr. Smith?

19 A Well, we went to school together.

20 Q And how long did y'all go to school together?

21 A He was a couple years older than me. So, briefly.

22 Q Okay. Was it high school that y'all went together or
23 middle school and high school?

24 A I believe both.

25 Q All right. And you knew who he was on March the

Tyler Vassey - Direct examination
by Solicitor Barry

1 28th of 2017?

2 A Yes, ma'am.

3 Q That day -- what were you doing that day?

4 A I was helping my dad move everything that he had that
5 day to move and he had gave me a turkey cooker and I knew
6 that somebody wanted to buy it. So, he dropped me off at
7 her brother's house. He said that she was home, and then
8 Brittany Whisnant was at that same house, and I asked her to
9 give me a ride to 505 Holly Street and---

10 Q Okay. Let's kind of back up and clear some things up.
11 You said that -- whose house were you dropped off at?

12 A Tony Smith.

13 Q And who is Tony Smith?

14 A A good friend of mine.

15 Q And does he live there with anybody or did he live
16 there with anybody else at the time?

17 A His grandmother.

18 Q Okay. Do you know who that was?

19 A Dora.

20 Q Okay.

21 A I'm not sure of her last name.

22 Q And who were you dropping off the cooker to?

23 A Tisa.

24 Q And Tisa is related to them how?

25 A It's Tony's sister.

Tyler Vassey - Direct examination
by Solicitor Barry

1 Q Okay. And did you have reason to believe that she
2 would be at that house?

3 A She said she would, yeah.

4 Q Okay. But she was not at that house, correct?

5 A I didn't see her.

6 Q Okay. So, they take you to the 505 Holly Street
7 address you said, correct?

8 A Yes, ma'am.

9 Q And I am going to show you what has been made State's
10 Exhibit 4, 5, and 6.

11 Can you just look at those and tell me if you recognize
12 them or not?

13 A Yes, ma'am, this is 505 Holly Street.

14 SOLICITOR BARRY: Okay. And those have already been
15 admitted into evidence, Your Honor.

16 Permission to publish them to the jury?

17 THE COURT: Yes, ma'am.

18 Q And, Mr. Vassey, you may have to step down to be able
19 to see these.

20 Can you see that from there?

21 A Might have to turn the light back on.

22 SOLICITOR BARRY: Can you turn the light back on?

23 There we go.

24 Okay. Can you see what this---

25 A Yes, ma'am.

Tyler Vassey - Direct examination
by Solicitor Barry

1 Q Okay. What, what is that?

2 A That's the house where I was shot at.

3 Q Okay. What's the address of that house again?

4 A 505 Holly Street.

5 Q And that's within the city limits of Gaffney?

6 A Yes, ma'am.

7 Q Here in Cherokee County?

8 A Yes, ma'am.

9 Q Okay. That's State's Exhibit 6. This is going to be
10 State's Exhibit 4.

11 Can you tell the jury what that is?

12 A That is Holly Street.

13 Q Okay. So, when you are dropped off at Holly Street or
14 when you get to Holly Street, you're not dropped off, where
15 does the car park that Brittany Whisnant is driving?

16 A It's on the left side of the road right in front of the
17 trashcans going towards the curve---

18 Q Okay.

19 A ---at the end of the driveway.

20 Q And you are in the passenger's seat?

21 A Yes, ma'am.

22 Q And Brittany Whisnant is the driver?

23 A Yes, ma'am.

24 Q And you get out of the car, correct?

25 A Yes, ma'am.

Tyler Vassey - Direct examination
by Solicitor Barry

- 1 Q where is the turkey cooker is what we're gonna call it?
2 where was that?
- 3 A It's in the back, back passenger side --
- 4 Q Okay.
- 5 A -- of the vehicle.
- 6 Q So you get out and you get that out of the car?
- 7 A Yes, ma'am.
- 8 Q Okay. Do you take it up to the house?
- 9 A I didn't make it that far.
- 10 Q Okay. When you get there, is there anybody in the yard
11 here at 505 Holly?
- 12 A Multiple people.
- 13 Q Do you recognize any of them?
- 14 A A couple.
- 15 Q Who do you recognize?
- 16 A Meryl Lindsay, Phaedra Hall, Anterius Smith, Ridge
17 Crosby, and there were other people there I didn't get a
18 good look at.
- 19 Q And do you speak to any of the individuals in the yard?
- 20 A I gave Phaedra a hug. It was her birthday that day.
- 21 Q Okay. Does anybody else speak to you?
- 22 A Anterius.
- 23 Q And when Anterius speaks to you, what does he say?
- 24 A He told me to get back in the car and leave.
- 25 Q And do you reply back?

Tyler Vassey - Direct examination
by Solicitor Barry

1 A I did. That was -- he had a firearm drawn at that time
2 and I put my hands up and said I will, I'll leave, just,
3 just let me sit this on the porch, the turkey cooker, and
4 leave it there for Tisa, and I'll leave. And then he told
5 me to get back in the car again, and I didn't have time to
6 do anything else, and then I was shot.

7 Q Okay. So, the car is on this side of the road?

8 A Yes, ma'am.

9 Q Where is Anterius standing when he tells you to get
10 back in the car?

11 A May I approach the --?

12 Q You can step down if you want and---

13 A Yeah.

14 Q ---point.

15 (WHEREUPON, the witness steps down from the stand.)

16 A In this general area right here.

17 (WHEREUPON, the witness returns to the stand.)

18 Q Okay. Does he come up to the car?

19 A About a foot away from it.

20 Q Okay. And when he shoots you, is it from across the
21 car?

22 A Towards the trunk.

23 Q Okay. And you're standing at the back passenger door?

24 A Yes, ma'am.

25 Q Okay. And after he shoots you, what happens?

Tyler Vassey - Direct examination
by Solicitor Barry

1 A I fall to the ground. The -- it actually knocked me to
2 the ground. He comes around the back of the vehicle, stands
3 over the top of me, pointing and presenting again. Told me
4 I told you to get back in the car and I said I'm trying and
5 I crawled into the passenger side of the vehicle and
6 instructed Brittany to please take me to the hospital and we
7 drove off.

8 Q Okay. And where on your body does Anterius shoot you?

9 A Right above my, my right collar bone.

10 Q Okay. And is it a through and through?

11 A Yes, ma'am.

12 (WHEREUPON, a T-shirt was marked as State's Exhibit No.
13 7 for identification purposes only at this time.)

14 Q Okay. I'm gonna show you what's been premarked as
15 State's Exhibit 7.

16 Do you recognize this, Mr. Vassey?

17 A Yes, ma'am.

18 Q What is this?

19 A That is the shirt I was wearing was that night --

20 Q Okay.

21 A -- on the 28th.

22 Q And were you wearing this shirt when you got to the
23 hospital?

24 A Yes, ma'am.

25 Q Did the hospital take it off of you?

Tyler Vassey - Direct examination
by Solicitor Barry

1 A Yes, ma'am.

2 SOLICITOR BARRY: Okay. Your Honor, at this time I'd
3 like to admit State's Exhibit 7 into evidence.

4 MR. EPPS: No objection.

5 THE COURT: Without objection, be State's 7.

6 (WHEREUPON, State's Exhibit No. 7 was received into
7 evidence at this time.)

8 Q And, Tyler, if you could, if you want to step down?

9 A (WHEREUPON, the witness comes down from the stand.)

10 SOLICITOR BARRY: Permission to publish this to the
11 jury, Your Honor?

12 THE COURT: Yes, ma'am.

13 Q Hold, hold up your shirt---

14 MR. EPPS: Can I approach too just so I can see?

15 THE COURT: Yes, sir.

16 MR. EPPS: Thank you.

17 Q Hold up your shirt and point out where the bullet goes
18 in and where it comes out if you can.

19 A Right here near my neck and both -- right above my
20 collarbone and exits my right shoulder right here.

21 Q Okay, Mr. Vassey.

22 A (WHEREUPON, the witness returns to the stand.)

23 Q Mr. Vassey, is the individual who shot you in the
24 courtroom today?

25 A Yes, ma'am.

Tyler Vassey - Direct examination
by Solicitor Barry

1 Q Could you point him out for the jury please?

2 A At the defense table.

3 Q What's he wearing?

4 A Gray shirt, blue mask.

5 SOLICITOR BARRY: Okay. Your Honor, let the record
6 reflect that Mr. Vassey has pointed out the Defendant as the
7 shooter.

8 (WHEREUPON, the Court nods affirmatively.)

9 Q So you said, when he shot you, you fell to the ground?

10 A Yes, ma'am.

11 Q Okay. You were able to get back in the car, correct?

12 A Yes, ma'am.

13 Q And Brittany was the one that took you to the hospital?

14 A Yes.

15 Q Do you remember what the gun looked like?

16 A It was a snub nosed revolver.

17 Q Okay.

18 A Black.

19 Q And after he shot you, do you know what he did,
20 Mr. Smith?

21 A I didn't see what he did. Everyone later told me he
22 had fled the scene.

23 Q Okay. And you said that you knew the Defendant from
24 school, right?

25 A Yes, ma'am.

Tyler Vassey - Direct examination
by Solicitor Barry

1 Q And had you hung out with Mr. Smith prior to the
2 shooting incident?

3 A Not directly. We were at the same house on two or
4 three occasions --

5 Q Okay.

6 A -- with mutual friends.

7 Q And the Tony Smith that you mentioned earlier, is he
8 related to Anterius Smith?

9 A I believe so.

10 Q Okay. And, after the shooting, did you spend time with
11 Anterius Smith?

12 A No, ma'am, not directly.

13 Q Okay. Did you spend time with his family members?

14 A Yes.

15 Q Okay. After this incident, were you ever approached by
16 the Defendant again?

17 A Once.

18 Q And kind of describe that encounter for the jury.

19 A Slightly awkward at first as you can imagine. Said he
20 was sorry. He was drunk. Then offered to pay my medical
21 bills for -- if I would lie to the police and write a
22 statement saying that he didn't do it, and I was poor at the
23 time, had no money coming in, and it sounded like a good
24 idea at the time, but --.

25 Q Did you -- did you make a statement to the Defendant

Tyler Vassey - Direct examination
by Solicitor Barry

1 that he was not the shooter?

2 A Yes, he paid me \$50.00 and I think he recorded it on
3 his cell phone --

4 Q Okay.

5 A -- yeah, me saying I didn't do it. But it was just
6 from the bribery.

7 Q And it wasn't something that you came up with?

8 A No.

9 Q Did he -- how did -- how did he approach you to do
10 this?

11 Did he write it down or---

12 A Yes, he had a notepad and he had a little speech and a
13 short paragraph wrote -- written down on the notepad, and
14 had me read it to the phone.

15 Q Okay. Tyler, how has this affected you physically?

16 A Pretty bad. The first year I, I could not use -- I
17 couldn't lift my right arm fully extended. To this day, it
18 is still significantly smaller than my left arm. It's --
19 especially with the type of work that I do, hanging iron,
20 structural steel and everything, I mean you, you really need
21 your strength. So, it's an every day battle that I'm still
22 dealing with to this day.

23 Q Okay. And how long were you in the hospital?

24 A Four days I believe.

25 Q And, Tyler, you have a conviction for breach of trust

Tyler Vassey - Direct examination
by Solicitor Barry

1 on your record.

2 Is that correct?

3 A Yes, ma'am.

4 Q From 2016?

5 A Yes, ma'am.

6 Q And a possession of methamphetamine conviction from
7 2017?

8 A Yes, ma'am.

9 Q And it is your testimony for the jury today that
10 Anterius Smith is the one that shot you?

11 A Yes, ma'am.

12 Q And let me just ask this last question.

13 Can you remember about how far away he was when he shot
14 you?

15 A Four to five feet.

16 Q Okay.

17 A It wasn't really---

18 Q So, pretty close?

19 A Yes, ma'am.

20 Q And then he comes around the car, let me use this
21 picture as an example, he comes around the car this way and
22 stands over you?

23 A Yes, ma'am.

24 Q And he's pointing the gun at you then as well?

25 A Yes, ma'am, and continued to point as we drove off.

Tyler Vassey - Direct examination
by Solicitor Barry

1 Q All right. Did you give law enforcement Anterius's
2 name the night that you were shot?

3 A No, ma'am, I didn't know his name.

4 Q Okay. Throughout -- well, before he is charged with
5 it, are you ever able to figure out his name?

6 A Not his actual name, no, ma'am.

7 Q Okay. Did you try?

8 A I tried.

9 Q How did you try?

10 A I asked -- asking multiple people, multiple people,
11 family members. I didn't expect to give up any names cause
12 they're family.

13 Q Okay.

14 A Other people that weren't family. They were fearing
15 for their life if they said anything. So, I didn't get very
16 far.

17 Q And were you ever in fear for your life?

18 A At the beginning, yes.

19 Q And what do you mean by that?

20 A Well, I had no idea why I'd been shot. Didn't know if
21 there was an underlying reason. I'm very close to this
22 family. So, I still want to have a relationship with them
23 because they're close friends, and I didn't know if he would
24 be there, and I would be there, if it was on purpose, if it
25 was because he was under the influence, if it was an

Tyler Vassey - Direct examination
by Solicitor Barry

1 accident. I, I had no idea. Still to this day have no
2 idea.

3 Q Did you fear any type of retaliation if you went to law
4 enforcement with a name or --?

5 A Yes, first couple weeks.

6 Q Okay.

7 A But, after that, I figured I needed to nut, nut up.
8 Excuse my language. But --.

9 Q When, when he shot you, what were the thoughts running
10 through your head?

11 A Honestly didn't know where I was shot. Just knew that
12 it knocked me on the ground, and then I felt blood running
13 down my body, and I thought I was gonna die.

14 Q Uh-huh. (Affirmative).

15 A Gladly it wasn't as severe as I thought.

16 Q How did Anterius seem when he approached you?

17 A Under the influence of something.

18 Q And what, what was he doing that gave you that idea?

19 A Not severely staggering, but slightly stumbling---

20 Q Okay.

21 A ---and the way he was talking slightly slurred like he
22 had been drinking a lot.

23 Q Okay. And when he approached you on the other side of
24 the car, was the gun drawn at that point?

25 A Yes, ma'am.

Tyler Vassey - Direct examination
by Solicitor Barry

1 Q He was in the front yard, right?

2 A Yes, ma'am.

3 Q And when he approaches you, do you see him pull the
4 gun?

5 A Yes, ma'am.

6 Q Do you remember where he pulled it from?

7 A Front waist belt, belt line waist.

8 Q Okay. So the front of his pants?

9 A Yes, ma'am.

10 Q Okay. And does Brittany ever get out of the car?
11 Do you remember?

12 A I don't believe she did.

13 Q Okay. I have no further questions for this witness.
14 If you'll answer any questions that Mr. Epps has.

15 A Yes, ma'am.

16 MR. EPPS: Your Honor, could we approach for a second?

17 THE COURT: All right.

18 (WHEREUPON, a bench conference was held out of the
19 hearing of the jury at this time.)

20 THE COURT: All right. Ladies and gentlemen, this is
21 one of those times where I've got to address a matter of law
22 with the attorneys outside of your presence. So, I need to
23 remind you of my ongoing instructions not to have any
24 discussions among yourselves about anything involved in the
25 case as well as do not do any type of independent research

1 or investigation. But you may go with the bailiff and we'll
2 get you back just shortly.

3 (WHEREUPON, the following takes place outside the
4 presence of the jury.)

5 MR. EPPS: Your Honor, I've got a legal issue. I talk
6 loud. I might want to wait two seconds cause I don't want
7 them --.

8 (Pause.)

9 MR. EPPS: I have a legal issue that was just brought
10 to my attention by my client. I haven't been able to
11 investigate it.

12 Mr. Vassey has some we'll call bumps in the road.
13 There are some charges that have been nolle prosequi and
14 dismissed. Granted, those are not as -- not convictions. I
15 can't really get into those accept, Your Honor, my client
16 informs me that there may be a tie in issue as to a charge
17 that he received or an arrest he received that---

18 THE COURT: That he received or his---

19 MR. EPPS: That Mr. Vassey received that happens to be
20 very coincidental in a time nature as to his what I would
21 call participation in the investigation and prosecution of
22 this case.

23 Your Honor, I think I'm entitled to that information to
24 present a full, fair, and accurate defense in inquiring and
25 developing any motive for talking, participating in an

1 investigation where he may not have been, things of that
2 nature. I don't, I don't have any idea of what -- the law
3 enforcement file or what have you might say.

4 So, I don't know. The dates may not match up. But
5 this was an issue that I had. I know he's got the bumps in
6 the road, but they weren't convictions. However, Your --
7 excuse me, Your Honor. The timing of this could be very
8 relevant.

9 THE COURT: Well, what it is that you think that the
10 State needs to give you?

11 MR. EPPS: Your Honor, so generally when we get
12 discovery files, it will have what I call the LE file. I
13 have kind of what I went over with Detective Blanton, case
14 summary, things of that nature. It will have who's
15 involved. It will have names. I expect his name will be
16 involved and his charge. It will have dates and locations
17 and things of that nature.

18 Your Honor, I think I would be hard pressed if the
19 material shows an, an arrest from 2019. That -- that's not
20 involved. But I'm certain that there's something in the
21 2017 timeframe very close to the incident at hand.

22 So, I would be looking for what the Solicitor's Office
23 typically sends me is called an LE file.

24 THE COURT: All right. Help me out.

25 MR. EPPS: Yes, sir.

1 THE COURT: What is it you want them to give you?

2 MR. EPPS: I would like to, relative to Mr. Vassey and
3 his prior record, I would be looking for -- I'm trying to do
4 this based on a rap cause I've pulled all his
5 non-convictions out.

6 I guess the easiest way to say it, Your Honor, is this.
7 He has, of the dates on his rap sheet, some material in June
8 of 2017 and then also May of 2018. I know 2018 is a long
9 time after. I'm just trying to verify that that is an
10 actual arrest date of 2018, and I, I can't be certain of
11 that.

12 So I'm asking for the incident reports related to what
13 appears to be a, a drug charge. I'm trying to find a case
14 number. I got a warrant number that's a 20 -- it's a
15 2014A11010043, and then also 2018A111010044, 485, and then
16 down through looks like 489. And then I would also -- there
17 is a drug charge. It says custody status probation. I am
18 just needing to confirm that this date, since it is in time
19 with this instance, that this is his probation registry for
20 his prior meth charge.

21 THE COURT: Yes, ma'am.

22 SOLICITOR BARRY: Your Honor, Mr. Vassey has testified
23 that he does have this possession of methamphetamine on his
24 record. I think any extrinsic evidence would not be allowed
25 because he's testified that he does have it on his record

1 and he -- what it is is not relevant to this case.

2 The 2018 warrants that Mr. Epps is referring to, those
3 are almost a year after the incident date, and those charges
4 have been nolle prosequi.

5 So, it is the State's argument that those can not come
6 in. I don't think he has stated why he needs them, what he
7 expects it to show. I think it's just a fishing expedition
8 into Mr. Vassey's record for charges that he has not been
9 convicted of, for the most part, and he's already admitted
10 that he does have the possession of methamphetamine
11 conviction.

12 So, it is my argument that he is not not entitled to
13 that information.

14 THE COURT: Any reply?

15 MR. EPPS: Sure.

16 Here's why it's relevant, Your Honor. We have a
17 hesitant gunshot victim. He picks up a charge. He starts
18 cooperating and suddenly the charge goes away.

19 Now, I'm not saying that's exactly what happened. I
20 need to verify that or verify that I might be able to make
21 that argument. But to say it's a fishing expedition, Your
22 Honor, in certain ways, I think my client's Constitutional
23 rights require at least the ability to go fishing. I'm not
24 saying I'm putting it in. But I, I think that's awfully --
25 if that happens, that would be awfully interesting that that

1 just merely coincidentally happened.

2 THE COURT: All right. Thank you very much.

3 Mr. Vassey, if you would, watch your step as you're
4 stepping down. You may step down.

5 Okay. We're gonna take a lunch break.

6 I'm gonna instruct Mr. Vassey that you are in the
7 process of giving testimony. So you can not have any
8 discussions with anyone about the substance of your
9 testimony. If they try to do that, you need to let the
10 solicitor know. She'll inform me. Those people will be
11 held in contempt and possibly you if you're the one who
12 instigates the conversation.

13 Mr. Epps, what I'll do is I'm going to instruct the
14 solicitor to do their best, while during the lunch break, to
15 give you the information that you seek. I believe that he
16 is entitled to take a look at it especially since this is
17 the victim in this case, and given the fact that the victim
18 has acknowledged, and to his credit, has acknowledged that
19 he does have a prior criminal record, it does lead the Court
20 to the inference that there possibly could be something out
21 there that might be exculpatory that he is entitled to under
22 Brady or Rule 5.

23 So, take a look at it. By no means am I saying that
24 the solicitor is right or wrong because you have not even
25 offered it to be admitted. So I am not making any decision

1 concerning admissibility of any of this. But I do believe
2 that you do have a right to take a look at it.

3 Depending on what is found, I will, after the lunch
4 break, I then would address any other motions or wanting to
5 receive an update.

6 Now, with that being said, what I would propose is let
7 me bring the foreperson out here and let me instruct the
8 foreperson that it's now time for lunch. Let him then tell
9 the rest of the jury.

10 Bring the foreperson out.

11 (WHEREUPON, the Foreperson enters the courtroom at this
12 time.)

13 THE COURT: Mr. Foreperson?

14 THE FOREPERSON: Yes, sir.

15 THE COURT: Thank you for your service today.

16 what we're gonna do and what you have to do in, in your
17 job as foreperson is to relate this message to the jury.

18 I've got to take up some more things with the lawyers.

19 It's -- given the hour that it is, I think it's the smart
20 thing to do. Let's just take a lunch break for the jury.

21 Remind them of my ongoing instruction. Don't do any
22 type of independent investigation. Do not have discussions
23 with any of the things -- with anybody about the case.

24 Given that I've got it's twelve o'clock, ask them to be back
25 in the jury room back in the courthouse by 1:30.

1 THE FOREPERSON: 1:30.

2 THE COURT: Can you do that for me?

3 THE FOREPERSON: Absolutely.

4 THE COURT: Thank you, sir.

5 THE FOREPERSON: All right.

6 THE COURT: Yes, sir.

7 (WHEREUPON, the Foreperson leaves the courtroom at this
8 time.)

9 THE COURT: All right. So we will step down. I will
10 see y'all about 1:30. I'll be around if I'm needed during
11 the break. But do what you can about getting Mr. Epps the
12 information he seeks.

13 okay?

14 SOLICITOR BARRY: Thank you, Your Honor.

15 (WHEREUPON, Court was in recess for the lunch break.)

16 THE COURT: All right. I'm told that we're ready to
17 bring the jury back.

18 Sir, you want to come back up here, Mr. Vassey?

19 THE WITNESS: Yes, sir.

20 THE COURT: Just need to remind you that you remain
21 under oath.

22 okay?

23 THE WITNESS: Yes, sir.

24 THE COURT: Watch your step as you're stepping up.

25 All right. Let's bring the jury back.

Tyler Vassey - Cross-examination
by Mr. Epps

1 (WHEREUPON, the following takes place within the
2 presence of the jury.)

3 THE COURT: Yes, sir, Mr. Epps.

4 MR. EPPS: Thank you, Your Honor.

5 May I proceed with my cross-examination?

6 THE COURT: Yes, sir.

7 MR. EPPS: Thank you.

8 CROSS-EXAMINATION

9 BY MR. EPPS:

10 Q Mr. Vassey, this is what -- we ran into each other
11 yesterday at Boston Annie's. But prior to that, the first
12 time we'd ever met was here that day.

13 Correct?

14 A Yes, sir.

15 Q We never talked on the phone or anything like that?

16 A No.

17 Q I don't think we'd seen each other prior to yesterday.

18 A No.

19 Q Okay. All right. Ameritreads?

20 A Yes, sir.

21 Q Sounds like a tire company.

22 A (WHEREUPON, the witness nods negatively.)

23 Q No.

24 A It's a---

25 Q What, what do you do?

Tyler Vassey - Cross-examination
by Mr. Epps

1 A Structural steel.

2 Q Uh-huh. (Affirmative).

3 A Specialize in handrail, stairs. Like industrial
4 stairs.

5 Q Okay.

6 A Miscellaneous iron, stuff like that.

7 Q Do you weld?

8 what, what do you do?

9 A welding.

10 Q Okay. So when you're welding, are you welding stair
11 rails?

12 A They come prefabbed --

13 Q Okay.

14 A -- and we put them together so to say.

15 Q Specifically for you, what is it that you do?

16 A All of it.

17 Q Okay. You pick stuff up and things of that nature.

18 All right. Prior to that -- so you, you said the last
19 three years -- it's 2021. So 2018 is when you started.

20 A Yes, sir.

21 Q All right. Prior to that, before you -- you're 24?

22 A Yes, sir.

23 Q Three years ago you're 21?

24 A (WHEREUPON, the witness nods affirmatively.)

25 Q What did you do 21 -- from, from the age of 18 to 21?

Tyler Vassey - Cross-examination
by Mr. Epps

1 A worked in a steel fab shop when I was 18. Right after
2 that I worked for my dad, machine tool company.

3 Q Okay.

4 A And then after that I just started doing side jobs for
5 a little bit until I am where I am now.

6 Q where'd you live?

7 A 607 Beach Street at the time of this incident.

8 Q Okay. 607 Beach is not too terribly far from where you
9 were shot?

10 A Correct.

11 Q A city block or so away, right turn here maybe, or left
12 turn depending on which way you go.

13 Is that right?

14 A Yes, sir.

15 Q Okay. In terms of preparing for today, have you
16 reviewed any body cam footage?

17 A No, sir.

18 Q Have you reviewed any forms or documents?

19 A No, sir.

20 Q Are you aware that you signed a witness form in this
21 case?

22 A At the time of the shooting or at the inter -- initial
23 interview?

24 Q (WHEREUPON, Mr. Epps nods affirmatively.)

25 A I may have.

Tyler Vassey - Cross-examination
by Mr. Epps

1 Q All right. So let -- I want to make sure I'm crystal
2 clear just so I'm, again, making a record.

3 Are, are you aware of any statement in this case that
4 is somehow attributable to you, that either is --?

5 A I don't understand.

6 Q Did you write a statement in this case?

7 A I believe so. I don't remember. I might not have
8 because I lost the use of my right arm and I'm right-handed.
9 So, I wouldn't have been able to write a statement. I may
10 have spoken and an officer may of written it for me.

11 Q Okay.

12 A I do not recall.

13 Q Let, let me see if I can help you out.

14 May I approach, Your Honor?

15 THE COURT: Yes, sir.

16 Q Do you recognize these two sheets of paper?

17 A Yes, sir.

18 Q When's the last time you saw those?

19 A Probably when they were written.

20 Q All right. Well let's help the jury out.

21 Do you -- is there a date on it?

22 A 5/3/17.

23 Q May 3rd, 2017. Page 2 at the bottom right there's a
24 signature on it.

25 Is that your signature?

Tyler Vassey - Cross-examination
by Mr. Epps

- 1 A Yes.
- 2 Q Do you have any doubt that that is your signature?
- 3 A No, it's mine.
- 4 Q You---
- 5 A well, it's the best I could do at that time.
- 6 Q Do you have any doubt that is the witness form for
- 7 Tyler Vassey?
- 8 A This is it.
- 9 Q This is it?
- 10 A This is --
- 11 Q Okay.
- 12 A -- the form.
- 13 Q Okay. At the top of that form it says it's written by
- 14 Detective Blanton or something to that effect.
- 15 Is that right?
- 16 A Yes, at my request.
- 17 Q Okay. Can you, can you read that statement?
- 18 A The full statement?
- 19 Q At the top.
- 20 A Oh, at the top. Statement written by Detective Blanton
- 21 at the request of Tyler Vassey.
- 22 Q And does that refresh your recollection?
- 23 A Yes, sir.
- 24 Q You now remember it?
- 25 A Yes.

Tyler Vassey - Cross-examination
by Mr. Epps

1 Q Okay. Thank you so much.

2 (Pause.)

3 Q The day of the incident, where were you living?

4 A 607 Beach Street.

5 Q Were you there when Brittany picked you up?

6 A No.

7 Q Okay. Where had you been?

8 A I believe it's five houses down on the opposite side of
9 the street. It's Tony Smith's grandmother's house. That's
10 where Brittany was at.

11 Q Do you know what Tony Smith's grandmother's name is?

12 A Dora.

13 Q Tell me about your interaction with the Smith family.
14 Had you been there before --

15 A Yes.

16 Q -- on occasion?

17 A Uh-huh. (Affirmative).

18 Q Why?

19 A Me and Tony Smith were friends.

20 Q Did you eat there?

21 A I have before.

22 Q Did you party there?

23 A Somewhat. Barbecues and stuff like that.

24 Q Okay. How about after?

25 Did you interact with the family -- Smith family after

Tyler Vassey - Cross-examination
by Mr. Epps

1 you were shot?

2 A Yes.

3 Q How many times?

4 A Multiple.

5 Q How soon after you were shot did you interact with the
6 Smith family?

7 A A couple weeks afterwards.

8 Q And who all did you see?

9 Did you see Tony?

10 A Yes.

11 Q Did you see Tisa?

12 A I may have.

13 Q Okay. Did you see Anterius?

14 A Once or twice.

15 Q How soon after you were shot did you see Anterius?

16 A At least a month --

17 Q Okay. So---

18 A -- or two.

19 Q April 28th?

20 A A month, yeah. A month or two afterwards. I don't
21 remember exactly the date.

22 Q All right.

23 A Didn't write it down.

24 Q Was that the point where you felt you were scared about
25 retaliation?

Tyler Vassey - Cross-examination
by Mr. Epps

1 A No, before that.

2 Q Before that you, you were scared of retaliation?

3 A (WHEREUPON, the witness nods affirmatively.)

4 Q Okay. So at some point something happened to make you
5 feel safe enough to go by the Smith family?

6 A Well, it wasn't -- he wasn't there very often to my
7 knowledge. He didn't---

8 Q So---

9 A He didn't live there. It was -- my friend Tony lived
10 there. I was going to see him. There was no knowledge to
11 my -- to my knowledge, he wasn't there very often. So,
12 there would be no reason not to go to a house where he's not
13 at.

14 Q Do you know my client is charged with attempted murder
15 of you, right?

16 A Yes, sir.

17 Q Do you believe he attempted to kill you?

18 A I wholeheartedly believe he shot me. I have no idea
19 the intention.

20 Q Okay.

21 A But I do know that he shot me.

22 Q If I asked you questions about things that you said
23 when you were in the hospital that are on body cam, you, you
24 wouldn't know left from right on that because you haven't
25 watched the body cam, have you?

Tyler Vassey - Cross-examination
by Mr. Epps

1 A I haven't seen any body cam footage, no.

2 Q If I told you that you told the officers it was
3 somebody named G.G., would you have any reason to disagree
4 with me?

5 A No, I said that. It's the same person.

6 Q You said that at the hospital?

7 A Yes.

8 Q You said you knew the person. You went to school with
9 him.

10 A I believe that I had went to school with him, yes.

11 Q Okay. Anybody ever show you a yearbook or an annual?

12 A No.

13 Q Did you ever buy yearbooks or annuals when you were in
14 school?

15 A Yes, sir.

16 Q Did you have them at your house?

17 A I didn't have them.

18 Q Did you -- where did you keep them?

19 A Well, my dad was in the process of moving. So,
20 everything was all mixed up.

21 Q Got you.

22 A I didn't have direct access to them.

23 Q Did you not think to try to assist law enforcement by
24 locating a yearbook and saying here's the guy?

25 A Yes, sir.

Tyler Vassey - Cross-examination
by Mr. Epps

- 1 Q But you never did that?
- 2 A Never found the yearbooks.
- 3 Q Did Detective Blanton bring you any yearbooks?
- 4 A No, sir.
- 5 Q How do you know Brittany Whisnant?
- 6 A We met through mutual friends I believe.
- 7 Q Y'all just hang out together?
- 8 A Yes, sir.
- 9 Q That's it?
- 10 A (WHEREUPON, the witness nods affirmatively.)
- 11 Q That, that night, was anything out of the ordinary?
- 12 A No, sir.
- 13 Q Were you fully aware of yourself and have complete
- 14 control of your faculties?
- 15 A Yes, sir.
- 16 Q You weren't drunk?
- 17 A No, sir.
- 18 Q Didn't have any of that meth going on at that point in
- 19 your life?
- 20 A No, sir.
- 21 Q But, but the plea to that meth charge was what, June of
- 22 2017?
- 23 A I don't recall.
- 24 Q Here. Let me --.
- 25 A I don't know.

Tyler Vassey - Cross-examination
by Mr. Epps

1 MR. EPPS: May I approach?

2 THE COURT: Yes, sir.

3 MR. EPPS: Thank you, Your Honor.

4 Q Hand you a document. See if you remember it.

5 A Yes, sir.

6 Q And in the upper right-hand portion of that document
7 title in bold sentencing sheet, correct?

8 A Yes, sir.

9 Q Okay. Lower or the upper left-hand corner and it's
10 State versus Tyler Vassey.

11 A Yes, sir.

12 Q All right. That -- that's the June, 2017, Sentencing
13 Sheet for you on your meth charge, correct?

14 A Yes, sir, it's a sentencing sheet.

15 Q Where you pled guilty to that charge, correct?

16 A Yes, sir, I pled guilty on that date.

17 Q Okay. Well, I just -- seemed like you didn't recall.

18 A All right. The actual date of the offense was
19 4/9/2016, a year prior to this incident.

20 Q That's when you got arrested?

21 A Yes, sir.

22 Q All right. So -- and that's when you stopped using
23 meth?

24 A On and off, yes.

25 Q On and off?

Tyler Vassey - Cross-examination
by Mr. Epps

1 A Yes, sir.

2 Q Okay.

3 A At the time of this incident I was not under the
4 influence.

5 Q Of anything?

6 A No, sir.

7 Q Sober as the judge?

8 A Yes, sir, I'm not allowed around my family. I was not
9 at that time allowed around my family and my siblings if I
10 was under the influence. So, I wouldn't have been with my
11 dad and step-mom helping them if I was under the influence
12 of anything. They would of noticed. They wouldn't have
13 allowed me to be around.

14 Q You said something earlier today, when this person came
15 around you, had a gun, and, and you're on the ground, you
16 said this person was -- had the gun and was, how do you say,
17 pointing and presenting?

18 Do you recall saying that?

19 A Yes, sir, I remember saying that.

20 Q That just sounds very lawyerly.

21 How do you -- how did that come about that you, you can
22 just say pointing and presenting?

23 A Watch a lot of TV.

24 Q Understood.

25 And, and, you know, it seems, after this -- after you

Tyler Vassey - Cross-examination
by Mr. Epps

1 were shot, you got law enforcement somewhat in your life
2 talking to you and things of that nature, right?

3 A Yes, sir.

4 Q Okay. But you say you, you were concerned about this
5 retaliation.

6 A Yes, sir.

7 Q who retaliated against you?

8 A Nobody retaliated against me. I was in fear of
9 retaliation.

10 Q And, and you---

11 A Possible retaliation.

12 Q I'm sure that you probably had the ability to call
13 Detective Blanton if anything came across -- come across
14 your desk is a bad use of the word.

15 If anything scared you, you could call Detective
16 Blanton and say hey, I'm being harassed. I need you to
17 check this out.

18 A Yes, if I needed to I'm sure I could of called him.

19 Q I'm not aware of there being any such call whatsoever.

20 A There wasn't.

21 Q You paid my client \$50.00?

22 A He paid me 50.

23 Q Oh, he paid you \$50.00?

24 A Uh-huh. (Affirmative).

25 Q Oh.

Tyler Vassey - Cross-examination
by Mr. Epps

1 And he did what, recorded something on his cell phone?

2 A Yeah.

3 Q Where is it?

4 A No idea.

5 Q Did you have a cell phone at the time?

6 A No, sir.

7 Q So, this guy shoots you and we're here today about
8 attempted murder. So, it's not just a shoot, but he
9 attempted to end your life. He then pays you 50 bucks and
10 records some statement with you on his cell phone.

11 A Yes.

12 Q Okay. When did you call and tell Detective Blanton
13 about that?

14 A I don't recall.

15 Q When did you tell the Solicitor's Office about that?

16 A I don't recall the exact time or date.

17 Q When did you tell them hey, go get a search warrant on
18 this guy because this just happened?

19 A I didn't. Trying to avoid conflict I guess you could
20 say.

21 Q Where were you when this story took place?

22 A At Dora Smith's house. I think her last name is Smith.

23 Q And that's the, the grandma?

24 A Yes.

25 Q Did you go to Dora Smith's house anytime after this

Tyler Vassey - Cross-examination
by Mr. Epps

1 \$50.00 cell phone deal happened?

2 A Yes.

3 Q One of the things you're asking for is not just a, a
4 criminal conviction on my client, but you're also seeking
5 restitution from my client, aren't you?

6 A Yes, sir.

7 Q How much money have you paid in this?

8 A Me personally paid?

9 Q Yes, you, Tyler Vassey.

10 A Approximately, out-of-pocket, about a thousand dollars
11 in total.

12 Q Okay. Are you aware of any group called the State
13 office of Victim's Assistance sometimes known as SOVA?

14 A Possibly.

15 Q Did SOVA pay any of your bills?

16 A Not to my knowledge.

17 Q How much were your bills?

18 A A little over 15 grand.

19 Q So you've paid a thousand?

20 A Uh-huh. (Affirmative).

21 Q That's 14 grand.

22 where -- you -- you're getting bills in the mail for
23 \$14,000 or what?

24 A I've been getting them for the past four years. I
25 didn't pay them except for initially there was like a

Tyler Vassey - Cross-examination
by Mr. Epps

1 \$600.00 payment I believe, and then I didn't have the money
2 to pay them cause I was just doing odd jobs and side jobs.
3 So, I just let it rack up, and then eventually, this year,
4 they took my tax return for them. So, that would be the
5 remaining amount that come out of my pocket.

6 Q You want that bill paid?

7 A It needs to be. It's not my debt. I didn't shoot
8 myself.

9 Q I'm not saying you did.

10 A I know.

11 Q How, how, how much are you seeking from my client in
12 restitution?

13 A Whatever I paid out-of-pocket and whatever is the
14 remainder, which I believe is \$54.00 if I'm correct. I
15 could be wrong.

16 Q 54?

17 A Yes, remaining balance.

18 Q So you're looking for a thousand and \$54.00 from my
19 client?

20 A If that's the correct number, yes.

21 Q Okay. You understand I don't have the burden of proof
22 on that, right?

23 A Yes.

24 Q Okay. You understand the bills come to your address
25 and not mine, right?

Tyler Vassey - Cross-examination
by Mr. Epps

1 A Yes.

2 Q Okay. Do you believe that people that are convicted of
3 a crime should pay back what has happened because of this
4 crime?

