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IN THE SUPREME COURT OF THE STATE OF NEVADA

JAIDEN CARUSO,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Case No. 80361

APPELLANT'S APPENDIX VOLUME IX

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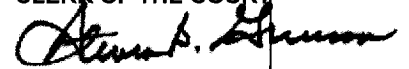
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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

JAIDEN CARUSO &
KODY HARLAN,

Defendants.

CASE NO. C-18-333318-1
C-18-333318-2

DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON,
DISTRICT COURT JUDGE

THURSDAY, AUGUST 01, 2019

TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY 4

APPEARANCES:

For the State:

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SARAH E. OVERLY, ESQ.
Chief Deputy District Attorneys

For the Defendant
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JASON R. MARGOLIS, ESQ.

Kody Harlan:

RYAN K. HELMICK, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

TRANSCRIBED BY: MANGELSON TRANSCRIBING

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1 Las Vegas, Nevada, Thursday, August 01, 2019

2
3 [Trial began at 11:17 a.m.]

4 [Outside the presence of the jury]

5 THE COURT: Any of the sides have anything outside the
6 presence?

7 MR. PESCI: No, Your Honor.

8 [In the presence of the jury]

9 THE MARSHAL: All rise for the jury.

10 THE COURT: You all can be seated, thank you.

11 We'll be back on the record. Mr. Caruso, Mr. Harlan, the
12 attorneys, all of our jurors are present.

13 Good morning, Ladies and Gentlemen. We're going to
14 continue on with the State's case in chief. You all can call your next
15 witness.

16 MS. OVERLY: The State calls Charles Osurman.

17 **CHARLESTON OSURMAN**

18 [having been called as a witness and being first duly sworn,
19 testified as follows:]

20 THE CLERK: Thank you, please be seated.

21 If you could state and spell your name for the record,
22 please.

23 THE WITNESS: Charleston Osurman.

24 C-H-A-R-L-E-S-T-O-N. Osurman, O-S-U-R-M-A-N.

25 THE COURT: Thank you, sir.

1 Ms. Overly.

2 **DIRECT EXAMINATION**

3 BY MS. OVERLY:

4 Q Hi, Charles.

5 Back in June of 2018, were you living here in Las Vegas?

6 A Yes.

7 Q And how old were you then?

8 A 17.

9 Q And around June, were you still in high school at that
10 time?

11 A Yes.

12 Q Now, specifically, I'm going to reference June 8th of 2018,
13 and I'm going to show you State's Exhibit 71.

14 Does that look familiar to you?

15 A Yes.

16 Q And what is that?

17 A What you mean? That's the house.

18 Q Okay. The house. So that would be -- was that the
19 residence at Cool Lilac Avenue?

20 A Yes.

21 Q And did you live there?

22 A Not really live.

23 Q Okay. What do you mean?

24 A Like just, we was in and out.

25 Q Okay. When you say we, who are you referring to?

1 A Me and my other friend.

2 Q Okay. So on June 8th of 2018, were you staying there on
3 and off?

4 A Yes.

5 Q Okay. So on June 8th, who was at the house?

6 A That's the first day, right?

7 Q Well, let's talk about the day where you saw Matt Minkler
8 at the house.

9 A Just that day?

10 Q Yes.

11 A It was me -- wait hold on, hold on. Can you like --

12 Q Okay. So let's talk about the morning --

13 A All right.

14 Q -- of June 8th.

15 So June 8th, that morning, who was at the house?

16 A Me and Alaric.

17 Q And is that Alaric Oliver?

18 A Yeah.

19 Q Okay. So it's you and Alaric. And around what time was
20 that?

21 A Around 9:00 or 8:00.

22 Q Okay. And at some point in time, did other people come
23 over?

24 A Yeah.

25 Q And who was that?

1 A Kymani, his friend -- you want me to name everybody?
2 Q Yeah. If you can.
3 A Jaiden, Kody, and then that's all I remember.
4 Q Okay. So at first it was you and Alaric and then at some
5 point in time Kymani and his friend came over?
6 A Yeah.
7 Q Would that be Ghunnar?
8 A Yeah.
9 Q And did they come over at the same time as Jaiden and
10 Kody?
11 A No.
12 Q When did they come over?
13 A Right after Jaiden and Kody?
14 Q Okay. So you mentioned Jaiden and Kody?
15 A Yeah.
16 Q Are -- do you see Jaiden in court here today?
17 A Yeah.
18 Q Can you point to him and identify him?
19 A He right there.
20 Q Is he in the --
21 MR. YAMPOLSKY: We'll stipulate to the identification.
22 THE COURT: Thank you very much.
23 MS. OVERLY: Thank you.
24 And do you see Kody here in court?
25 MR. HELMICK: Likewise, we'll do the same and stipulate.