5 A Yes, I'd be the ethical thing to do.

6 Q Prior to your methamphetamine conviction, you also pled
7 guilty to breach of trust, didn't you?

8 A Yes, sir.

9 Q You received a sentence with 18 months of probation?

10 A Yes, sir.

11 Q My math seems to be off. You pled guilty January of
12 2016 to breach of trust. You received 18 months probation.

13 A Yes, sir.

14 Q What's 18 months after January 1st of 2016?
15 June of 2017 --

16 A Yes.

17 Q -- or July of 2017 actually.

18 A Somewhere in there, yes.

19 Q Okay. January's the first month, a year and a half
20 would be the seventh month of the following year.

21 A Yeah.

22 Q But you pled guilty to another crime in that time
23 period in, in June of 2017.

24 So, before the 18 months was up you pled guilty to
25 another crime?

Tyler Vassey - Cross-examination
by Mr. Epps

1 A Yes.

2 Q Okay.

3 A The probation ended early.

4 Q well, let, let me ask you about the breach of trust.
5 Did you ever pay any of that money back?

6 A Every bit of it.

7 Q You did?

8 A (WHEREUPON, the witness nods affirmatively.)

9 Q How much was it?

10 SOLICITOR BARRY: Objection, Your Honor. Relevance.

11 THE COURT: He's on cross-examination. She's (sic) got
12 a little bit more leeway on it. I'll let him go into it.

13 Q Let's see.

14 A It was at least 400 and something dollars.

15 Q 400?

16 A At least.

17 Q well --.

18 A I believe.

19 Q So, so let me ask you this.

20 You pled guilty to breach of trust greater than
21 \$10,000, did you not?

22 A Yes.

23 Q Much more than \$450.00 bucks?

24 A I apologize. The -- I don't believe there was a
25 restitution on the Cherokee County case. There was a -- I

Tyler Vassey - Cross-examination
by Mr. Epps

1 had a codefendant who had pawned some of the tools out of
2 the truck in Spartanburg County. And because it's hand of
3 one is hand of all in South Carolina, I was served a warrant
4 as well for that, and I paid the restitution in full for
5 what he had done because I was there. That's the 400 and
6 something dollars I was required to. I do not believe there
7 was a restitution amount on the breach of trust cause the
8 truck was recovered.

9 Q In that case, Brian Blanton was the one that issued the
10 arrest warrant, wasn't he?

11 A I do not recall.

12 MR. EPPS: May I approach?

13 THE COURT: Yes, sir.

14 Q Ask you to look at that document. See if that
15 refreshes your recollection.

16 A Brian Blanton.

17 Q And that's your arrest warrant for breach of trust
18 greater than a thousand or \$10,000?

19 A Yes, sir.

20 Q So you knew Detective Blanton?

21 A I knew the name. I was arrested by Spartanburg County,
22 transferred to Cherokee County, and then back to Spartanburg
23 County.

24 Q Did you feel you could trust Detective Blanton?

25 A I didn't know him. I assumed I could.

Tyler Vassey - Cross-examination
by Mr. Epps

1 Q Well -- all right. First time you met him was at
2 Spartanburg Regional, right?

3 A I believe so. To my -- to where I actually remembered
4 who he was, yes.

5 Q At any point in time did Detective Blanton give you the
6 feeling that he was not committed to this case?

7 A No.

8 Q Were, were you committed to this case?

9 A Yes.

10 Q So the night of the shooting, you were somewhere on
11 Beach Street, and I may be wrong. Help me out.

12 A At what point in the day?

13 Q Just prior to Brittany picking you up, where are you?

14 A Brittany didn't pick me up. I was at a house she was
15 at, and I asked her to give me a ride.

16 Q You haven't looked at Brittany's statement, have you?

17 A No.

18 Q Okay. Well, and to the best of your knowledge sitting
19 here today, you were at Tony's house?

20 A Yes.

21 Q 607 Beach?

22 A No, that would be my house.

23 Q Okay. Sorry.

24 A I think it's 503 Beach.

25 Q Okay.

Tyler Vassey - Cross-examination
by Mr. Epps

1 A I'm not a hundred percent sure on the number.

2 Q You were at Tony's house somewhere on Beach Street and
3 Brittany is also there?

4 A Yes.

5 Q So, if Brittany tells is -- says that you texted her,
6 that would be untrue?

7 A Yes.

8 Q Okay. What were y'all doing there?
9 Hanging out?

10 A I don't know what she was doing there. I arrived. She
11 walked out the front door. I asked if Tony was there. She
12 said yeah, he'll be out in a minute. He come outside. He
13 said we'll go to Tisa's house in a couple minutes. He said
14 see if Brittany will take you down there. I asked her. She
15 said yes. We got in the car and drove around the block, got
16 out, got right back in, went to the hospital.

17 Q All right. This pot, you say a turkey pot?
18 Are you talking---

19 A Yes.

20 Q ---30 gallon?

21 A No. Well, it was actually just the stand, the propane
22 stand.

23 Q Oh.

24 It wasn't a pot?

25 A No.

Tyler Vassey - Cross-examination
by Mr. Epps

1 Q So it's the cooker?

2 A Yes, it's the cooker.

3 Q You put the pot on it?

4 A Yes.

5 Q You got the thing -- the line for the gas and all that
6 stuff?

7 A Yes.

8 Q Okay. why, why would people say that it was a pot and
9 not the cooker?

10 A I don't know.

11 Q Okay.

12 A I mean that's -- when you say big pot cooker, that's
13 what people associate it with.

14 Q Yeah.

15 But you understand there's a big difference between the
16 cooker?

17 A well, there could of been a pot. But all that was
18 brought out of the vehicle was the stand.

19 Q well, was there a pot and the cooker?

20 A I don't believe so. It could of been.

21 Q So, Brittany's taking you to Tisa's house?

22 A Yes.

23 Q And she parks?

24 A Yes, sir.

25 Q Do you still happen to have a picture of the house in

Tyler Vassey - Cross-examination
by Mr. Epps

1 front of you?

2 A I do not.

3 Q Okay. I show you State's Exhibit No. 6.

4 This is the house, right?

5 A Yes.

6 Q Okay. State's Exhibit 4, just another shot of that
7 house, but it shows the roadway?

8 A Yes, sir.

9 Q Okay. I'm gonna hand you a photocopy of State's
10 Exhibit 4.

11 Your Honor, I did not ask earlier. I apologize.

12 May I approach?

13 THE COURT: Yes, sir.

14 Q Now, this is a photo copy of State's Exhibit 4. So
15 it's gonna have a, a---

16 A Uh-huh. (Affirmative).

17 Q ---photocopy of the sticker on it.

18 But just for the record purposes, you'll agree that the
19 color copy of State's Exhibit 4, the black and white copy I
20 just showed you, are the same pictures minus the color
21 difference?

22 A Yes.

23 Q Okay. All right, sir. Sir, I would like you to, with
24 a pen -- do you have a pen?

25 A I do not.

Tyler Vassey - Cross-examination
by Mr. Epps

1 Q Draw on this Exhibit 4, a copy, where the car was when
2 Brittany parked it.

3 A Just draw a square rectangle?

4 Q Sure.

5 A I don't have to make a whole doodle.

6 Q Don't have -- it don't have to look pretty.

7 A All right.

8 Q But now I, I will say this, do it in a way where the
9 jury has an idea of what it is that you were saying where
10 the car was located and everything.

11 A It's a big rectangle---

12 Q Sure.

13 A ---where the car was parked.

14 Q And I'm gonna get you to explain it.

15 A All right. Hard to see cause it's a dark picture in
16 there.

17 Q May I take a look?

18 A Yes, sir.

19 Q Thank you. You can keep the pen for a second.

20 Okay. Now, let's talk about what happened.

21 From the look on there, and I want to again explain it
22 real well, the car is off the road.

23 Is that right?

24 A Yes, sir.

25 Q Okay. You're in the front passenger seat. Brittany's

Tyler Vassey - Cross-examination
by Mr. Epps

1 driving, she'd be right -- she'd be on your left?

2 A Yes, sir.

3 Q Okay. She doesn't get out the car?

4 A I don't believe she did.

5 Q Ever?

6 A I don't believe so. But I wasn't paying attention to
7 her. I was paying attention to the gun pointed at me.

8 Q Well, prior to that, you were paying attention to
9 stopping and getting a pot or a cooker out of the car,
10 right?

11 A Yes. She was in the vehicle at the time I removed the
12 stand out.

13 Q Okay. You get out the car. You go to the back
14 passenger seat behind you and you get out the thing.

15 A Yes, sir.

16 Q Where do you go?

17 A I sit it behind the, behind the vehicle.

18 Q I tell you what.

19 Your Honor, may the witness step down and illustrate to
20 the jury this portion of his testimony?

21 THE COURT: If he can.

22 Now, Mr. Vassey, you're gonna step away from the
23 microphone. You need to really speak up because the court
24 reporter, who will be behind you, needs to hear you as well
25 as those last jurors up there.

Tyler Vassey - Cross-examination
by Mr. Epps

1 THE WITNESS: Yes, sir.

2 THE COURT: But you can -- watch your step as you're
3 stepping down.

4 (WHEREUPON, the witness comes down from the stand.)

5 Q And to maybe make things a littler easier, don't go too
6 far away from where you are so you'll be close to the court
7 reporter.

8 A Okay.

9 Q All right. So, where you're standing right now, let's
10 say that is the passenger door you just got out of.

11 All right?

12 A Yes, sir.

13 Q And your car is going this way.
14 well, however you want to do it. That way's fine too.

15 A There's more room over here.

16 Q All right. That's fine, yeah.

17 A All right.

18 Q What do you do?

19 A Got out. Left the door opened.

20 Q Okay.

21 A Back-door. Passenger side. Opened the door. Take the
22 stand out. Sit it at the taillight area. Phaedra walks up.
23 I told her happy birthday and give her a hug. She walks
24 off. I look back up. Anterius is standing on the other
25 side of the vehicle a couple feet away from the vehicle

Tyler Vassey - Cross-examination
by Mr. Epps

1 pointing and presenting, instructing me to get back in the
2 car, and leave.

3 I say all right. I will. Not trying to cause any
4 trouble. Just let me put this on for -- the porch for Tisa
5 and I'll get back in the car and I'll leave. Come back, pay
6 me later, whatever. I'm just trying to avoid a situation.
7 And he says it a couple more times. And before I can get in
8 the car, a shot goes off.

9 I fall to the ground beside the driver's side door -- I
10 mean front passenger door. I apologize. He comes around
11 the back of the vehicle, stands over the top of me, pointing
12 and presenting again. Says I told you to get back in the
13 car. I crawl into the vehicle, shut the door, and instruct
14 Brittany to drive me to the hospital.

15 Q P.J. -- and thank you. You can resume your spot.

16 A (WHEREUPON, the witness returns to the stand.)

17 Q Did you ask her to help you get this pot or move the
18 pot or this cooker or anything like that?

19 A Yeah, I may have. I think she said she would in a
20 minute.

21 Q She said she --?

22 A I, I believe, if I remember correctly, she said she'd
23 help me in a minute and that's when she walked off.

24 Q why would you need help with a cooker?

25 I mean they're not that big.

Tyler Vassey - Cross-examination
by Mr. Epps

1 A I don't know. I may have, may have had a pot. It
2 might of been two parts to it.

3 Q Okay.

4 A I don't remember exactly. I know for 100 percent fact
5 there was a stand. I do not, 100 percent, recall if there
6 was a pot to go with it.

7 Q Okay. So, it could be just a cooker. It could be a
8 cooker, a pot, and a lid.

9 A (WHEREUPON, the witness shrugs his shoulders.)

10 Q Do you recall?

11 A I recall there was a stand.

12 Q That's it.

13 A (WHEREUPON, the witness nods affirmatively.)

14 Q Okay. Was it dark?

15 A No.

16 Q Was it daylight?

17 A It was right before dusk.

18 Q Right before dusk.

19 What time?

20 A I do not know the exact time.

21 Q If you had to estimate, would you say it was between
22 the hours of eight o'clock and nine o'clock?

23 A I'd say between 7:00 and 9:00, yes, sir.

24 Q Between 7:00 and 9:00.

25 Okay.

Tyler Vassey - Cross-examination
by Mr. Epps

1 A It was still slightly light outside. So, it couldn't
2 have been too late.

3 Q Would you disagree -- well, how long did it take you to
4 get to the hospital?

5 A Probably like 10, 15 minutes.

6 Q Ten to fifteen minutes?

7 A No, maybe just 10 minutes. I don't know. Everything
8 was going fast.

9 Q Mr. Vassey, you're, you're aware that there was some
10 documentation generated by the hospital relative to your
11 gunshot?

12 A I'm sure there would be documentation of it.

13 Q I'm gonna hand you a document to see if it refreshes
14 your recollection as to the time that you were admitted to
15 the hospital. If you look in the top left-hand corner, your
16 name's on that document.

17 Is that right?

18 A Yes.

19 Q Does that have identifying information on it that kind
20 of says that that's definitely you?

21 A Now---

22 Q How about the date?

23 A Yeah, the date, yes, sir.

24 Q You reckon there's another Tyler Vassey---

25 A No.

Tyler Vassey - Cross-examination
by Mr. Epps

- 1 Q ---that shows up at -- that day?
- 2 A No.
- 3 Q All right. What about the time?
- 4 I think it's right under that first box.
- 5 A 21:12.
- 6 Q Do you know military time?
- 7 A Nine o'clock.
- 8 Q 9:00 o'clock. 9:12.
- 9 A That's when I arrived, yes, sir.
- 10 Q Okay. So, if it takes you 10 to 15 minutes, and it's
- 11 9:12, we're talking what, eight or, or nine -- 8:50 to
- 12 nine o'clock?
- 13 A Yes.
- 14 Q Did you happen to look and see what time the sun goes
- 15 down last night?
- 16 A No, it was --
- 17 Q Okay.
- 18 A -- around nine o'clock.
- 19 Q But it's May.
- 20 A Yes.
- 21 Q Not March.
- 22 A Uh-huh. (Affirmative).
- 23 Q You ever heard of the Spring Equinox?
- 24 A Yeah.
- 25 Q You know what that is?

Tyler Vassey - Cross-examination
by Mr. Epps

1 A Not offhand.

2 Q Daylight and nighttime are the same amount, 12 hours
3 each day?

4 A Okay.

5 Q Do you recall that's generally on March the 21st of
6 every single year?

7 A Okay.

8 Q All right. Seven days prior to your gunshot.

9 So, you still think it was light outside when you got
10 shot?

11 A I know the yard was lit up because there's street
12 lights and porch lights, and there was an active party
13 going. So, there would be light outside so everybody can
14 see and not falling over each other in the yard.

15 Q You, you reckon body cams would show the kind of party
16 that was going on?

17 A Well---

18 SOLICITOR BARRY: Your Honor, I'm gonna object to this.
19 He's already stated that he hasn't watched the body cams.
20 He doesn't -- he can't testify to what they would show or
21 what they could show.

22 THE COURT: If you want to rephrase the question.

23 MR. EPPS: I'll move on, Your Honor.

24 THE COURT: All right.

25 Q How many people were around when this person is

Tyler Vassey - Cross-examination
by Mr. Epps

1 standing at you with a gun?

2 There's you, Brittany, who's either in the car or
3 standing or something, right?

4 A Uh-huh. (Affirmative).

5 Q P.J.?

6 A She's there.

7 Q who else, Tisa?

8 A I don't recall seeing Tisa. She could of been inside.
9 I don't know. I didn't see her with my own eyes.

10 Q Do you see Tisa now?

11 A Yes.

12 Q where is she?

13 A In the seat over there.

14 Q She's wearing those blub scrubs behind me, isn't she?

15 A Yes.

16 Q Okay. You, you got any disagreement with her or
17 anything like that?

18 A No.

19 Q Any fear---

20 A Not to my knowledge.

21 Q ---of retaliation from her?

22 A No, sir.

23 Q Any reason to think she's gonna lie?

24 A No, sir.

25 Q Okay. You, you hugged P.J.?

Tyler Vassey - Cross-examination
by Mr. Epps

- 1 A Yes.
- 2 Q It was her birthday?
- 3 A Yes, I do believe so.
- 4 Q It sounds like you and she are close.
- 5 A (WHEREUPON, the witness nods affirmatively.)
- 6 Q Is that a yes?
- 7 A Oh, yes, sir.
- 8 Q The court reporter can't take a head nod.
- 9 A Yes, sir.
- 10 Q She's your friend?
- 11 A Yes.
- 12 Q How long have y'all been friends?
- 13 A Probably about a year before this incident.
- 14 Q Okay. As friends, what did y'all do together?
- 15 A Just social gatherings and like barbecues, cooking out,
- 16 yard activities, stuff like that.
- 17 Q What about her daughter, Kaitlin, are y'all friends?
- 18 A We went to high school together.
- 19 Q Y'all the same age?
- 20 A Yes, sir.
- 21 Q After you got shot you said that you kind of did your
- 22 own investigation. You, you asked a number of people I
- 23 think is what you said.
- 24 Do you recall that?
- 25 A Yes.

Tyler Vassey - Cross-examination
by Mr. Epps

1 Q You, you didn't -- did you talk to P.J.?

2 A Yes.

3 Q How soon after the shooting did you talk to P.J.?

4 A A couple weeks.

5 Q What did you say?

6 A I asked if she knew who shot me.

7 Q But you already knew?

8 A I knew the face. I didn't know the name.

9 Q You knew you went to high or to school with him, didn't
10 you?

11 A Yes, I think I recall seeing him in school. We weren't
12 classmates. I --.

13 Q Well---

14 A Like I seen him walking down the hall a couple times or
15 at lunch or something, after school possibly. I don't
16 remember. He was a familiar face from somewhere.

17 Q You ever seen one of these?

18 A Not of that year.

19 Q Okay. You, you ever leafed through one of these
20 before?

21 A Through a yearbook or that yearbook?

22 Q Yes.

23 A Yes, a yearbook.

24 Q A, a yearbook?

25 A Yes.

Tyler Vassey - Cross-examination
by Mr. Epps

1 Q So you're familiar with how they work?

2 A Yes.

3 MR. EPPS: All right. May I approach, Your Honor?

4 THE COURT: Yes, sir.

5 Q All right. And let's, let's develop this record just a
6 little bit. Let's tell the jury and this court reporter
7 what it is that I've just handed you.

8 A Gaffney High School Dreams Gold 2014 Yearbook.

9 Q Thank you.

10 So, this is not your yearbook, correct?

11 A No, it's not.

12 Q Something I handed you?

13 A Yes.

14 Q Did you go to Gaffney High School in 2014?

15 Let me help you out. You were a sophomore at Gaffney
16 High School in 2014.

17 A I was suppose to graduate in 2015. So, yes.

18 Q A sophomore's tenth grade?

19 A Oh, okay. Never mind.

20 Q Flip, flip to the sophomore section---

21 A All right.

22 Q ---and under Tyler Vassey will be a picture that looks
23 like a younger version of you.

24 A Okay.

25 Q Find that for me if you wouldn't mind.

Tyler Vassey - Cross-examination
by Mr. Epps

1 A I'm not in here.

2 Q Can I see it please?

3 You're looking in the juniors. I said the sophomores.

4 A well, this was my class. This was my classmates. I
5 quit school this year. So, I wouldn't have been in this
6 yearbook, and I do not see my name on my face.

7 Q would you flip to the sophomores?

8 A Okay.

9 (WHEREUPON, the witness complies.)

10 A All right. Yeah, there I am.

11 Q what page number is that?

12 A It is 174.

13 Q Okay. Now, flip to the junior section. You were just
14 there.

15 A Uh-huh. (Affirmative).

16 Q Can you find my client?

17 A He wouldn't of been a junior. Maybe he would have.

18 Q well, I appreciate that.

19 would you please flip to the juniors and look for the
20 name Anterius Smith?

21 A All right. It's not in the juniors.

22 Oh, yeah, it is. I apologize. There he is, yes.

23 Q Thank you.

24 Brittany left you at the hospital?

25 A Yes.

Tyler Vassey - Cross-examination
by Mr. Epps

1 Q why?

2 A No idea.

3 Q when's the last time you talked to Brittany?

4 A It's been a while.

5 Q well, let's see if we can narrow that down.

6 How long is a while?

7 A A couple years.

8 Q Okay. After the shooting, when did you next talk to
9 Brittany?

10 A A month or two later.

11 Q Any particular reason?

12 A I think she came to check on me.

13 Q A month or two later she came to check on you?

14 A well, she had -- I think she messaged me on Facebook
15 and asked me how I was. I didn't, I didn't stay on -- at my
16 house on Beach Street when I got out of the hospital. I
17 lived with my grandmother for about a month. So, I wasn't
18 home for anybody to be able to come see me for at least a
19 month.

20 Q On Gregory Road, right?

21 A Yes.

22 Q You got evicted from that house?

23 A what house?

24 SOLICITOR BARRY: Objection, Your Honor. Relevance.

25 THE COURT: All right. I'm gonna let him go into it.

Tyler Vassey - Cross-examination
by Mr. Epps

1 He's on cross-examination. If he goes too far astray, you
2 can object again.

3 Q Gregory Road.

4 A No, I got evicted from 607 Beach Street.

5 Q You're right. I'm sorry. You got evicted from 607
6 Beach.

7 A Yeah.

8 Q Your grandparents own 607 Beach?

9 A Yes.

10 Q Oh, here's where it is. I'm sorry.

11 Just to sew up this loose end. Hand you that victim
12 information form, form again.

13 A Uh-huh. (Affirmative).

14 Q All right. Now, you didn't write any of this?

15 A No.

16 Q Detective Blanton wrote it after talking with you?

17 A No, he wrote it while talking to me. I spoke it and he
18 wrote it down at the same time.

19 Q You didn't sign it until after he had written it?

20 A I read it. I apologize. Go ahead.

21 Q And you reviewed it?

22 A Yes.

23 Q You're not gonna sign a document before somebody fills
24 it out and you take a look at it?

25 A Yeah.

Tyler Vassey - Cross-examination
by Mr. Epps

1 Q And that makes sense.

2 A Uh-huh. (Affirmative).

3 Q This document says I recognized him from school,
4 correct?

5 A Yes.

6 Q Who is him?

7 A Anterius.

8 Q And, and this was written at your grandparent's house?

9 A Yes.

10 Q In May of 2017?

11 A (WHEREUPON, the witness nods affirmatively.)

12 Q I need you to say yes.

13 A Yes.

14 Q You know she's typing stuff down.

15 A I apologize.

16 Q That's all right.

17 But Anterius had been arrested in April, right?

18 A I think so, yeah.

19 Q You were shown the lineup in April?

20 A I believe so, yes.

21 Q Detective Blanton earlier today said it was April the
22 18th?

23 A All right. Yes.

24 Q You heard, heard that, right?

25 A Yes.

Tyler Vassey - Cross-examination
by Mr. Epps

1 Q There's nothing burning up in you going no, he was
2 wrong, he said it wrong, or anything like that, right?

3 A Yes.

4 Q You didn't give a statement then?

5 A I don't guess I did.

6 Q It wasn't until May 3rd.

7 A That's what the paper said.

8 Q Do you have any reason to believe that that date is
9 wrong?

10 A I do not.

11 MR. EPPS: Your Honor, I'd ask that we mark this
12 drawing as a separate exhibit. I know it's got a four on
13 it, but since it was altered, and I believe the State---

14 SOLICITOR BARRY: There's no objection from the State,
15 Your Honor.

16 THE COURT: All right. Be whatever the next Defense
17 Exhibit Number 3?

18 THE COURT REPORTER: Yes, sir.

19 (WHEREUPON, the photograph was marked as Defendant's
20 Exhibit No. 3 and received into evidence at this time.)

21 MR. EPPS: I have nothing further at this time.

22 THE COURT: Any redirect limited to what he went into?

23 SOLICITOR BARRY: Yes, sir, Your Honor.

24 THE COURT: Uh-huh. (Affirmative).

25 REDIRECT EXAMINATION

Tyler Vassey - Redirect examination
by Solicitor Barry

1 BY SOLICITOR BARRY:

2 Q Mr. Vassey, you testified for both myself and Mr. Epps
3 that, when you were at the hospital, you stated that you
4 knew you went to school with this individual, correct?

5 A Correct.

6 Q And in your statement it says you went to school with
7 this individual, correct?

8 A Correct.

9 Q And in the yearbooks that or the yearbook that Mr. Epps
10 had you go through, you, in fact, went to school with
11 Anterius Smith, correct?

12 A Correct.

13 Q And that's how you knew him, and when I say that's how
14 you knew him, that's how you knew who he was?

15 A Yes.

16 Q You stated that this happened between 7:00 and 9:00PM
17 on the 28th, and you mean the shooting happened between
18 7:00 and 9:00?

19 A Yes.

20 Q Okay. And if -- you stated that it took you 10 to 15
21 minutes to get to the hospital?

22 A Yes, I'm assuming from where I was at to where the
23 hospital is at. I didn't actually time it nor worry about
24 stopping. I'm bleeding.

25 Q Okay. I understand. And Mr. Epps was able to show you

Tyler Vassey - Redirect examination
by Solicitor Barry

1 that the time that you arrived at the hospital was 9:12PM,
2 correct?

3 A Yes, that's the time they logged it.

4 Q Okay. So, if we subtract 15 minutes from 9:12, it's
5 gonna be before nine o'clock that the shooting takes place,
6 correct?

7 A Correct.

8 Q So between the hours of 7:00 and 9:00 is when the
9 shooting takes place?

10 A Yes.

11 Q And you stated that the last time you'd spoken to
12 Brittany it's been a couple of years?

13 A Yes.

14 Q And throughout your testimony with Mr. Epps, on every
15 time -- well, throughout your testimony to Mr. Epps,
16 Anterius Smith has been the shooter, correct?

17 A Correct.

18 Q And you stated that he stood over you and pointed and
19 presented using your words?

20 A Yes.

21 Q And you had a pretty close look at his face, right?

22 A Yes, ma'am.

23 Q And that's a face you're gonna remember, right?

24 A Most definitely.

25 SOLICITOR BARRY: No further questions, Your Honor.

1 MR. EPPS: All right. Thank you, sir. You may step
2 down. Watch your step as you're stepping down.

3 May I see the lawyers at the bench for a moment?

4 (WHEREUPON, a bench conference was held out of the
5 hearing of the jury at this time.)

6 THE COURT: State ready to call their next witness?

7 SOLICITOR BARRY: Yes, sir, Your Honor.

8 The State is gonna call Brittany Whisnant.

9 THE COURT: Ma'am, just come right up here. Come over
10 here where the Clerk of Court is standing, if you would, and
11 let her swear you in.

12 THE CLERK: Place raise your right-hand and place your
13 left-hand on the Bible for me.

14 BRITTANY WHISNANT, being first duly
15 sworn, testified as follows:

16 THE CLERK: Okay. I want you to hold this if you step
17 up.

18 Okay. And the bailiff will help you down.

19 THE WITNESS: Okay.

20 THE COURT: Ma'am, if you would, the microphone's right
21 here. So maybe bring it down a little bit closer to you.

22 (WHEREUPON, the witness complies.)

23 THE COURT: There you go. Speak into the microphone.

24 Yes, ma'am, Madam Solicitor.

25 SOLICITOR BARRY: Thank you, Your Honor.

1 DIRECT EXAMINATION

2 BY SOLICITOR BARRY:

3 Q Miss Whisnant, can you please state your name for the
4 record?

5 A Brittany Whisnant.

6 Q And let's just, let's just get it out in the open, Miss
7 Whisnant. You're clearly in an orange jumpsuit.

8 You're incarcerated right now?

9 A Yes, ma'am.

10 Q And where are you incarcerated?

11 A Cherokee County Detention Center.

12 Q And you currently have pending charges with the
13 solicitor's office?

14 A Yes, ma'am.

15 Q And have you been offered anything regarding those
16 charges for your testimony?

17 A No, ma'am.

18 Q Have you been offered anything by me?

19 A No, ma'am.

20 Q Any other solicitors in my office?

21 A No, ma'am.

22 Q Okay. Do those charges have anything to do with this
23 case?

24 A No, ma'am.

25 Q How old are you?

1 A Thirty-one.

2 Q And how do you know Tyler Vassey?

3 A I've known him for a while. Fair amount.

4 Q Okay. Are you related to him in any way?

5 A No, ma'am.

6 Q Just friends?

7 A Yeah.

8 Q And did you know Tyler on March the 28th of 2017?

9 A Yes, ma'am.

10 Q Were, were -- were you working at the time?

11 A Yes, ma'am.

12 Q Where were you working?

13 A At Brandy's Restaurant.

14 Q And do you remember if you were working that day?

15 A No, I don't quite remember to be honest.

16 Q Did you see Tyler that day?

17 A Yes, ma'am.

18 Q About what time do you see Tyler?

19 Do you remember?

20 A No, ma'am.

21 Q Is it later in the day?

22 A Probably.

23 Q Okay. Early?

24 A I most likely was working. I usually get off work at
25 3:00. So, it'd have to be any after that.

1 Q Okay. And when you see -- what is your interaction
2 with Tyler?

3 A What do you mean?

4 Q Do you -- when you see Tyler, where are you?

5 A On Beach Street.

6 Q Okay. And do you -- what do you and Tyler do on Beach
7 Street?

8 A Hang out.

9 Q Okay. Do you give him a ride?

10 A Yeah.

11 Q Okay. Where do you give him a ride to?

12 A I don't know the name of the road.

13 Q Okay. 505 Holly Street?

14 A Yes, ma'am.

15 Q Okay.

16 A It was right down the road.

17 Q Okay. Do you know who lived at 505 Holly Street?

18 A No, ma'am.

19 Q Okay. Did Tyler ask for the ride?

20 A Yes, ma'am.

21 Q Okay. Did he say what he needed the ride for?

22 A He's taking a cooking pot down there.

23 Q Okay. Did he say who he was giving it to?

24 A No.

25 Q So, you take him to this address, correct?

1 A (WHEREUPON, the witness nods affirmatively.)

2 Q And do you pull over?

3 A Yes, ma'am.

4 Q And when you pull over, you're driving and Tyler's in
5 the passenger's side?

6 A Yes, ma'am.

7 Q Where is the pot or the cooker or whatever this thing
8 is?

9 A Honestly I can't quite remember.

10 Q Okay. What's the first thing you remember after
11 arriving at 505 Holly Street?

12 A Somebody walking toward him. I thought they were
13 joking back and forth. He thought they were joking too. I
14 could tell by the look on his face. But it was really an
15 argument I guess.

16 Q Okay. Do you know what -- did you hear what was being
17 said?

18 A I'm pretty sure something about get out of here, I'm
19 gonna rob you, or something like that.

20 Q Okay. And Tyler get shot, correct?

21 A Yes, ma'am.

22 Q Do you see the person who -- at the time, did you see
23 who shot Tyler?

24 A I caught a glimpse of him, yeah.

25 Q Okay. And is that person here in the courtroom today?

1 A Yes, ma'am.

2 Q where is he?

3 A (WHEREUPON, the witness points.)

4 Q And what is he wearing?

5 A A gray shirt.

6 Q Gray shirt and he has the dreads?

7 A Yes, ma'am.

8 Q And you spoke to law enforcement that evening, right?

9 A Yes, ma'am.

10 Q Do you remember what you told law enforcement?

11 A Not really, no.

12 Q Okay. If I showed you your statement, would that help
13 you refresh your memory?

14 A Yes, ma'am.

15 SOLICITOR BARRY: Permission to approach the witness,
16 Your Honor?

17 THE COURT: Yes, ma'am.

18 A I remember bits and pieces of it. But I don't remember
19 all of it.

20 Q If you'll just take a, a look at that and see if that
21 helps you remember. Let me know when you're ready.

22 A Yeah.

23 Okay. I remember it.

24 Q Do you give a description to law enforcement of who the
25 shooter was at the time?

1 A No.

2 Q Okay.

3 A I didn't, I didn't know who he was.

4 Q Okay. So, not necessarily who he was, but what he
5 looked like?

6 A Yeah.

7 Q Okay. What's the description that you give to law
8 enforcement?

9 A Kind of short, dreads, black guy.

10 Q And do you remember being shown a photo lineup in this
11 case?

12 A Yes, ma'am.

13 Q I'm gonna show you what's been admitted as State's
14 Exhibit 2.

15 Is that the lineup that you were shown?

16 A Yes, ma'am.

17 Q And what number did you circle?

18 A Four.

19 Q And is number four the individual that you pointed out
20 in the courtroom today?

21 A Yes, ma'am.

22 Q Do you know Anterius Smith at all?

23 A No, ma'am.

24 Q Okay. You just know---

25 A I remember the eyes.

1 Q I'm sorry. Go ahead.

2 A It's the eyes.

3 Q It's the eyes?

4 A I remember the eyes.

5 Q What do you mean by that?

6 A I don't know. It's just a certain look in his eyes.

7 Q The certain look in his eyes when he shot Tyler?

8 A Yeah.

9 Q What was that look?

10 A It kind of scared me a little bit. I didn't really
11 quite -- Tyler had to convince me he was shot cause I didn't
12 believe him, and I'm standing there like what, and he's like
13 get in the car, oh my God, we got to go to the hospital, and
14 it didn't register at first. I froze up. I don't do good
15 with guns. So, it kind of froze me for a minute.

16 You know what I'm saying?

17 Q So you were surprised?

18 A I remember looking at him, directly at him, and then I
19 remember I got in the car. I just got Tyler to the
20 hospital. That's all I could do.

21 Q Do you remember about what time of day it was that you
22 guys are over at Holly Street?

23 A No, ma'am.

24 Q Okay. And you stated that you don't know who Anterius
25 is other than he's the person who shot Tyler?

1 A Yes, ma'am.

2 SOLICITOR BARRY: Your Honor, I have no further
3 questions for Miss Whis -- Whisnant.

4 THE COURT: Yes, sir, Mr. Epps.

5 MR. EPPS: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. EPPS:

8 Q Brittany, we've met a few times here of late, correct?

9 A Yes, sir.

10 Q The first time you met me was maybe two weeks ago in
11 the jail?

12 A Yes, sir.

13 Q And then we met one other time in the jail here
14 recently?

15 A Yes, sir.

16 Q All right. Since we're getting it all out in the open,
17 I haven't promised you anything?

18 A No, sir.

19 Q And I don't defend you?

20 A No, sir.

21 Q Outside of me just showing up in your life, you don't
22 know me, do you?

23 A No, sir.

24 Q Have you ever testified in Court before?

25 A No, sir.

Brittany Whisnant - Cross-examination
by Mr. Epps

1 Q A little nervous?

2 A Yeah.

3 Q Breathe deep.

4 Do you still have that witness form in front of you?

5 A No.

6 Q I don't want to catch you up in it. I don't mind
7 showing it to you. But let's just see where we go and I'll
8 try to refer to it as needed.

9 As I understand, you didn't write your form?

10 A No, sir.

11 Q Detective Blanton wrote it for you?

12 A I'm guessing. Honestly, I, I don't remember.

13 Q Okay. Well, it's in front of you?

14 A (WHEREUPON, the witness nods affirmatively.)

15 Q Oh, you've got it.

16 Okay. I'm sorry. Let's look at the top.

17 A (WHEREUPON, the witness nods affirmatively.)

18 Q Don't want to trick you. There's a star on both sides
19 of, of the line. Statement written by Detective Blanton as
20 requested---

21 A It says that there.

22 Q ---by Brittany Whisnant.

23 A Yes, sir.

24 Q Thank you.

25 Okay. And this was written March 28th, 2017?

Brittany Whisnant - Cross-examination
by Mr. Epps

1 A Yes, sir.

2 Q That is the day this all happened?

3 A Yes, sir.

4 Q Right?

5 A Uh-huh. (Affirmative).

6 Q You haven't reviewed any body cam evidence or anything
7 like that, have you?

8 A No, sir.

9 Q When's the last time you saw this document?

10 would it have been March 28th of 2017?

11 A Yeah, other than when I seen it in the office with the
12 solicitor and you.

13 Q You signed the document?

14 That's your signature there at the bottom right?

15 A Uh-huh. (Affirmative).

16 Q I need---

17 A Yes, sir.

18 Q I need you to say yes or no.

19 A Yes, sir. Sorry.

20 Q You didn't sign it until after it was written and you
21 reviewed it?

22 A Yes, sir.

23 Q Do you recall at that point in time having any
24 disagreement with the language?

25 A No, sir.

Brittany Whisnant - Cross-examination
by Mr. Epps

1 Q And now today, I don't know how much time you've had to
2 review it, do you now have any disagreement with anything
3 that's in it?

4 A No, sir.

5 Q All right. The first line.

6 You acknowledge that it was 8:00PM, correct?

7 A Yes, sir.

8 Q So before any of this stuff that we're here about today
9 happened it was already 8:00PM?

10 A Possible. I mean I don't quite remember to be honest
11 with you. This is -- this was right when it happened. So,
12 this is gonna be the more accurate version cause I don't
13 remember.

14 Q I was just about to ask you what do you think is a
15 better source of information, the thing that happened the
16 day it happened or the thing that's now 50 months later?

17 A This one, yeah.

18 Q Okay. All right. Tyler sent you a text asking for a
19 ride?

20 A Yes, sir.

21 Q So, you weren't at somebody's house and he happened to
22 show up?

23 A Honestly I don't remember.

24 Q Okay. Well, here's what I'm gonna ask you.

25 Okay. You know what my client's charged with?

Brittany Whisnant - Cross-examination
by Mr. Epps

1 A Yes, sir.

2 Q what is it?

3 A Murder---

4 Q well---

5 A ---or attempted murder.

6 Q Yeah, Tyler's still alive.

7 A Yeah. My bad.

8 Q And all, and all joking aside, I need you to give me
9 your best answer.

10 okay?

11 A Okay.

12 Q And I understand. It makes things fuzzy. I'm okay
13 with that. But let's -- we need to be serious.

14 okay. All right. Did Tyler send you a text asking for
15 a ride?

16 A Probably, yes.

17 Q Okay. You picked him up on Beach Street?

18 A Yes, sir.

19 Q where?

20 A I think I might of been down the road at somebody
21 else's house.

22 Q Do you know who somebody is?

23 A I don't remember the dude's name. I mean I use to have
24 to find places in the area to take a shower cause, at the
25 time, I was on drugs. So, I wasn't allowed home.

Brittany Whisnant - Cross-examination
by Mr. Epps

1 Q Let's go ahead just again, out in the open, it is what
2 it is.

3 You've got a, a drug past?

4 A Yes, sir.

5 Q Convictions I should say.

6 A Yes, sir.

7 Q You've got a, a, a breach of trust or, or some kind of
8 fraud conviction?

9 A No, sir, I don't think so.

10 Q Well -- well, may I approach, Your Honor?

11 THE COURT: Yes, sir.

12 Q Let's make sure the record knows what we're talking
13 about here.

14 A Oh.

15 Q This is---

16 A Yeah, I know what you're talking about.

17 Q Okay. But just, again, so we can make our record, this
18 is a printout of a public index, online thing, right?

19 A Yes, sir.

20 Q Okay. And that's your name on there?

21 A Yeah, my ex decided to leave the restaurant. I paid
22 the bill later. I didn't know he left without paying the
23 bill, but it got put on me.

24 Q But you got a -- I mean there's a -- TIA is trial in
25 absence, guilty?

Brittany Whisnant - Cross-examination
by Mr. Epps

1 A Uh-huh. (Affirmative).

2 Q Do you see that?

3 A Yes, sir.

4 Q Okay. And that is for you, Brittany Lee Whisnant?

5 A Yes, sir.

6 Q Correct?

7 All right. You didn't go to Tony Smith's house, did
8 you?

9 A (WHEREUPON, the witness shrugs her shoulders.)

10 Q Do you know Tony Smith?

11 A (WHEREUPON, the witness shrugs her shoulders.)

12 Q Do you know any of the Smith family?

13 A I don't know who -- half their names to be honest with
14 you. I mean I just -- I knew Tyler and everybody that was
15 at his house. I didn't really know a lot of other people.

16 Q And I, I may of misspoken.

17 How, how about any of the Woods?

18 Do you know any Woods in here?

19 A No, sir.

20 Q They're -- there's a lady behind me in some scrubs.

21 Do you know her?

22 A No, sir.

23 Q All right. Who, who do you know in this courtroom?

24 A Tyler, Kaitlin.

25 Q Tyler and Kaitlin, Kaitlin.

Brittany Whisnant - Cross-examination
by Mr. Epps

1 Do you know the lady beside Kaitlin?

2 A No.

3 Q When you got -- well, what, what -- where were y'all
4 going?

5 A To somewhere to take that cooking pot for him.

6 Q Wherever he told you?

7 A Yeah.

8 Q Okay. When you got to wherever it was you were going,
9 who did you see there---

10 A There was a lot of people.

11 Q ---and if you need to refresh your memory---

12 A There was a lot of people. I just remember -- the main
13 people I remember seeing was Kaitlin and Ridge cause I know
14 them personally.

15 Q Who is Ridge?

16 A Ridge, I only know him because he's kin to two other
17 people I know.

18 Q You don't know his last name?

19 A Maybe Littlejohn.

20 Q So, how many, in, in addition to Ridge and Kaitlin, do
21 you see?

22 A Honestly I can't remember. There was a few people out
23 there.

24 Q A few or two?

25 A There was more than that. There was probably at least

Brittany Whisnant - Cross-examination
by Mr. Epps

1 five out there.

2 Q All right. Do a little exercise with you.

3 May I approach, Your Honor?

4 THE COURT: Yes, sir.

5 Q well, I'll just hand -- show you this document. It's a
6 black and white photocopy.

7 Do you recognize that area?

8 A Yes, sir.

9 Q Okay. Is that the area where this all took place?

10 A Yes, sir.

11 Q All right. Can you use a pen?

12 A Uh-huh. (Affirmative).

13 Q Okay. How about -- I'm gonna -- if you wouldn't mind,
14 ma'am, can you tell us -- draw on here, as best you can,
15 where your car was at the time this all took place.

16 A (WHEREUPON, the witness complies.)

17 Q All right. And you can just barely see it. I'm gonna
18 ask that you do it one more time just to make sure it gets
19 through.

20 okay?

21 A (WHEREUPON, the witness complies.)

22 Q Thank you.

23 A The pen's not doing good. I'm sorry.

24 Q All right. You're trying. I appreciate it.

25 Let's talk about this so the jury can, can understand

Brittany Whisnant - Cross-examination
by Mr. Epps

1 what you just did.

2 SOLICITOR BARRY: Your Honor, may I see what she's
3 drawing?

4 MR. EPPS: Sure.

5 THE COURT: Yes, ma'am.

6 Q So let's talk the visual out.

7 when you were headed there, where is the house?

8 A What do you mean?

9 Q Is it on your right side, your left side?

10 A The left.

11 Q Okay. And you're driving?

12 A Yes, sir.

13 Q It's on -- it's on the driver's side?

14 A Yes, sir.

15 Q You're driving and the house is up on this way --

16 A Yes, sir.

17 Q -- or maybe I'll go this way.

18 A Turn -- yeah.

19 Q You were driving and the house is on this side?

20 A Yes, sir.

21 Q Okay. Based on your picture that you just drew right
22 there, where did you stop?

23 A On the side of the road.

24 Q What side?

25 A The --.

Brittany Whisnant - Cross-examination
by Mr. Epps

- 1 Q Passenger side?
- 2 A Yeah. Far out there -- left and right real good.
- 3 Q You pulled over on the right-hand side of the road?
- 4 A Yes, sir.
- 5 Q Okay. Are you off the road?
- 6 A I mean it's probably a little bit on the road.
- 7 Q Okay. As best you can off the road?
- 8 A Yes, sir.
- 9 Q So, there may be some roadway on your side, but on
- 10 Tyler's side there's not?
- 11 A No.
- 12 Q Tyler's your front side passenger?
- 13 A Yes, sir.
- 14 Q What do you see when you get there?
- 15 A A bunch of people out in the yard.
- 16 Q In front of the house?
- 17 A Yes, sir.
- 18 Q The house that's in that picture?
- 19 A Yes, sir.
- 20 Q Anything else you remember around that area?
- 21 A No, sir.
- 22 Q That roadway, it makes a -- kind of a dog-leg to the
- 23 left, right?
- 24 A Yes, sir.
- 25 Q Do you remember anything about that?

Brittany Whisnant - Cross-examination
by Mr. Epps

1 A No, sir.

2 Q were you at all familiar with this area?

3 A No, sir.

4 Q Never been there before?

5 A At all. I, I mean no, other than driving down there.

6 I might of took a shower at that house once because of a
7 friend guy.

8 Q which house?

9 A That house.

10 Q The specific house in that picture?

11 A Yes, sir.

12 Q Do you have any idea who lived at that---

13 A No, sir.

14 Q ---specific house?

15 All right. So, you pull over to the right-hand side.
16 what happens?

17 A Tyler gets out and I guess he was gonna get the cooker
18 out and he was talking to the guy. I got out of the
19 driver's side.

20 Q I'm not trying to stop, stop you. You said he's
21 talking to the guy.

22 who is the guy?

23 A Him.

24 Q The shooter?

25 A Yes, sir.

Brittany Whisnant - Cross-examination
by Mr. Epps

1 Q All right. Did Tyler ask you for help?

2 A (WHEREUPON, the witness nods negatively.)

3 Q Do you -- did it look like he needed your help?

4 A No.

5 Q Did he ask anybody else for help?

6 A I think he was talking to the people across the street
7 asking them to help unload it maybe.

8 Q Okay. Did he---

9 A I don't remember every word that was spoken. But I
10 know he was talking to somebody else across the street, and
11 then they started arguing back and forth. But we thought he
12 was joking I think.

13 Q Okay. You don't remember anything coming up to the car
14 besides the shooter?

15 A No, sir.

16 Q Did, did you get out of the car?

17 A Yes, sir.

18 Q Okay. Where are you standing?

19 A Driver's side door. I didn't even -- I didn't move
20 from the car. I just stood outside the driver's side door.

21 Q Was your door opened?

22 A Yes, sir.

23 Q Okay. You got a parked car. You're outside of your
24 door.

25 Ford Fusion, right?

Brittany Whisnant - Cross-examination
by Mr. Epps

1 A Yes, sir.

2 Q He's on the other side of the car. He's gotten out and
3 he's, he's gotten a pot or cooker or whatever out.

4 A I don't---

5 Q You don't remember?

6 A I don't remember.

7 Q Okay. They're people across the street at this house?

8 A (WHEREUPON, the witness nods affirmatively.)

9 Q You remember Ridge and Kaitlin?

10 A (WHEREUPON, the witness nods affirmatively.)

11 Q And others?

12 A Yes, sir.

13 Q What happens next?

14 A Whenever he turned back, well, the dude said some
15 things to Tyler. Tyler was laughing, thought he was joking,
16 and next thing I know I hear a gunshot.

17 Q And you never moved from your spot --

18 A (WHEREUPON, the witness nods negatively.)

19 Q -- with the door opened at, at the driver's side?

20 A No, sir.

21 Q So then what happened?

22 A Tyler said oh, my God, I got to go to the hospital, I
23 got shot, but I didn't -- it didn't really ring a bell. I'm
24 just kind of standing there stunned for a minute.

25 Q Okay. And then?

Brittany Whisnant - Cross-examination
by Mr. Epps

1 A I took him to the hospital as fast as I could.

2 Q How long do you think it took you to get to the
3 hospital?

4 A Not long cause I was driving pretty fast.

5 Q And why were you driving very fast?

6 A Cause I thought my friend was gonna die.

7 Q well, at least we know he had said he was shot.

8 A (WHEREUPON, the witness nods affirmatively.)

9 Q And you believed he had been shot?

10 A I seen the blood on my seat. That's how I knew.

11 Q I need you to say yes. Just -- head nods don't come
12 across real well.

13 A Yes, sir.

14 Q Thank you.

15 Your Honor, at this point I would like to admit this as
16 Defense Exhibit No. 3.

17 SOLICITOR BARRY: No objection, Your Honor.

18 THE COURT: Without objection, Defense 3.

19 THE COURT REPORTER: Four. Four.

20 MR. EPPS: Four. I'm sorry.

21 THE COURT: Four. Okay.

22 (WHEREUPON, the photograph was marked as Defendant's
23 Exhibit No. 4 and received into evidence at this time.)

24 Q Ten minutes or less to the hospital?

25 A Yes, sir.

Brittany Whisnant - Cross-examination
by Mr. Epps

1 Q One shot and that's all?

2 A Yes, sir.

3 Q This lady in the navy blue, you don't -- she doesn't
4 look familiar to you?

5 A No, sir, she looks like Kaitlin.

6 Q Why didn't you write your statement?

7 A Cause I was kind of in a frantic, crazy state I guess I
8 mean because it was a little bit of a hectic night.

9 Q What, what had gone on in your life that day besides
10 what we just talked about?

11 A A whole lot. I mean just -- I went to go get a friend
12 cause I was, I was gonna go back and that friend decided to
13 cuss me out. So, I made him get out of the car and walk
14 cause he didn't apologize. Then I went to somewhere
15 elsewhere where people were chasing me around. It was just
16 a crazy night. I'm not use to that area. I'm not use to
17 being down that way. Not use to those people. So --.

18 Q Brittany, was everybody on the up and up that night?

19 A Definitely.

20 Q Anybody drunk?

21 A I don't know.

22 Q Anybody high?

23 A I was.

24 Q High on what?

25 A Meth.

Brittany Whisnant - Cross-examination
by Mr. Epps

1 Q Did Tyler know that?

2 A Probably. Everybody knew it.

3 Q You were reached to talk to, excuse me, talked to by
4 law enforcement the very night this happened?

5 A Yes, sir.

6 Q within a few hours?

7 A Yes, sir.

8 Q when is the next time you talked to law enforcement
9 about this?

10 A whenever I went to see the solicitor a little while
11 back.

12 Q You're gonna make me think. I don't want you to think
13 that's a trick question. I apologize.

14 Do you still have -- you don't.

15 Let me show you this -- I'm gonna show you exhibit --
16 State's Exhibit No. 1 and No. 2. First let me show you No.
17 2.

18 You see Exhibit No. 2?

19 A Uh-huh. (Affirmative).

20 Yes, sir. Sorry.

21 Q Are those your initials?

22 A Yes, sir.

23 Q Okay. Let me show you State's Exhibit No. 1.

24 Have you ever seen that document before?

25 A No, sir.

Brittany Whisnant - Cross-examination
by Mr. Epps

1 Q All right.

2 A I mean --.

3 Q What do you see written on that document, handwritten?

4 A D.V.

5 Q Okay. Do you see any -- besides the writing, the
6 handwritten, the human writing on the -- Exhibit 2 and
7 Exhibit 1, do you see any difference between the two
8 documents?

9 A I mean this was -- one's a little closer up I think.
10 I---

11 Q You think---

12 A Not really.

13 Q ---one's closer up?

14 A Maybe, yeah.

15 Q I mean -- they look like the same exact---

16 A They're the same.

17 Q ---document?

18 A Yeah.

19 Q Okay. And, and the person circled is in the exact same
20 position, isn't he?

21 A Yes, sir.

22 Q Do you have any idea when you were shown that document?

23 A I don't remember. I don't remember the first time I
24 was shown it.

25 Q Well---

Brittany Whisnant - Cross-examination
by Mr. Epps

1 A I've been shown it several times now.

2 Q I'm sorry?

3 A I don't remember the first time I was shown it. I've
4 been shown it several, several times now.

5 Q well, it wasn't the night you, you gave your statement,
6 was it?

7 A No, cause I didn't know who it was then. We didn't
8 know who.

9 Q was it dark outside?

10 A I don't remember. I don't think it was.

11 Q You don't think it was?

12 A I think it was dark around the time I got to the
13 hospital or getting dark maybe. I was -- I know it was the
14 evening. I know, when I got there, I could see people.

15 You know what I'm saying?

16 Like it had to been daylight cause I could see in.

17 Q Okay. well, let's, let's be super clear.

18 In the statement written by Detective Blanton that you
19 signed after he wrote it, it starts out, not the shooting,
20 but the whole shooting match, and truth be told it says
21 around 8:00PM, right?

22 A Uh-huh. (Affirmative).

23 Yes, sir.

24 Q And you believe it took you 10 minutes to get to the
25 hospital?

Brittany Whisnant - Cross-examination
by Mr. Epps

1 A Yeah. Yes, sir.

2 Q Because you were concerned for your friend?

3 A Yes, sir.

4 Q You wanted to get him to that hospital?

5 A Yes, sir.

6 Q You just didn't stay there?

7 A Yes, sir.

8 Q Thank you.

9 No further questions.

10 THE COURT: Any redirect limited to what he went into?

11 SOLICITOR BARRY: Yes, sir, Your Honor.

12 THE COURT: Uh-huh. (Affirmative).

13 REDIRECT EXAMINATION

14 BY SOLICITOR BARRY:

15 Q You told Mr. Epps that Tyler was talking to the guy?

16 A Yes, sir.

17 Q And then---

18 A I mean ma'am. I'm sorry.

19 Q That's all right.

20 And then you pointed to the Defendant, correct?

21 A Yes, ma'am.

22 Q And the reason that you pointed to the Defendant is
23 because he was the one that shot Tyler Vassey, wasn't he?

24 A Yes, ma'am.

25 Q And you said that you thought your friend was going to

Brittany Whisnant - Redirect examination
by Solicitor Barry

1 die?

2 A Yes, ma'am.

3 Q Cause he had been shot.

4 A Yes, ma'am.

5 Q And he was bleeding all over your car?

6 A Yes, ma'am.

7 Q And you stated that, whatever you told law enforcement
8 that night, would probably be the most accurate because it
9 was the freshest at that time?

10 A Yes, ma'am.

11 Q And your statements to law enforcement that night were
12 that the individual who shot Tyler Vassey was a short black
13 male with shorter length dreads?

14 A Yes, ma'am.

15 Q And then you picked that individual out of a lineup?

16 A Yes, ma'am.

17 Q And you pointed him out in the courtroom today?

18 A Yes, ma'am.

19 SOLICITOR BARRY: No further questions, Your Honor.

20 THE COURT: Thank you, ma'am. You may step down.

21 Let -- the bailiff is gonna help you step down. Any papers
22 just leave with the bailiff.

23 Lawyers, for a moment?

24 I tell you what. Just stay there.

25 Ladies and gentlemen, I'm gonna let you take a short

1 recess. If you would, remember my ongoing instructions. Do
2 not discuss the case and don't do any type of independent
3 research or anything.

4 You may go with the bailiff.

5 (WHEREUPON, the following takes place outside the
6 presence of the jury.)

7 THE COURT: All right. Lawyers approach.

8 (WHEREUPON, a bench conference was held at this time.)

9 THE COURT: We'll step down for just a few minutes.

10 (WHEREUPON, a short recess was taken at this time.)

11 THE COURT: Anything before we bring the jury back?

12 SOLICITOR BARRY: Nothing from the State, Your Honor.

13 MR. EPPS: No, Your Honor.

14 THE COURT: Let's bring the jury.

15 Your next witness.

16 SOLICITOR BARRY: Phaedra Hall, Your Honor.

17 THE COURT: Is she in the courtroom?

18 SOLICITOR BARRY: She is.

19 (WHEREUPON, the following takes place within the
20 presence of the jury.)

21 THE COURT: All right. Ladies and gentlemen, if you
22 would, just as a reminder, if you bring personal items with
23 you, even if it's just on a break, take your personal items
24 with you from the jury room because that -- I, I would not
25 want us to be responsible in the event something happens to

1 your personal items. So, just take them with you during the
2 breaks.

3 State ready to call their next witness?

4 SOLICITOR BARRY: State's ready, Your Honor.

5 THE COURT: Yes, ma'am.

6 SOLICITOR BARRY: State would call Phaedra Hall to the
7 stand.

8 THE COURT: Just come right up here and let the Clerk
9 of Court swear you in.

10 THE CLERK: Please raise your right-hand. Put your
11 left-hand on the Bible.

12 PHAEDRA HALL, being first duly
13 sworn, testified as follows:

14 THE CLERK: Watch your step and you can lower your mask
15 while you're testifying.

16 okay?

17 THE COURT: Yes, ma'am.

18 SOLICITOR BARRY: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY SOLICITOR BARRY:

21 Q Ms. Hall, can you state your full name please?

22 A Phaedra JoAnn Hall.

23 Q And, Ms. Hall, I know you are very nervous. So, I need
24 you to speak clearly and I need you to speak loud enough for
25 me and the members of the jury to hear.

Phaedra Hall - Direct examination
by Solicitor Barry

1 Okay?

2 A Phaedra JoAnn Hall.

3 Q And are you working anywhere now?

4 A Yes, ma'am.

5 Q Where are you working?

6 A Milliken. Limestone Plant.

7 Q And how long have you been working there?

8 A Around two months.

9 Q I need you to speak up.

10 A Around two months.

11 Q Okay.

12 THE COURT: Ma'am, if you want to, pull -- slide the
13 microphone a little closer to you.

14 There you go.

15 THE WITNESS: Thank you.

16 Q And you can speak into it. Get real close.

17 And do you know Anterius Smith?

18 A Yes, ma'am.

19 Q How do you know him?

20 A Through my ex.

21 Q And who is your ex?

22 A And my kids.

23 Q Who's your ex?

24 A Meryl Lindsay.

25 Q And how is Meryl Lindsay related to Anterius Smith?

Phaedra Hall - Direct examination
by Solicitor Barry

1 A I believe his uncle.

2 Q Okay. And you said that you also know him through your
3 kids?

4 A (WHEREUPON, the witness nods affirmatively.)

5 Q How do you---

6 A Went to school.

7 Q Okay. And do you know Tyler Vassey?

8 A Yes, ma'am.

9 Q How do you know Tyler?

10 A Through my kids and mutual friend.

11 Q Okay. You're not in any way related to Mr. Smith or to
12 Mr. Vassey?

13 A No, ma'am.

14 Q Okay. And you knew Tyler on March the 28th of 2017?

15 A Yes, ma'am.

16 Q And do you remember March the 28th of 2017?

17 A Yes, ma'am.

18 Q How do you remember it?

19 A It's my birthday.

20 Q Okay. And where were you?

21 A At Tisa's.

22 Q And do you know the address of Tisa's?

23 A 503.

24 Q Speak up.

25 A 503, I think, of Holly Street.

Phaedra Hall - Direct examination
by Solicitor Barry

1 Q Okay. Were you living with anybody?

2 A Yes, ma'am.

3 Q Who were living you with?

4 A Meryl.

5 Q Okay. I'm going to show you what's been marked and
6 admitted as State's Exhibit 5, and I need you to take a look
7 at it.

8 Okay. Do you recognize what is in that photograph?

9 A Yes, ma'am.

10 Q Okay. What do you recognize it as?

11 A The building where I stayed --

12 Q Okay.

13 A -- and the house where the incident happened.

14 Q Okay. So, you were staying in this box, for lack of a
15 better term, behind this house with Mr. Lindsay?

16 A Yes, ma'am.

17 Q Okay. And who all was at Tisa's house on March the
18 28th of 2017 that you can remember?

19 A It was me, Meryl -- me, Meryl. I remember Tisa being
20 there, and Tisa's girlfriend, but I don't remember where he
21 come from.

22 Q And did you see Anterius there during the day?

23 A Yes, ma'am.

24 Q Okay. What was he doing there?

25 A I guess visit.

Phaedra Hall - Direct examination
by Solicitor Barry

1 Q what activities was he doing over there that day?

2 A That was a -- oh, we had a couple drinks on my
3 birthday.

4 Q Okay. So, you had a couple of drinks.

5 Do you remember about how many you had?

6 A Four or five.

7 Q Okay. Do you remember about how many Anterius had?

8 A I do not.

9 Q Okay. But he had been drinking that day?

10 A Yes, ma'am.

11 Q Okay. Do you remember Tyler arriving?

12 A Yes, ma'am.

13 Q Who does Tyler arrive with?

14 A The lady that just left --

15 Q Okay.

16 A -- Brittany.

17 Q You don't know who she is?

18 A (WHEREUPON, the witness nods negatively.)

19 Q You just know that she was the individual who drove
20 Tyler to the location?

21 A Yes, ma'am.

22 Q So when Tyler gets there, what's happens?

23 A He got out of the car. He saw me standing over there
24 in front of the building and he waved me over, and when I
25 got over there, he give me a hug and he, he asked me to help

Phaedra Hall - Direct examination
by Solicitor Barry

1 him get the thing out of the back seat, the fryer.

2 Q Okay. And did you do that?

3 A Yes, ma'am, I did. Part of it.

4 Q So, you then walk away from the car, correct?

5 A I go away from it, yes, ma'am.

6 Q I'm sorry. You're gonna have to repeat that---

7 A Yes, ma'am.

8 Q ---cause I can't understand you.

9 A Yes, ma'am.

10 Q Okay. When you start walking away, do you hear
11 anything going on behind you?

12 A Yes, ma'am.

13 Q What do you hear?

14 A They were having like some words.

15 Q And when you say that they, who is they?

16 A Anterius and Tyler.

17 Q Okay. Do you know what Anterius and Tyler are saying
18 to one another?

19 A He told him to get back in the car, what was he doing
20 there.

21 Q Okay. And do you actually see Anterius pull the gun?

22 A No, I was walking to go around the car.

23 Q Okay. So, you hear Tyler and the Defendant.

24 MR. EPPS: Your Honor, just could I ask her to speak a
25 little -- I can not hear what she's saying.

Phaedra Hall - Direct examination
by Solicitor Barry

1 THE COURT: Ma'am, if you would, pull the mask all the
2 way down, and speak into the microphone, and I need you to
3 purposely, and with intent, speak into that microphone so
4 that everyone can hear you.

5 okay?

6 THE WITNESS: (WHEREUPON, the witness nods
7 affirmatively.)

8 THE COURT: And you can not shake your head and nod,
9 and nod because that lady's taking down everything that's
10 said, and shakes of your head and nods do not get written
11 down.

12 okay?

13 THE WITNESS: Okay.

14 THE COURT: Now, ma'am, say okay.

15 THE WITNESS: Yes, sir.

16 THE COURT: No, ma'am, you need to speak into that
17 microphone.

18 THE WITNESS: Okay.

19 THE COURT: All right. Okay.

20 THE WITNESS: Okay.

21 THE COURT: All right. Yes, ma'am.

22 SOLICITOR BARRY: Thank you, Your Honor.

23 THE COURT: Uh-huh. (Affirmative).

24 Q Ms. Hall, just again, okay, we have to be able to hear
25 you.

Phaedra Hall - Direct examination
by Solicitor Barry

1 So, after you hear Tyler and Anterius having words,
2 what is the next thing that you hear?

3 A Gunshot.

4 Q Okay. And when you hear the gunshot, what do you do?

5 A I go to take off running.

6 Q Okay. Do you ever look back in the direction of the
7 gunshot?

8 A Not behind me. Over my shoulder, yes, ma'am.

9 Q Okay. And what do you see?

10 A I see Anterius just standing there with a gun.

11 Q Anterius was standing there with a gun?

12 A (WHEREUPON, the witness nods affirmatively.)

13 Q What was Tyler doing?

14 A I don't -- he was standing there and I, I couldn't see
15 after that. I just kept going.

16 Q Okay. But you did turn around and you saw Anterius
17 Smith with the gun?

18 A Yes, ma'am.

19 Q And just to be clear about things, the person who had
20 the gun, is he in the courtroom today?

21 A Yes, ma'am.

22 Q And where is he?

23 A Right there.

24 Q And, over there, is he sitting at defense table?

25 A Yes, ma'am.

Phaedra Hall - Direct examination
by Solicitor Barry

1 Q what is he wearing?

2 A Gray shirt.

3 Q Okay. Now, do you remember law enforcement coming out
4 and speaking to individuals on scene that night?

5 A Yes, ma'am.

6 Q Okay. And do you remember speaking to law enforcement?

7 A Yes, ma'am.

8 Q And you told law enforcement on scene that you did not
9 know who the shooter was, correct?

10 A Yes, ma'am.

11 Q You stated that you had never seen him before?

12 A Yes, ma'am.

13 Q And you stated that he was a black male with shoulder
14 length dreads, correct?

15 A Yes, ma'am.

16 Q why did you say that?

17 A Cause I got scared.

18 Q And what---

19 A I was scared.

20 Q ---were you afraid of?

21 A I was scared that, that I might get shot or something.

22 I don't know.

23 Q And---

24 A Just scared.

25 Q Okay. And---

Phaedra Hall - Direct examination
by Solicitor Barry

1 A I was staying there.

2 Q Okay. Do you remember speaking to Detective Blanton
3 later?

4 A Yes, ma'am.

5 Q And what did you tell Detective Blanton?

6 A The same night of the incident?

7 Q No, ma'am. Later throughout the course of the
8 investigation. Not the night that Tyler is shot but later
9 on down the road.

10 A When he came and spoke with me I told him that we --
11 well, he asked me and I told him that, that Anterius had
12 shot Tyler.

13 Q And what made you tell Detective Blanton that day that
14 Anterius was the shooter?

15 A I was just being honest.

16 Q You were being honest?

17 A (WHEREUPON, the witness nods affirmatively.)

18 Q Thought it was the right thing to do?

19 A Yes, ma'am.

20 Q Have you seen Tyler since the shooting?

21 A No, ma'am.

22 Q Haven't spoken to him?

23 A No, ma'am.

24 Q Is today the first time you've seen him?

25 A Well, since then, yes, ma'am.

Phaedra Hall - Direct examination
by Solicitor Barry

1 Q Okay. And at the time of the shooting, you had family
2 members living around the corner of Holly Street, correct?

3 A Yes, ma'am.

4 Q Who was living there?

5 A My mother.

6 Q Anybody else?

7 A My daughter.

8 Q Okay. Is anybody still living at that location today
9 that is related to you?

10 A Yes, ma'am.

11 Q So, you actually have family members who are still
12 living right next door to family members---

13 A Yes, ma'am.

14 Q ---of Anterius Smith?

15 A Yes, ma'am.

16 Q Okay. And you're, you're nervous here today, correct?

17 A Yes, ma'am.

18 SOLICITOR BARRY: Your Honor, I have no further
19 questions for Ms. Hall.

20 Please answer any questions that Mr. Epps may have for
21 you.

22 A All right.

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION

25 BY MS. EPPS:

Phaedra Hall - Cross-examination
by Mr. Epps

1 Q Ms. Hall, I know this isn't your first time in the
2 courtroom.

3 Is this your first time testifying?

4 A Yes, sir.

5 Q You can respect my position. I'm not trying to be mean
6 to you, but I am trying to do my job.

7 A Yes, sir.

8 Q So, I will ask you to please speak clearly and loudly.

9 A Yes, sir.

10 Q I'm, I'm the oldest attorney -- I'm the oldest attorney
11 in this room. So, my hearing may not be that great. I'm
12 having a hard time hearing you. I may ask you to repeat
13 yourself.

14 okay?

15 A Yes, sir.

16 Q Thank you.

17 Did you buy yearbooks for Kaitlin when she was in
18 school?

19 A My mother did.

20 Q Okay. You saw me with Tyler in the yearbook, right?

21 A Yes, sir.

22 Q Would you trust me that she is listed on Page 179 of
23 the freshman class?

24 A Yes, sir.

25 Q Her hair was straight in the ninth grade it appears.

Phaedra Hall - Cross-examination
by Mr. Epps

- 1 A Yes, sir.
- 2 Q You didn't show this to law enforcement, did you?
- 3 A No, sir.
- 4 Q Is that a no, sir?
- 5 A No, sir.
- 6 Q You didn't show them any yearbook, did you?
- 7 A No, sir.
- 8 Q You showed them your phone, right?
- 9 A Yes, sir.
- 10 Q when?
- 11 A when they come out and spoke to me. Officer Blanton
- 12 and Skinner came and spoke to me.
- 13 Q How long after the shooting was that?
- 14 Let me, let me do it this way. Officer Blanton
- 15 testified that it was probably April the 18th.
- 16 Do you have any reason to disagree with his testimony?
- 17 A No, sir.
- 18 Q Okay. The shooting happened on your birthday.
- 19 when's your birthday?
- 20 A March the 28th.
- 21 Q So, 24 days later, 23 days later?
- 22 A Yes, sir.
- 23 Q what prevented you, in that period of time, for getting
- 24 in touch with law enforcement?
- 25 A what prevented me?

Phaedra Hall - Cross-examination
by Mr. Epps

1 Q Yeah.

2 A Nothing. I was just waiting till further notice.

3 Q Ma'am?

4 A I just waited till further notice or till they came and
5 spoke with me.

6 Q Oh. You were waiting for them to come talk to you.
7 we're here on an attempted murder case, right?

8 A Yes, sir. Yes, sir.

9 Q Your friend who saw you on your birthday, did he give
10 you a hug before you got shot?

11 A Yes, sir.

12 Q But he's shot soon thereafter?

13 A Yes, sir.

14 Q Did you think he was gonna die?

15 A I didn't know.

16 Q But you waited until further notice?

17 A Yeah, because I hadn't heard anything. I didn't know
18 what was going on.

19 Q Did you hear Detective Blanton testify?

20 A Yes, sir.

21 Q Did you disagree with him when he said that the person
22 that got him the picture of Anterius Smith, the first
23 person, was you?

24 A Do I disagree, no, sir.

25 Q How long do you think law enforcement was out there

Phaedra Hall - Cross-examination
by Mr. Epps

1 that night?

2 A I'd have to say at least an hour or so. At least an
3 hour or --.

4 Q Ma'am, I -- it seems maybe the jury's having a hard
5 time hearing you.

6 A At least an hour or so.

7 Q Thank you. Let, let me ask this.

8 Your Honor, may I approach?

9 THE COURT: Yes, sir.

10 Q I'm gonna come right here, and maybe, if you're in this
11 way, it will work a little better.

12 Okay. Are you scared?

13 A Yes, sir, a little bit.

14 Q of?

15 A A lot of reasons. A lot of reasons.

16 Q Okay. Like?

17 A Like, for instance, my mom left her house a while
18 ago---

19 Q Okay.

20 A ---cause she's scared too.

21 Q Okay. Well, you've had how many birthdays since that,
22 that faithful birthday?

23 A A lot.

24 Q I have yet to see anything where you have requested
25 charges be brought for harassment or anything else like that

Phaedra Hall - Cross-examination
by Mr. Epps

1 related to this case.

2 Are you aware of any?

3 A No, sir, not until here recently.

4 Q Not until here recently.

5 So, there's a pending case right now?

6 A What do you mean?

7 Q I mean so -- you know what I'm talking about?

8 A No. They -- about two weeks ago I was told that he
9 came to my mom's house.

10 Q You were told?

11 A (WHEREUPON, the witness nods affirmatively.)

12 Q Have you ever heard the phrase hearsay --

13 A Right.

14 Q -- as in you heard somebody say it?

15 A Yes, sir.

16 Q Okay. And that heard ain't here right now.

17 It's you sitting in that seat, right?

18 A Yes, sir.

19 Q Let me ask you this.

20 If somebody shot you with a gun, would you do what was
21 necessary to make sure that person paid for it by being
22 arrested?

23 A Yes, sir.

24 Q How about your daughter?

25 She's pregnant.

Phaedra Hall - Cross-examination
by Mr. Epps

1 If somebody did that to her, would you do what was
2 necessary, as a mother, to make sure that person was
3 arrested?

4 A Yes, sir.

5 Q Okay. So, you haven't sworn out any warrants or
6 anything like that on anybody in this room since May --
7 March 28th, 2017?

8 A No, sir.

9 Q Did you help Tyler with the fryer?

10 A As I recall, yes, sir.

11 Q Okay. Was it a fryer?

12 was it a pot?

13 was it a lid?

14 was it all three?

15 what?

16 A I think I remember carrying a pot, some kind of pot,
17 that went to it.

18 Q Two hands on the pot and you had both hands on the
19 handles?

20 A Yes, sir.

21 Q You could not hear what Tyler and the shooter were
22 saying?

23 A I heard some of it.

24 Q You did?

25 A (WHEREUPON, the witness nods affirmatively.)

Phaedra Hall - Cross-examination
by Mr. Epps

1 Q And you reported it immediately, immediately to law
2 enforcement, didn't you?

3 A Not immediately. When they got there.

4 Q All right. Are you aware that there were at least two
5 different officers wearing body cameras that night?

6 A No, sir, I was not.

7 Q Have you reviewed any of this body cam footage?

8 A No, sir.

9 Q Will you agree with me that on that body cam footage
10 you say you do not know who it was?

11 A Yes, sir. Yes, sir.

12 Q How long do you believe you and Detective Blanton
13 talked that night?

14 A I can't remember.

15 Q Ten minutes?

16 A At least. At least.

17 Q I might have to switch up my disks, but do you -- would
18 you agree with me that on that body camera you would say if
19 I knew anything I'd tell you but I don't?

20 A I don't recall. I don't recall.

21 Q Would you like me to show it to you?

22 A It doesn't matter.

23 THE COURT: I'm sorry. I didn't hear the answer.

24 THE WITNESS: I said it doesn't matter.

25 Q Do, do you, do you -- do you think I'm lying to you?

Phaedra Hall - Cross-examination
by Mr. Epps

1 A No, sir.

2 Q Do you still have that color photograph?

3 A No, sir.

4 MR. EPPS: May I approach?

5 THE COURT: Yes, sir.

6 MR. EPPS: Thank you.

7 The, the photograph I was just referring to is State's
8 Exhibit 5.

9 Is that correct?

10 A Yes, sir.

11 Q You were talking about this box in the photograph?

12 A Yes, sir.

13 Q I call it a box because I believe that is the box off a
14 U-Haul box truck.

15 Is that right?

16 A Yes, sir.

17 Q You were living in there with Meryl Lindsay?

18 A Yes, sir.

19 Q What's Meryl's name?

20 A Tyrone.

21 Q Tyrone.

22 Are you aware about any Crime Stopper tip with a name
23 that's very similar to that---

24 A No, sir.

25 Q ---related to this?

Phaedra Hall - Cross-examination
by Mr. Epps

1 A No, sir.

2 Q That wasn't you?

3 A No, sir.

4 Q I'm gonna hand you a photo copy of what was previously
5 marked as State's Exhibit 4.

6 Do you recognize that photograph, the area?

7 A Yes, sir.

8 Q What is the area?

9 A Holly Street.

10 Q Ma'am?

11 A Holly Street.

12 Q Maybe a -- there's a house showing.

13 What house is that?

14 A The house is where the incident happened at Tisa's
15 house.

16 Q Okay. Is this the location where the shooting took
17 place?

18 A Yes, sir.

19 Q All right. Would you hold my pen please?

20 A (WHEREUPON, the witness complies.)

21 Q On this photograph I would like you to draw where the
22 car Brittany was driving was located when it was parked.

23 A (WHEREUPON, the witness complies.)

24 Right here.

25 Q So, I'm gonna hand it back to you just so we're clear.

Phaedra Hall - Cross-examination
by Mr. Epps

1 Can you see a circle drawn on that picture?

2 A Yes, sir.

3 Q I, I need a little more definition. So I'm gonna ask
4 you questions. The car, I think's, bigger than the circle
5 you drew.

6 A Yes, sir.

7 Q Is the car off the road or on the road or is it a mix?

8 A It's in front of the trashcan a little bit on the road.
9 It's in-between off and on.

10 Q So half on, half off?

11 A Yeah.

12 Q What direction is it facing?

13 A Downwards. Down Holly Street.

14 Q There's some arrows in that picture showing where the
15 road makes a dog-leg left---

16 A No.

17 Q ---right?

18 A You got, you got to go around a curve.

19 Q The car would be pointing in the direction of those
20 arrows?

21 A Yes, sir.

22 Q Tyler would be on the passenger side, right?

23 A Yeah. Yes, sir.

24 Q On the roadway side?

25 A Yes, sir.

Phaedra Hall - Cross-examination
by Mr. Epps

1 Q where were you standing when they pulled up?

2 A In front of that box.

3 Q The box. The U-Haul box.

4 And what happened?

5 A He pulled up and Tyler got out of the car, and he saw
6 me standing there, and asked me -- he just went -- told me
7 to come there, and he hugged me, and asked me to help him
8 get the pot thing out of the back seat.

9 Q And you did?

10 A Yes, sir.

11 Q went walking back towards the box?

12 A To go -- yes, sir.

13 Q Tisa---

14 A I had---

15 Q Go ahead.

16 A I went to go -- when I went to leave the passenger's
17 side of the back, I went to go around the car to go to -- of
18 course, to the -- take part of the pot thing up on the
19 porch, but I didn't make it that far.

20 Q Tisa wasn't there?

21 A I can't remember. I don't think so. I can't remember.

22 Q wasn't Tisa living there at the time?

23 A Yeah, she was living in the house.

24 Q Okay. So it's Tisa's house?

25 A Yes, sir.

Phaedra Hall - Cross-examination
by Mr. Epps

1 Q And, and that box is not like a residence. It's just
2 on the property.

3 A Yes, sir.

4 Q All right. I mean are y'all paying rent or what's the
5 deal there?

6 A We were paying rent -- rental.

7 Q So, was Tyler bringing the other part of the cooking
8 apparatus?

9 A I think -- yeah, he didn't get it out the back seat
10 but -- and sat it down beside the car.

11 Q Daytime, nighttime?

12 A Like it's kind of still light out. In-between light,
13 light and dark.

14 Q Okay. Let me ask it this -- State's Exhibit No. 5, you
15 didn't take this picture, right?

16 A No, sir.

17 Q You don't know when it was taken?

18 A No, sir.

19 Q Are there leaves on the trees?

20 A Yes, sir. Yes, sir.

21 Q Were there leaves on the trees back on March 28th?

22 A I don't recall.

23 Q Okay. Is that a fair and accurate representation of
24 the, the -- that area the night it happened relative to
25 daylight and trees and how, how it all looked right then and

Phaedra Hall - Cross-examination
by Mr. Epps

1 there?

2 A It was a little bit darker than that, and not like --
3 not -- it wasn't all the way dark.

4 Q wasn't all the way dark?

5 A Hu huh. (Negative).

6 Not that I can remember.

7 Q How long after the shooting did it take law enforcement
8 to show up there?

9 A Like five minutes if that.

10 Q Five?

11 A If that.

12 Q Five minutes?

13 A I guess.

14 Q Hu huh. (Negative). Hu huh. (Negative).

15 A I don't remember.

16 Q No.

17 A I'm not the one that called them. I don't know.

18 Q No, but you were the one that was there.

19 A There was more people there beside me.

20 Q Oh, I know. But you're in the witness stand. I ain't
21 worried about them. I'm worried about you.

22 How long did it take them to get there?

23 A I don't remember.

24 Q But you, you remember everything that happened that
25 night but you don't remember---

Phaedra Hall - Cross-examination
by Mr. Epps

1 A I say---

2 Q ---that?

3 A ---it's five to ten minutes, if that.

4 Q Five to ten minutes.

5 well, would you disagree with me that the body cam
6 timestamp with your face on it is gonna be right around
7 22:41 military time?

8 A I don't know.

9 Q would you like me to show it to you or do you want to
10 take my word for it?

11 A I'll look.

12 Q I can not hear you.

13 A I'll take your word.

14 Q Ma'am?

15 A I'll take your word.

16 Q You'll take my word for it?

17 A Yes, sir.

18 Q Do you know military time?

19 A Hu huh. (Negative).

20 Q All right. They're 24 hours in a day, correct?

21 A Yes, sir.

22 Q All right. Twelve o'clock midnight is the 24th hour.
23 Twenty-two hours is two hours back. That's ten o'clock.

24 Does that make sense to you?

25 A Yes, sir.

Phaedra Hall - Cross-examination
by Mr. Epps

1 Q 22:41 would be 10:41PM.

2 Does that make sense to you?

3 A Yes, sir.

4 Q You said just a little while ago -- you, you gave a
5 description of black male, shoulder length dreads.

6 when did you do that?

7 A when I, when I talked to the police that night.

8 Q when you talked to the police that night?

9 A Yes, sir. And when Officer Blanton and Skinner came
10 over and spoke with me.

11 Q who -- so let ask it this way.

12 You didn't see a body cam on Officer Blanton, did you?

13 A I don't recall one.

14 Q I don't believe he had one.

15 You hadn't watched any of the other body cams though---

16 A No, sir.

17 Q ---from the other officers?

18 But you are certain, beyond a shadow of a doubt,
19 willing to put my client's whatever sentence he gets on the
20 fact that you are absolutely sure---

21 SOLICITOR BARRY: Your Honor, I'm gonna object to him
22 mentioning any kind of sentence---

23 THE COURT: All right.

24 SOLICITOR BARRY: ---regarding this.

25 THE COURT: I'm gonna let him ask the question. He

Phaedra Hall - Cross-examination
by Mr. Epps

1 hasn't gone that far yet.