1 THE COURT: Okay.

2 BY MS. OVERLY:

3 Q You can go ahead and answer.

4 A Yeah.

5 Q And when is that Jaiden and Kody came to the house?

6 A Like what time?

7 Q Yeah. Approximately, if you could think.

8 A Probably 10:00.

9 Q In the morning?

10 A Yeah.

11 Q And how did they get there?

12 A Car they drove.

13 Q Sorry?

14 A They drove.

15 Q Do you know how they -- what car they drove in?

16 A Benz Mercedes.

17 Q A Mercedes?

18 A Yeah.

19 Q Do you know who drove?

20 A Either or. I mean, you all should know.

21 THE COURT: Hey.

22 MS. OVERLY: Well I'm asking if you know.

23 THE COURT: Hey, hey, hey, hey.

24 THE WITNESS: I'm sorry.

25 THE COURT: Yeah, I don't need the attitude here in court,

1 you got it?

2 THE WITNESS: Yeah.

3 THE COURT: Just listen to the young lady's questions
4 and answer them as best you can, please.

5 BY MS. OVERLY:

6 Q So do you know? Did you see who drove up in the car?

7 A Yeah.

8 Q And who was it?

9 A Jaiden.

10 Q Okay. So showing you State's Exhibit 87.

11 Does that look familiar?

12 A Yeah.

13 Q Is that inside the house?

14 A Yep.

15 Q Okay. So is that primarily where you were all hanging
16 out?

17 A Yeah.

18 Q So at this point in time it's you, Alaric, Kymani, and
19 Ghunnar, correct? And then Jaiden and Kody show up?

20 A Yeah.

21 Q So what were you guys doing at the house?

22 A Smoking weed, alcohol, we was just listening to music,
23 just hanging.

24 Q Okay. Now when Jaiden and Kody came over, did they
25 have any weapons on them?

1 A Yeah.

2 Q What about Jaiden?

3 A Yeah.

4 Q What kind of weapon?

5 A Just a little Glock.

6 Q I'm sorry?

7 A Glock .45.

8 Q Glock .45.

9 A Yeah.

10 Q Okay. Was that a revolver?

11 A A semi -- semi-automatic.

12 Q Jaiden did?

13 A Yeah.

14 Q Okay. What about Kody?

15 A He had a revolver.

16 Q Kody had a revolver?

17 A Yeah.

18 Q Okay. And what were they doing with the guns?

19 A They were just showing up with it.

20 Q Okay. And when you say showing them, did they always

21 have them out?

22 A Yeah, they just had it on the table.

23 Q Okay. Both of them?

24 A Both of them.

25 Q Okay. So at some point in time, was there a conversation

1 about Matt Minkler --

2 A Can you be more --

3 Q -- coming over?

4 A Yeah.

5 Q And who had that conversation?

6 A I guess them.

7 Q I'm sorry?

8 A I guess they did.

9 Q No, I don't want you to --

10 A Jaiden and them.

11 MR. HELMICK: Objection, speculation

12 BY MS. OVERLY:

13 Q I don't want you to guess. I just want you to tell me if you

14 personally heard anything about a conversation?

15 A No.

16 Q Okay. So do you know who Matt Minkler is?

17 A Yeah.

18 Q And how do you know him?

19 A School.

20 Q Would that be high school?

21 A Yeah.

22 Q So at some point in time, does Matt come over?

23 A Yeah.

24 Q Do you know how he got there?

25 A He got picked up.

1 Q By who?

2 A Jaiden and them.

3 Q I'm sorry?

4 A Jaiden and Kody.

5 Q Okay. Is that in the same car that you saw them --

6 A Yeah.

7 Q -- show up in?

8 And do you know around what time that was?

9 A No.

10 Q Okay. So now it's you, Alaric, Kymani, Ghunnar, Jaiden,

11 and Kody, and Matt?