2 Q So, you are absolutely certain that on May -- I mean
3 March, it didn't happen in that, March 28th, your
4 birthday, that you told Detective Brian Blanton that this
5 was a black male with shoulder length dreads?

6 A Yes, sir.

7 Q So let me ask you this.

8 How much further would it have been to say it's
9 Anterius Smith?

10 Madam Court Reporter, did you hear me whisper?

11 THE COURT REPORTER: Yes.

12 Q How, how much further would it have been for you to do
13 that?

14 A None.

15 Q Not much?

16 A What do you mean?

17 Can you repeat the question?

18 Q You want me to repeat the question?

19 A Yes, sir.

20 Q Gladly.

21 Since I'm gonna have to repeat the whole thing, I'm
22 sorry, you said that it was a black male with shoulder
23 length dreads, right?

24 A Yes, sir.

25 Q Okay. How much further -- how much more work would it

Phaedra Hall - Cross-examination
by Mr. Epps

1 have taken for you to say and it's Anterius Smith?

2 Now I'm saying it loud so you can hear me. I'm not
3 suggesting that you should have done that to the detective.
4 You could of whispered it or written it.

5 How much harder would it have been to give the name?

6 A It wouldn't.

7 Q And you didn't, did you?

8 A The same night of the incident?

9 Q (WHEREUPON, Mr. Epps nods affirmatively.)

10 A No, I told him I didn't know who it was cause I was
11 scared.

12 Q You still scared?

13 A Not as scared, but a little scared, yeah.
14 why wouldn't I be?

15 Q Ma'am?

16 A I said why wouldn't I be?

17 Q why wouldn't you be?

18 I'll address that later. Thank you, ma'am.

19 I have no further questions.

20 THE COURT: Any redirect limited to what he went into?

21 SOLICITOR BARRY: Yes, sir, Your Honor.

22 REDIRECT EXAMINATION

23 BY SOLICITOR BARRY:

24 Q Let's start with what -- Mr. Epps maybe second to last
25 question. How much harder would it have been to say it was

Phaedra Hall - Redirect examination
by Solicitor Barry

1 Anterius Smith.

2 Meryl Lindsay's on scene, correct?

3 A Ma'am?

4 Q Meryl Lindsay is on scene, correct?

5 A Yes, ma'am.

6 Q He's related to Anterius Smith?

7 A Yes, ma'am.

8 Q Tisa Wood is on scene, correct?

9 A Yes, ma'am.

10 Q She's related to Anterius Smith?

11 A Yes, ma'am.

12 Q So there are family members of Anterius Smith on scene?

13 A Yes, ma'am.

14 Q And you have repeatedly testified today that you are
15 scared?

16 A Yes, ma'am.

17 Q So are you afraid of things that Anterius Smith's
18 family might do to you if you say Anterius Smith's name?

19 A Yes, ma'am.

20 Q And you said that you heard Anterius came to your
21 mama's.

22 who told you that?

23 MR. EPPS: Objection, Your Honor.

24 THE COURT: Lawyers want to approach.

25 (WHEREUPON, a bench conference was held out of the

Phaedra Hall - Redirect examination
by Solicitor Barry

1 hearing of the jury at this time.)

2 Q Ms. Phaedra, who told you that Anterius had been to
3 your mom's?

4 A My daughter and her baby daddy was driving by---

5 Q Okay. Thank you. That's all I needed to know. I just
6 needed to know the name.

7 So, you were afraid of Anterius's family then?

8 A Yes, ma'am.

9 Q And you're afraid of Anterius's family now?

10 A Yes, ma'am.

11 Q But you're testifying today despite all that, correct
12 --

13 A Yes, ma'am.

14 Q -- that Anterius Smith, who's sitting right over there,
15 is the individual who shot Tyler Vassey?

16 A Yes, ma'am.

17 SOLICITOR BARRY: No further questions, Your Honor.

18 THE COURT: All right. Thank you, ma'am. You may step
19 down. Watch your step as you're stepping down.

20 Let me see the lawyers just for a moment.

21 (WHEREUPON, a bench conference was held out of the
22 hearing of the jury at this time.)

23 THE COURT: Is the State ready to call your next
24 witness?

25 SOLICITOR BARRY: State's ready, Your Honor.

Kaitlin Hall - Direct examination
by Solicitor Barry

1 State would call Kaitlin Hall to the stand.

2 THE COURT: Miss Hall, just come right up here. Let
3 the Clerk swear you in.

4 THE CLERK: Raise your right-hand. Place your
5 left-hand on the Bible.

6 KAITLIN HALL, being first duly
7 sworn, testified as follows:

8 THE CLERK: Okay. Watch your step and make sure you
9 speak up, okay?

10 You have a soft voice.

11 THE WITNESS: Okay.

12 THE COURT: Yes, ma'am.

13 SOLICITOR BARRY: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY SOLICITOR BARRY:

16 Q Ms. Hall, can you please state your name for the
17 record?

18 A Kaitlin Hall.

19 Q Thank you. You're nice and loud.

20 Do you know Tyler Vassey?

21 A Yes, ma'am.

22 Q Is -- how do you know him?

23 A From school.

24 Q Okay. And do you know Anterius Smith?

25 A Yes, ma'am.

Kaitlin Hall - Direct examination
by Solicitor Barry

1 Q How do you know Anterius?

2 A I went to school with him.

3 Q Okay. How long -- about how much older is Anterius
4 than you?

5 Do you know?

6 A (WHEREUPON, the witness nods negatively.)

7 Q Okay. But you guys did go to school together?

8 A Yes, ma'am.

9 Q Okay. And just to get this out of the way, Miss Hall,
10 you currently have a charge pending in my office.

11 Is that correct?

12 A Yes, ma'am.

13 Q And I'm actually the prosecutor on that case.

14 Is that correct?

15 A Yes, ma'am.

16 Q And have I offered you any type of deal for your
17 testimony here today?

18 A No, ma'am.

19 Q Okay. And do you remember the day of March the
20 28th of 2017?

21 A Yes, ma'am.

22 Q And what were you doing that day?

23 A I was celebrating it with my mom's birthday.

24 Q Okay. Where were you celebrating it?

25 A In the building.

Kaitlin Hall - Direct examination
by Solicitor Barry

1 Q I'm sorry. Say that again.

2 A The back of the building.

3 Q Okay. In the building at 505 Holly Street?

4 A Yes, ma'am.

5 Q And that's where your mom lived with Meryl?

6 A Yes, ma'am.

7 Q And you call Meryl Baldy?

8 A Yes.

9 Q Okay. And, on that day, who all is over there either
10 at the building or at the house on Holly Street?

11 A That night?

12 Q Any part of the day.

13 A It was me, my mama, Baldy, Anterius, Ridge, and a
14 couple more other people.

15 Q Okay. And they were there during the day.

16 Did they remain there?

17 A That night?

18 Q Yeah.

19 Did they stay there?

20 A Yes.

21 Q Okay. And do you remember Tyler coming to 505 Holly
22 Street?

23 A Yes.

24 Q What do you remember or what do you remember seeing
25 when Tyler arrives?

Kaitlin Hall - Direct examination
by Solicitor Barry

1 A Okay. When Tyler arrived, I was still in the building.
2 Mama was standing outside and she walked. So, I come out to
3 see where she went, and there's a car there.

4 Q Okay. And you said there was a car there.
5 who's in the car?

6 A Tyler.

7 Q Okay. Do you know who is -- who else is in the car?

8 A Brittany.

9 Q Okay. Do -- how do you know Brittany whisnant?

10 A well, from my ex's. She's good friends with him.

11 Q Okay. And earlier in the day with Anterius and
12 throughout the night, what is Anterius doing?

13 A During the day and the night?

14 Q Yes, ma'am.

15 A He was celebrating. He was drinking.

16 Q He was drinking?

17 A Yes.

18 Q Do you notice anything about Anterius?

19 A what do you mean?

20 Q Does he have -- does he have anything on him?

21 A Oh yes.

22 Q what does he have on him?

23 A A gun.

24 Q where is that gun?

25 A In the front right there of his pants.

Kaitlin Hall - Direct examination
by Solicitor Barry

1 Q The front of his waistband?

2 A Uh-huh. (Affirmative).

3 Q Okay. So Tyler gets there with Brittany.

4 what do you see after they arrive?

5 A When Tyler got out of the car?

6 He was---

7 Q If that's what you see, yes, ma'am.

8 A He walked towards the back of the car. Anterius walked
9 up to him and approached him.

10 Q Okay. And do you see anything after that?

11 A Yes.

12 Q What do you see?

13 A He asked him what, what was he doing there and he
14 needed to leave and --.

15 Q Okay.

16 A Then a little bit of chaos.

17 Q Okay.

18 A Uh-huh. (Affirmative).

19 Q Do you actually see Tyler get shot?

20 A No, I did not see Tyler get shot.

21 Q But you hear the gunshot?

22 A Yes.

23 Q Okay. As Tyler and Anterius are arguing, what are you
24 doing?

25 A Just standing there.

Kaitlin Hall - Direct examination
by Solicitor Barry

1 Q Okay. Do you stay there after Tyler gets shot?

2 A (WHEREUPON, the witness nods negatively.)

3 Q Where do you go?

4 A I went home.

5 Q Okay. And where was home?

6 A Right there across the -- like right there when I go
7 around the curve. The first house on the right.

8 Q Around the curve?

9 A Yes.

10 Q Okay. Who are you living there with?

11 A My grandma.

12 Q Okay. And do you see anything after you get there?

13 A At home?

14 Q Yes, ma'am.

15 A The car.

16 Q What car do you see?

17 A The car that they was in. I think it was silver.

18 Q The car that who was in?

19 A Brittany and Tyler.

20 Q Okay. So you see them go around the curve off?

21 A Yes, ma'am.

22 Q Okay. Do you see any other cars drive off?

23 A No, ma'am.

24 Q Okay. Did you tell law enforcement the night of that
25 Anterius was the one that shot Tyler?

Kaitlin Hall - Direct examination
by Solicitor Barry

1 A No, ma'am.

2 Q why did you not tell them?

3 A I didn't talk to the officers.

4 Q Okay. Did you, at any point, think to tell law
5 enforcement that Anterius was the one that shot Tyler?

6 A No, ma'am.

7 Q why?

8 A Because.

9 Q Because why?

10 A Cause I was scared to.

11 Q Okay. And what were you afraid of?

12 A what was I afraid of?

13 Q Yes, ma'am.

14 A I was, I was just scared to tell them.

15 Q Okay. When -- are you still living at the 505---

16 A Yes, ma'am.

17 Q Not 505.

18 A Holly Street.

19 Q The Holly Street address.

20 A Yes, ma'am.

21 SOLICITOR BARRY: Okay. No further questions, Your
22 Honor.

23 CROSS-EXAMINATION

24 BY MR. EPPS:

25 Q Kaitlin, we've never met before?

Kaitlin Hall - Cross-examination
by Mr. Epps

1 A No, sir.

2 Q How far along are you?

3 A I guess about six more weeks left to go.

4 Q well, I hope it goes smoothly for you.

5 A Thank you.

6 Q Congratulations.

7 First child?

8 A Second.

9 Q Second child.

10 All right. Boy, girl?

11 A Girl.

12 Q I got a few of those. They're a handful.

13 A Yeah.

14 Q You got a boy now or a girl?

15 A Yes, sir.

16 Q All right. I wish you well.

17 A Thank you.

18 Q I don't like to trick people. You talked to law
19 enforcement that night. You were on video.

20 Do you want me to show it to you or do you want to take
21 my word for it?

22 A I believe you. I don't -- since I've had the car wreck
23 back in February, I told -- I didn't tell Ms. Barry that.

24 The impact we sit -- was so hard where the air bag hit me so
25 hard in the face---

Kaitlin Hall - Cross-examination
by Mr. Epps

- 1 Q Uh-huh. (Affirmative).
- 2 A ---it's hard for me to remember things. So --.
- 3 Q Fair---
- 4 A Yeah.
- 5 Q February of this year?
- 6 A Yes, sir.
- 7 Q Okay. What kind of car wreck were you in?
- 8 A That -- it was on I-26 towards Spartanburg. It had 85
- 9 backed up for like five hours. Six car pile up. Yeah.
- 10 Q Were you a passenger or driver?
- 11 A Driver.
- 12 Q Steering wheel got you?
- 13 A Yeah.
- 14 Q Or the---
- 15 A Air bag.
- 16 Q Thank you.
- 17 Anything happen to your baby?
- 18 A No. No. Thank God.
- 19 Q But since then your memory's fuzzy?
- 20 A Yeah, a little bit.
- 21 Q You're scared is what you just said?
- 22 A Uh-huh. (Affirmative).
- 23 Q That's why you didn't go to law enforcement?
- 24 A Why I didn't?
- 25 Q Yes, no, maybe.

Kaitlin Hall - Cross-examination
by Mr. Epps

1 A Sir?

2 Q Let's start that over again.

3 A Okay.

4 Q The reason you didn't go to law enforcement you said
5 was because you were scared.

6 A Uh-huh. (Affirmative).

7 Q Is that right.

8 A (WHEREUPON, the witness nods affirmatively.)

9 Yes, sir.

10 Q I need you to say---

11 A Yes, sir.

12 Q Thank you.

13 This is your first time in -- testifying in Court?

14 A Yes, sir.

15 Q Okay. It's not your first time in Court though, right?

16 A No, sir.

17 Q This court reporter's making a typed transcript. Try
18 and talk -- take your time but just make sure that she's
19 able to do her job.

20 All right?

21 A Okay.

22 Q Tyler -- you were here for Tyler's testimony?

23 A Yes, sir.

24 Q He's -- no, I'm sorry. Brittany.

25 You were here for Brittany's too though?

Kaitlin Hall - Cross-examination
by Mr. Epps

- 1 A Yes, sir.
- 2 Q She said she saw Ridge and you in the yard.
- 3 Did you hear that?
- 4 A Yes, sir.
- 5 Q Did she testify truthfully?
- 6 A Yes, sir.
- 7 Q So you were -- who is Ridge?
- 8 A Ridge?
- 9 Q Uh-huh. (Affirmative).
- 10 A Me and him was -- we had, we had been seeing each
- 11 other.
- 12 Q You were -- I couldn't hear you.
- 13 A We were seeing each other.
- 14 Q Dating?
- 15 A Yes.
- 16 Q He's not dad, is he?
- 17 A No.
- 18 Q Okay. What's his last name?
- 19 A Dinero.
- 20 Q Ridge Dinero?
- 21 A Yes. That was the name on Facebook. No, his last name
- 22 is Crosby.
- 23 Q Yeah. The people I've dated in my life I knew their
- 24 last name.
- 25 A Yeah.

Kaitlin Hall - Cross-examination
by Mr. Epps

- 1 Q Okay. So, old Ridge, y'all not dating anymore?
- 2 A No, sir.
- 3 Q I bet he's hard to find these days, isn't he?
- 4 A No.
- 5 Q He's not?
- 6 A No.
- 7 Q where is he?
- 8 Is he just down the street?
- 9 A No, sir.
- 10 Q where is he?
- 11 You know where he is.
- 12 A He's in prison.
- 13 Q Oh, yeah.
- 14 Scared of Ridge?
- 15 A No.
- 16 Q You're not scared of Ridge.
- 17 what about Mr. Lindsay?
- 18 Is he scary?
- 19 A Baldy? I call him Baldy.
- 20 Q I don't know what his name is.
- 21 A No, sir.
- 22 Q Yeah.
- 23 The guy that lives in the U-Haul box?
- 24 A No.
- 25 Q He's not scary?

Kaitlin Hall - Cross-examination
by Mr. Epps

1 A No, sir.

2 Q Was he on house arrest during the time of this
3 incident?

4 A Yes, sir.

5 Q He was.

6 But he ain't scary?

7 A No.

8 Q Okay. Now, it seems to me Detective Blanton -- were
9 you here for Detective Blanton's testimony?

10 A Yes, sir.

11 Q We were talking about bullet casings, and he said that
12 there were a lot of them on the ground.

13 Is that true or was he lying?

14 SOLICITOR BARRY: Your Honor, I'm gonna object. He's
15 pitting the witnesses against one another.

16 THE COURT: You want to rephrase the question?

17 MR. EPPS: I'll be glad to.

18 Would it surprise you that there, at the time of this
19 shooting and they investigated it, that there were a lot of
20 bullet casings on the ground?

21 A I don't remember.

22 Q You don't?

23 A No.

24 Q So that would---

25 A I wasn't looking for them.

Kaitlin Hall - Cross-examination
by Mr. Epps

1 Q would that -- that would surprise you that someone
2 would make that statement?

3 Yes, no---

4 A There was---

5 Q ---maybe.

6 A There was more than one.

7 Q well, usually when there's one -- people say one, many
8 is usually more than one.

9 A Yeah. well, I didn't know that.

10 Q Okay. Did you get a yearbook when you went to Gaffney?

11 A Yes, sir.

12 Q Ninth grade?

13 A Yep.

14 Q Okay. You, you got one now?

15 A No, it's at home.

16 Q well, not on you but at your grandma's house---

17 A Yes, sir.

18 Q ---you got one?

19 A Yes, sir.

20 Q Okay. And you shared that with Detective Blanton?

21 A No, sir.

22 Q You gave it to your mom to share with Detective
23 Blanton?

24 A My yearbook?

25 Q Yes.

Kaitlin Hall - Cross-examination
by Mr. Epps

1 A Oh, okay.

2 Q No, no, no. I'm sorry. I'm asking you. I will tell
3 you in my -- I, I don't understand or believe that you
4 actually did those things.

5 A I don't remember.

6 Q You didn't give that yearbook to anyone, did you?

7 A I don't remember.

8 Q At the time -- but how old are you now?

9 A Twenty-three.

10 Q Okay. So four years ago you'd of been 19?

11 A Yes, sir.

12 Q You had any kids yet?

13 A No, sir.

14 Q Do you believe people should admit when they're wrong?

15 A Yes, sir.

16 Q You think they should pay for or, or, or make good on
17 their crimes?

18 A What do you mean by that?

19 Q Do you think people should get away with it?

20 A With doing something wrong?

21 Q Right.

22 A No.

23 Q And when they do something wrong, you believe they
24 should do whatever's necessary to make it right?

25 A Yes, sir.

Kaitlin Hall - Cross-examination
by Mr. Epps

1 Q You had an issue some years ago with restitution in
2 your own criminal case, didn't you?

3 A Yes, sir.

4 Q You and your mom?

5 A Yep.

6 Q Y'all were so -- received some stolen goods from Johnny
7 McGill?

8 A There was no such a -- the only other thing that has
9 happened, stuff on the side of the road, but they called the
10 police and filed a report and said the stuff like that,
11 yeah. But it was free to public really. If it's on the
12 side of the road it's free to the public but you know.

13 Q I, I do.

14 Is -- so it was free and that's why you have an order
15 of restitution against you for that?

16 A We went to Court for it.

17 Q Uh-huh. (Affirmative).

18 A Uh-huh. (Affirmative).

19 Q would you like me -- would this refresh your memory?

20 A I remember.

21 Q Okay. Did you ever pay that off?

22 A (WHEREUPON, the witness nods negatively.)

23 Q How about your mama?

24 A (WHEREUPON, the witness nods negatively.)

25 THE COURT: You need to respond verbally, ma'am.

Kaitlin Hall - Cross-examination
by Mr. Epps

1 THE WITNESS: Oh, no, sir. The, the woman's -- they
2 were together. Like they were girlfriends. They never
3 contacted us or came back by the house or anything or gave
4 us a way to get in touch with them to pay them the money.

5 Q Right.

6 But you understand the City of Gaffney got in touch
7 with you---

8 A Yes.

9 Q ---about that?

10 A Uh-huh. (Affirmative).

11 Q And entered a Court Order against you for that?

12 A Yes, sir.

13 Q You and your mama still live there in that corner area?

14 A My mom doesn't live there, but I still live there with
15 my grandma.

16 Q well, let me back up.

17 Your mom, does she live in the house or in that U-Haul
18 box?

19 A She lives in the house.

20 Q She lives or lived?

21 A She lives in the house.

22 Q All right. At the time -- but she was not living in
23 the house with y'all?

24 A No, sir.

25 Q Did you know it was Anterius from the very beginning?

Kaitlin Hall - Cross-examination
by Mr. Epps

1 A That shot Tyler?

2 Q Yes.

3 A Yes, sir.

4 Q Did you know him from school?

5 A Yes, sir, never talked to him or anything, but I seen
6 him like in the hallways and stuff --

7 Q well --.

8 A -- and we rode -- and then we rode the bus together
9 also.

10 Q Your testimony is you saw him that night?

11 A That night?

12 Q The night.

13 Kaitlin, what are we here about?

14 A what do you mean I saw him?

15 He was there?

16 Q No, I guess he wasn't.

17 No further questions.

18 THE COURT: Any redirect limited to what he went into?

19 REDIRECT EXAMINATION

20 BY SOLICITOR BARRY:

21 Q That night that Tyler Vassey got shot, Anterius was
22 there, correct?

23 A Yes, ma'am.

24 Q And Anterius---

25 A I---

Kaitlin Hall - Redirect examination
by Solicitor Barry

1 Q ---shot Tyler?

2 A Yes, ma'am.

3 Q No further questions.

4 A I didn't understand what he was saying.

5 THE COURT: Thank you, ma'am. You may step down.

6 Lawyers approach.

7 Ladies and gentlemen, if you would, just stand up,
8 stretch your legs just for a second. Let me talk to the
9 lawyers.

10 (WHEREUPON, a bench conference was held out of the
11 hearing of the jury at this time.)

12 THE COURT: Thank you, ladies and gentlemen. If you
13 would, just have a seat and we will hopefully wrap it up
14 just shortly for the day.

15 Ready -- State ready to call their next witness?

16 SOLICITOR BARRY: The State's ready, Your Honor.

17 THE COURT: Yes, ma'am.

18 SOLICITOR BARRY: State would call Sherri Vassey to the
19 stand.

20 THE COURT: Ma'am, just come right up here and let the
21 Clerk of Court swear you in.

22 All right.

23 THE CLERK: Please raise your right-hand. Place your
24 left-hand on the Bible.

25 SHERRI VASSEY, being first duly

Sherri Vassey - Direct examination
by Solicitor Barry

1 sworn, testified as follows:

2 THE CLERK: Okay. Watch your step. You may lower your
3 mask to testify.

4 THE COURT: Yes, ma'am.

5 SOLICITOR BARRY: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY SOLICITOR BARRY:

8 Q Mrs. Vassey, can you state your full name for the
9 record please?

10 A Yes, Sherri Vassey.

11 Q And how do you know Tyler?

12 A He's my stepson.

13 Q Okay. And how long have you been married to Tyler's
14 dad?

15 A Five years.

16 Q And you were married to him on March the 28th, 2017?

17 A Yes.

18 Q Okay. What are you and your husband doing around this
19 time?

20 A A lot. We had purchased a house here in the City. Our
21 old house was on Lake Cherokee Road. My husband had -- he
22 operated his tool and die business out of our basement, and
23 he was in the process of selling his business, and we were
24 in the process of trying to get our home on the market, and
25 we had a lot of junk. He had about 20 years accumulation of

Sherri Vassey - Direct examination
by Solicitor Barry

1 scrap metal for old jobs. Just probably 10 times or more
2 what the normal family would have in getting ready to sell a
3 home.

4 Q Okay.

5 A So, I was needing a lot of help.

6 Q And was Tyler providing you guys with that help?

7 A Yes, his dad was continuing to work, you know, that --
8 to support the family. But I needed physical labor cause I
9 couldn't do a lot of it, and his dad was picking Tyler up in
10 the morning. They would go by and pick up a biscuit for our
11 breakfast, and Tyler helped me from basically close to
12 daylight till almost dark every night for weeks.

13 Q All right. And he, he did that on March the 28th of
14 2017?

15 A Yes.

16 Q Do you know where Tyler was dropped off when y'all were
17 done that day?

18 A I was not with him.

19 Q Okay.

20 A My husband did say tell me at the time---

21 MR. EPPS: Objection, Your Honor.

22 THE WITNESS: I'm sorry.

23 THE COURT: I sustain the objection.

24 Q You can't say what other people have told you, but you
25 don't---

Sherri Vassey - Direct examination
by Solicitor Barry

1 A I, I was not with him when he was dropped off.

2 Q But Tyler was with you most of the day?

3 A All day.

4 Q All day.

5 Okay.

6 A Yes, he had all three meals with us that day.

7 Q Okay. And is it hard labor?

8 A Yes.

9 Q So, you had him doing the heavy lifting?

10 A Uh-huh. (Affirmative).

11 We were, we were exhausted when -- the end of the
12 day---

13 Q Okay.

14 A ---each day.

15 Q I have no further questions for you, Mrs. Vassey.

16 Thank you. Please answer any questions that Mr. Epps may
17 have for you.

18 CROSS-EXAMINATION

19 BY MR. EPPS:

20 Q Hey.

21 A Hey.

22 Q You will forgive me for asking it this way.

23 A Okay.

24 Q Is Tyler's dad still around?

25 A Yes.

Sherri Vassey - Cross-examination
by Mr. Epps

1 Q Okay. I didn't know---

2 A He just recently had surgery. So, he couldn't be here.

3 Q Okay.

4 A But he's recovering.

5 Q Okay. When's the last time you saw Tyler that day?

6 A The exact time I don't know. But I do know that we
7 were knocking off work when it started to get dark, and my
8 husband was taking him home. I mean it was pretty, pretty
9 routine for several weeks. That's what we were doing.

10 Q Working until the sun goes down?

11 A Pretty much.

12 Q Hard days work?

13 A Uh-huh. (Affirmative).

14 Q Yeah -- you said uh-huh. I'm sorry.

15 A Oh, I'm sorry. Yes, sir.

16 Q I'm willing to bet you don't have a lot of experience
17 doing what you're doing right now?

18 A Oh, no.

19 Q All right. I appreciate your time. Thank you.

20 THE COURT: Any redirect limited to what he went into?

21 SOLICITOR BARRY: No, sir, Your Honor.

22 THE COURT: Ma'am, watch your step as you're stepping
23 down.

24 SOLICITOR BARRY: Your Honor, the State would ask that
25 this witness be excused.

1 THE COURT: Any reason why the witness may not---

2 MR. EPPS: No.

3 THE COURT: Ma'am, thank you very much. You may be
4 excused as well.

5 Yes, ma'am.

6 SOLICITOR BARRY: Your Honor, the State has no further
7 witnesses. The State would rest at this time.

8 THE COURT: All right. Ladies and gentlemen, with
9 that, we're going to excuse you for the day. I need to
10 remind you of my ongoing instructions. Do not do any type
11 of independent research or investigations into the case.

12 You've now heard some testimony. Do not let your
13 curiosity run wild and think okay, I'm gonna drive home and
14 maybe drive by a location or I'm gonna look up a name or, or
15 do any type of independent research through the Internet or
16 through even the dictionary. Allow me and the lawyers to
17 educate you what you will take with you when you begin your
18 deliberations.

19 Do not have any discussions with anyone about anything
20 involving the case. Again, you might go home and sit around
21 the dinner table and your family might say what kind of case
22 is it, what's it about, who's the lawyers, you know, who's
23 the judge. Just very respectfully tell them I am under
24 orders not to talk to you about the case. You can let them
25 know after it's over, you can talk to them until they can't

1 stand you anymore. But, until then, do not talk to anyone
2 about this case including yourselves.

3 I'll ask that you be back in the courtroom by 9:30 in
4 the morning, and I'll let you go with the bailiff now.

5 Thank you very much.

6 (WHEREUPON, the following takes place outside the
7 presence of the jury.)

8 THE COURT: All right. Lawyers approach a moment.

9 (WHEREUPON, a bench conference was held at this time.)

10 THE COURT: All right. We will step down until --
11 let's try to get back together at 9:15 in the morning.
12 we'll just pick up with some motions.

13 Thank you very much.

14 SOLICITOR BARRY: Thank you, Your Honor.

15

16 (WHEREUPON, Court was in recess for the evening.)

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25

1 Thursday, May 20th, 2021

2

3 THE COURT: Okay. Let's see.

4 All right. We will go back on the record. The State
5 versus Smith. I believe we reached a point at which the
6 Court is ready to receive motions from counsel.

7 MR. EPPS: Thank you, Your Honor.

8 At this point defense would make a directed verdict as
9 to the evidence in the case. We believe the Court should
10 direct a verdict of not guilty towards my client, the
11 Defendant. Obviously he has the presumption of innocence.
12 He is pled not guilty, Your Honor.

13 The evidence provided thus far has been wildly
14 inconsistently. There are a number of variables which speak
15 to the inconsistencies from start to finish. Unwillingness
16 to participate, the, the way the lineup was done, the way
17 the witnesses have interacted or really failed to interact,
18 the story provided to back up the circumstances of that
19 evening, and last but not least, the lack of information
20 regarding the lineup and the lack of any other reasonable
21 alternative to pick someone but my client, which, which does
22 weigh heavily in the belief of well then it must be him.

23 Your Honor, the problem is, the way it happened, it can
24 only be him.

25 Based upon that, Your Honor, we believe this case

1 should be decided at this juncture, and it should be for a
2 not guilty.

3 Thank you.

4 SOLICITOR BARRY: Thank you, Your Honor.

5 May it please the Court.

6 For a directed verdict motion, the standard Your Honor
7 is has any evidence been presented for this case to go to a
8 jury, and it will be the State's argument that plenty of
9 evidence has been presented for the jury to consider this
10 case. Inconsistencies, questions about the lineup, those
11 are questions for the jury, Your Honor. There have been
12 five witnesses -- four witnesses who testified that
13 Mr. Smith was the shooter.

14 So, any and all evidence that has been presented is
15 enough for this case to go to the jury, Your Honor, and the
16 State would ask that the defense's motion for a directed
17 verdict be denied.

18 Thank you.

19 THE COURT: Reply.

20 MR. EPPS: Your Honor, I think I had covered my
21 material within my argument. I do agree with the State's
22 rendition of the standard. However, I disagree with the
23 State's position as to the evidence presented, and believe a
24 verdict should be rendered for the defense at this time.

25 Thank you.

1 THE COURT: Okay. Based on the arguments that have
2 been presented to the Court, the standard that must be
3 applied at this juncture, the Court would deny the directed
4 verdict motions.

5 Anything else from counsel before we bring the jury in?

6 MR. EPPS: I have two, Your Honor, and I believe
7 there's also a discussion about an ABHAN charge. But I
8 don't know if that -- the State wants to do that now or
9 later.

10 SOLICITOR BARRY: Your Honor, I have several things to
11 bring to the Court's attention.

12 THE COURT: Uh-huh. (Affirmative).

13 SOLICITOR BARRY: The first being -- and we spoke about
14 this on the bench yesterday of the State requesting a lesser
15 included ABHAN charge to be presented to the jury. I
16 believe the evidence has been presented through testimony
17 that a lesser included of ABHAN would be appropriate.
18 Specific intent is crucial in an attempted murder case. I
19 mean there has been testimony that somebody did not know---

20 THE COURT: Let me ask you this.

21 Tell me what that specific intent is as defined in the
22 law --

23 SOLICITOR BARRY: Its---

24 THE COURT: -- for, for assault and battery with intent
25 to kill.

1 SOLICITOR BARRY: So, for attempted murder, it would be
2 the specific intent to kill, Your Honor.

3 THE COURT: Okay. I'm sorry. For, for attempted
4 murder.

5 what would that be?

6 My understanding is the South Carolina Supreme Court
7 has defined and addressed the statutory interpretation of
8 attempted murder, and they've taken a look at that statutory
9 definition and broken it up into two parts.

10 One is with the specific intent to kill with malice
11 aforethought, two different sections.

12 Tell me what evidence that the State has intends to
13 even make it to a jury on the attempted murder under the
14 statute's definition.

15 I understand that you're asking for a lesser included
16 because I think, a lesser included offense, you're probable
17 correct. But I am questioning whether or not the State's
18 gonna make it to a jury with the attempted murder charge
19 under the statutory definition.

20 SOLICITOR BARRY: Yes, sir, Your Honor.

21 In preparing my closing last night, I did go through
22 the malice and the different versions of malice, the implied
23 and the expressed.

24 My argument is that this is an inferred malice case,
25 inferred malice with the actions that show reckless

1 disregard for human life. The Defendant presented a
2 firearm, pointed it at the victim, and shot him at point
3 blank range.

4 So, it would be my argument that the actions of the
5 Defendant that day is where we get into the inferred malice,
6 Your Honor.

7 THE COURT: So, anytime a defendant shows up with a gun
8 and points it at someone and shoots it, then there's
9 automatically going to be an attempted murder case?

10 SOLICITOR BARRY: Your Honor, I would say no because,
11 if, if it's from a great distance, there, there could be an
12 argument that attempted murder would not apply. But here we
13 have the Defendant walking up to the victim within four to
14 five feet and pointing it at him, shooting him in the chest
15 so close that it goes through and through, and then coming
16 around and standing over the victim. So, it would be my
17 argument that the attempted murder would be appropriate.

18 THE COURT: You need state -- you're familiar with
19 State versus King, 2017 State Supreme Court case?

20 SOLICITOR BARRY: I am not familiar with that case,
21 Your Honor. I apologize.

22 THE COURT: They go into great detail on the
23 statutory -- on when the Legislature codified what they have
24 viewed was the assault with intent to -- assault and battery
25 with intent to kill, made the distinction, that it was a

1 long thought, that what the Legislature did is that, when
2 they codified it, the attempted murder, that they were
3 simply taking common law assault and battery with intent to
4 kill and codifying. But what the Legislature did was, when
5 they wrote the statute, is they created a higher standard
6 for assault and battery with intent to -- for attempted
7 murder. Higher than just your common law. And, and if, in
8 fact, the Legislature has done that, like the Supreme Court
9 has said that they did, then there is a difference of, of
10 the statutory -- of what the State is pursuing in this case
11 against this Defendant for attempted murder than there is in
12 traditional cases that, that we approach.

13 So, I can't ignore what the Supreme Court has said that
14 we have to apply, and that's why I'm scratching my head
15 going is this case enough because it sounds like your
16 argument has been what is traditionally the argument for
17 attempted murder or assault and battery with intent to kill.
18 But I believe State versus King signifies and very strongly
19 tells the Trial Courts that there is a difference now.

20 We might not like it. But the Legislature, in their
21 codification of it, set forth the standard and the Supreme
22 Court set it out pretty clearly in State versus King. Take
23 a look at State versus King cause we will have to revisit
24 this because I'm having concerns whether the State can make
25 it to the jury on this attempted murder case under the State

1 versus King analysis.

2 SOLICITOR BARRY: Yes, sir, Your Honor.

3 THE COURT: But as far as the lesser included offense,
4 I think, I think it -- I think it would be proper because
5 there is evidence, as I see it, the evidence can be viewed
6 in a way that would support that lesser included offense,
7 and I don't -- and unless Mr. Epps is gonna argue that
8 assault and battery -- you say it's assault and battery---

9 MR. EPPS: ABHAN.

10 THE COURT: ABHAN is not a lesser included offense?

11 So I'll be more than happen to hear from you on that.
12 But I think it is. But I'll be more than happy to hear from
13 you if you think it's not.

14 MR. EPPS: Well, Your Honor, and I, I apologize. My
15 brain was a -- had scrambled this morning.

16 My first motion was a general wise DV motion. I
17 have -- just so the Court is aware, I -- they're a number
18 issues. Obviously we've hit on this jury charge issue which
19 talks about or I was going to address on the specific issue
20 on attempted murder.

21 Just so the Court's aware, I've also got a, a motion
22 I'd like to bring before the Court as to mistrial, and then
23 also, depending on your ruling on that, for a curative
24 instruction.

25 Your Honor, you're right and I had previously alluded

1 to this State versus John Perry case which does talk about
2 State versus King. It talks about the statutory code
3 16-3-29, and, and I will tell the Court I'm not a scholar
4 specifically on this issue.

5 But in the case, it says, as it relates to King, as the
6 Perry case relates to King, the General Assembly requires a
7 higher level of mens rea for attempted murder than that of
8 murder, which, to me, is shocking.

9 This obviously is a murder case. We're happy Mr.
10 Vassey is alive. But, in my opinion, this case has to be
11 that they have to show that higher level than even if there
12 was a murder. I, frankly, do not think the State has gotten
13 that far. I don't know that they will.

14 Part of the wrestling I had in my mind is then going to
15 the ABHAN.

16 Your Honor, my -- I'm the defense. I don't prepare any
17 indictments. I'm not involved in any arrest warrants. I
18 defend my client as my client comes to me and as charged.

19 They have the ability to determine all of that. You,
20 within your role as a judge, informed the jury of the charge
21 of the indictment early in this case. I have presented a
22 defense based upon the charge that my client was charged
23 with. It wasn't an ABHAN defense. It was an attempted
24 murder defense. And to now go well now we're gonna do it as
25 an ABHAN, well, that's, that's a full day of testimony that

1 I might want to go and rewind that I can not.

2 Your Honor, for that matter, it may be four years worth
3 of defense that I'd like to try and rewind but I can not.

4 So, I think this is a monumental decision. I, I, I, I
5 hesitate because I'm, I'm aware of the case law. I know
6 what the Court has to do relative to jury charges, that it
7 has to charge those charges the evidence presented.

8 The problem is this. The evidence presented is one
9 thing. That's gonna come out during the trial. That
10 evidence isn't gonna come out until you've already read that
11 indictment. We're stuck at that point.

12 To now go well, now we're gonna -- it's gonna be an
13 ABHAN, these, these 12 folks, they don't do this stuff day
14 in, day out. But that is a monumental change in all aspects
15 of this case down to the level of what I would say debate
16 and deliberation needs to be regarding this evidence. It is
17 a much lower standard. Some might even argue it's a much
18 easier way to get a conviction.

19 That's a problem for us.

20 THE COURT: Are you saying that assault and battery of
21 a high and aggravated nature is not a lesser included
22 offense?

23 MR. EPPS: I am not saying that, Your Honor. I do
24 believe -- I, I do believe -- Your Honor, as it stands right
25 now, I believe it is. I'm, I'm giving pause but I don't

1 have a cite that I can get to that would -- could I have two
2 seconds to look through this?

3 THE COURT: Go.

4 (Pause.)

5 MR. EPPS: Your Honor, I, I can't say specifically yay
6 or nay on that in all candor to the Court. My understanding
7 is that it was a lesser included of attempted murder.

8 THE COURT: Okay. All right. And so your position is
9 that, if I allow the State or if the State asks and I go
10 down that path of allowing the lesser included offense of
11 assault and battery of a high and aggravated nature, that
12 somehow you are prejudiced --

13 MR. EPPS: Yeah.

14 THE COURT: -- in the defense that you have presented.

15 MR. EPPS: I, I -- yes, I am, and I would also further
16 argue, Your Honor, if we're gonna go on an ABHAN, they're in
17 charge of the indictments.

18 THE COURT: Uh-huh. (Affirmative).

19 MR. EPPS: They needed to indict him under ABHAN.

20 THE COURT: Well, that's a problem that they might have
21 through the trial of this case. But your -- if I understand
22 your position in, in this case, it's been that the Defendant
23 didn't do it.

24 MR. EPPS: That is correct, Your Honor, but he was
25 still arrested, Your Honor.

1 THE COURT: Uh-huh. (Affirmative).

2 MR. EPPS: And how many articles do we read now, it
3 seems they pop up daily, of people that are exonerated how
4 many years after they were found that they did it. So, I
5 can't remain comfortable on the fact that he didn't do it
6 and say well, that's okay cause, if that's the case, this
7 would of been wrapped up in probably two hours.

8 THE COURT: If he didn't do the, the attempted murder,
9 he didn't do the assault and battery of a high and
10 aggravated nature.

11 MR. EPPS: Correct, Your Honor, and he shouldn't be
12 convicted of either.

13 THE COURT: That's gonna be the argument that I would
14 think you're eloquently going to present to the jury.

15 Yes, ma'am.

16 SOLICITOR BARRY: Your Honor, as I stated earlier, I
17 haven't read State v. King yet. But I just do want to touch
18 on ABHAN being a lesser included. It is a lesser included
19 offense by statute. So, that would be my only point, Your
20 Honor.

21 THE COURT: Okay. All right. Anything else y'all want
22 to bring to my attention or raise prior to bringing the jury
23 in?

24 SOLICITOR BARRY: Your Honor, one more matter by the
25 State.

1 Mr. Epps showed me a picture this morning of an
2 individual by the name G.G. I believe Mr. Vassey testified
3 yesterday that he gave the name G.G. while in the hospital.
4 Mr. Epps provided me with this picture that was a screenshot
5 from a Facebook page that someone is going to claim is G.G.,
6 and it is my belief that they are going to say that this --
7 the G.G. that shot Tyler, and that's going to move us into
8 third party guilt, and I think it's going to confuse the
9 jury.

10 I think that Mr. Epps can definitely ask family members
11 if they called Mr. Smith by the name of G.G. But putting in
12 this picture to infer that this is the G.G. that shot Tyler
13 is third party guilt, and it's going to confuse the jury,
14 Your Honor.

15 THE COURT: She doesn't want you to use your
16 photograph. It hurts her case.

17 MR. EPPS: I understand that, Your Honor. My apologies
18 and I'll be, again, candid with the Court.

19 I'm not hiding anything. This is just something that
20 just came to my attention.

21 But, Your Honor, my client's not the police, and, and I
22 appreciate Ms. Barry's statements about G.G. because frankly
23 I'm, I'm not entirely sure that I remember getting that out
24 with Mr. Vassey. We're gonna check with the court reporter.

25 THE COURT: Go with your memory.

1 MR. EPPS: Okay. Well, I have witnesses who can
2 testify to having a social connection, Facebook or
3 something, with an individual they know as G.G. That
4 represents the sum total of what I know at this time, and,
5 frankly, it doesn't matter what I know. It matters what
6 they can testify to.

7 However, it just seems interesting to me that someone
8 can find that that quickly when Mr. Vassey, four plus years
9 ago was in the hospital, and he says the person's name is
10 G.G., I have a feeling that I would be able to present the
11 picture of this person, and this person, though female, or
12 at least represented to me to be female, has dreadlocks.

13 I don't want to be over eloquent, but, again, Your
14 Honor, my client's charged with attempted murder, is now
15 possibly facing attempted murder and assault and battery of
16 a high and aggravated nature. If convicted, his potential
17 sentence is going to be not short. My -- simply in that,
18 Your Honor, we're also looking at possession of a weapon
19 during a violent crime. In any sense, is not short when you
20 haven't done what you're accused of doing.

21 I think the Court should allow me to present this. I
22 believe the prosecution would have more than a wealth of
23 opportunity and ability to cross-examine that material or,
24 or that witness.

25 THE COURT: Anything in reply?

1 SOLICITOR BARRY: I think my question becomes, Your
2 Honor, is he admitting this to say that this G.G., who they
3 called G.G. at this time, is the one who shot Tyler, and
4 he -- it is my argument that he can not do that.

5 If he wants to say do you call Anterius G.G., no, we
6 don't call him G.G. We call somebody else G.G. I think
7 that is where we can go with that. But putting in this
8 picture of an individual that they call G.G. to infer to the
9 jury that this individual with dreads who we call G.G. today
10 for trial is the one that shot Tyler, I think it's
11 inappropriate, Your Honor.

12 THE COURT: I'm gonna allow it. Present it. The State
13 is aware you're gonna present it. So, I'm on alert for any
14 objections. I'll make appropriate objections once I've seen
15 how he presents it. I think Mr. Epps could present it in a
16 thousand ways but based on what I've heard, the testimony,
17 but I don't know what he's gonna do with it.

18 So -- all right. Uh-huh. (Affirmative).

19 MR. EPPS: Your Honor, yesterday Phaedra Hall testified
20 that someone apparently came to her house, how did she know,
21 someone told her. I made an objection, Your Honor, the
22 continuing -- the, the testimony was continued.

23 Your Honor, I believe that testimony was gravely pro --
24 prejudicial. Sorry. Tripped over my tongue. Prejudicial
25 to our case because there was -- it wasn't a first party

1 recollection. It's a hearsay something. I believe the
2 testimony was that her daughter told her, and then her
3 daughter never said anything about it when she got on the
4 stand.

5 So, we've got a hearsay argument where my client's the
6 big bad Anterius making threatening comments to grandma and
7 grandma's house or something or I guess it would be her
8 mother, not grandma, and the person that could actually
9 bring that in never talked about it. But it's there in the
10 jury's mind. The, the specter of big bad Anterius
11 threatening people has been talked about by a number of
12 people.

13 So, I believe, based upon that, we have a prejudicial
14 issue that we will not be able to overcome.

15 Now, I also recognize the Court has a number of tools
16 at its disposal and it may not rule in my favor. In the
17 event it does not, I would ask for a curative instruction
18 that the jury should not entertain or rely upon any
19 information it may have heard based upon hearsay. That is
20 someone thought they heard someone say something. It needs
21 to come from the live witness here in the courtroom.

22 Thank you.

23 THE COURT: Well, what are those -- you said I have
24 things at my disposal.

25 what do I have?

1 MR. EPPS: Well, Your Honor, I, I guess maybe what I
2 should of said is Your Honor has discretion to rule upon
3 motions. They're always either granted or denied.

4 THE COURT: What's your motion?

5 MR. EPPS: Well, my motion was for a mistrial.

6 THE COURT: Mistrial?

7 MR. EPPS: Yes. In the event that you choose to deny
8 that motion, I would ask for a curative instruction,
9 curative instruction.

10 THE COURT: All right. Yes, ma'am.

11 SOLICITOR BARRY: Thank you, Your Honor.

12 I will agree with, with Mr. Epps that Phaedra Hall did
13 say on the stand yesterday that her daughter told her that
14 Anterius had come to the house threatening family members.
15 Kaitlin Hall then took the stand. I did my direct. Mr.
16 Epps did his cross and he had every opportunity to ask
17 Kaitlin about that. He asked every single witness
18 everything else under the sun.

19 So it was -- he could of asked her to speak about it,
20 Your Honor. I do not believe that it is prejudicial to his
21 client, and I would ask that the motion for a mistrial be
22 denied.

23 THE COURT: Reply.

24 MR. EPPS: As I said in my opening statement, I'm a
25 potted plant. I don't have to do anything, Your Honor. I'm

1 certainly not gonna ask somebody to reinfer -- reinforce her
2 mother's statement shot from the hip. Oh, yeah, I heard
3 Anterius came by. My, my daughter told me that.

4 No, I'll let Kaitlin testify to that and the State can
5 present that. The State didn't present that. No, I'm not
6 gonna bring that up.

7 THE COURT: Okay. One thing that was not on the
8 record, we did have a brief bench conference about it, and I
9 believe counsel for the State indicated up at the bench
10 conference to who would of -- who was gonna testify to that,
11 who is gonna testify to the fact that a threat was made or
12 who told her that a threat had been made, and it was
13 represented to the Court that the next witness would be the
14 one that would testify to that.

15 I think there needs to be some correction or
16 redirection made by the Court. I'm not sure how that's
17 going to -- how I'm gonna do that. I -- let me, let me take
18 it under consideration. I -- before that we, we start the
19 jury, I'll tell you what my decision is. But I am leaning
20 towards instructing the jury to disregard that testimony in
21 regards to those matters.

22 Okay. Anything else?

23 MR. EPPS: No, Your Honor.

24 SOLICITOR BARRY: Nothing from the State, Your Honor.

25 THE COURT: All right. Let -- all right. Now --.

1 MR. EPPS: My witnesses?

2 THE COURT: No, I want to be sure I've addressed the
3 things that you brought up.

4 Okay. State, we did, at the, at the bench, end of the
5 day, off-the-record, the State brought up they were looking
6 at asking for a lesser included offense charge. I have not
7 been formally asked to rule upon dismissing the attempted
8 murder nor to approve or not approve the lesser included
9 offense. So, I'm not making a ruling on those yet. So,
10 those are still out there.

11 I will tell you I have some great concerns about the
12 State's making it to the jury under the statutory definition
13 of attempted murder. I'm really comfortable with a lesser
14 included offense of assault and battery of -- that the State
15 has requested of ABHAN.

16 So, y'all be mindful of that. That's where I'm
17 leaning. I'm gonna step down for a few seconds and then
18 I'll come back and address the curative request or the
19 motion for mistrial based upon the statements made by the
20 Court.

21 Anything else before I step down?

22 You have your witnesses available?

23 MR. EPPS: I, I do, Your Honor, and, and I believe you
24 also need to probably discuss my client's Fifth Amendment.

25 THE COURT: I'll do that when we get to the point to

1 where you tell me that it's now time for him to make that
2 decision.

3 MR. EPPS: Thank you, Your Honor.

4 THE COURT: Okay. I usually wait till the last thing
5 because anything could change a Defendant's decision to
6 testify or not to testify. It could be that his case goes
7 so well he doesn't need to. Could be it goes down the drain
8 so much that he needs to. So, I, I wait till the last
9 minute.

10 MR. EPPS: And I just misunderstood what you were
11 telling us earlier.

12 THE COURT: Thank you.

13 MR. EPPS: That's why I brought it up. Thank you.

14 THE COURT: All right. I'll come right back. We'll
15 stand at ease.

16 (WHEREUPON, a short recess was taken at this time.)

17 THE COURT: Okay. I'm gonna deny, deny the defense's
18 motion for a mistrial based upon the statements concerning
19 the witnesses who related that they had heard threats made
20 and were scared. I am going to give a, when the jury comes
21 in, give them a curative instruction to tell them that they
22 need to disregard those statements that were made by
23 witnesses concerning any of those threats and should not --
24 in that those alleged threats should not be part of their
25 deliberations.

1 That being said, with this curative instruction, and I
2 think the State needs to be cautioned then, then -- the
3 argument then is presented to the State later -- presented
4 by the State later to the jury that these witnesses were
5 afraid to come to testify, that would most likely lead to a
6 mistrial.

7 So, don't make that argument when I'm already
8 instructing the jury they need to disregard those
9 statements.

10 On the attempted murder, I'm -- yeah, attempted murder
11 and ABHAN request, I think it's premature for me to make any
12 rulings on those yet. I think both sides understand where
13 my concerns are on both sides. So, y'all can adjust your
14 questioning appropriately as to -- I do not find yet that
15 there is any prejudice to the defense even if I took out the
16 attempted murder and went forward with the assault and
17 battery -- with the ABHAN charge. I am just not seeing any
18 prejudice yet.

19 So, anyway, anything else before we bring the jury in?

20 SOLICITOR BARRY: Nothing from the State, Your Honor.

21 THE COURT: You got -- and your witnesses are ready?

22 MR. EPPS: Yes, Your Honor.

23 THE COURT: Okay.

24 MR. EPPS: I'm a little bit backward over. So, if I
25 can step real -- right quick here. Thank you.

1 THE COURT: Okay.

2 (Pause.)

3 MR. EPPS: Thank you, Your Honor.

4 THE COURT: All right. Let's bring the jury in.

5 (WHEREUPON, the following takes place within the
6 presence of the jury.)

7 THE COURT: Mr. Foreman, ladies and gentlemen of the
8 jury, thank y'all very much for showing up on time. The
9 bailiff told me everybody was here on time.

10 We have been working prior to y'all even getting in the
11 courthouse today. So, I appreciate your efforts. I wanted
12 to let you know we've been doing our best to be efficient
13 with your time. I appreciate your patience while we worked.

14 I need to start by giving you an instruction.
15 Yesterday you heard statements from a witness or witnesses
16 concerning threats that may have been made outside of Court.
17 I am going to instruct you at this time, ladies and
18 gentlemen, that you must disregard any statements that you
19 may have heard about threats or potential threats that may
20 have been made outside of this Court. You are instructed
21 that you must disregard those statements, and you must not
22 give those statements any consideration in the deliberations
23 that you will conduct as part of this trial.

24 With that instruction, I now will ask the defense if
25 they are ready -- if it is -- if they are ready to proceed.

1 MR. EPPS: State is -- excuse me.

2 Defendant is ready to proceed, Your Honor.

3 We would---

4 THE COURT: Yes, sir.

5 MR. EPPS: We would call Helen Smith to the stand
6 please.

7 THE COURT: Just come right up here and let the Clerk
8 of Court swear you in if you would.

9 THE CLERK: Ms. Smith, please raise your right-hand.
10 Place your left-hand on the Bible. You're gonna raise that
11 one.

12 HELEN SMITH, being first duly
13 sworn, testified as follows:

14 THE CLERK: Okay. Watch your step. You may lower your
15 mask while you testify, and the bailiff will assist you when
16 you exit the box.

17 Okay?

18 THE COURT: Ma'am, if you would, just state your full
19 name for everybody.

20 THE WITNESS: My name is Helen Jean Smith.

21 THE COURT: Thank you, ma'am.

22 THE WITNESS: You welcome.

23 DIRECT EXAMINATION

24 BY MR. EPPS:

25 Q Mrs. Smith, how are you doing today?

Helen Smith - Direct examination
by Mr. Epps

1 A I'm doing fine. Thank you.

2 Q Thank you.

3 And I appreciate you talking into that microphone. As
4 you probably heard, trying to build a record here. Let's
5 make sure you speak clearly, and if you don't understand
6 what I'm asking you, you let me know.

7 Okay?

8 A I will.

9 Q would you tell the jury where it is you live?

10 A I live at 103 Palmetto Street.

11 Q Okay. Who lives there with you?

12 A Me and Anterius was living there with me.

13 Q Okay. When did Anterius live there with you?

14 A Cheeks lived there with me in, if I'm not mistaken, I
15 think 2014 cause he graduated from here.

16 Q Here being Gaffney?

17 A Uh-huh. (Affirmative).

18 Q Okay. Did you ever see him in a yearbook?

19 A No, I really never did get none to see him.

20 Q You know we're here today on the case of Tyler versus
21 Anterius.

22 A Yes, sir.

23 Q Okay. Do you happen to know Tyler?

24 A Yes, sir.

25 Q How long have you known Tyler?

Helen Smith - Direct examination
by Mr. Epps

1 A I didn't know him that long because he was with my --
2 he was a friend of my nephew.

3 Q Okay. Have you seen him around?

4 A Yes, sir.

5 Q Well, let's talk about where you have seen him before.

6 A I seen him at my mother house.

7 Q Where -- and, and who's your mother?

8 A Dora May Smith.

9 Q How old is your mother?

10 A My mother be -- is 97 today.

11 Q Ninety-seven.

12 Today?

13 A Yes, sir.

14 Q Is it -- today's not her birthday, is it?

15 A Today's her birthday.

16 Q Today is her birthday?

17 A Yes, sir.

18 Q Please tell your mama happy birthday.

19 A Thank you.

20 Q So, four years ago your mom would be 93?

21 A Yes, sir.

22 Q Let's get technical. Today's her birthday.

23 She turned 97?

24 A Yes.

25 Q Four years and two months ago, she would of been 92,

Helen Smith - Direct examination
by Mr. Epps

1 almost 93, right?

2 A Yes, sir.

3 Q All right. She still getting around?

4 A Oh definitely.

5 Q Okay. All right. Have you ever seen Tyler around your
6 family?

7 A Yes.

8 Q Let's talk about that.

9 when have you seen him around your family?

10 A When we have events at the house. Any kind of events
11 we have he be right there.

12 Q Okay. Let's talk about -- and I keep seeing -- these
13 masks, I tell you what. If you need to pull it down under
14 your chin so it doesn't keep bumping your lip.

15 A All right. Thank you.

16 Q Let's talk about these events.

17 what kind of events were they?

18 A Okay. Like birthday parties and we have like
19 gathering -- just get up, just gather stuff together, he
20 be's right there.

21 Q Food?

22 A Food.

23 Q Cake?

24 A Cake.

25 Q Let's talk about time.

Helen Smith - Direct examination
by Mr. Epps

1 Have you seen Tyler recently around your family?

2 A what you talking about?

3 Q well, you haven't been in the courtroom a good bit.

4 You weren't here yesterday.

5 A No, sir, I wasn't.

6 Q You know, we got that COVID thing going on.

7 Do you know that Tyler got shot?

8 A I didn't know till my niece done came and got me one
9 day -- that day from work and told me about it.

10 Q You remember when he got shot?

11 A They told -- my niece and them told me about it.
12 Obviously I didn't hear nothing about it till I was at work.

13 Q Had you seen Tyler around your family before he was
14 shot?

15 A Yes, sir.

16 Q Okay.

17 A Before and after.

18 Q Let's talk about the before. I'm trying to be brief.
19 was it similar to what you were talking about with
20 family gatherings and birthday parties or whatever?

21 A Yes, sir.

22 Q well, let's talk about the after.

23 was it any different the times you saw him after then
24 it was before?

25 A No, sir.

Helen Smith - Direct examination
by Mr. Epps

1 Q Do you happen to remember how long after the shooting
2 do you remember seeing Tyler?

3 A Tyler came down to my mama house about two days after
4 that.

5 Q Okay. Where -- and you're at 103 Palmetto?

6 A Uh-huh. (Affirmative). But I be's at my mama house.
7 I, I goes down there some and take care of my mama at times
8 and stuff like that and be with her.

9 Q Yes, ma'am.

10 And just so you know, for the benefit of this court
11 reporter, when you say uh-huh and uh huh, I may ask you to
12 say yes or no.

13 A All right.

14 Q Just---

15 A I'm sorry.

16 Q No, ma'am. Go right ahead.

17 So, a couple days after.

18 But, but any other times after that?

19 Was it just the one time or other times?

20 A It was other times. Plenty of times.

21 Q All right. At any of those times, did, did you ever
22 recall seeing Tyler and Anterius in the same group?

23 A Yes, sir.

24 Q Okay. One time, a number of times?

25 A Plenty of times at events and all.

Helen Smith - Direct examination
by Mr. Epps

1 Q How about before the shooting?

2 Had Tyler been in one of those family groups and
3 Anterius also been there?

4 A Yes, sir.

5 Q Ma'am, I appreciate your time.

6 A You welcome.

7 Q Ms. Barry's gonna have some questions for you. If
8 you'd answer those. Thank you.

9 THE COURT: Yes, ma'am.

10 CROSS-EXAMINATION

11 BY SOLICITOR BARRY:

12 Q Good morning, Mrs. Smith.

13 A Good morning.

14 Q So you're Anterius's aunt?

15 A I'm his grandmother.

16 Q Grandmother.

17 Okay. I just wanted to make sure I got that right, and
18 you are living at 103 Palmetto Street now?

19 A Yes.

20 Q And is Anterius living with you now?

21 A Yes.

22 Q Okay. And were you living at 103 Palmetto Street at
23 the time that Tyler was shot by Anterius?

24 A Yes.

25 Q Was Anterius living with you at that time?

Helen Smith - Cross-examination
by Solicitor Barry

1 A Yes, he was.

2 Q Okay. Have you ever spoken to law enforcement in this
3 case?

4 A No, ma'am.

5 SOLICITOR BARRY: Your Honor, I have no further
6 questions.

7 REDIRECT EXAMINATION

8 BY MR. EPPS:

9 Q Mrs. Smith, did law enforcement ever call you?

10 A No, sir.

11 Q I have nothing further. Thank you.

12 THE COURT: Thank you, ma'am. You may step down.
13 Watch your step as you're stepping down.

14 Ready to call your next witness?

15 MR. EPPS: I am. Thank you, Your Honor.

16 Defense would call T'Andra Miller to the stand.

17 THE COURT: Ma'am, just come, come right up here. Let
18 the Clerk of Court swear you in.

19 THE CLERK: Please raise your right-hand. Place your
20 left-hand on the Bible.

21 T'ANDRA MILLER, being first duly
22 sworn, testified as follows:

23 THE CLERK: Watch your step. You can lower your mask
24 please to testify. Thank you. You don't have to hold it.

25 DIRECT EXAMINATION

T'Andra Miller - Direct examination
by Mr. Epps

1 BY MR. EPPS:

2 Q Now, T'Andra, you have been here to listen to
3 testimony.

4 A Yes, sir.

5 Q You're speaking well in the microphone. Thank you.
6 Keep doing that.

7 All right?

8 A Okay.

9 Q If you wouldn't mind for this court reporter's benefit,
10 let's spell your name.

11 A T'-A-N-D-R-A.

12 Q Do you, do you go by a nickname?

13 A T.

14 Q Do you mind if I call you T?

15 A No.

16 Q Have I tripped over your name a few times since we've
17 spoken?

18 A Yes.

19 Q Thank you.

20 T, do you happen to know Anterius Smith?

21 A Yes, I do.

22 Q I would like you to tell the jury how you know
23 Anterius.

24 A I met Anterius on Halloween in 2013, and we started
25 going out in November of 2013.

T'Andra Miller - Direct examination
by Mr. Epps

1 Q Okay. I might speed it up a little bit.

2 Do y'all have a child together?

3 A Yes, five year old.

4 Q Okay. Is Anterius a part of that child's life?

5 A Yes.

6 Q Does he pick that child up from school?

7 A Every morning. Drop him off -- he drop him off every
8 morning and he pick him up in the evening.

9 Q Have, have you seen Anterius's car?

10 A Yes.

11 Q Does he have one of those things in the rearview
12 mirror?

13 A Yes, a park -- a tag. A car tag.

14 Q So you can get kids and pick them up and drop them off?

15 A Yes.

16 Q we're all here about March 28th, 2017.

17 were you and Anterius together that day?

18 A Together like in a relationship or --?

19 Q well, literally just like---

20 A Together, yes.

21 Q ---you and I---

22 A Yes. Yes.

23 Q ---right now?

24 A Yes.

25 Q Okay. Thank you.

T'Andra Miller - Direct examination
by Mr. Epps

1 where were you?

2 A well, that morning -- you want me to start, start with
3 the whole day?

4 Q Sure.

5 A Okay. well, that morning I got up. We got up around
6 10:00 and we went to his grandmother's house around eleven
7 o'clock, and we had planned that day out that we was gonna
8 go spend time with her and check on her. So, we went to her
9 house, and we sit there for a long time. We sit there for
10 around -- for about say like three, four hours.

11 Q Okay.

12 A And Anterius was drinking the whole time, and Tisa had
13 mentioned that we would go to her house and play cards, and
14 I wasn't taking him down there with me and the way he was
15 drunk, stumbling over his words, and stuttering, couldn't
16 stand up. He couldn't keep his head up and everything.

17 So, I decided to take him home. I took him home and I
18 fed my child, and then we left home around about 5:00, me
19 and our five year old, and we went to Tisa's house.

20 Q I want to make sure I heard you right.

21 You said we and who were you talking about with we?

22 A Me and A.J.

23 Q Is A.J. the five year old?

24 A Yes.

25 Q All right. I got it caught up now.

T'Andra Miller - Direct examination
by Mr. Epps

1 All right. Keep going.

2 A We left home and we went to Tisa's house to play cards.
3 well, he wasn't going to play cards, but I was going to play
4 cards.

5 Q Okay.

6 A And so we got down there and we was playing cards for a
7 good three, four hours, and then---

8 Q Let me stop you to back up a few things.

9 All right. You went home with Anterius?

10 A Yes.

11 Q Okay.

12 A Dropped him off.

13 Q Where was home?

14 A Huntington Square. 100 Huntington Square Drive.

15 Q Help me out a little bit.

16 where is that located relative to where we're standing
17 right now?

18 A If you go up the boulevard, y'all go up the boulevard
19 and make a right at Danny Joe's and make a---

20 Q Where that split is?

21 A Yeah.

22 Q Okay.

23 A And go all the way down to the stop sign, and then you
24 got the trailer park, and you got Redwood and Huntington on
25 her square.

T'Andra Miller - Direct examination
by Mr. Epps

1 Q Back in there?

2 A Uh-huh. (Affirmative).

3 Q Okay. Near the interstate, isn't it?

4 Sort of?

5 A Sort of, yeah.

6 Q Okay. You can see the interstate from the end of that
7 road?

8 A Yeah, the split---

9 Q where the split is.

10 Okay. What time did you leave Anterius at your house?

11 A Around 5:00.

12 Q And you went from there straight to whose house?

13 A I didn't -- well, I didn't go straight there. I
14 stopped by the store and stuff like that, and then I went to
15 Tisa's house.

16 Q Is Tisa in the courtroom?

17 A Yes.

18 Q Is she the lady in the scrubs?

19 A Yes.

20 Q All right. And how do you know Tisa?

21 A Through him.

22 Q who?

23 A Through Anterius.

24 Q Thank you.

25 Does Anterius have a nickname?

T'Andra Miller - Direct examination
by Mr. Epps

1 A Terius.

2 Q Okay. Did you ever see Anterius that day?

3 A Yeah, when I dropped him off at home.

4 Q Yeah, but, after that, did you see him?

5 A When I went back home.

6 Q Okay. And when you went back home, how did you find
7 Anterius?

8 what, what was he like?

9 A Upstairs asleep, passed out, still drunk.

10 Q All right. Nothing further.

11 Thank you.

12 A Uh-huh. (Affirmative).

13 THE COURT: Yes, ma'am.

14 SOLICITOR BARRY: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY SOLICITOR BARRY:

17 Q Good morning, Ms. Miller.

18 How are you?

19 A Good morning.

20 Q So you've known Anterius since 2013, correct?

21 A Yes, ma'am.

22 Q Are y'all still together?

23 A No.

24 Q Okay. When did y'all break up?

25 A Months ago. We just coparent.

T'Andra Miller - Cross-examination
by Solicitor Barry

1 Q Okay. So, it is your testimony today that Anterius was
2 passed out drunk at your house on March the 28th of 2017?

3 A Yes, ma'am.

4 Q When you went to Tisa's and played cards, you stayed in
5 the house the whole time?

6 A Yes, ma'am.

7 Q You don't know who all was outside?

8 A Well, the only time I got up was when we heard the
9 gunshot and jumped up to see what was going on. But that's
10 about it.

11 Q So, you know that the father of your child is charged
12 with attempted murder?

13 A Yes.

14 Q Correct?

15 A Uh-huh. (Affirmative).

16 Q And you never told law enforcement that you had left
17 Anterius passed out drunk at your house.

18 Isn't that correct?

19 A Yes, they never asked either.

20 Q So you have to wait for law enforcement to come ask you
21 before you're gonna let the father of your child be charged
22 with attempted murder?

23 A Well, when they, when they do they investigation, I
24 thought they'd find everybody was on the scene and ask them.

25 Q So, you didn't tell law enforcement in 2017?

T'Andra Miller - Cross-examination
by Solicitor Barry

1 A Uh-huh. (Affirmative).

2 Q You didn't tell them in 2018, correct?

3 A Correct.

4 Q You didn't tell them in 2019?

5 A Correct.

6 Q Correct?

7 And you didn't tell them in 2019 -- 2020?

8 A Hu huh. (Negative).

9 We was also waiting on his lawyer as well.

10 Q So the first time that you have ever said this with law
11 enforcement in the room is today --

12 A Yes.

13 Q -- even though the father of your child is charged with
14 attempted murder?

15 A Accused, yes.

16 Q No further questions.

17 A Thank you.

18 THE COURT: Any redirect?

19 REDIRECT EXAMINATION

20 BY MR. EPPS:

21 Q Have you ever spoken to Ms. Barry before?

22 A On the phone.

23 Q Thank you.

24 A Uh-huh. (Affirmative).

25 THE COURT: Thank you, ma'am. You may step down.

Terry Wood - Direct examination
by Mr. Epps

1 Ready to call your next witness?

2 MR. EPPS: I am, Your Honor.

3 Defense would call Terry Wood.

4 THE COURT: Sir, just come right up here and let the
5 Clerk of Court swear you in.

6 THE CLERK: Mr. Wood, please raise your right-hand.
7 Put your left-hand on the Bible.

8 TERRY WOOD, being first duly
9 sworn, testified as follows:

10 THE CLERK: Okay. Watch your step. Watch your step.
11 You'll get in the witness box. You may lower your mask
12 around your chin while you testify. Thank you, sir.

13 THE WITNESS: Yes, ma'am.

14 DIRECT EXAMINATION

15 BY MR. EPPS:

16 Q I may not -- you may already have done this. If you
17 did, I didn't hear it and I apologize.

18 would you spell your name for the court reporter?

19 A The whole name?

20 Q Well, your last name's pretty easy, but your first name
21 just so we can get it right.

22 A Terry, T-E-R-R-Y, W-O-O -- well, Terry, T-E-R-R-Y.

23 Q All right.

24 A Wood, W-O-O-D.

25 Q All right. Let's figure out how you know these folks

Terry Wood - Direct examination
by Mr. Epps

1 in the courtroom. We're gonna start with Anterius.

2 How do you know him?

3 A He's my first cousin.

4 Q Okay. Known him all your life?

5 well, known him all his life.

6 A I would say maybe 20 years now.

7 Q Okay. All right. All right. How about Mr. Vassey
8 here?

9 Do you know him?

10 A He's gained a little bit of weight but I know Tyler,
11 yes, sir.

12 Q How long have you known Tyler?

13 A Probably six years, seven maybe.

14 Q At, at least the past four years?

15 A Correct.

16 Q All right. Tell us where you live.

17 A At the time I was living at 114 Granite Drive.

18 Q Granite?

19 A Yes, sir.

20 Q Sorry. I don't know all the Gaffney locations.

21 A I apologize.

22 Q That's all right.

23 where, whereabouts now?

24 You still in Gaffney?

25 A No, sir.

Terry Wood - Direct examination
by Mr. Epps

1 Q Okay. Where are you living at?

2 A Boiling Springs, Spartanburg.

3 Q Okay. Were you around these folks the night of the
4 shooting?

5 A Correct.

6 Q Okay. Let's talk about it.

7 A These folks meaning---

8 Q well---

9 A ---everybody in here?

10 Q well, at least these two gentlemen right here, Tyler
11 and Anterius.

12 A I was around these three and Tyler came.

13 Q Okay.

14 A Me and Tisa, it was her house, T was there and Tyler
15 pulled up.

16 Q I'm -- yeah, I'm gonna get you to frame it up. I am
17 sorry.

18 A I'm trying to be as---

19 Q No, you---

20 A ---technical as possible---

21 Q You, you---

22 A ---cause---

23 Q Hey.

24 A ---I'm, I'm a -- I apologize to the Court.

25 Q You're doing great.

Terry Wood - Direct examination
by Mr. Epps

- 1 A Good.
- 2 Q Thank you.
- 3 Let's talk about March 28th, 2017.
- 4 A Uh-huh. (Affirmative).
- 5 Q First of all, did you see Anterius that day?
- 6 A No, sir.
- 7 Q Okay. Check one off the list.
- 8 Let's talk about Tisa.
- 9 who is Tisa in relation to you?
- 10 A Oh, my baby sister.
- 11 Q Okay. And you said you had seen her.
- 12 where had you seen Tisa that day?
- 13 A At her house.
- 14 Q Tell us where her house is.
- 15 A Oh, 505 Chestnut Street. It's like right there. It's
- 16 like a little corner. You can't miss those big old trees.
- 17 Q I happen to know a little bit about this part of
- 18 Gaffney.
- 19 Chestnut and Holly intersect at like a right angle?
- 20 A Yes, sir, it's a big, big corner if you ever been down
- 21 there.
- 22 Q It curves---
- 23 A Willard Pass (phonetic) right down the street. So
- 24 that's how most people know it.
- 25 Q Was there a get together that night?

Terry Wood - Direct examination
by Mr. Epps

1 A Yeah, we -- it's -- Tisa's house was a hang out spot.
2 So, I really wouldn't call it a get together. It's just
3 where we go. Everybody pull up to it.

4 Q who all do you recall being there?

5 A Between less than a hundred people, me, Tisa, some of
6 our cousins, my brother.

7 Q what's your brother's name?

8 A Thomas Smith.

9 Q Sure.

10 A That was Tyler's best friend.

11 Q Okay.

12 A That how we knew Tyler---

13 Q Gotcha.

14 A ---and brought him into the intertwine.

15 Q All right. Did you see Tyler and Tony together in the
16 past?

17 A Yeah.

18 Q Okay.

19 A All the time. They was -- that's they --.

20 Q Did, did you see them together after?

21 A Yeah. Yes, sir. I apologize.

22 Q You're fine.

23 what's his last name?

24 A My brother?

25 Q Yeah.

Terry Wood - Direct examination
by Mr. Epps

1 A Smith.

2 Q Okay. I, I was thinking I heard wood, but you---

3 A No, no.

4 Q ---did say Smith?

5 A You know, different daddies and me---

6 Q And that's fine.

7 A Grew up in the same household.

8 Q He has the same last name as---

9 THE COURT: All right. Let me interrupt.

10 Y'all are having a nice conversation but you can not
11 speak at the same time and do not talk over each other.

12 Okay?

13 THE WITNESS: Yes, sir.

14 MR. EPPS: My apologies.

15 THE WITNESS: My apologies.

16 Q Let me rewind a little just to make sure we have a
17 clear record.

18 A Uh-huh. (Affirmative).

19 Q Your brother's name is Tony Smith?

20 A Correct.

21 Q You have a different last name wood?

22 A Correct.

23 Q Just so I'm clear, Tony Smith is not a brother to
24 Anterius Smith?

25 A No, sir.

Terry Wood - Direct examination
by Mr. Epps

- 1 Q Okay. They're cousins?
- 2 A Correct. Different daddies.
- 3 Q Who else did you see at that house?
- 4 A Well, cousin, he's a Lindsay, we call her Meryl.
- 5 Q Mr. Lindsay?
- 6 A Correct.
- 7 Q You haven't been in here the, the past day or so?
- 8 A Working. Two jobs.
- 9 Q Understood.
- 10 You know a lady named Phaedra Hall?
- 11 A Yes, sir.
- 12 Q Was she there?
- 13 A No, sir.
- 14 Q What about Kaitlin Hall?
- 15 A No, sir.
- 16 Q You ever heard of a girl named Brittany Whisnant?
- 17 A No, sir, never.
- 18 Q So let's talk about Tisa's house.
- 19 Anything in particular going on that day?
- 20 You said there's -- it's a hang out but---
- 21 A Uh-huh. (Affirmative).
- 22 Q Are y'all just hanging out?
- 23 A We use to play cards there to. Tisa's kind of like a
- 24 mother, a young mother, she raised a baby and everybody just
- 25 gravitate to her. So, it was like, you know, that's where

Terry Wood - Direct examination
by Mr. Epps

1 we go and chill.

2 Q what do you remember about the incident we're all here
3 about?

4 A where do you want me to start?

5 Q well, I guess let's do it this way.

6 when's the first time you knew Tyler was there?

7 A when he pulled up and I told -- I hollered basically in
8 the house and Tisa, Tyler's pulling up with the pot --

9 Q okay.

10 A -- cause we was the one who gathered about the fish
11 fry.

12 Q Let's talk about this pot.

13 what, what was it?

14 A It's suppose to been -- well, it was a dip -- a deep
15 silver pot to fry fish in when you have like a little grill
16 and stuff outside.

17 Q Sure.

18 And did you -- were you part of any conversation where
19 he was suppose to be bringing this to y'all?

20 A Correct.

21 Q Okay. For the fish fry?

22 A Correct.

23 Q Did -- and you saw him come?

24 A Correct.

25 Q what happened next?

Terry Wood - Direct examination
by Mr. Epps

1 A When I seen him or --?

2 Q Yeah. Yeah.

3 A Oh, basically, when he pulled up, he got the car, waved
4 him out, what's up T, you know, what's up, bro. And I
5 hollered up in there and I said Tisa, Tyler here with that
6 fish pot.

7 Q Uh-huh. (Affirmative).

8 A And, you know, we was out there, you know, just
9 mingling, drinking a little bit, you know, even though I
10 don't drink all that. Well, you know, get there and he was
11 waiting and Tisa came out.

12 Q Okay. Now, Tisa, your sister?

13 A Correct.

14 Q All right. What happened after that?

15 A I remember seeing Tisa go get the pot.

16 Q Okay.

17 A They spoke maybe for a few seconds, and, you know, I
18 holler back at him. Ah, man, you still coming tomorrow. He
19 was like yeah, I---

20 Q Re, rewind that last little bit cause I could not hear
21 you. I'm sorry.

22 A Basically I say -- I speak so fast. I have so much on
23 my mind.

24 Tisa was coming past me to go get the pot, like I say,
25 walking toward him. They spoke for a few seconds, and I

Terry Wood - Direct examination
by Mr. Epps

1 remember her coming back past me and I spoke to him. I was
2 like you coming tomorrow. He was like yeah. Basically I
3 turned around and went back to mingling with everybody else.
4 That's when the shot rang out.

5 Q Okay. So, you had your back turned when the shot
6 rang---

7 A Correct.

8 Q ---rang out?

9 A Correct.

10 Q Okay. All right. Did you see the, the shooter at all?

11 A No, sir.

12 Q Okay. All right. Did Tyler stay there for any
13 particular length of time after?

14 A Yes, sir.

15 Q He did?

16 A Yeah.

17 Q All right. Talk to us about that.

18 A Oh, basically, you know, pretty tripped about like you
19 see in the movie. Basically, you know, you get shot.

20 Everybody kinds of duck and tuck, and I had my kids out
21 there too. So, I'm checking on them to make sure they good,
22 and the car was still there, and I remember Tyler like
23 standing up and we looked over there.

24 I'm like everybody good and he was kind of holding
25 hisself, and I went over there to him, and I was like you

Terry Wood - Direct examination
by Mr. Epps

1 good, and he was like yeah, it was like my arm. And he was
2 like man, I'm about to go and I remember him getting in the
3 car and pulling off.

4 I never did see the girl that was in the car that they
5 say so. I do not know who was driving.

6 Q Okay. Did you hang around after that?

7 A For maybe enough to gather my kids and, and get gone
8 because that area behind her was like a, a bad spot too, you
9 know.

10 Q Okay. Did y'all know any of the people lived back
11 there?

12 A I only knew Ms. Kay. She was a good woman. But, you
13 know, she was involved with a little bit of drug activity,
14 and she did let them do drug activity out of her house, and,
15 and it was kind of like, you know, gang infested. But I
16 mean they got calls about it. We reported about it and I
17 have spoken with my sister many times about moving. But,
18 you know, you can only pay what you can pay at the time.

19 Q I understand.

20 All right. Thank you. Answer any questions the
21 solicitor may have.

22 A Yes, sir.

23 CROSS-EXAMINATION

24 BY SOLICITOR BARRY:

25 Q Good morning, Mr. Wood.

Terry Wood - Cross-examination
by Solicitor Barry

1 A Hey.

2 Q How are you?

3 A I'm doing pretty good.

4 Q Okay. You said you're the Defendant's first cousin?

5 A Yes, ma'am.

6 Q And Tony Smith, your brother, is best friends with
7 Tyler?

8 A Yes, ma'am.

9 Q And you said Phaedra wasn't there---

10 A No, ma'am.

11 Q ---that day?

12 Okay. Kaitlin wasn't there that day?

13 A No, ma'am.

14 Q And you said that you had your back turned when the
15 shots rang out?

16 A Yes, ma'am.

17 Q Was it---

18 A Well shot that we heard.

19 Q Shot.

20 A Yes, ma'am.

21 Q So you didn't see who the shooter was?

22 A No, ma'am.

23 SOLICITOR BARRY: Okay. No further questions, Your
24 Honor.

25 A Yes, ma'am.

Terry Wood - Cross-examination
by Solicitor Barry

1 THE COURT: Any redirect limited to what she went into?

2 MR. EPPS: Thank you, Your Honor.

3 THE COURT: Thank you, sir. You may step down. Watch
4 your step as you're stepping down though. That's a big
5 drop-off.