12 A Yup.

13 Q Okay. So did Matt bring anything with him?

14 A Not that I know of.

15 Q Okay. So when Matt shows up, what do you guys

16 continue to do?

17 A Same thing we was doing.

18 Q Just smoking and drinking?

19 A Yeah.

20 Q Okay. And again, were you primarily in this living room?

21 A Yes, I was.

22 Q Okay. And were people coming and going or did people

23 just stay there?

24 A People was in and out.

25 Q Okay. When you say in and out, where were they going?

1 A I don't pay attention to their business.

2 Q Okay. But you mean in and out of the house?

3 A Yeah.

4 Q Okay. So at some point in time, do you recall Jaiden ever

5 shooting his gun?

6 A Yeah.

7 Q And when was that?

8 A Can you be more specific like --

9 Q Sure. Let me ask this. Where was he when he shot the

10 gun?

11 A Probably in the kitchen.

12 Q In the kitchen?

13 A Yeah.

14 Q Okay. And did this shot go into the ceiling?

15 A Yeah.

16 Q Okay. And what happened after he shot into the ceiling?

17 A Everybody was shocked. Everybody was standing up,

18 asking for stuff, what's going on?

19 Q Okay.

20 A And then he explained it was an accident.

21 Q Okay. And so after he shoots into the ceiling, does

22 anybody leave?

23 A Kymani did, I think.

24 Q Kymani and who?

25 A His friend.

1 Q Would that be Ghunnar?

2 A Yeah.

3 Q Okay. And so they left after that shot into the ceiling.

4 A Yeah.

5 Q Okay. Did you stay or did you leave?

6 A I stayed.

7 Q And what about Matt?

8 A He stayed.

9 Q Okay. And so do you recall a video that you watched

10 shortly after -- that was taken shortly after that shot into the ceiling?

11 A video taken by Matt Minkler?

12 A Oh yeah.

13 Q Okay.

14 MS. OVERLY: And I'm going to publish what's already

15 been admitted as State's 148.

16 THE COURT: Okay.

17 BY MS. OVERLY:

18 Q So you indicated that you saw this video. Do you recall

19 who took that video?

20 A Matthew, right? The one that you just talked about?

21 Q Yeah. The --

22 A Yeah.

23 Q -- video that I'm talking about.

24 A Yeah, Matthew.

25 Q Okay. So Matthew took it. And did you recall seeing

1 yourself in that video?

2 A Yeah.

3 Q Okay. And where were you?

4 A Do I got to point on here?

5 Q Sure. So in front of you is a mouse --

6 THE COURT: Here, hold on a second. I'll get it for you.

7 Then you can just kind of left click and draw on the screen as to
8 where you're indicating.

9 THE WITNESS: Okay.

10 BY MS. OVERLY:

11 Q So if you could show me in this photo, where was Jaiden?

12 A He was either over here or he was over here.

13 Q Okay. And where was Kody?

14 A He was sleeping right here.

15 Q Okay. And where were you?

16 A Right next to him.

17 Q Right next to him on the couch?

18 A Yep.

19 Q And where was Alaric?

20 A Right next to me.

21 Q And what about Kymani?

22 A I wasn't paying attention to him.

23 Q And same with Ghunnar?

24 A Same with Ghunnar.

25 THE COURT: So for the record, the gentleman indicated

1 that Mr. Caruso was in the white chair, the side of which is facing
2 out in the photograph and/or a little ahead of that off -- off the
3 photo where the kitchen is?

4 THE WITNESS: Yeah.

5 THE COURT: Okay. And then Mr. Harlan was laying on
6 the couch on the lengthwise part furthest away in the photo and
7 Mr. Osurman is saying he was kind of in the corner area of the
8 couch?

9 THE WITNESS: Yeah.

10 THE COURT: And then Mr. Oliver on the part that's
11 parallel to the wall with the two blinds on the windows and then the
12 last gentleman further down. Okay.

13 [Video playing]

14 MS. OVERLY: Sorry, we'll --

15 MR. PESCI: Try it again?

16 MS. OVERLY: Yeah. If we could play it again. Sorry.

17 [Video playing]

18 BY MS. OVERLY:

19 Q So is that the video that we're talking about?

20 A Yeah.

21 Q And you recognize the voice in the video?

22 A Yeah.

23 Q And who's that?

24 A Matthew.

25 Q Okay. So if we back up just a little bit --

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[Video playing]

BY MS. OVERLY:

Q And if we stop there, do we see who that is?