6 THE WITNESS: All right.

7 THE COURT: Any reason why the witness can not be
8 excused?

9 MR. EPPS: No.

10 Are you---

11 THE WITNESS: No, I'm off.

12 THE COURT: Okay. Thank you, sir.

13 THE WITNESS: Thank you.

14 THE COURT: Ready to call your next witness?

15 MR. EPPS: Real quickly.

16 Thank you, Your Honor.

17 Okay. Your Honor, defense would call Tersandra Wood to
18 the stand.

19 THE COURT: Ms. Wood, just come right up here and let
20 the Clerk of Court swear you in.

21 THE CLERK: Ms. Wood, please raise your right-hand.
22 Place your left-hand on the Bible.

23 TERSANDRA WOOD, being first
24 duly sworn, testified as follows:

25 THE CLERK: Okay. Watch your step. You may lower your

Tersandra Wood - Direct examination
by Mr. Epps

1 mask while you testify.

2 DIRECT EXAMINATION

3 BY MR. EPPS:

4 Q Tersandra, let's go through the name thing please.

5 All right. Could you spell your first name for the
6 record?

7 A Yes. T-E-R-S-A-N-D-R-A.

8 Q You go by Tisa kind of like Lisa but with a T, correct?

9 A Yes.

10 Q I'm gonna call you Tisa.

11 All right?

12 A Yes.

13 Q All right. Tisa, let's, let's talk about this
14 incident.

15 Anterius is your cousin?

16 A Yes.

17 Q Mr. Vassey here, you know him?

18 A Yes.

19 Q Have you seen him on a number of occasions?

20 A Yes.

21 Q You know the date of the shooting?

22 A Yes.

23 Q Did you see Tyler prior to the date of the shooting?

24 A Yes.

25 Q Did you see him around your family?

Tersandra Wood - Direct examination
by Mr. Epps

1 A Yes.

2 Q Let's talk about who in your family did you see him
3 around.

4 A He was around numerous people in our family such as my
5 brother, Tony Smith, me, myself, Anterius, our grandmother.

6 Q Tony Smith, do you think Tony Smith and Tyler are
7 close?

8 A Real close.

9 Q Okay. The night of the shooting, where did the
10 shooting take place?

11 A The shooting took place at 505 Chestnut Street.

12 Q The way you said that makes me think there's something
13 there.

14 why, why would you emphasize it's 505 Chestnut?

15 A Because 505 Chestnut Street is the house where I
16 stayed. I did not stay at 505 Holly Street where they
17 saying the incident took place.

18 Q Let's, let's talk about -- talk about that one.

19 Tell me what 505 Holly is.

20 A 505 Holly is a two bedroom behind my house on 505
21 Chestnut Street. You have to go in the curve and then hit
22 Holly Street.

23 Q I'm gonna show you some pictures. I'm handing you
24 State's Exhibit 4, 5, and 6. I'm gonna ask that you look at
25 these in reverse order. Look at State's Exhibit No. 6.

Tersandra Wood - Direct examination
by Mr. Epps

1 Do you recognize that house?

2 A Yes, I do.

3 Q What is that?

4 A 505 Chestnut Street, the house I was renting at the
5 time.

6 Q All right. And it looks like there's a -- something on
7 the left-hand side of that picture.

8 What is that?

9 A It's the building where Bobbie was staying. Well, you
10 can call it a trailer.

11 Q Well, I might call it the box off a box of a U-Haul
12 trailer.

13 Is that right?

14 A Yes.

15 Q And who was staying there?

16 A Bobbie. Meryl Lindsay.

17 Q Kaitlin, Kaitlin called him Baldy, but, again, Meryl
18 Lindsay?

19 A Yes.

20 Q Okay. Do you happen to know Meryl's middle name?

21 A Meryl Tyrone Lindsay.

22 Q The next picture is five.

23 Are you looking at State's Exhibit 5?

24 A Yes, sir.

25 Q All right. Show -- flash that one to me.

Tersandra Wood - Direct examination
by Mr. Epps

1 A (WHEREUPON, the witness complies.)

2 Q I got, I got my numbers backwards. I apologize. Oh, I
3 meant for you to -- we had just talked about State's Exhibit
4 5.

5 Is that right?

6 A Yes, sir.

7 Q Okay. I meant for you to go to State's Exhibit 6. I'm
8 gonna stand here with you so I don't get confused.

9 This picture right here, is that another showing of 505
10 Chestnut?

11 A Yes, that's 505 Chestnut Street.

12 Q Okay. You can't really see this thing to the left,
13 this box truck box?

14 A No, sir.

15 Q All right. There's a, a house over here to the right
16 in the background.

17 Do you see that?

18 A Yes, sir.

19 Q Now, is that the 505 you're talking about?

20 A No, sir.

21 Q Who lives at this, this house?

22 A At that house, Kaitlin, P.J., Phaedra Hall, and her
23 mother.

24 Q And just so we're clear, Kaitlin's mother or Phaedra's
25 mother?

Tersandra Wood - Direct examination
by Mr. Epps

1 A Phaedra's mother.

2 Q So, three ladies?

3 A Yes, sir.

4 Q Okay. Now, State's Exhibit 4, does that show your
5 house?

6 A Yes, sir.

7 Q Does that show the roadway in front of your house?

8 A Yes, sir.

9 Q Do any of these pictures show the house you were
10 talking about, that 505 Holly?

11 A No, sir.

12 Q Let's talk about the incident, and let's talk about,
13 let's talk about what you remember.
14 why was everybody there that night?

15 A Everybody was at my house that night because we was
16 playing cards.

17 Q How many people do you estimate were there?

18 A I estimate in my house, while we was playing cards,
19 there's no more than 70 can play the game of Pea Paddy
20 (phonetic) at the time. So, I'm gonna say between 70 and 80
21 people.

22 Q Okay. Were there people outside in the yard?

23 A Of course. There was people up and down the road also.

24 Q And was that a common thing in that part of, of town?

25 A Yes, that was a common thing in that area.

Tersandra Wood - Direct examination
by Mr. Epps

1 Q Okay. Is it still a common thing?

2 A Yes, it is.

3 Q Do you happen to know everybody that was there?

4 A No, I don't happen to know everybody that was there.

5 Q Was Anterius there?

6 A Anterius Smith was not there.

7 Q Let's get to the car showing up.

8 There's a -- is it a pot or a cooker?

9 A It's a pot with a lid.

10 Q Did you need a cooker?

11 A No, I didn't need the cooker. I already had a cooker.

12 Q How, how did it come about that Tyler shows up with a
13 cooker or a pot at your house?

14 A Tyler shows up with a pot at my house because earlier
15 that day my grandmother outside had asked me did he have a
16 fish fryer pot, and he was like yeah, I got one I can front
17 you. I said well, cool, I'll buy it from you cause I done
18 previous purchased things from him before.

19 Q Okay. So you had seen him earlier that day?

20 A Yes.

21 Q All right. And when you say at your grandmother's
22 house, just so we have a, a clarity here, who is that?

23 A Dora Smith.

24 Q Is -- she just turned 97, Dora Smith?

25 A Yes, this morning.

Tersandra Wood - Direct examination
by Mr. Epps

1 Q All right. Tell her happy birthday.

2 And so Helen Smith that just testified, the lady right
3 there, that's her daughter?

4 A Yes, sir.

5 Q So your, your aunt?

6 A Yes, sir.

7 Q Okay. But Anterius's grandmother?

8 A Yes, sir.

9 Q All right. Did you know Anterius to live in this area
10 around y'all?

11 A No, he stayed with -- him at 103 Camellia Street and
12 then sometime he stayed with T'Andra, the mother of his son.

13 Q Okay. I -- and I misunderstood.

14 Is Palmetto Street in Gaffney?

15 A Yes, sir.

16 Q Is it close to this incident area?

17 A Yes, it's maybe two streets above us.

18 Q Okay. So one might say in the neighborhood?

19 A No, not in the neighborhood. You got to go such a
20 distance---

21 Q okay.

22 A ---to get to her house.

23 Q Okay. What's the first recollection you have that you
24 know Tyler is at your house?

25 A My brother, Terry, hollers into the window of the

Tersandra Wood - Direct examination
by Mr. Epps

1 house. He say hey, Tisa out here -- Tyler out here with
2 that fish pot, Tisa. I got cards in my hand playing cards.
3 So, I dropped the cards. I was like I'll be right back,
4 y'all, in the middle of playing Tunk. So, I gave---

5 Q A card game?

6 A A card game, yes. So, I go outside. I see Tyler and I
7 don't know the girl that driving the car. She has a white
8 car. The front of the car got something tore off the side
9 of it. It's a white car.

10 So, I approach the car coming down the steps, go
11 through my yard. I go to Tyler in the road. I walked in
12 front of the car. I go to the drop -- the passenger side
13 with Tyler. He already had the pot out.

14 I get the pot from Tyler. I was like thank you cause I
15 need to rush to my game. I go back towards my porch. By
16 the time I get to my porch by the bottom step, I hear boom,
17 the gunshot. Me being me, in the area where I stay at, all
18 I did was fall. I never looked towards that road, but
19 that's not my business to look towards that road.

20 Q So, what happened after that?

21 A After that, I laid on my porch on the bottom of those
22 steps maybe 30 to 45 seconds. So, I get up after that,
23 after I hear people just talking and yelling, and I hear
24 Tyler out there at the road. I hear him say I got shot and
25 he was holding like that.

Tersandra Wood - Direct examination
by Mr. Epps

1 I say hey, you okay, and he just jumped up in the car
2 and took off. I mean I don't know the girl name. Y'all
3 said it was Brittany but I don't know her name cause I don't
4 know her personally.

5 Q Okay. What happens after that?

6 A After that everyone was just like on the edge talking
7 about, you know, the police coming. I was like sure, they
8 gonna come cause this area. They gonna come to our area
9 where the gunshots was fired.

10 Q Okay. Did they come?

11 A Yes, they came.

12 Q Did you talk to them?

13 A No.

14 Q Why?

15 A None of them had ever came and say whose house is this.

16 Q Were you in the house when they came?

17 A Yes, I was in the house and I also walked outside.

18 Q But none of them approached you?

19 A No, they never approached me.

20 Q Did you see them talking to other people?

21 A Yes, I did.

22 Q Who did you see them talk to?

23 A After the incident I seen Phaedra come. I seen Kaitlin
24 out there after the incident. They was talking to them. I
25 also seen them talk to Meryl. It was multiple other people

Tersandra Wood - Direct examination
by Mr. Epps

1 out there that they was talking to. But didn't no one
2 actually say hey, who house is this, we need to talk to the
3 owner.

4 Q Did you hear anybody say hey, Anterius Smith shot
5 Tyler?

6 A No, sir.

7 Q Could Anterius Smith have shot Tyler?

8 A No, sir.

9 Q So, after this, when's the next time you saw Tyler?

10 A After this the next time I saw Tyler I'm gonna say
11 maybe five to seven days later at my grandmother's house.

12 Q What were y'all doing at your grandmother's house?

13 A Just sitting on the porch talking. I was asking him
14 why he was doing -- he was showing where he could that came
15 through his arm.

16 Q Okay. You actually videoed him?

17 A Yes, several times.

18 Q Okay. Do you recall if the -- where, where did you
19 take the video of him?

20 A At our grandmother's house, Dora Smith house, 502 Beach
21 Street.

22 Q And how many times did you see Tyler around your family
23 after this incident?

24 A Several times.

25 Q Do you recall ever seeing Tyler around Anterius?

Tersandra Wood - Direct examination
by Mr. Epps

1 A Yes, because at family events Tyler still came.

2 Q And this -- these events, were some of them at Ms.
3 Doris's house?

4 A Most of them was.

5 Q And would Ms. Helen be there?

6 A Yes.

7 Q would Anterius be there?

8 A Yes, Tony Smith would also be there, his best friend.

9 Q You're wearing scrubs?

10 A Yes, sir.

11 Q Where are they from?

12 A ECPI University School of Nursing.

13 Q You're in school to be a nurse right now?

14 A Yes.

15 Q You been sitting out there how many days?

16 A Today will make my third day.

17 Q Are you in class right now?

18 A Yes, I am. I'm in a virtual online clinical.

19 Q Did, did you -- you've -- you and I have corresponded
20 here over the last couple of days, text, emails, things of
21 that nature?

22 A Yes.

23 Q The last one or two you've sent me, did you have --
24 did, did you -- was there an attachment sent to that
25 correspondence?

Tersandra Wood - Direct examination
by Mr. Epps

1 A Yes.

2 Q What was it?

3 A One was a letter from my school for my D -- about me
4 being here today.

5 Q And did I have to send you a subpoena to, to E -- so --
6 did I send you a subpoena?

7 A Yes.

8 Q Did you have to hand that to your ECPI folks?

9 A Yes.

10 Q So you're missing school to be here today?

11 A Yes. And it wasn't really approved. I'm missing time
12 that's gonna count against me. I can actually fail the
13 course.

14 Q At the time -- so, four years ago, what were you doing?

15 A Four years ago I just had received my CNA
16 certification.

17 Q You had to take a test in that field?

18 A A State Board test.

19 Q Did you pass it?

20 A Yes.

21 Q Answer any questions Ms. Barry has for you.

22 A Yes.

23 Q Thank you.

24 THE COURT: Yes, ma'am.

25 SOLICITOR BARRY: Thank you, Your Honor.

Tersandra Wood - Cross-examination
by Solicitor Barry

1 CROSS-EXAMINATION

2 BY SOLICITOR BARRY:

3 Q Good morning, Ms. Wood.

4 How are you?

5 A Good morning. I'm doing fine.

6 Q You and I have actually spoken before, right?

7 A Yes.

8 Q And you told me last week that Anterius was not
9 there---

10 A Yes.

11 Q ---correct? And let's go from there.

12 So, Anterius is your first cousin?

13 A No.

14 Q What is he?

15 A He's my second cousin.

16 Q Second cousin.

17 So you're related to Anterius, you're related to Ms.
18 Smith, and you're related to Terry Wood, correct?

19 A Yes.

20 Q Everybody over there minus Ms. Miller is who you're
21 related to?

22 A Yes.

23 Q And you knew that Anterius was charged with attempted
24 murder?

25 A Yes.

Tersandra Wood - Cross-examination
by Solicitor Barry

1 Q And when did you figure that out?

2 A I figured that out when it was posted on, on the news
3 and I actually contacted him when it was on the news stating
4 that he was a danger to the community and he was wanted.

5 Q Okay. So, I'm guessing 2017 is when you figured that
6 out?

7 A Yes.

8 Q So, in 2017, do you tell investigators that Anterius
9 was at your house?

10 A Yes, I did.

11 Q Oh, you did?

12 A Yes, cause Skinner, that man right there, and another
13 officer came to the house asking about someone named G.G.,
14 someone that I don't know.

15 Q Okay. In 2018, did you tell law enforcement that
16 Anterius was not the shooter?

17 A They did not reach out to me to tell them.

18 Q In 2019 did you tell them that Anterius was not the
19 shooter?

20 A No, I did not.

21 Q What about 2020?

22 A I did not in 2020. But in 2021 you reached out to me
23 the first time for the Solicitor's Office and asked me and I
24 told you also no.

25 Q So, what you're telling the jury today is that you have

Tersandra Wood - Cross-examination
by Solicitor Barry

1 to be sought to tell people that your family member, who is
2 charged with attempted murder, was not the shooter?

3 A Sure.

4 Look at the color of my skin.

5 why not?

6 SOLICITOR BARRY: Okay. No further questions, Your
7 Honor.

8 THE COURT: Any redirect limited to what she went into?

9 MR. EPPS: No, Your Honor. Thank you.

10 THE COURT: Ma'am, be careful stepping down.

11 Any reason why the witness can not be excused if she
12 wishes to be?

13 MR. EPPS: No, Your Honor.

14 SOLICITOR BARRY: No objection from the State, Your
15 Honor.

16 THE COURT: Ma'am, you may be excused if you'd like.

17 MR. EPPS: Frankly that can go for all --

18 THE COURT: Okay.

19 MR. EPPS: -- in the gallery, Your Honor.

20 THE COURT: All right. Defense ready to call their
21 next witness?

22 MR. EPPS: Your Honor, could we approach just for a
23 minute?

24 THE COURT: Well, how about less than a minute you can
25 approach.

1 Come on.

2 (WHEREUPON, a bench conference was held out of the
3 hearing of the jury at this time.)

4 THE COURT: All right. Ladies and gentlemen, let's
5 take a short recess. I need to remind you of my ongoing
6 instruction to you.

7 Do not discuss anything about the case among
8 yourselves. Do not do any type of in -- independent
9 investigation or investigation. But you may go with the
10 bailiff.

11 Again, if you have any personal property, please take
12 it with you.

13 (WHEREUPON, the following takes place outside the
14 presence of the jury.)

15 THE COURT: Does the defense intend to call any other
16 witnesses?

17 MR. EPPS: Your Honor, none except possibly my client.
18 I would like a brief minute to talk---

19 THE COURT: Okay.

20 MR. EPPS: ---to him about that.

21 THE COURT: All right. We'll step down and come back
22 and then proceed with anything you want me to know.

23 MR. EPPS: Thank you, Your Honor.

24 (WHEREUPON, a short recess was taken at this time.)

25 THE COURT: All right. Has, has your -- have you been

1 able to speak with your client concerning his right to
2 testify or not to testify in this proceeding?

3 MR. EPPS: I have, Your Honor.

4 THE COURT: And---

5 MR. EPPS: We discussed it at length.

6 THE COURT: What is his decision?

7 MR. EPPS: Your Honor?

8 THE COURT: Does he intend to testify or not?

9 MR. EPPS: He is intend -- he does not intend to
10 testify.

11 THE COURT: Okay. All right. Mr. Anterius Smith, I
12 need for you to please stand.

13 (WHEREUPON, the Defendant complies.)

14 THE COURT: Sir, please raise your right-hand. Let the
15 Clerk of Court swear you in.

16 (WHEREUPON, the Defendant was placed under oath at this
17 time.)

18 THE COURT: And if you'll lower your mask so the court
19 reporter can take down your responses.

20 THE COURT: Give me just a moment, Mr. Smith.

21 (Pause.)

22 THE COURT: All right. Mr. Smith, at this time I am
23 going to explain to you certain of your rights.

24 Now, if you do not understand anything that I say, I
25 want you to please let me know.

1 okay?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Now, sir, if you want me to explain in more
4 detail as we go back and forth, just let me know that as
5 well.

6 okay?

7 THE DEFENDANT: Okay.

8 THE COURT: All right. Mr. Smith, we have now reached
9 the stage of the trial where you may present a defense, and
10 you have the right to claim the protections given to you by
11 the Fifth Amendment to the Constitution of the United
12 States. This amendment reads, in part, no person shall be
13 compelled, in any criminal case, to be a witness against
14 himself.

15 This means that you, you can not be required to testify
16 in this case. You have the right to testify on your own
17 behalf. However, no one can make you testify.

18 This is a personal right of yours, and no one can waive
19 this right except you. If you decide to testify, you'll be
20 subject to the same rules that govern other witnesses, and
21 you may be examined and cross-examined by -- on any relevant
22 issue in this case. In addition, if you have any conviction
23 involving dishonesty or false statements or for crimes
24 punishable by imprisonment for more than one year, and this
25 court determines that your -- that the probative value of

1 admitting the evidence outweighs its prejudicial effect to
2 you, the solicitor will be able to introduce your record to
3 attack your credibility.

4 Mr. Smith, if you decide to testify, this decision on
5 your part must be freely, voluntarily, and intellectually
6 made with knowledge of the protections given to you by the
7 Fifth Amendment and the consequences of your decision to
8 testify.

9 Mr. Smith, if you decide not to testify, I will
10 instruct the jurors that they can not give the fact that you
11 did not testify any consideration whatsoever, and there is
12 to be absolutely no prejudice to you because you did not
13 testify.

14 Now, it is left entirely up to you whether or not you
15 testify in this case. You may talk to your attorney. You
16 may talk to your family and friends or anyone else. The
17 final decision will be left entirely up to you on whether or
18 not you testify or not.

19 Now, Mr. Smith, do you understand what I've just
20 explained to you?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. Mr. Smith, do you have any
23 questions about anything that I have just explained to you?

24 THE DEFENDANT: No, sir.

25 THE COURT: Mr. Smith, have you discussed with your

1 lawyer whether or not you should testify?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. And do you feel the need, after
4 we've had this discussion, do you feel the need you want to
5 talk to your lawyer any more about your right to testify?

6 THE DEFENDANT: Oh, no, sir.

7 THE COURT: And, Mr. Smith, I ask you do you wish to
8 testify in this case?

9 THE DEFENDANT: No, sir.

10 THE COURT: All right. Now, Mr. Smith, has anybody --
11 to get -- in making this decision not to testify, has
12 anybody come to you and threatened you in any way or
13 promised you anything in order to make the decision not to
14 testify?

15 THE DEFENDANT: No, sir.

16 THE COURT: All right. Thus far are you satisfied with
17 the work of your lawyer?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Am I correct to conclude that your decision
20 to not testify that it is a free and voluntarily and knowing
21 decision by you?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Mr. Smith, thank you very much.

24 I will find that the decision not to testify by you is
25 a free, voluntary, and knowing decision by you. In the

1 event -- we're gonna proceed on with the rest of the trial.
2 If you change your mind prior to us reaching the point to
3 where we -- beyond the point of you testifying, just let
4 your lawyer know if you change your mind.

5 okay?

6 THE DEFENDANT: I will.

7 THE COURT: Thank you, Mr. Smith. You may have a seat.

8 All right. Does the defense intend to call any other
9 witnesses?

10 MR. EPPS: No, Your Honor. The State rests.

11 THE COURT: All right. The State rests. Now the
12 defense rests.

13 Does the, the---

14 MR. EPPS: The defense rests, Your Honor.

15 THE COURT: ---State have -- intend to call any reply
16 witnesses?

17 SOLICITOR BARRY: No, sir, Your Honor.

18 THE COURT: All right. Do y'all have any request to
19 charge other than what verbally y'all've told me about?

20 SOLICITOR BARRY: Your Honor, Mr. Epps and I have gone
21 back and forth on the charge, and I have not actually had
22 the charge to look at it, voluntary intoxication not being a
23 defense. I believe that the State presented testimony that
24 Anterius -- Mr. Smith was there and that he was drunk, and
25 defense witnesses did testify that Mr. Smith had been

1 drinking that day.

2 So, the State would request that voluntary intoxication
3 is not a defense be added to the jury charge.

4 MR. EPPS: Your Honor, I had not looked at that charge.
5 I've been trying to ferret out this attempted murder thing.

6 THE COURT: I'm not seeing that voluntary intoxication
7 is even an issue in this case.

8 MR. EPPS: That -- that's -- Your Honor, that's kind of
9 my point. I don't know, if the jury gets to that issue, I
10 don't think they're gonna get there.

11 THE COURT: I mean based upon what I heard from this
12 case, it, it is that he was either -- did it or didn't do
13 it. I didn't hear any argument and -- now, if he makes the
14 argument to the jury I will change my mind, but if he -- Mr.
15 Epps made the argument to the jury well, you know, if you
16 believe he did it, then he was drunk, so you can't make
17 it -- you know, if he makes that argument, yeah, I would
18 change my opinion. But I don't think voluntary
19 intoxication's an issue.

20 MR. EPPS: Your Honor, I am not intending on making any
21 argument to that effect.

22 THE COURT: Okay. Okay.

23 SOLICITOR BARRY: And, Your Honor, I'm not gonna push
24 the issue.

25 THE COURT: Okay. well---

1 SOLICITOR BARRY: I'm not---

2 THE COURT: Yeah, I mean you can get up and argue to
3 them that oh, well, he can't get away cause, because he was
4 intoxicated, but I don't feel I need to charge them on that,
5 you know.

6 Okay. What we're gonna do, let, let me suggest this.
7 I've got -- what I like to do is give y'all a copy of my
8 charge so we can just have a charge conference. We have not
9 done that yet. I'm not too -- I'm close to the point, but
10 I'm not there yet, of having jury charges for y'all to take
11 a look at.

12 Let me send them to lunch early. Let me ask that they
13 be back -- let me ask that they be back at 1:30. That would
14 give us two hours. At 1:30 hopefully we'll be in a position
15 we can proceed with -- unless y'all've convinced me to throw
16 the case out, we'll be in a position where maybe we will go
17 to closing arguments and charge to the jury.

18 How about that?

19 Y'all think your closing arguments are gonna be maybe
20 how long?

21 SOLICITOR BARRY: I'm a pretty direct speaker, Your
22 Honor. Maybe 10 to 15 minutes.

23 THE COURT: Okay.

24 MR. EPPS: My hope that it would be 15 to 20 minutes.

25 THE COURT: Okay.

1 MR. EPPS: I will try to be mindful of my time.

2 THE COURT: Okay. Do I need to look up State versus
3 Beatty as to the order of arguments or do y'all agree as to
4 how the arguments will be?

5 MR. EPPS: Your Honor, my understanding is, since I've
6 presented, I think it would be Adrienne, then me, then
7 Adrienne in reply to mine.

8 THE COURT: But she's limited in her reply just to
9 things---

10 MR. EPPS: Yes.

11 THE COURT: ---that you brought up?

12 MR. EPPS: To mine.

13 THE COURT: All right.

14 MR. EPPS: Correct, Your Honor.

15 THE COURT: Okay. So I'm gonna bring the foreperson
16 in. Tell you what -- yeah, bring the fore -- okay. You
17 need to rest on the record.

18 MR. EPPS: I, I do.

19 THE COURT: Okay. Let's bring the whole jury in, let
20 you rest, and then I'll dismiss the jury.

21 (WHEREUPON, the following takes place within the
22 presence of the jury.)

23 THE COURT: Yes, sir, Mr. Epps.

24 MR. EPPS: Thank you, Your Honor.

25 At this point the defense rests.

1 THE COURT: Thank you, sir.

2 Ladies and gentlemen, at this time we have now
3 concluded the presentation of all of the evidence that will
4 be presented to you prior to your starting your
5 deliberations. There are several matters that I still need
6 to address with the attorneys that has to be done outside of
7 your presence.

8 Given the hour that it is, I'm going to say let, let
9 y'all go to lunch early today. I'm gonna ask, if you would,
10 to be back in the jury deliberation room by 1:30. At that
11 time we, we will hopefully be in a position to begin with
12 the closing arguments from the attorneys, the instruction on
13 the law that you will receive from me, and then you will
14 begin your deliberations.

15 At this point I know that you've been very good about
16 it, and you can probably recite it to me, my two ongoing
17 instructions, but it is extremely important now, do not
18 begin your deliberations. Do not talk about the -- to --
19 among yourselves or with anyone else about anything involved
20 in the case, and do not do any type of independent research
21 or investigation. I will, again, allow the lawyers to argue
22 the facts that they feel are important, persuade with their
23 arguments. Allow me the opportunity to tell you what law to
24 apply to those facts.

25 But thank you for your work this morning. Thank you

1 for your patience while we got to this point. I'm gonna let
2 you go with the bailiff and we'll see you back by 1:30.

3 (WHEREUPON, the following takes place outside the
4 presence of the jury.)

5 THE COURT: All right. Okay. All right. I'm gonna
6 step down and has the State been able to take a look at
7 State versus King yet?

8 SOLICITOR BARRY: Your Honor, I have -- I have it
9 pulled up and I have been perusing it very quickly.

10 THE COURT: Okay. Do you want -- are you in a position
11 that you want to argue that -- not argue?

12 Are you in a position that you want to argue that?

13 MR. EPPS: I would like to look at it just a little
14 more. I had it up as well.

15 THE COURT: Okay. Then let's get back together. Let's
16 says it's 11:30. Let's say let's get back together at 1:00.

17 MR. EPPS: Thank you, Your Honor.

18 THE COURT: Okay.

19 (WHEREUPON, Court was in recess for the lunch break.)

20 THE COURT: We're gonna go back on the record. The
21 State wishes to make another argument. The State wants to
22 make another argument -- get the doors. The State wants to
23 make another argument after I've already ruled. wants to,
24 once again, revisit the issue of asking the Court to charge
25 involuntary intoxication.

1 Go.

2 SOLICITOR BARRY: Your Honor, I, I would just like to
3 ask one more time that it, it be included. The State did
4 present evidence that the Defendant was there and that he
5 was under the influence. So, I would, I would ask that it
6 be included.

7 THE COURT: Okay. Yes, sir.

8 MR. EPPS: Your Honor, I know there was some evidence,
9 but frankly I just don't think there is any evidence that
10 that is the excuse and that that is how the case has been
11 presented at all. Our defense is he is not been there. So,
12 clearly, that's just not something we're looking to argue,
13 and, secondarily, I, I just don't hear anybody going well,
14 you know, he was drunk. So, this was the excuse or --.

15 THE COURT: Okay. Where's Ms. Leskanic?
16 She came back in chambers.

17 SOLICITOR LESKANIC: Right here, Your Honor.

18 THE COURT: There she is.

19 Okay. Sit right there. I want you to hear this.

20 Okay. Go ahead, yes, ma'am, any reply?

21 SOLICITOR BARRY: No. No, Your Honor.

22 THE COURT: Okay. All right. I have told y'all and
23 told y'all last time, if he stands up and he makes the
24 argument to that jury that somehow his client should be
25 excused from committing this crime because he was

1 intoxicated, yes, because everything that has been presented
2 during this trial, nobody brought up intoxication as a
3 defense.

4 Okay. Does anybody disagree with my summary of the
5 facts of this case?

6 SOLICITOR BARRY: No, Your Honor.

7 THE COURT: Okay. Is there another reason that is not
8 been stated for you want to -- having to come back and make
9 this argument again when we're trying to get this case to a
10 jury?

11 SOLICITOR BARRY: No, Your Honor.

12 THE COURT: Anything else?

13 MR. EPPS: Nothing, Your Honor.

14 THE COURT: Now, I want to hear from y'all on State
15 versus King.

16 SOLICITOR BARRY: Yes, sir, Your Honor.

17 May it please the Court?

18 THE COURT: Yes.

19 SOLICITOR BARRY: I was able to read State versus King
20 over the break. I agree that specific intent to kill is an
21 element of attempted murder. Mr. Smith has been indicted
22 for attempted murder, and, again, specific intent to kill is
23 a portion of the elements for attempted murder.

24 The testimony that was presented through the State's
25 witnesses -- let me back up. The specific intent -- the

1 State's argument is, is it can be inferred through the
2 testimony that was presented through its witnesses.

3 Mr. Vassey testified that, when he arrived, he was
4 approached by the Defendant. He was within four to
5 five feet. The Defendant told him that he needed to get
6 back in the car, that he needed to leave. Mr. Vassey did
7 not do what he told him he needed to do, and he shot Mr.
8 Vassey within a four to five feet distance in the chest. It
9 was so close that it went through his chest and out his
10 back, Your Honor.

11 Other witnesses were able to testify that they also saw
12 Mr. Smith raise the gun and shoot Mr. Vassey. It is the
13 State's argument that the inferred intent is a totality of
14 the circumstances.

15 With the testimony that was presented by the witnesses,
16 I, I would argue that this is a perfect example of a
17 specific intent to kill, and I would ask that the attempted
18 murder be allowed to go to the jury. It is -- if the jury
19 does not believe that the State has produced the facts that
20 would prove the attempted murder, it is for the jury to
21 determine if the lesser included of assault and battery of
22 high and aggravated, aggravated nature would apply at that
23 point.

24 So, I believe that the attempted murder would apply,
25 Your Honor, as well as the lesser included.

1 THE COURT: So, your argument is that, that if -- oh,
2 okay. Thank you.

3 Your argument, if I understand it, that if I'm going to
4 charge attempted murder, you don't want me to also charge
5 assault and battery of a high and aggravated nature?

6 SOLICITOR BARRY: No, sir, the, the State's argument is
7 attempted murder should be charged---

8 THE COURT: Right.

9 SOLICITOR BARRY: ---Your Honor, and the question of
10 specific intent would be a question for the jury.

11 THE COURT: Okay.

12 SOLICITOR BARRY: And if the jury does not find that
13 there is specific intent, then assault and battery of a high
14 and aggravated nature would be the lesser included charge to
15 go with.

16 THE COURT: Okay. Do you agree that I should charge
17 attempted murder?

18 MR. EPPS: Your Honor, I do not believe there has been
19 evidence of any specific intent to kill, and, frankly, Your
20 Honor, I do not know that there is any evidence of malice
21 aforethought. I was -- I'll be candid with you.

22 The King Court is on an intellectual level higher than
23 mine. I've tried to understand it as best I can.

24 As I read the statute, in conjunction with the King
25 case, Your Honor, I think there has to be specifically an

1 intent to kill. Not a, a shooting. But the intent to kill,
2 in this instance Tyler Vassey, trying to merge the, the case
3 law into my argument, without that intent to kill, there is
4 no attempt. So, I don't believe that---

5 THE COURT: I'm sorry. Say that one more time without
6 what what.

7 MR. EPPS: Without showing the intent -- the
8 specific---

9 THE COURT: Right.

10 MR. EPPS: ---intent, there is no intent is what I
11 said, I-N, there is no attempt to kill. You got to have the
12 specific intent to kill.

13 Your Honor, I'm sorry I got sidetracked. I believe --
14 so we have two, two facets. We have to show -- they have to
15 show -- there has to be shown, for this case to continue
16 forward, that my client specifically intended to kill Tyler
17 Vassey. I don't believe that we have that evidence before
18 us. I also believe they have to show he had malice, a
19 preexisting malicious intent or malicious thought to kill
20 him. I frankly do not believe we have that either.

21 Earlier today when we were going over motions, and I
22 mentioned the potential ABHAN, I probably did it inartfully.
23 I'm trying to make a generalized DV and then go into
24 specifics, and that -- that's where I was going with that.

25 Your Honor, yes, I agree, specific intent. I just

1 don't believe we have it. I don't know if I've answered the
2 question by the way you're looking at me.

3 THE COURT: Well, you're arguing against her right now.
4 I'll ask the questions.

5 MR. EPPS: Sure. Well, I wanted -- but you had asked
6 me a question.

7 THE COURT: Right.

8 MR. EPPS: I wanted to make sure I answered it.

9 THE COURT: Okay. I said do you agree that I should
10 charge attempted murder and your answer was no.

11 MR. EPPS: Well, I don't believe you should charge
12 attempted murder because I believe that the charge can not
13 be maintained based on what we have before the Court and the
14 evidence. In other words, it's a similar to -- I'm, I'm
15 essentially making a DV motion there. But, Your Honor, I am
16 somewhat inferring, by your argument -- I guess I'm not
17 entirely sure what the Court is asking me.

18 Should you charge attempted murder or should you charge
19 ABHAN?

20 Should you charge attempted murder and a lesser
21 included?

22 THE COURT: If you would---

23 MR. EPPS: So, if you could help me with that. I'm
24 sorry.

25 THE COURT: Right now we're -- she's wanting me to

1 continue. She says there's a record. State versus King is
2 met. We should charge -- I should charge the jury attempted
3 murder as defined by the statute determined by State versus
4 King.

5 And so we're just -- I'm just looking at that right
6 now. I understand you've already made your argument once.
7 I didn't buy it. You're gonna try again that I should not
8 do the lesser included offense of assault and battery of a
9 high and aggravated nature. And so we're that -- we're just
10 now -- I'm looking at attempted murder.

11 MR. EPPS: Your Honor, no, I do not believe you should
12 charge attempted murder. I do not believe the evidence in
13 the case supports that charge.

14 THE COURT: Right. I mean State versus King's a tough
15 case, and I don't know whether y'all noticed, but I sat on
16 the Supreme Court when State versus King was decided. It's
17 a tough case and I think State versus King points out a lot
18 of things about statutory construction in this State, and
19 when, and when the Legislature did their effort to try to
20 codify common law rules.

21 And State versus King, I think, points out that it --
22 that the Legislature might not have intended it, but the way
23 they drafted the statute, they raised the burden. They
24 raised that intent so that a very -- a reading of State
25 versus King could be that if we were to convict somebody of

1 attempted murder, you got to have a more specific intent
2 than if you just convicted them of murder. That's the way
3 the statute is now written in this State.

4 MR. EPPS: And I believe State versus Perry from April
5 in the Court of Appeals agrees with that.

6 THE COURT: Yeah. And so it -- it's a tough case.
7 Tough case from where I sit and y'all sit logically to think
8 that someone could be guilty -- that it's easier for the
9 State to convict someone of murder than it is -- than, than
10 it would be of attempted murder. You would think,
11 logically, it would just be the reverse.

12 And so that's why I struggle with State versus King
13 with the facts that the State has in this particular case.
14 I don't get to pick and choose the way the Appellate Courts
15 tell me that I'm suppose to interpret it. I'm having, I'm
16 having difficulty understanding how I can, get State -- how
17 I can charge State -- charge attempted murder to this jury.

18 I am -- and we'll hear from Mr. Epps. I am -- feel
19 like I'm just as right on I need to charge assault and
20 battery of a high and aggravated nature because the statute
21 says I have to. They -- statute -- the Legislature says
22 it's a lesser included offense, and I think that the facts
23 of this case, even if it weren't a statute, we're applying
24 the common law that it would still apply. But I'm willing
25 to hear from Mr. Epps.

1 MR. EPPS: Your Honor, I made my arguments earlier. I
2 believe the Court heard them, understood them, remembers
3 them. So I won't belabor the point.

4 However, Your Honor, this was always an attempted
5 murder case, attempted murder case, attempted murder case,
6 which I -- so, again, presented my case in that way. But I
7 do understand and, yes, agree that ABHAN is a lesser
8 included.

9 THE COURT: Well, let me ask you this, and you raised
10 an argument previously, which I did -- which I might of ran
11 over very quickly and which is a significant argument. You
12 claim prejudice, that if I, that if I do a lesser included
13 offense, somehow you've been prejudiced in your defense, and
14 I don't see the prejudice because your defense to the
15 attempted murder is the same defense if it was high and
16 aggravated nature -- charged assault and battery of a high
17 and aggravated nature.

18 MR. EPPS: Your Honor, I, I heard that, understand the
19 Court's reasoning on that. Prejudice may not have been the,
20 the right word to use.

21 THE COURT: Well, I think I threw that out there cause
22 that's what I was hearing. I didn't know what you were
23 gonna call it.

24 MR. EPPS: I may of said prejudice.

25 THE COURT: You might have. I don't remember.

1 Do you want to -- do you want to argue that again?

2 MR. EPPS: Your Honor, based on what I've read, I think
3 that you have a obligation to charge based on the evidence
4 presented. And so, you know, you're the charging -- you
5 have the responsibility of the charge. So, if you believe
6 the evidence, as presented, that -- the necessity for that
7 charge, then I believe you could charge that, Your Honor.

8 THE COURT: Well, thank you very much for saying that.
9 Yes, ma'am.

10 well, I mean he's -- you want to have anything else on
11 the assault and battery of a high and aggravated nature
12 cause I intend to charge that if I don't charge both of
13 them?

14 SOLICITOR BARRY: I have nothing further to say in
15 regarding the assault and battery of a high and aggravated
16 nature, Your Honor.

17 THE COURT: All right. And, Ms. Leskanic, the reason I
18 asked where you are, I didn't see you, you came back in the
19 chambers. And so being her supervisor, I wanted to be sure
20 you heard my reasons cause she had already very articulately
21 presented it to me. I wasn't pointing you out for some bad
22 reason. I just wanted to be sure you heard the argument
23 cause she's done a great job presenting the State's case.