A Yeah.

Q And who's that?

A Jaiden.

Q Okay. So is it -- is Jaiden sitting in that chair after the shot
or do you believe he was sitting there when he shot?

A I wasn't really paying attention.

Q Okay. But in that general area, you think?

A Yeah.

Q Okay. And then if we continue.

[Video playing]

BY MS. OVERLY:

Q And who's reflected in that spot?

A Myself and Kody.

Q Okay. And it looks like Kody has something in his hand;
do you see that?

A Yeah.

Q And what does that look like?

A His gun.

Q Okay. And would that be the firearm that you saw him
with that day?

A Yeah.

Q Now is that the revolver that you were referencing?

1 A No.

2 Q It's another gun.

3 A Yeah.

4 Q So do you believe that they switched guns at some point

5 or were you mistaken?

6 A No, they never switched guns.

7 Q Okay. So Kody was actually the one with --

8 A I first said in the beginning that Kody had the revolver.

9 Q Okay. So Kody had the revolver?

10 A Yeah.

11 Q Does --

12 A No, no, no. He had the semi and he had the revolver.

13 Q Okay. So that's what I just want to clarify.

14 A Yeah.

15 Q So Kody had the semi-automatic --

16 A Yeah, they never --

17 Q -- and --

18 A -- switched guns.

19 Q Okay. And Jaiden had the revolver.

20 A Yeah.

21 Q Okay. And that's what we kind of see here?

22 A Yeah.

23 Q Okay. And then on the kind of corner almost out of view,

24 do you see who that is?

25 A No.

1 Q Not really. Okay.

2 [Video playing]

3 BY MS. OVERLY:

4 Q And you see that Kody's kind of waving around the gun
5 with what looks like a laser kind of attached to it --

6 A Yeah.

7 Q -- is that correct?

8 A Yeah.

9 Q Did you see him doing that more than just that time?

10 A No.

11 Q Okay. So you said that after that shot went off -- what
12 happened after that?

13 A The first shot?

14 Q The first shot into the ceiling.

15 A They -- everybody was just shocked, like I said. Then we
16 just got back to what we was doing. Some people --

17 Q Okay. So at this --

18 A -- left.

19 Q Sorry, I don't mean to cut you off. So at this point though
20 you said that Ghunnar and Kymani left?

21 A I don't know who Ghunnar is.

22 Q I'm sorry, Kymani and his friend left.

23 A Yeah.

24 Q Okay. And so now it was just Jaiden and Kody, you and
25 Alaric, and Matt?

1 A Yeah.

2 Q Okay. So after that at any point in time, did Matt get up or
3 go to the kitchen area?

4 A After the shot?

5 Q Uh-huh.

6 A Yeah.

7 Q And how long after the first shot, did he do that?

8 A Like right after.

9 Q Okay. And so showing you State's 84.
10 Does that look like the kitchen?

11 A Yeah.

12 Q Okay. So again, if you can point with the mouse in front
13 of you, can you show us where Matt walked over?

14 A Probably like right here.

15 Q Okay. And is he on the side by the sink or by the chairs?

16 A Behind, right here.

17 Q So by the sink.

18 A By the sink, yeah.

19 Q Okay. And --

20 THE COURT: And he's indicating in the island area of the
21 kitchen between like the kitchen and the fridge side?

22 THE WITNESS: Yeah.

23 THE COURT: Okay. Thank you.

24 BY MS. OVERLY:

25 Q And when he walks over there, what does he do?

1 A Take a video about the first shot and then that's all he did.
2 Q Did he ever ask to see Jaiden's gun?
3 A Yeah.
4 Q And --
5 A Well he didn't ask.
6 Q Okay.
7 A He grabbed it.
8 Q Okay. He grabbed it from him.
9 A Well, I don't really remember if he grabbed it from him or
10 if it was on the island.
11 Q Okay. But this is the revolver?
12 A Yeah.
13 Q So Matt either takes the gun from Jaiden or picks it up
14 from the island. And what does he do when he has it?
15 A Threatens Jaiden.
16 Q He threatens Jaiden?
17 A Yep.
18 Q And what does he say?
19 A You're lucky you're my friend or else I would have blown
20 your head off.
21 Q Okay. And do --
22 A Took a video of it too.
23 Q Okay. And do you know what he's referencing when he
24 says that to Jaiden?
25 A To shoot him.