24 I just -- alcohol's not come up in this case other than
25 saying that he was asleep. It's not -- so -- and I think

1 Mr. Epps understands that if he gets up and makes that
2 argument, I'm changing my jury charges you know. But I just
3 don't see that alcohol as a part of this.

4 Okay. I have prepared -- okay. I have prepared these
5 jury charges including -- I have included the attempted
6 murder. But I am just struggling with the attempted murder
7 case because, as I was preparing the charges, I was going
8 back through State versus King trying to figure out if I
9 could plug that in there because I understand, as Mr. Epps
10 argued, that I'm the charging authority and I'm suppose to
11 charge whatever y'all ask me if the evidence supports it.

12 I don't have a -- it's really not in my discretion to
13 say no, I don't like that or no, it's not, you know, the
14 overwhelming amount of the evidence is the other way or one
15 way.

16 In, in selecting what I charge, those things don't come
17 in. Y'all tell me what to charge. Y'all ask me what to
18 charge. If there's evidence to support them, I got to
19 charge them, and I just don't see that there's attempted
20 murder under -- through a State versus King analysis. But
21 I'm also struggling, for future reference, absent the words
22 being spoken by the defendant I'm going to kill, how there
23 would ever be an attempted murder charge almost because the
24 statute reads that malice can be expressed and implied or
25 expressed and inferred, something like that.

1 And so -- and I think that's where the State versus
2 King case goes when they start talking about there's -- and
3 I don't -- I'm not sure they use the word ambiguity. But
4 they -- there, there is this conflict in the statute because
5 okay, you now, Legislature, want attempted murder to be this
6 expressed, specific intent charge crime in the State of
7 South Carolina. It's got to be malice aforethought. Malice
8 aforethought can be expressed or inferred.

9 But it's specific intent, how can you infer a malice on
10 an attempt charge when an attempt you've got to come in and,
11 you know, you -- the entire lot -- a large part of the
12 logical discussions we have and the logics we apply in
13 interpreting statutes just doesn't seem to follow this
14 statute logically if it is gonna be a specific intent crime,
15 and I think the subsequent cases after State versus King,
16 they don't counter that idea that, that attempted murder is
17 a specific intent crime.

18 They seem to just go to going into the definitions of
19 well, what's express or implied or how we're gonna charge a
20 jury on that. I -- everybody now accepts that attempted
21 murder is a specific intent crime.

22 So, I'm not gonna charge attempted murder. I just
23 don't think it fits the State versus King analysis. But I
24 am frustrated with my decision because I'm scratching my
25 head going when will we ever have an attempted murder charge

1 absent an expressed malice. I -- you know, this is one of
2 those inferred malice cases as opposed to express malice
3 cases. But I just -- that's the difficulty, I think, I have
4 and I think any judge is gonna have with the State versus
5 King analysis of this statute. The way the statute's
6 written is that when will you ever have an attempted murder
7 case where it's inferred as opposed to expressed.

8 So -- but with that being said, assault and battery of
9 a high and aggravated nature, according to my reading,
10 carries 20?

11 SOLICITOR BARRY: Yes, Your Honor.

12 THE COURT: It carries 20 years and it is still a
13 violent crime under the definition of the statute. So,
14 there is a -- still the charge of possession of a weapon
15 during the commission of a violent crime. So, it applies to
16 this charge as well.

17 MR. EPPS: I'm sorry, Your Honor. I was trying to
18 explain to my client---

19 THE COURT: Sure.

20 MR. EPPS: I didn't hear what you said and I apologize.
21 I was not trying to speak over you, but---

22 THE COURT: No, you weren't speaking over me. You were
23 speaking in his ear.

24 MR. EPPS: Yeah, I was.

25 THE COURT: That's fine. I mean yeah, you get to -- I

1 was saying that, even with me not charging attempted murder,
2 the charge -- I will continue to charge the possession of a
3 weapon during the commission of a violent crime because,
4 according to the statutory definition, high and
5 aggravated -- assault and battery of a high and aggravated
6 nature fits in that definition. Therefore, that charge is
7 still gonna be given to the jury.

8 MR. EPPS: Correct, Your Honor. So -- if -- I think I
9 heard you correctly, the charges we would face by the jury
10 would be the ABHAN, which is zero to 20, carries a violent
11 des -- designation by statute. We'd also be -- the
12 violent -- possession of a weapon during a violent crime,
13 which---

14 THE COURT: Uh-huh. (Affirmative).

15 MR. EPPS: ---the violent crime would be the ABHAN---

16 THE COURT: Uh-huh. (Affirmative).

17 MR. EPPS: ---which is a five year day for day. So, a
18 potential of five year day for day, and then the up to 20,
19 25 total on the two, if convicted.

20 THE COURT: Yes. As opposed to 35 or --?

21 MR. EPPS: Correct, Your Honor.

22 THE COURT: Yeah. So, it's still a substantial
23 exposure.

24 Okay. All right. With that being said, I have to
25 change my jury charges. Give me just a second.

1 MR. EPPS: Your Honor, certainly not to interject your,
2 your or interrupt your train of thought, in looking at King
3 and some other things, it appeared to me that both ABHAN and
4 attempted murder were specific in -- or called, in the case
5 law, specific intent crimes.

6 Do you have---

7 THE COURT: And your point?

8 MR. EPPS: Well, I just wanted to make sure -- I, I
9 didn't know if, if that was---

10 THE COURT: Well --.

11 MR. EPPS: ---part of---

12 THE COURT: I'm gonna give you my charges---

13 MR. EPPS: Okay. Thank you.

14 THE COURT: ---for you to look at it, yeah. Let me,
15 let me get to that point, yeah.

16 Okay. And you may, if you're trying to raise that
17 definition of specific intent, you may want to take a look
18 at my charges because it -- the specific intent that I
19 discuss in these charges was aimed at the attempted murder
20 and not aimed at the assault and battery of a high and
21 aggravated nature because the assault and battery of a high
22 and aggravated nature, if the -- my understanding, if the
23 actor does the act, then, according to the statute, it's an
24 unlawful injuries -- injures another, great bodily injury
25 results, or the act is accomplished by means likely to

1 produce death or a great bodily injury. So -- but I'll get
2 these to y'all as -- shortly and then y'all can look at
3 them.

4 (Pause.)

5 THE COURT: All right. Everybody stand at ease and
6 I'll be right back.

7 (WHEREUPON, a short recess was taken at this time.)

8 THE COURT: Anything about the jury charges?

9 SOLICITOR BARRY: Your Honor, as I was looking through
10 it, assault and battery of a high and aggravated nature is
11 defined, and it mentions great bodily injury, but great
12 bodily injury is not defined in the jury charge.

13 THE COURT: Okay. So you want me to define great
14 bodily injury?

15 SOLICITOR BARRY: Yes, sir.

16 THE COURT: Okay. So I'm looking at 16-3-600.

17 SOLICITOR BARRY: Yes, sir.

18 THE COURT: Okay. There's great bodily injury right
19 there.

20 Okay. So, I'll, I'll use great bodily injury means
21 bodily injury which causes a substantial risk of death or
22 which causes serious permanent disfigurement or protracted
23 loss or impairment of the function of a body member or
24 organ.

25 SOLICITOR BARRY: Yes, sir.

1 THE COURT: Okay.

2 MR. EPPS: And that's just under the statute, the 600
3 statute?

4 THE COURT: (Nods affirmatively.)

5 MR. EPPS: Thank you.

6 THE COURT: 600(a)(1).

7 MR. EPPS: Yes, sir.

8 THE COURT: Yes.

9 okay. All right. What else?

10 SOLICITOR BARRY: And, Your Honor, just the last one, I
11 believe that, contrary to what Mr. Epps stated earlier, I
12 believe that assault and battery of a high and aggravated
13 nature is a general intent crime, and I would ask that a
14 intent---

15 THE COURT: Do you want a general -- just a---

16 SOLICITOR BARRY: A criminal---

17 THE COURT: ---broadly intent.

18 SOLICITOR BARRY: Yes, sir.

19 THE COURT: Okay.

20 SOLICITOR BARRY: Yes, sir.

21 THE COURT: Okay. I -- well now -- okay. My
22 understanding is the State's correct that assault and
23 battery of a high and aggravated nature is not a specific
24 intent as specific intent is understood by me as with
25 attempted murder.

1 MR. EPPS: I -- Your Honor, I certainly am not -- I
2 just thought I had read that. Your Honor, I've been pouring
3 over some cases here of late and --.

4 THE COURT: You're protected on the record---

5 MR. EPPS: It states---

6 THE COURT: ---if you want to save it as far as appeal
7 it.

8 MR. EPPS: I want to say it's Page 7 of King. So, I'm
9 trying to pull King back up cause I flipped to something
10 else now.

11 THE COURT: On the State versus King that I've been
12 referencing?

13 MR. EPPS: Right. But it could be Page 7 of Perry.
14 That -- and that's -- I have Page 7. So, I've got it pulled
15 up. If you'll give me just a second, Your Honor.

16 (Pause).

17 MR. EPPS: Your Honor, I can't find it. It could just
18 been I, I mistakenly wrote the ABHAN along with the
19 attempted murder. So, I'm not, I'm not seeing that now for
20 the ABHAN.

21 THE COURT: Okay. well, if you come up with it later
22 let me know. I just -- my understanding is that the State,
23 and my recollection of the things that I reviewed, and that
24 the State is correct so that we will give a -- if y'all want
25 to take a look at this?

1 I've got anticipated that or so I have intent charges
2 that I will throw in there.

3 SOLICITOR BARRY: Thank you, Your Honor.

4 MR. EPPS: Thank you.

5 THE COURT: When he comes back with that great bodily
6 injury definition, then we should be ready to go.

7 SOLICITOR BARRY: Your Honor, just -- I wanted to give
8 you a heads-up about what I was gonna do in my closing. At
9 some point I am gonna ask the Defendant to just stand and
10 remove his mask. He has been wearing it for the entirety of
11 the trial.

12 Identity being an issue in this case, I would just ask
13 that he remove it, stand up, sit back down, and he can put
14 his mask back on. I mean they, they pointed him out in the
15 courtroom, but I did want the jury to be able to get a full
16 view of his face.

17 MR. EPPS: I thought about that earlier. I, I always
18 tend to think that is the State presenting evidence of the
19 accused, which I don't think they can do. I mean the,
20 the -- I, I think you, in a pretrial email, we were trying
21 to streamline some things, correctly pointed out that the
22 Defendant has the Constitutional right to not even be here.
23 So, I, I, I don't know how the State can compel my client to
24 do anything.

25 THE COURT: Okay. All right. Tell you what we'll do.

1 I'll not require him to stand and do that. If that's the
2 lynch-- if that's the thing that tips the scales in this
3 case, I'll be shocked, you know, but I won't require him to
4 do that.

5 Okay. All right. Here's the great bodily injury.

6 (Pause.)

7 THE COURT: Okay. All right. So, the State goes
8 first, opens in full, you reply, however you want to reply
9 in full, and the State responds to whatever you brought up.

10 MR. EPPS: Your Honor, I have a quick question just for
11 clarification and the closing, closing.

12 We talked earlier today about the intimidation issue
13 relative to Phaedra Hall. I just want to make sure I do not
14 get crossways with your ruling, and, frankly, I'm -- I want
15 to make sure I understand what your ruling was.

16 Would you remind me?

17 THE COURT: That -- my ruling -- my statement then was
18 that they should not consider the testimony of the witnesses
19 that talked about the threats and they should not even
20 discuss it.

21 MR. EPPS: Thank you.

22 THE COURT: Is that right?

23 SOLICITOR BARRY: Yes, sir, and I'm cautioned not to
24 bring it up, and I will not do that.

25 THE COURT: Okay. All right then. I guess we are

1 ready.

2 Okay. Everybody got their seats. We'll go ahead and
3 bring them in.

4 (WHEREUPON, the following takes place within the
5 presence of the jury.)

6 THE COURT: Lawyers approach a moment.

7 (WHEREUPON, a bench conference was held out of the
8 hearing of the jury at this time.)

9 THE COURT: All right. Ladies and gentlemen, we have
10 been working at a -- we've been working very hard to get the
11 case to the point that it is now where what has left to be
12 done in this case is for y'all to receive the closing
13 arguments from the attorneys, the charge on the law that I
14 will give you after the arguments presented to you from the
15 attorneys, and then for you to begin your deliberations.

16 I will let you know that, as part of the process, is
17 that we have been doing, and initially when I announced this
18 case, I announced that one of the charges that the Defendant
19 was indicted for was attempted murder. You -- a lesser
20 included offense of attempted murder is assault and battery
21 of a high and aggravated nature. You will no longer be
22 asked to consider the charge of at -- of attempted murder.
23 But you will be asked to consider the lesser included of
24 assault and battery of a high and aggravated nature along
25 with the other charge of possession of a weapon during the

1 commission of a violent crime.

2 Now, with that instruction to you, I will tell you that
3 we have reached the point of this trial where you are about
4 to receive the closing arguments from the attorneys. I will
5 let you know that the closing arguments that will be
6 presented to you from the attorneys, they are not evidence
7 in this case. The closing arguments are simply the
8 opportunity for you to listen to the attorneys, to receive
9 what their arguments are, what their view of the evidence
10 are.

11 You are not, you are not to consider any argument that
12 is presented to you from the attorneys that you do not
13 believe is supported by the evidence as has been presented
14 during the trial of this case or the law that I will
15 instruct you at the end of their arguments.

16 But, ladies and gentlemen, at this time we will receive
17 the closing arguments from the attorneys.

18 SOLICITOR BARRY: Thank you, Your Honor.

19 May it please the Court?

20 Mr. Epps, ladies and gentlemen of the jury, good
21 afternoon. It's been a long day and a half. But we are, we
22 are almost there, and I just want to thank each and every
23 one of you for your attention in this case.

24 It's been a serious case. You've heard a lot of
25 information, and I do appreciate your attention and your

1 patience with us, and we could not do this without you.

2 So, the judge is going to instruct you on the law in
3 this case, and the law in this case is going to be assault
4 and battery of a high and aggravated nature, and it's going
5 to be pointing and -- or excuse me. Possession of a weapon
6 during the commission of a violent crime.

7 So, what is assault and battery of a high and
8 aggravated nature?

9 It means that an individual unlawfully injures another
10 person and great bodily injury results or the act is
11 accomplished by means likely to produce death or great
12 bodily injury.

13 what is great bodily injury?

14 Great bodily injury means a substantial risk of death
15 which -- or which causes serious permanent disfigurement or
16 protracted loss or impairment of a bodily member or organ.

17 So, how did I prove that to you beyond a reasonable
18 doubt throughout the course of this trial?

19 I want to touch on the consistencies in this case
20 because the consistencies are what is most important.

21 You heard from Tyler Vassey, the victim. You heard
22 from Brittany Whisnant who drove Tyler that day. You heard
23 from Phaedra Hall, and, to a certain extent, you heard from
24 her daughter, Kaitlin Hall.

25 So, what did you hear from those individuals?

1 You heard that -- all of them testified that Brittany
2 drove Tyler to 505 Holly Street.

3 what does 505 Holly Street look like?

4 what is this house?

5 This is 505 Holly Street. This is where Tyler Vassey
6 was shot by Anterius Smith. You will have this picture back
7 with you in the jury deliberation room. You will also have
8 State's Exhibit 3, which is a map that you can not see --
9 can you get the light?

10 There you go.

11 This is a overhead view of Holly Street. Holly Street
12 goes around here, comes up -- a dog left I think is what Mr.
13 Epps called it, and continues this way. And this house
14 right here is where the incident takes place.

15 what else did you hear from these witnesses that is
16 consistent?

17 You were all able to testify -- they were all able to
18 testify that Tyler got out of the car. From the passenger
19 side, he walks around the car to the back passenger side and
20 he gets out some type of pot, cooker, a combination of the
21 two. That's not an issue here, ladies and gentlemen. He
22 gets it out of the back passenger seat and he puts it down.

23 Then they all testified to he was approached by that
24 Defendant, Anterius Smith, and they all testified that there
25 were words between the two of them. They testified that

1 Anterius Smith looked at Tyler and said you need to leave
2 and he drew a gun and he shot him.

3 Brittany and Phaedra testified that the shooter was a
4 black male with dreads. Tyler and Kaitlin were testify --
5 were able to testify that Anterius had the gun, the
6 possession of a weapon during the commission of a violent
7 crime.

8 Tyler testified that he pulled it out of the front of
9 his waistband and he pointed it at him. Kaitlin testified
10 that she had seen Anterius all throughout the day that day,
11 March the 28th of 2017, her mother's birthdate, and he had
12 carried that gun around in front of his waistband all day.

13 So, how are these individuals able to identify the
14 Defendant?

15 You heard from Tyler. Tyler stated that he recognized
16 the guy who shot him. He said that from the hospital. But
17 he didn't know his name. He stated that he went to school
18 with him.

19 So, Mr. Epps provided all of the witnesses with
20 yearbooks, and that helped us be able to actually prove that
21 Tyler went to school with Anterius. They, I believe, were a
22 year apart. He was able to pick himself out in the yearbook
23 and he was able to pick Anterius out of the yearbook. So,
24 they, in fact, did go to school together.

25 He stated that he really -- didn't really hang out with

1 the Defendant prior to this incident, and maybe saw him once
2 or twice after the shooting. I mean he admits that he hung
3 out with Anterius's family. He was best friends with I
4 believe Tony Smith. But Anterius was there, didn't really
5 have conversations with him. So, he really didn't pay him
6 any attention to get his name, you know, become BFFs as some
7 people like to say.

8 And what kind of look did Tyler get at Anterius when
9 Anterius shot him?

10 well, when Tyler pulled up into the yard with Brittany,
11 he is able to tell you who's in the yard. He can tell, from
12 the car, who's there. He's not under the influence at the
13 time. In fact, his family wouldn't let him be with them if
14 he was, and Sherri Vassey did testify that Tyler had worked
15 with them all day, hard labor.

16 So, when he gets there, he's able to identify who was
17 in the yard. He said he was standing about four to
18 five feet away when he got shot. He had a direct view of
19 who shot him, ladies and gentlemen. Four to five feet, I
20 would break some social distancing guidelines, so I'm not
21 gonna get four to five feet away, but it is extremely close.
22 I am 5'2". So, it's a little bit shorter than me. Direct
23 view.

24 After Anterius shoots Tyler, he then comes around the
25 car, and he stands directly over him, and he still points

1 the gun at him, and he told him I told you to leave. Tyler
2 testified that it was a face he would never forget.

3 The lighting, Tyler said it's probably about dusk, not
4 fully dark. There are street lights. There's a party going
5 on. So there's lights from the party. He has a perfect
6 view of who shot him.

7 He's then shown a photo lineup, ladies and gentlemen.
8 This is State's Exhibit 1. He is shown a photo lineup and
9 he circles who shot him, Number 4, and Number 4 was Anterius
10 Smith.

11 So, Tyler Vassey has identified the shooter in multiple
12 ways. He went to school with him. He stood directly over
13 him, and he picked him out of a lineup.

14 He then picks him out again, ladies and gentlemen. He
15 took the stand. And when I asked him if the shooter was in
16 the courtroom, he said yes, ma'am, and I said would you
17 point him out for the, for the jury, and he pointed over
18 there to Anterius Smith.

19 why?

20 Cause Anterius Smith shot him.

21 Then we talked to Brittany and Brittany is able to
22 identify the Defendant.

23 And how does she do that?

24 She does admit that she was high at the time. But she
25 also stated that she was able to see people in the yard.

1 She's able to identify people like Ridge Crosby, Kaitlin
2 Hall, who also testified. So, she has a good view of who's
3 there. The lighting is good. She says maybe not quite
4 dark. She wrote eight o'clock in her statement. She's
5 either standing or she's sitting at the driver's side door
6 when the Defendant approaches.

7 Now, they testified that Anterius shot over the car,
8 the driver side passenger right behind where Brittany
9 whisnant would be. She said she remembers looking directly
10 at the Defendant, and she also stated that she remembered
11 his eyes, and it was the look that he had in his eyes.

12 She gives a law -- a statement to law enforcement the
13 night of the shooting. She testified that that statement is
14 probably going to be the most accurate because it's fresh in
15 her mind, and she testified that the shooter was a short
16 black male with shoulder length dreads.

17 It's been four years. Mr. Smith's dreads are a little
18 bit longer and they're up in a bun, and she's then shown a
19 photo lineup, State's Exhibit 2.

20 And who does she pick out of this photo lineup, ladies
21 and gentlemen?

22 She picks Number 4 and Number 4 is Anterius Smith, and
23 she doesn't know that Tyler has picked him out. You heard
24 Detective Blanton testify that he didn't tell Brittany that
25 Tyler had picked the shooter out yet. And, again, she's

1 able to identify him one more time. When I asked her during
2 her testimony if the shooter was in the courtroom, yes,
3 ma'am, and she pointed to Anterius Smith.

4 Phaedra Hall came next and she probably has the best
5 advantage of knowing who the Defendant is. She is dating
6 his uncle at the time of the shooting. Not only is she
7 dating him, but she's living with him on the property. She
8 is living in the building that is behind 505 Holly Street.
9 This is State's Exhibit 5, which you can't see. There we
10 go. And she's living there.

11 And you heard the defense witnesses say that they have
12 people over there all the time, family gatherings, play
13 cards. So, she knows who the Defendant is. She spent the
14 day at 505 Holly Street. It was her birthday. That's how
15 she remembers the day. It was her birthday and it's the day
16 Tyler Vassey gets shot.

17 She's had four to five drinks that day. She admitted
18 that. But that doesn't suddenly make you not be able to
19 recognize individuals. You don't have four to five
20 drinks -- she doesn't have four to five drinks and then
21 forgets who Anterius is.

22 She walks up to Tyler as he arrives. She knows Tyler
23 through her kids. She also stated that she knew Anterius
24 through her kids, and Mr. Epps was again able to show you
25 that Kaitlin Hall went to Gaffney High School at the same

1 time Anterius did.

2 So, Phaedra approaches Tyler. They hug. The pot is,
3 you know, on the ground or behind the car, and she says the
4 Defendant just appeared. She didn't know where he came
5 from. And as she's walking away, she can hear the argument
6 between Tyler and Anterius, and then she hears a gunshot.
7 And she glances over her right shoulder, and Anterius Smith
8 is holding up the gun and Tyler's been shot.

9 She did testify that it was a black male with dreads.
10 So, Detective Blanton testifies and he stated that he spoke
11 to Phaedra Hall. He was informed by somebody at the Gaffney
12 Police Department there was somebody he needed to talk to on
13 Holly Street. So, Detective Blanton goes to Holly Street
14 and meets Phaedra.

15 And what does Phaedra do?

16 She gives the name of Anterius Smith. She shows him a
17 photo of what Anterius looks like, and it's that information
18 Detective Blanton uses to have the lineups created, the
19 lineups that both Tyler and Brittany pick out the shooter.
20 And I asked her why did she come forward, why did she let
21 Detective Blanton know that Anterius was the shooter, and
22 she stated it was the right thing to do.

23 And next we hear from Kaitlin. Kaitlin knew the
24 Defendant because her mom was dating Meryl. Called her --
25 called him Baldy. And she went to school with Anterius.

1 Saw him in the hallways. Maybe saw him in the cafeteria.

2 They rode the bus together.

3 She had also been at 505 Holly Street that day, and she
4 said Anterius had been there all day. She stated that he
5 was walking around with a gun in his waistband.

6 Now, what did you hear throughout the trial that death
7 or great bodily injury could have resulted?

8 That is simple, ladies and gentlemen. You heard that
9 Anterius Smith walked up to Tyler Vassey and shot him within
10 four to five feet. He was so close that it goes through the
11 collar of his shirt right here and out the back, and you'll
12 be able to take this back there with you, ladies and
13 gentlemen. Shot him in the chest. Tyler is lucky to be
14 here.

15 The defense has done a lot to muddy the waters in this
16 case, ladies and gentlemen, to keep you from seeing what
17 happened on March the 28th of 2017.

18 Was the car parked on the right side of the road, the
19 left side of the road?

20 Was it a full pot that Tyler brought over?

21 Was it the cooker?

22 Was it the pot and the cooker?

23 Was it 8:00PM?

24 Was it 9:00PM?

25 When did the Spring Equinox happen?

1 Was it 10 minutes to the hospital, 10 to 15 minutes to
2 the hospital?

3 People remember the big moments in their lives, ladies
4 and gentlemen.

5 I once had an opportunity to go to the 9-1-1 Museum. I
6 remember walking into a room and you can hear the phone
7 calls that loved ones are making to their family members in
8 the plane that was about to crash, in the towers that were
9 about to fall. I remember seeing the steel beams where the
10 planes actually went into the towers. And I remember seeing
11 this last cement column where people would hang up photos,
12 photos of their missing loved ones. You remember what
13 sticks with you.

14 What I don't remember is that the Uber driver dropped
15 us off on the right side of the road, in front of the
16 building.

17 Was I carrying a black purse?

18 Was I carrying a purse?

19 I remember what struck me, what shook me to my core.

20 And what does Tyler remember from that day?

21 What shook him to his core?

22 Getting shot, afraid he was going to die, and he said
23 that. He thought he was going to die.

24 Brittany Whisnant watched her friend get shot. She
25 thought he was going to die. She had blood all in her car.

1 Phaedra Hall watched her friend get shot.

2 And who did they watch shoot their friend?

3 Anterius Smith.

4 That was a major moment in their lives, ladies and
5 gentlemen. Thankfully Tyler survived. He was able to come
6 in here and tell you who shot him. He was brave and he took
7 the stand and he pointed him out. That is the face that
8 Tyler Vassey will never forget.

9 Now, when the defense got up here, he said that the
10 state would not be able to prove the who, the what, the
11 where, the when, and the why. I don't have to prove the
12 why.

13 I have to prove the who.

14 Anterius Smith.

15 I have to prove the what.

16 Shot him.

17 He committed assault and battery of a high and
18 aggravated nature.

19 where?

20 505 Holly Street here in Cherokee County.

21 when?

22 March the 28th of 2017.

23 Remember what you heard throughout this trial, ladies
24 and gentlemen. Take all of this back with you when you go
25 to deliberate. Take back with you that Tyler has been able

1 to identify his shooter several times, and, lastly, in the
2 courtroom, take back with you that Phaedra Hall was able to
3 identify the shooter. Kaitlin Hall was able to identify
4 Anterius Smith having a gun that day. Brittany Whisnant was
5 able to identify who shot Tyler that day.

6 And with all of that information, ladies and gentlemen
7 of the jury, I ask that you return a verdict of guilty for
8 assault and battery of a high and aggravated nature, and
9 pointing and presenting -- excuse me. Possession of a
10 weapon during the commission of a violent crime.

11 Thank you.

12 THE COURT: Yes, sir.

13 MR. EPPS: Thank you, Your Honor.

14 I told you early on I'm a realist. I'm not gonna talk
15 to you about assault and battery of a high and aggravated
16 nature and all of that because, frankly, that ain't why
17 we're here. I mean y'all, if we're debating that, I know
18 where this is going. Let's call it what it is.

19 we're here today because of a lineup. We are here
20 today because of Phaedra Hall.

21 We do remember those things that are key in our lives
22 and I hope we do. My dad died 10 years on Saturday. I
23 remember the last time I saw him. I've had three children
24 since then, and I remember their birth very well.

25 Those are the moments in your life that make a huge

1 difference. My daddy wasn't shot and neither have any of my
2 kids or my wife. I can assure you that, if that happened,
3 I'm the, the kind of person that would go through the ends
4 of the scorched earth to get it done and it wouldn't take me
5 four years.

6 And you know what?

7 It wouldn't take me from March 28th to April 18th
8 either for a statement on May the 3rd but I'm not Tyler, and
9 I need you to understand I'm also not Anterius. I can not
10 begin to imagine what is going through his head.

11 These gentleman are young. No doubt. I would
12 guesstimate I'm probably not quite double their age. Look
13 through the crowd. I am the oldest lawyer in here. He's
14 the judge. So, he don't count now.

15 I've got some life experience. These gentlemen are at
16 the very entry level of their lives. But we're talking
17 about somebody getting shot. I -- they're two lineups. I
18 ain't gonna be able to get around the fact that they're
19 there. They're there.

20 But, folks, that's not the entire story, and if I said
21 the who, what, when, where, why, I apologize. I, I did not
22 mean to say that. I don't remember saying that and,
23 goodness knows, I've talked a lot over the past day. I am
24 known sometimes for finding that dead mule and just kicking
25 it, and kicking it, and kicking it, and kicking it.

1 There is so much I want to impart to you. There's so
2 much I want you to know and maybe I go too far, and I'm
3 gonna tell you I, I know I need to buy Detective Brian
4 Blanton some donuts or, or a, a, a coffee, maybe a whole
5 gallon of coffee, but I've got a job because, you see, but
6 for Detective Blanton, this is it. We're gone.

7 But for Phaedra Hall -- and y'all remember her up here.
8 Y'all, y'all remember the hmm.

9 What did I put in my notes here?

10 The, the Public Service Award Winner of the Year,
11 Phaedra Hall.

12 She sat on this information for how long?

13 But we wouldn't be here if it weren't for her cause
14 Tyler, Tyler couldn't pick up so much as a yearbook. He
15 knows this guy. In the hospital, he goes oh, I know the
16 guy. School together. G.G. Good old G.G. Not T.T. or T.,
17 and, and, you know, I honestly can't remember right now if
18 Detective Blanton took him some yearbooks or if he said no
19 one ever took him to him. There's been so much. But either
20 way, this all had to be manufactured.

21 Now, why though?

22 Why, why, why?

23 And you'll hear in the jury charge, I don't think why,
24 from a technical criminal aspect, is going to come into play
25 with the, the, the criminal element of, of that. But we're

1 living in the reality of today's world right now.

2 I'll, I'll tell you this much. The charges you're
3 gonna get, they'll be one -- reasonable doubt will be one.
4 Here it is real quick. If it causes you to hesitate to act.
5 Hesitate. But wait a minute. And we hesitate each day.

6 Has that hamburger been in the refrigerator for two
7 days or two weeks?

8 Hesitation is what causes us to keep us safe. We
9 think. We chew it up. We, as we say sometimes in church,
10 we discern it.

11 Y'all need to discern this case. You need to discern
12 the credibility of these witnesses in the situation.

13 Brittany Whisnant, first thing she says on her
14 statement, I texted Tyler. They're buddies.

15 Now, one thing we don't have is a lineup from Brittany
16 Whisnant where my client's picture is in a different
17 location, and she goes holy smokes, that's the guy. That'd
18 be an interesting situation. But we don't have that. We
19 have Brittany and Tyler talk.

20 Now, granted Brittany said he texted me. Tyler said
21 she was already at the house of Tony Smith, Tony Smith, his
22 buddy, his boy.

23 Where's Tony Smith?

24 Yeah, timeline.

25 Is it dusk?

1 It is dark?

2 I tell you what, old Sherry Vassey. I probably went
3 the lightest on her cause there just wasn't anything there.
4 But you know the one thing she said, it sounded a lot like
5 my granddaddy talking, you knock off when the sun's starting
6 to set. If you're knocking off with your dad and step-mom
7 when the sun's starting set, then there ain't no doubt that
8 when all this transpired it's dark.

9 Now, I know the State's side does not want to agree
10 with me on certain things. I'm sitting here saying ain't no
11 doubt. We got lineups. There's not. There ain't no doubt
12 it's dark.

13 Folks, it is not -- it's past the middle of May. We're
14 talking about a timeline when it's dark now. But we're
15 talking about something that happened two months prior. But
16 oh, no, no, it was, it was bright. Oh, yeah. No. No, it
17 was not bright like this picture.

18 All these people are out there. Phaedra Hall,
19 Detective Blanton, had an ally in her right there that
20 night. He's there. Some of the gentlemen, those officers,
21 had body cams, and she agreed with me. Unfortunately didn't
22 have to go through it with her.

23 She said yeah, right off the bat. I, I don't know. I
24 don't know that person, and then suddenly she, she comes up
25 with the, the knowledge of who it is. And, you know, it's

1 interesting that, that timeline comes on, I don't know that
2 she knew at that time that Tyler, not too much sooner than
3 that, the same night in the hospital, had said G.G., had
4 said black male with dreads, but frankly black male with
5 dreads.

6 I think they're a few people that are black males with
7 dreads. That just -- that's just not a lot, not when you
8 know the person, because that's what they're saying. They
9 know this person. It's so much more than black male with
10 dreads. They should of said it's a black male with dreads
11 named Anterius Smith. But when Tyler says black male with
12 dreads in the hospital, that starts the narrative going.

13 well, it, it can't be now a black male whose got a
14 shaved head. You can't grow dreads that fast. So, we're
15 limited.

16 All right. Who, who we gonna say it is?

17 Black man with dreads?

18 How long can we hold this thing off?

19 How long can we hold this thing?

20 How long can we hold this thing off because law
21 enforcement, Brian Blanton, is the only one churning this
22 thing or maybe I should say the City Police Department.
23 It's not just Brian. But ain't nobody from my boy Tony, to
24 Tyler, to Phaedra, to Kaitlin, or Brittany, anybody, nobody
25 else is yeah, let's whip this thing up. Tyler's been shot.

1 He, he was gonna die. Well, no. He, he had high -- high
2 and -- injured of a high and aggravated nature.

3 But, y'all, they, they fought me tooth and nail the
4 entire time. Yes, they're, they're still pointing at that
5 man right there.

6 Now, y'all, he still got dreads. Still got them. Four
7 years and two months later he's still got dreads. He --
8 he's not arrested that night.

9 The testimony was it wasn't even a lineup with his face
10 in it until April the 18th, the day before my birthday. I
11 can remember that day. March the 28th.

12 Twenty-one -- what, 21 days?

13 Enough time to cut his hair for plausible deniability?

14 You betcha.

15 Anterius, do me a favor. Look out that window real
16 quick.

17 (WHEREUPON, the Defendant complies.)

18 MR. EPPS: Look at all that hair. I mean y'all, I'm
19 sorry. He's a black male with dreads. But the thing is he
20 was Anterius Smith on March the 28th. He was Anterius
21 Smith on April the 18th. He was An -- Anterius Smith on
22 May the 3rd, and he's been Anterius Smith since then. He's
23 been accused now for 50 months.

24 So, whatever weight this has been on Tyler, it's also
25 been very clearly a weight upon Anterius Smith.

1 when you listen to the charges, it will take a while
2 because you'll be charged on your role. You'll be charged
3 on aspects of the law, intent, credibility, your ability to
4 evaluate. You can evaluate so much. Anything and
5 everything.

6 You, today, without knowing, are gonna become the final
7 judges in this case. There will be 12 people essentially
8 with a black robe on in just a few minutes. You will
9 decide, I'm gonna use some of that flowerdly (phonetic)
10 lawyer talk, if you're going to remove the cloak or the robe
11 of innocence off of my client.

12 I need you to consider that decision. Y'all can make
13 it real easy. You can take a long time. My hope is you
14 take the time. Because the answer you're going to be
15 making, understand, Detective Blanton has a job to do, and
16 he did it to the best of his ability. And I might have
17 pointed out some things to him, but he did what he could do
18 as best he could. He found someone.

19 Folks, you have to determine if that is the one because
20 you see hindsight is always 20/20. That's what I've been
21 doing with these folks for the, the past couple days. It's
22 real hard to undo a decision. I need y'all to keep that in
23 mind.

24 when you review all of this material, when you have
25 that catch, that wait a minute, that's nothing more than

1 that hesitation. That hesitation is reasonable doubt, and
2 when you have that, you will return a verdict of not guilty.

3 Thank you.

4 THE COURT: Yes, ma'am.

5 SOLICITOR BARRY: Thank you, Your Honor.

6 May it please the Court.

7 Ladies and gentlemen, gentlemen, just a few more things
8 and then I'm gonna sit down and you won't have to hear from
9 me again.

10 We're not here because of Phaedra Hall. We're not here
11 because of a lineup.

12 We're here because Anterius Smith shot Tyler Vassey at
13 point blank range, and everybody testified to that. They
14 didn't hesitate to come up here and face him and point him
15 out, and Mr. Epps wants to talk about hesitation.

16 Who did hesitate?

17 His family members.

18 Four years, that's how long it took them to come up
19 here and tell their stories. Convenient.

20 Fifty months he's been accused. Fifty months he's had
21 to live with a gunshot wound. He thought he was gonna die,
22 ladies and gentlemen.

23 I ask that you find Anterius Smith guilty.

24 Thank you.

25 THE COURT: All right. Ladies and gentlemen, it's now

1 my obligation and duty now. I'm gonna charge you on the law
2 applicable to this case.

3 The indictment charges the Defendant with assault and
4 battery of a high and aggravated nature, and use of a deadly
5 weapon during the commission of a violent crime.

6 Now, I remind you that the fact that the Defendant was
7 arrested, charged, and indicted in this case is not evidence
8 in this case and can not be considered by you as evidence of
9 guilt in this case nor does it create any presumption or
10 inference of guilt. This document is simply the formal
11 written instrument which contains the charges made against
12 the Defendant, and it is simply the formal document by which
13 this case has brought him to trial.

14 The Defendant has pled not guilty to this indictment
15 and that plea puts the burden on the State to prove the
16 Defendant guilty. A person charged with committing a
17 criminal offense in South Carolina is never required to
18 prove himself innocent. I charge you that it is an
19 important rule of law that the Defendant, in a criminal
20 trial, no matter what the seriousness of the charge may be,
21 will always be presumed to be innocent of the crime for
22 which the indictment was issued unless guilt has been proven
23 by evidence satisfying you of that guilt beyond a reasonable
24 doubt.

25 This presumption of innocence does not end when you

1 begin your deliberations, but it accompanies the Defendant
2 throughout the trial until you reach a verdict of guilt
3 based on evidence satisfying you of that guilt beyond a
4 reasonable doubt. The presumption of innocence is like a
5 robe of righteousness placed about the shoulders of the
6 Defendant which remains with the Defendant until it, until
7 it has been stripped from the Defendant by evidence
8 satisfying you of the Defendant's guilt beyond a reasonable
9 doubt.

10 The presumption of innocence is not mere legal theory.
11 It is not just a legal phrase. It is a substantial right to
12 which every defendant is entitled unless you, the jury, are
13 satisfied, from the evidence, of the Defendant's guilt
14 beyond a reasonable doubt.

15 what is reasonable doubt in the law?

16 A reasonable doubt is the kind of doubt that would
17 cause a reasonable person to hesitate to act. The State has
18 the burden of proving the Defendant guilty beyond a
19 reasonable doubt, and some of you may have served as jurors
20 in civil cases where you were told that it is only necessary
21 to prove a fact is more likely than not true such as by the
22 greater weight or the preponderance of the evidence.

23 In a criminal case, the State's proof must be more
24 powerful than that. It must be beyond a reasonable doubt.

25 Proof beyond a reasonable doubt is proof that leaves

1 you firmly convinced of the Defendant's guilt. They're few
2 things in this world that we know with absolute certainty.

3 In criminal cases, the law does not require proof that
4 overcomes every possible doubt. If, based upon your
5 consideration of the evidence, you are firmly convinced that
6 the Defendant is guilty of the crime charged, you must find
7 the Defendant guilty. If, on the other hand, you think
8 there's a real possibility that the Defendant is not guilty,
9 you must give the Defendant the benefit of the doubt and
10 find him not guilty.

11 I remind you that, during this trial, you and I have
12 had certain duties to proforma. As the trial judge, it has
13 been my responsibility to preside over the trial of this
14 case and I also have the duty to rule on the law admissible
15 of, of the evidence offered during this trial.

16 You are to consider only the competent evidence that is
17 before you. If there was any testimony ordered stricken
18 from the record in this case, you must disregard that
19 testimony. You are to consider only the testimony which has
20 been presented from the witness stand and any exhibits that
21 have been made part of the record of this case and possibly
22 any stipulations of counsel.

23 I have the additional duty to charge you the law
24 applicable to this case. As the presiding judge, I am the
25 sole judge of the law of this case, and it is your duty, as

1 jurors, to accept and apply the law as I now state it to
2 you. If you already have any idea as to what the law is or
3 what the law ought to be, and it does not agree with what I
4 now tell you the law is, you must abandon this idea because
5 you were sworn to accept the law and apply the law exactly
6 as I state it to you.

7 In every case tried in this Court before a jury, the
8 jury becomes the sole and exclusive judge of the facts. A
9 trial judge can not intimate, state, comment on, or make any
10 statement to a trial jury about the facts of a case since
11 you, the jury, are the sole judge of the facts in this case.
12 You are not to infer from what I have said during the
13 progress of this trial in ruling upon the admissibility of
14 evidence or otherwise or anything that I say now during the
15 course of this instruction to you that I have any opinion
16 about the facts in this case. The law doesn't allow me to
17 have an opinion about the facts in this case. This is a
18 matter solely for you, the jury, to determine. As jurors,
19 it is your duty to determine the effect, value, weight, and
20 truth of the evidence that has presented during this trial.

21 Ladies and gentlemen, there are two types of evidence
22 which are generally presented during a trial, direct
23 evidence and circumstantial evidence.

24 Direct evidence is the testimony of a person who claims
25 to have actual knowledge of a fact such as an eye witness.

1 Circumstantial evidence is proof of a chain of facts and
2 circumstances indicating the existence of a fact.

3 Now, the law makes absolutely no distinction between
4 the weight or value to be given either direct or
5 circumstantial evidence nor is a great degree of certainty
6 required of circumstantial evidence than of direct evidence.
7 You should weigh all of the evidence in the case. After
8 weighing all of the evidence, if you are not convinced of
9 the guilt of the Defendant beyond a reasonable doubt, you
10 must find the Defendant not guilty.

11 Necessarily, ladies and gentlemen, you must determine
12 the credibility of witnesses who have testified in this
13 case. Credibility simply means believability. It becomes
14 your duty, as jurors, to analyze and evaluate the evidence
15 and determine which evidence convinces you of its truth.

16 In determining the believability of witnesses who have
17 testified in this case, you may believe one witness over
18 several witnesses or several witnesses over one. You may
19 believe a part of the testimony of a witness or reject the
20 remaining parts of the testimony of that same witness. You
21 may believe the testimony of a witness in its entirety or
22 reject the testimony of a witness in its entirety. You may
23 consider whether any witness has exhibited to you any
24 interest, bias, prejudice, or other motive in this case.
25 You may also consider the appearance and the manner of the

1 witness while on the witness stand.

2 Now, ladies and gentlemen, I instruct you and emphasize
3 that the fact that the Defendant did not testimony is not a
4 factor to be considered by you in any way in your
5 deliberation and in your consideration on the question of
6 the guilt or innocence of the Defendant. Ladies and
7 gentlemen, it must not be considered by you in any manner
8 whosoever.

9 A defendant has the Constitutional right to remain
10 silent, and the assertion of this right must not be
11 considered by you in your deliberations. I repeat, under
12 your oath, you are to draw no conclusion whatsoever from the
13 fact that the Defendant in this case did not testify. The
14 fact that this Defendant did not testify should not even be
15 discussed in the jury room.

16 The burden of proof, as I have stated to you, is on the
17 State. The Defendant is not required to prove his
18 innocence. The burden of proof remains on the State to
19 prove guilt beyond a reasonable doubt.

20 An issue in this case is the identification of the
21 Defendant as the person who committed the charge. The State
22 has the burden of proving identity beyond a reasonable
23 doubt. You must be satisfied, beyond a reasonable doubt, of
24 the accuracy of the identification of the Defendant before
25 you may convict the Defendant. Identification testimony is

1 an expression of belief or impression by a witness.

2 You must determine the accuracy of the identification
3 of the Defendant. You must consider the believability of
4 each identification witness in the same way as any other
5 witness.

6 You may consider whether the witness had an adequate
7 opportunity to observe the offender at the time of the
8 offense. This will be affected by things like how long or
9 short a time was available, how far or close the witness
10 was, the lighting conditions, and whether the witness had
11 the chance to see or know the person in the past. Once
12 again, I instruct you the burden of proof is on the, on the
13 State extends to every element of the crime charged, and
14 this specifically includes the burden of proving, beyond a
15 reasonable doubt, the identity of the Defendant as the
16 person who committed the crime.

17 If, after examining the testimony, you have a
18 reasonable doubt as to the accuracy of the, of the
19 identification, you must find the Defendant not guilty.

20 Ladies and gentlemen, in order to establish criminal
21 liability, criminal intent is required. For example, the
22 mental state required to be proven by the State for a
23 particular crime might be purpose, intent, knowledge,
24 recklessness, or criminal negligence. Criminal intent must
25 be proven by the State beyond a reasonable doubt. Criminal

1 intent is always a matter that must be determined by the
2 jury from the circumstances surrounding the situation.

3 There is no way to prove intent to a mathematical
4 certainty. There is no way medical science can dissect a
5 person's brain to determine what the person had in mind.
6 So, the law says that criminal intent may be inferred from
7 the circumstances shown to have existed. This is how you
8 make a determination of whether or not the element requiring
9 intent was present. It is not necessary to establish, by
10 direct or positive evidence, but intent may be established
11 by inference in the same way as any other fact by taking
12 into consideration the acts of the parties and all of the
13 facts and circumstances of the case.

14 Criminal intent is a mental state, a conscience
15 wrongdoing. It is up to you to determine what the Defendant
16 intended to do based on the circumstances shown to have
17 existed. Criminal intent can arise from action or a failure
18 to act. It may arise from negligence, recklessness, or an
19 indifference to duty or to the consequences that is
20 considered by the law to be the equivalent of criminal
21 intent.

22 Ladies and gentlemen, a person is guilty of assault and
23 battery of a high and aggravated nature if the State has
24 proven, beyond a reasonable doubt, that the Defendant
25 unlawfully injures another and great bodily injury to

1 another person resulted or the act is accomplished by means
2 likely to produce death or great bodily injury.

3 Ladies and gentlemen, great bodily injury means bodily
4 injury which causes a substantial risk of death or which
5 causes serious permanent disfigurement or protracted loss or
6 impairment of the function of a bodily member or organ.

7 Ladies and gentlemen of the jury, in order to convict
8 someone of possession of a deadly weapon during the
9 commission of a violent crime, the person -- of, of a crime,
10 the person who is in possession -- all right. Let me start
11 over.

12 Ladies and gentlemen of the jury, in order to convict
13 someone of the possession of a deadly weapon during the
14 commission of a violent crime, the person who is in
15 possession of a firearm or visibly displayed what appears to
16 be a firearm or visibly displayed a knife during the
17 commission of a violent crime and is convicted of committing
18 or attempting to commit a violent crime as defined by South
19 Carolina Code 16-1-50 as used in this section, firearm means
20 any machine gun, automatic rifle, revolver, pistol, or any
21 weapon which will or is designed to or may readily be
22 converted to expel.

23 Ladies and gentlemen, I charge you that assault and
24 battery of a high and aggravated nature is defined as a
25 violent crime under the law.

1 Now, Mr. Foreperson, ladies and gentlemen, I have
2 prepared for your use in the jury room a verdict form. I
3 have placed both of the charges that you will consider,
4 assault and battery of a high and aggravated nature, and
5 also the possession of a weapon during the commission of a
6 violent crime, on this verdict form and I have put --
7 there's two results to both of these, not guilty or guilty.

8 Mr. Foreperson, ladies and gentlemen, your verdict has
9 to be unanimous. All 12 of you must agree. Your verdict
10 can not be, can not be based upon passion, sympathy,
11 capriciousness, but rather your verdict has to be based on
12 the evidence that has been presented as part of this trial.

13 Mr. Foreman, if, by chance, once your deliberations
14 begin, one the members of the jury has to exit the room to
15 go to the bathroom, make a telephone call, or for whatsoever
16 reason, your deliberations are to stop and not begin again
17 until all 12 members are present.

18 Now, Mr. Foreman, once the jury has reached their
19 unanimous decision and everybody agrees, then I need for you
20 to sign on the signature line for the foreperson and date
21 it. But there is one more thing you got to do that once I
22 forgot to tell a jury to, to do this. Once you've reached
23 your decision, knock on the door and let the bailiff know.

24 We had a jury one time was back there for an unusually
25 long length of time. We're wondering what the heck's going

1 on. We sent the bailiff in to check on them. They said
2 well, you didn't tell us what to do once we finished. So,
3 once you finish, knock on the door and tell the bailiff that
4 you are finished.

5 Now, Mr. Foreman, ladies and gentlemen, I'm going to
6 allow you to go back to the jury deliberation room just for
7 a moment. Do not begin your deliberations. I've got to
8 take up a couple matters with the lawyers, and then, once
9 the bailiff brings you the evidence and tells you to begin,
10 you may start. But just go in the back just for one moment.
11 We'll, we'll get it to you just shortly. And, if you would,
12 there's bathrooms back there. Go ahead and use your
13 bathroom break cause we're gonna send you downstairs after
14 you begin your deliberations.

15 So, right now, just go back to the jury deliberation
16 room. We'll send -- we'll get this to you just shortly.

17 (WHEREUPON, the following takes place outside the
18 presence of the jury.)

19 THE COURT: Anything from the lawyers concerning the
20 charges to the jury?

21 SOLICITOR BARRY: Nothing from the State, Your Honor.

22 MR. EPPS: Just briefly, Your Honor, and I, I bring
23 this up just in case. You did address about the indictments
24 early on, but, when you read your charge, you read it as
25 typed. It says the indictment charges the Defendant with

1 assault and battery of a high and aggravated nature. In a
2 way I guess that would be a technical truth cause it's a
3 lesser included, but the indictment you read was attempted
4 murder.

5 Again, I know you did mention that to them. I point
6 that out. I, I don't know that I have an objection to it.
7 But I did bring it to the Court's attention.

8 THE COURT: Okay. Well, you're protected on the
9 record. I did point that out when I started the overall
10 presentation. So, I've done that.

11 Okay. Well, thank you for pointing that out to me.

12 Now, what about the alternate?

13 Now, we can separate her and keep her somewhere else or
14 we can go ahead and dismiss her. I will let y'all know that
15 I have been advised that Juror Number 68 has a funeral to go
16 to tomorrow. So, if, by chance, we do not finish the
17 deliberations today, we may be without him. And so I would
18 need a consent of going with less than 12 if we are going to
19 go into tomorrow if we dismiss Juror Number 68.

20 SOLICITOR BARRY: Your Honor, I have been made aware
21 that one of our jurors most likely would not be available
22 for Friday.

23 THE COURT: Who told you that?

24 SOLICITOR BARRY: I don't remember who told me that. I
25 just knew that somebody was not gonna be available maybe.

1 THE COURT: Okay. Nobody needs to be---

2 SOLICITOR BARRY: Oh, I'm sorry.

3 THE COURT: ---communicating with the lawyers about
4 anything about the jury. Never should that occur. Only
5 communications -- if, if there's anything that's delivered
6 or said about the jury needs to come to the Trial Judge,
7 not -- and let the Trial Judge determine what type of
8 communication about the jury is relayed to the lawyers or to
9 the parties.

10 Anything else you know about this jury?

11 SOLICITOR BARRY: No, sir, Your Honor.

12 THE COURT: Nothing?

13 SOLICITOR BARRY: Nothing.

14 THE COURT: Okay. Now what is it that you wanted me to
15 know?

16 SOLICITOR BARRY: I would just ask that the alternate
17 ask to remain.

18 THE COURT: Yes, sir.

19 MR. EPPS: Your Honor, you said tomorrow?

20 THE COURT: Uh-huh. (Affirmative).

21 MR. EPPS: Three o'clock. I'm gonna make an
22 assumption. Tomorrow this juror is basically unavailable.

23 THE COURT: I do not know that.

24 MR. EPPS: Okay.

25 THE COURT: I only know that he has a funeral to do.

1 MR. EPPS: So here's, here's my position to the extent
2 it helps our situation.

3 THE COURT: Uh-huh. (Affirmative).

4 MR. EPPS: I believe that we need to have a jury of 12
5 make a decision in this matter.

6 THE COURT: All right.

7 MR. EPPS: I also believe---

8 THE COURT: I think that's fine.

9 what, what we'll do is we'll just keep the alternate
10 somewhere else and not release her to see if we need her.
11 We will readdress that issue then.

12 MR. EPPS: Thank you.

13 THE COURT: Okay. Anything else before we let the jury
14 begin deliberations?

15 SOLICITOR BARRY: Nothing from the State.

16 THE COURT: Okay. Check the evidence. Be sure we've
17 got it all and not anything extra or not enough, and then,
18 one. Y'all tell the bailiff and give him -- let the bailiff
19 have the evidence. I'll let him have the verdict form.

20 (Pause.)

21 THE COURT: Okay. And once you take them downstairs,
22 tell them to start deliberations.

23 THE BAILIFF: Yes, sir.

24 THE COURT: All right. So, we will stand at ease.
25 We're not taking -- since we -- this is not a lunch break or

1 supper break. Y'all try not to leave the building. But if,
2 by chance, you do, be sure we know how to reach y'all
3 quickly in the event there's a question or something.

4 (WHEREUPON, the jury began deliberations at 3:03PM and
5 returned with a verdict at 4:41PM.)

6 THE COURT: Bring them in.

7 (WHEREUPON, the following takes place within the
8 presence of the jury.)

9 THE COURT: All right. Mr. Foreman, I'm told that the
10 jury has reached verdicts.

11 Is that correct?

12 THE FOREPERSON: That is correct.

13 THE COURT: If you will, give the verdict form to the
14 bailiff. He'll bring it to the Clerk or to me.

15 (WHEREUPON, the Foreperson complies.)

16 THE COURT: Madam Clerk, if you will publish the
17 verdict.

18 THE CLERK: 2017-GS-11-1162 and 2017-GS-11-1162A, the
19 State of South Carolina versus Anterius Braeshun Smith, on
20 the charge of assault and battery of a high and aggravated
21 nature, we, the jury, unanimously find the Defendant,
22 Anterius Braeshun Smith, guilty.

23 On the charge of possession of a deadly weapon during
24 commission of a violent crime, we, the jury, unanimously
25 find the Defendant, Anterius Braeshun Smith, guilty. Signed

1 by foreperson, Brian Zeichhefer.

2 Mr. Foreman, ladies and gentlemen of the jury, I'm
3 gonna poll the jury. So, I'm gonna ask you is this your
4 verdict. When I call your juror number, please raise your
5 right-hand and then you will respond yes or no.

6 Juror 11, Cohen Brandt, is this your verdict?

7 (WHEREUPON, the jury nods affirmatively.)

8 THE CLERK: If you'll answer where the court reporter
9 can hear you please.

10 THE JUROR: Yes.

11 THE CLERK: Thank you.

12 Juror 175, Brian Zeichhefer, is this your verdict?

13 THE JUROR: Yes.

14 THE CLERK: Juror 136, Eilene Sanchez, is this your
15 verdict?

16 THE JUROR: Yes.

17 THE CLERK: Juror 94, Christopher Littlejohn, is this
18 your verdict?

19 THE JUROR: Yes, ma'am.

20 THE CLERK: Juror 134, Johnny Rupe, is this your
21 verdict?

22 THE JUROR: Yes.

23 THE CLERK: Juror 150, Corey Stubbs, is this your
24 verdict?

25 THE JUROR: Yes.

1 THE CLERK: Juror 68, Martin Hogg, is this your
2 verdict?

3 THE JUROR: Yes.

4 THE CLERK: Juror 28, Jacob Duncan, is this your
5 verdict?

6 THE JUROR: Yes, ma'am.

7 THE CLERK: Juror 73, Imogene Houser, is this your
8 verdict?

9 THE JUROR: Yes.

10 THE CLERK: Juror 34, Michael Finch, is this your
11 verdict?

12 THE JUROR: Yes, ma'am.

13 THE CLERK: Juror 64, Steven Haron, is this your
14 verdict?

15 THE JUROR: Yes.

16 THE CLERK: Juror 33, Mary Fanham, is this your
17 verdict?

18 THE JUROR: Yes, ma'am.

19 THE CLERK: I believe that's it.

20 THE COURT: All right. Thank you, ladies and
21 gentlemen.

22 Anything from the State or the defense before I dismiss
23 the jury?

24 SOLICITOR BARRY: Nothing from the State, Your Honor.

25 MR. EPPS: Nothing from defense.

1 (WHEREUPON, the jury was dismissed from the courtroom
2 at this time.)

3 THE COURT: Okay. All right. Yes, sir, anything?
4 Any motions or anything at this time?

5 MR. EPPS: Well, Your Honor, I, I probably will have a
6 motion for reconsideration. My curiosity would be do you
7 want us to do it now or after sentencing because there's
8 also a motion for reconsideration to sentence that I don't
9 want to file---

10 THE COURT: All right. Lawyers want to approach.

11 MR. EPPS: Certainly.

12 (WHEREUPON, a bench conference was held at this time.)

13 THE COURT: All right. What we'll do is we're gonna
14 reconvene at 9:30 in the morning, and we will pick back up
15 with sentencing and any, any other motions that, that the
16 defense may wish to have.

17 Mr. Smith, with the jury having reached a verdict, your
18 bond is now over with. So, you have to be taken into
19 custody. Stay in touch with your lawyer. Ask him any
20 questions you might need for tomorrow. But we'll see you in
21 the morning.

22 THE DEFENDANT: All right.

23 MR. EPPS: Thank you, Your Honor.

24 SOLICITOR BARRY: Thank you, Your Honor.

25

(WHEREUPON, Court was in recess for the evening.)

1 Thursday, May 21st, 2021

2

3 THE COURT: My plan was to do this last.

4 MR. EPPS: That's fine, Your Honor. I'm here at the
5 Court's --.

6 THE COURT: Okay. I mean who all are you going to have
7 present for your presentation?

8 MR. EPPS: I have one person that would speak and then
9 obviously my client.

10 THE COURT: Okay. How many people do you have to
11 speak?

12 SOLICITOR BARRY: No one, Your Honor.

13 THE COURT: The victim doesn't wish to address the
14 Court?

15 SOLICITOR BARRY: He does not.

16 THE COURT: Okay. All right. We also have to take
17 care of a motion.

18 Are you ready for those?

19 MR. EPPS: I am, Your Honor.

20 (Pause.)

21 MR. EPPS: And, Your Honor, on the sentencing sheets, I
22 did write down the time served. But I didn't really think
23 about -- that's his prior time served. So he now would have
24 an extra day cause he was detained last night. So, it would
25 be eight days.

1 THE COURT: Okay. Well, tell you what, he's here.
2 Let's go ahead and do it.

3 MR. EPPS: Thank you, Your Honor.

4 If it's all right with you, may it please the Court?

5 THE COURT: Give me one second.

6 MR. EPPS: Certainly.

7 THE COURT: Yes, sir, Mr. Epps, do you have any motions
8 that you wish to place on the record?

9 MR. EPPS: Thank you, Your Honor.

10 At this point in time I would request a motion for new
11 trial in this matter.

12 Your Honor, we believe that the evidence, despite the
13 jury verdict, we believe that the evidence in this case was
14 insufficient to warrant the case being submitted to the
15 jury. We believe that it was insufficient for the jury to
16 reach the verdict that it did.

17 The result or the verdict clearly had to be based upon
18 an improper motive, bias, capriciousness, some bad what I
19 would call in street term, bad vibe of the Defendant beyond
20 the evidentiary material, Your Honor, and, as a result,
21 the -- we believe the verdict should be held to be invalid
22 particularly, Your Honor, the, the crux of this case
23 revolves around the photo lineups that we believe were
24 suggestive and unduly prejudicial to my client both in its
25 portrayal and its use.

1 As a result, Your Honor, we are asking that -- we are
2 asking for a new trial at this time.

3 THE COURT: All right. Thank you.

4 Yes, ma'am.

5 SOLICITOR BARRY: Thank you, Your Honor.

6 May it please the Court.

7 The State would ask that the defense's motion be
8 denied. All of the evidence that was presented through
9 photographs and testimony was appropriately before the jury.
10 The jury considered all of that evidence, and they did come
11 back with a unanimous verdict.

12 So, we would ask that the defense's motion be denied.

13 THE COURT: Any reply?

14 MR. EPPS: Your Honor, no. I, I think I've covered all
15 of my, my grounds.

16 Thank you.

17 THE COURT: All right. I listened attentively, took
18 notes. I feel like I have a more than reasonable
19 understanding of the evidence that was presented. I watched
20 the jurors. They seemed to pay very close attention to the
21 trial of the case. Based on the standard that I had to
22 apply, I would have to deny the motions. But thank you very
23 much.

24 Are you ready to proceed with the sentencing?

25 MR. EPPS: I am, Your Honor.

1 THE COURT: Okay. If you would, just come up.

2 Mr. Smith, just come on right up here.

3 Mr. Smith, I need to remind you that you remain under
4 oath.

5 Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And, sir, if you -- when you're speaking,
8 if you want to, you can lower the mask to be sure that I can
9 hear you. But if ever during this process, Mr. Smith, you
10 can't hear me or anybody else when we're speaking,
11 immediately let us know and we'll speak up as well.

12 Okay?

13 THE DEFENDANT: All right.

14 THE COURT: Thank you, Mr. Smith.

15 Yes, ma'am, anything you need to announce before we
16 hear from them?

17 SOLICITOR BARRY: No, Your Honor. You were the trial
18 judge. You heard all of the facts as it pertains to this
19 case. The victim is present but he does not wish to address
20 Your Honor, and the Defendant does not have a prior record.

21 THE COURT: No prior record?

22 SOLICITOR BARRY: No prior record, Your Honor.

23 THE COURT: Yes, sir, Mr. Epps.

24 MR. EPPS: Thank you, Your Honor.

25 Your Honor, T'Andra Miller is the mother of one of my

1 client's children. She is here and would also like to make
2 a statement at the appropriate time.

3 There are a host of other family members. Tisa Wood is
4 behind me. I've spoken with her. I think I will be able to
5 express the opinions of her and the family in my discussion
6 to the Court.

7 COVID rules do not allow all of our family members in
8 here at this time. But my client has -- it's very different
9 than a number of my clients. He has an extensive family
10 unit. He had an extensive family unit for his upbringing.
11 He currently still has that extensive family unit.

12 Anterius is 25 years old. He's a high school graduate.
13 We obviously talked about some issues of that in the trial.

14 Your Honor, one of the things I will ask you to do when
15 you are, are crafting your sentence is, when you are
16 thinking about the sentencing term you're going to give my
17 client, I just -- it was so interesting to me, and I should
18 of brought it up, but when Phaedra Hall was testifying, she
19 talked about working at Milliken. My client works at the
20 same Milliken Plant that she does. He works second shift.

21 He does that so he can take his children to school and
22 pick them up. He is an active participant in his life -- in
23 their lives.

24 They're going to miss their father. My client drives
25 what I jokingly refer to as an old grandma Buick. It is a

1 gold Buick and it looks like what I would call a
2 quintessential grandma car. But it fits his children. It
3 provides him safe, reliable transportation, and on the
4 rearview mirror is a little white placard, and at the bottom
5 of it is his name, Anterius, and above that are his
6 children's name, and they use that in school process for
7 pick-up and drop-off, drop-off and pick-up I should say.

8 I have never had a client, 25 or otherwise, that had
9 something like that, and it was amazing to me, when I saw
10 that, I knew exactly what it was because I have one myself.

11 Because of the sentence you're going to impose, and we
12 understand you have a statutory duty in your role as a
13 judge, you have to impose a sentence. My client is going to
14 be taken away from his children.

15 While he and Ms. Miller are not together right now in a
16 romantic sense, they do coparent their children together.

17 Mr. Smith does have a, a girlfriend. She is
18 unavailable to be here. She -- they have a child together
19 and, and she's heartbroken. Was able to talk with her on
20 the phone yesterday, and I also spoke with Anterius's
21 mother, and I can, can tell you wailing is the easiest way
22 to describe those conversations.

23 I was a sociologist in college as well as a government
24 major, but I specifically took sociology because of this
25 career path that I wanted to take. I took a class in

1 criminology, Gerald Jenochio (phonetic).

2 we read about our criminal justice system and, and how
3 it can be utilized to address the effects of crime. And
4 prisons are, unfortunately, the tool that are used.

5 so, what are the roles?

6 The role of prison is for deterrence. When you put a
7 person behind bars, they can't freely move and act and do
8 the things that, that got them there. Whether they did them
9 or whether a jury believed that they did them, at this point
10 we are bound by a judicial determination by a jury that he
11 is guilty.

12 So, there's deterrent. There's punishment, a somewhat
13 righting of the wrongs of the crime, and there's
14 rehabilitation. I have always wrestled with the
15 rehabilitation part because I have found, in my career, that
16 it is so infinitely more difficult for someone that is
17 getting out of prison to now being rehabilitated, find
18 employment, and things of that nature, now that they are
19 supposedly rehabilitated.

20 Your Honor, this crime occurred over four years ago.
21 My client, but for today's sentencing, has no record.
22 That's four years where he still received no record and in
23 the years preceding that. My client's 25. So, 21 at the
24 time. Still no record. I don't know that I have a client
25 like that.

1 As I said to the jury, there's so much I could say,
2 Your Honor, and I know you're not limiting me, but I also
3 recognize we could go on forever, and, at some point, a
4 decision has to be reached.

5 Your Honor, you're going to have to make that decision.
6 We know, because of the, the finding of guilty on the
7 possession of a weapon charge, there will be a five year day
8 for day sentence. There is still the ABHAN sentence.

9 Your Honor, we would ask that be run concurrent. I
10 would ask the Court consider the fact my client's age, how
11 much life he has left, how much life his children have left,
12 his current role in their lives at least as through
13 yesterday.

14 Your Honor, we would ask that, if the Court wishes to
15 impose something or wants to keep this fresh in Mr. Smith's
16 mind, it has the ability to suspend some of the sentence on
17 the ABHAN. Obviously on the -- we are -- the finding of
18 guilt on the weapons charge, it's, it's almost like you
19 don't pass go. It's already statutorily determined. But on
20 the ABHAN, Your Honor, you can do a number of things that
21 would satisfy guilty, determine the punishment and the
22 rehabilitation, but also to be realistic as to the evidence
23 that was provided in this case.

24 I would ask the Court consider that evidence.
25 Particularly testimony from the victim.

1 Your Honor, we would ask you would impose a sentence of
2 not more than 10 years on the ABHAN, and we would ask that
3 you would suspend some of that sentence where he would have
4 time running concurrent with his weapons charge, but suspend
5 part and then give him a probationary sentence such that he
6 has, as I called, the hammer hanging over his head. He's
7 got something in his rearview mirror.

8 But, Your Honor, he already has that with his family
9 and his children. I did not have a chance to, to determine
10 if Mr. Anterius Smith would like to speak. I know Ms.
11 Miller, T'Andra Miller, would like to speak though, Your
12 Honor.

13 THE COURT: Mr. Smith, do you agree with the statements
14 so far made by your lawyer?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Ma'am, if you do wish to speak,
17 be more than happy to hear from you. Just need to let you
18 know this lady sitting way down there, she's a court
19 reporter. She's taking down everything that's said.

20 So, I ask that you please speak up loud enough so that
21 both she and I and everybody else can hear you, and, if you
22 would, ma'am, just start by giving us your full name.

23 You can come around -- yes, ma'am. That will be good
24 right there.

25 MS. MILLER: I'm T'Andra Miller. I met Anterius back

1 in 2013. So, I know him a little.

2 we got a five year old son biologically and then our
3 four year old was his stepson of my---

4 THE COURT: All right. Ma'am, you're -- don't mean to
5 interrupt but you're -- your voice is, is trailing down. I
6 got to be able to hear you. So you need to speak up.

7 Okay?

8 MS. SMITH: Okay.

9 THE COURT: All right.

10 MS. SMITH: He also has a daughter that's eight years,
11 years old, eight months old, and the first thing my son
12 asked me yesterday, when I got home, was where is my daddy
13 and I didn't answer. Every day he picks them up from
14 school, take them to school, and I'm asking that you be as
15 lenient on his sentence -- in his sentence and I think
16 eventually reunite.

17 That's all.

18 THE COURT: Thank you, ma'am.

19 MS. SMITH: You welcome.

20 MR. EPPS: I do have one more brief thing and I
21 apologize. I spoke with Mr. Smith's mother yesterday. I
22 did reference that briefly. I did not mention, and I need
23 to, she can not be here today. She's a Hospice nurse.

24 She took off time from work to be with him during the
25 trial. But she was not here during the events of the crime.

1 So, she wasn't a witness person.

2 She could not be here today. Her -- she has to work.
3 But I did want the Court to be aware of that fact. She
4 desperately wanted to be here. It's just a reality she
5 couldn't make it.

6 Thank you.

7 THE COURT: Mr. Smith, is there anything that you would
8 like to say or want me to know or consider, and, sir, again,
9 you can pull the mask down if you're comfortable doing that
10 and just be sure that you speak up so that the court
11 reporter and I and everybody else can hear you.

12 THE DEFENDANT: Yeah, I mean I agree with my lawyer,
13 you know, on everything that he said and what she said. Be
14 lenient so I still have time to be in my kid's life.

15 Thank you.

16 THE COURT: Thank you, Mr. Smith.

17 Mr. Smith, I've got -- just have a couple of questions
18 for you.

19 So you are 25?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And how far did you go in school?

22 THE DEFENDANT: I graduated high school.

23 THE COURT: And presently you are single?

24 THE DEFENDANT: No, I have a girlfriend.

25 THE COURT: Okay. That's being single.

1 THE DEFENDANT: Oh, okay. Yes.

2 THE COURT: All right. And you, you have two or three
3 children?

4 THE DEFENDANT: I have two but I have a stepchild.

5 THE COURT: Okay.

6 THE DEFENDANT: So three.

7 THE COURT: How old are your two children?

8 THE DEFENDANT: Five, eight months, and four.

9 THE COURT: Your lawyer said that you worked at
10 Milliken.

11 Is that right?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Ever serve in the military?

14 THE DEFENDANT: No, sir.

15 THE COURT: Thank you, sir.

16 THE DEFENDANT: You welcome.

17 THE COURT: Did I hear the victim during the trial
18 state that he wanted \$1,100 in restitution?

19 SOLICITOR BARRY: Yes, sir.

20 THE COURT: Eleven.

21 Okay. There was testimony -- there was testimony
22 during the trial that, after the shooting incident, there
23 continued to be contact with the victim and the Defendant's
24 family.

25 If I issue a no contact, does that go against the

1 victim's desire to still have contact with the victim's
2 family?

3 SOLICITOR BARRY: Your Honor, if I could briefly talk
4 to him?

5 THE COURT: Uh-huh. (Affirmative).
6 (Pause.)

7 SOLICITOR BARRY: Your Honor, if you could put a no
8 contact in place. That would not go against---

9 THE COURT: Okay.

10 SOLICITOR BARRY: ---the victim's wishes.

11 THE COURT: All right. I'll find that there is a
12 substantial factual basis for the plea.

13 On, on the -- well, on the possession of a weapon
14 during the commission of a violent crime, that's a five
15 years sentence. He'll receive credit for the eight days.
16 That runs concurrent with the other charge.

17 On the assault and battery of a high and aggravated
18 nature charge, it's a 20 year sentence at the State
19 Department of Corrections. Now, I will suspend that upon
20 the service of seven years followed by five years of
21 supervision. He does get credit for the eight days.
22 Restitution in the amount of \$1,100 has been ordered. I
23 have indicated on the Sentencing Sheet there's not to be any
24 victim contact.

25 I believe that this is automatic as part, as part of

1 the statutory scheme we have. But I've indicated he can not
2 have the possession of any type of firearm as well. Once he
3 is released, they'll be numerous other requirements that
4 will be placed on him that I'm announcing here today.
5 Failure by you -- by him to comply with any of the other
6 requirements will be -- automatically send him back to the
7 Department of Corrections if he violates it.

8 Mr. Smith, good luck to you, sir.

9 Good luck to you, sir.

10 SOLICITOR BARRY: Thank you, Your Honor.

11 THE COURT: Uh-huh. (Affirmative).
12
13

14 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Cherokee County, South Carolina, on the 19th, 20th, and 21st days of May, 2021.

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

July 7th, 2021

PAMELA E. GREEN, Court Reporter

WITNESSES

Gaffney Police Dept. *[Signature]*

ARREST WARRANT NUMBER

2017A1120200155 - Count 1

DIRECT INDICTMENT - Count 2

ACTION OF GRAND JURY

TRUE BILL
TRUE BILL

[Signature]
Foreperson of Grand Jury

Date: *9-20-2021*

VERDICT

GUILTY COUNT ONE

GUILTY COUNT TWO

[Signature]
Foreperson of Petit Jury

Date: *5-20-2021*

DOCKET NO. **17-GS-11-01162**

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

Sept. 21 2017 TERM

THE STATE

vs.

ANTERIUS BRAESHUN SMITH

Indictment for

ATTEMPTED MURDER-COUNT ONE AND
POSSESSION OF A WEAPON DURING
COMMISSION OF A VIOLENT CRIME-
COUNT TWO

SC Code: 16-3-0029, 16-23-490

CDR Code: 3410, 0549

Class FEL-A, FEL/F

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2017 SEP 21 P 12:28

BRANDY W. MCBEE

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHEROKEE)

INDICTMENT

At a Court of General Sessions, convened on Sept 21 2017, the
Grand Jurors of Cherokee County present upon their oath:

ATTEMPTED MURDER-COUNT ONE

That Anterius Braeshun Smith did in Cherokee County on or about March 28, 2017, with malice aforethought either expressed or implied, attempt to kill Tyler Vassey, by shooting the victim, with the intent to kill the victim, in violation of §16-03-0029, OF THE CODE OF LAWS OF SOUTH CAROLINA, (1976, as amended).

**POSSESSION OF A WEAPON DURING
COMMISSION OF A VIOLENT CRIME-COUNT TWO**

That Anterius Braeshun Smith did in Cherokee County on or about March 28, 2017, possess a firearm during the commission of a violent crime as defined in Code §16-1-60, to wit: Attempted Murder, in violation of Code §16-23-490, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

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



ASSISTANT SOLICITOR

X

STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE
STATE VS.
Anterius Braeshun Smith
AKA:
Race: BLACK Sex: M Age: 25
DOB: [REDACTED] SS#: [REDACTED]
Address: 103 Palmetto St
City, State, Zip: Gaffney SC 29340
DL#: [REDACTED] SID#: [REDACTED]

INDICTMENT/CASE#: 2017GS1101162
A/W#: 2017A1120200155
Date of Offense: 3/28/2017
S.C. Code § : 16-03-0029
CDR Code #: 3410

SENTENCE SHEET 7 days

*CDL ☐ CMV ☐ Hazmat ☐

In disposition of the said indictment comes now the Defendant who was
TO: Assault and Battery of a High and Aggravated Nature (10-20 years) ☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted. ☒ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Adrienne E. Barry 101671 [Signature] SCB72722
BARRY, ADRIENNE E. SC Bar# Defendant Epps, Steven Douglas SC Bar#
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed 7 years
and/or to pay a fine of \$ [REDACTED]; provided that upon the service of 7 days/months/years and/or payment
of \$ [REDACTED]; plus costs and assessments as applicable*; the balance is suspended with probation for 8 days
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDCC.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☒ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☒ Ordered PTUP
Total: \$ 1,100 plus 20% fee: \$ [REDACTED] days/hours Public Service Employment

Payment Terms: [REDACTED]
☐ Set by SCDPPPS

Recipient: [REDACTED]
*Fine: \$ [REDACTED]
§14-1-206 (Assessments 107.5 %) \$ [REDACTED]
§14-1-211(A)(1) (Conv. Surcharge) \$100 \$ [REDACTED]
§14-1-211(A)(2) (DUI Surcharge) \$100 \$ [REDACTED]
§56-5-2995 (DUI Assessment) \$12 \$ [REDACTED]
§56-1-286 (DUI Breath Test) \$25 \$ [REDACTED]
Proviso (Public Def/Probation) \$500 \$ [REDACTED]
§14-1-212 (Law Enforce. Funding) \$25 \$ [REDACTED]
§14-1-213 (Drug Court Surcharge) \$150 \$ [REDACTED]
§50-21-114(BUI Breath Test Fee) \$50 \$ [REDACTED]
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ [REDACTED]
3% to County (if paid in installments) \$ 18.75

TOTAL \$ 643.75
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. [REDACTED]
May serve W/E beginning [REDACTED]
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ [REDACTED] beginning [REDACTED]
\$ [REDACTED] paid to Public Defender Fund
Other: No Victim Contact
No Possession of Firearm
☒ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/ Deputy Clerk Brandy K. McBee
Court Reporter: Pam Green

Presiding Judge [REDACTED]
Judge Code: 2132
Sentence Date: May 21, 2021

STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE
STATE VS.
Anterius Braeshun Smith

AKA:
Race: BLACK Sex: M Age: 25
DOB: [REDACTED] SS#: [REDACTED]
Address: 103 Palmetto St
City, State, Zip: Gaithersburg SC 29340
DL#: [REDACTED] SID#: [REDACTED]
*CDL ☐ CMV ☐ Hazmat ☐

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Poss. weapon during violent crime, if not also sentenced to life without parole or death (5 yrs)

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation. ☐ Negotiated Sentence. ☐ Recommendation by the State.

ATTEST: Adrienne Barry 101671 SC Bar# [REDACTED] Defendant
BARRY, ADRIENNE E. [REDACTED] Epps, Steven Douglas SCB72722
Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: with other charges
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. 8 days
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: Obtain GED ☐
☐ Set by SCDPPPS Attend Voc. Rehab. or Job Corp. _____

Recipient: May serve W/E beginning _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

*Fine: \$ _____ paid to Public Defender Fund
§14-1-206 (Assessments 107.5 %) \$ _____
§14-1-211(A)(1) (Conv. Surcharge) \$100 \$ _____
§14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____
§56-5-2995 (DUI Assessment) \$12 \$ _____
§56-1-286 (DUI Breath Test) \$25 \$ _____
Proviso (Public Def/Probation) \$500 \$ _____
§14-1-212 (Law Enforce. Funding) \$25 \$ _____
§14-1-213 (Drug Court Surcharge) \$150 \$ _____
§50-21-114(BUI Breath Test Fee) \$50 \$ _____
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75
Other: _____

Clerk of Court/ Deputy Clerk Brandy W. McGhee
Court Reporter: Pam Ender
SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS1101162A
A/W#: 2017GS1101162A
Date of Offense: 9/21/2017
S.C. Code § : 16-23-0490
CDR Code #: 0549

SENTENCE SHEET

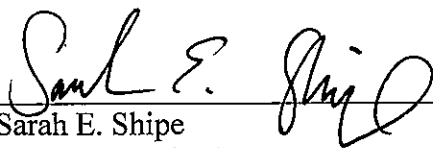
7 days

Presiding Judge
Judge Code: 2132
Sentence Date: May 21, 2021

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Sarah E. Shipe
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 10th day of June, 2022.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Cherokee County

Honorable J. Mark Hayes, Circuit Court Judge

RECEIVED

Jun 10 2022

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

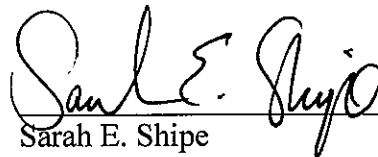
ANTERIUS BRAESHUN SMITH,

APPELLANT

APPELLATE CASE NO. 2021-000608

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon William M. Blich, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 10th day of June, 2022.



Sarah E. Shipe
Appellate Defender

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

ATTORNEY FOR APPELLANT