1 Q But I mean, when he's saying you're lucky. What is he
2 talking about?

3 A What you mean?

4 Q Is he talking about the shot to the ceiling? That Jaiden's
5 lucky Matt doesn't shoot him because he almost shot him when
6 he's shooting into the ceiling?

7 A I don't get what you're saying.

8 Q Why is he threatening Jaiden?

9 A I guess cause he shot in the ceiling. And then I guess he
10 got threatened by that.

11 Q Okay. So Matt felt threatened when Jaiden shot into the
12 ceiling?

13 A Yeah.

14 MR. YAMPOLSKY: Objection, that calls for speculation.

15 THE COURT: Well I'll sustain the objection.

16 BY MS. OVERLY:

17 Q So did that -- did Matt threaten Jaiden shortly after the
18 shot to the ceiling?

19 A Yeah.

20 Q And when he was threatening Jaiden, what was he doing
21 with the gun?

22 A Pointing it at him.

23 Q Okay. And what happened after that?

24 A We just got back to what we was doing.

25 Q Okay. And when you say you got back to what you were

1 doing, did you all just continue to smoke and drink?

2 A Yeah.

3 Q And Matt stayed?

4 A Yeah.

5 Q So at some point in time, did anybody take Xanax?

6 A Yeah.

7 Q And when did that start happening?

8 A I think when Matthew came.

9 Q Okay. So some time after Matthew came, you guys

10 started taking it?

11 A Yeah.

12 Q Do you know who took it?

13 A Everybody.

14 Q Everybody?

15 A Well, I don't know about everybody, but I know I did.

16 Q Okay. So how soon after when Matt came back did you

17 take the Xanax?

18 A Probably like five minutes.

19 Q Okay. And how long after you took the Xanax did the

20 shot to the ceiling happen?

21 A Which -- I don't recall.

22 Q Okay. So after the shot to the ceiling and Matt threatens

23 Jaiden, what happened after that? What did you do?

24 A What did I do personally?

25 Q Uh-huh.

1 A I just went back on the couch.
2 Q And at some point, did you hear a second shot?
3 A Yeah.
4 Q And when was that?
5 A Well I was sleeping, and I heard it and then I just woke up.
6 Q Okay. When you say you were sleeping, where were you
7 sleeping?
8 A Same place you guys showed the video.
9 Q Okay. So going back to State's 87.
10 Were you sleeping in this area?
11 A Do I got to point?
12 Q Sure, you can show us.
13 A Right here.
14 Q So kind of at the corner of the L-shape of the couch?
15 A Yeah.
16 Q Okay. And was anyone else on the couch with you?
17 A Kody.
18 Q And what was Kody doing?
19 A Sleep.
20 Q Okay. And anyone else?
21 A Alaric, but he wasn't on the couch.
22 Q Where was Alaric?
23 A He was like more over here.
24 Q He was kind of at the end of the couch, closer to the
25 kitchen?

1 A Yeah. Standing up.

2 Q Okay. And you hear this shot and what did you do?

3 A I woke up, saw what happened -- well I didn't see what

4 happen, I see like the outcome and I'm like oh, shit and I left.

5 Q Okay. So I'm going to show you State's Exhibit 84 again.

6 When you say you woke up and you saw the outcome, what did

7 you see?

8 A Matthew's body right there, right on the floor.

9 Q Can you point in the area?

10 A [No audible response - marking on monitor].

11 Q Okay. So kind of where the bloody towel is --

12 A Yeah.

13 Q -- on the ground.

14 And so you said Matt was on the floor?

15 A Yeah.

16 Q Where was Jaiden?

17 A I don't know.

18 Q You don't know.

19 A No.

20 Q So what did you do?

21 A I left.

22 Q And how'd you leave?

23 A Through the back.

24 Q And why did you leave?

25 A I was scared.

1 Q Scared of what?

2 A I don't know? I was just in the moment, you know, I was

3 shocked, so I was like oh -- so I left.

4 Q And did you hear Jaiden say anything?

5 A No.

6 Q What about anyone else?

7 A No. Well, like I said they was shocked too, so they was

8 just all freaking out.

9 Q Okay. Did anyone leave with you?

10 A Alaric.

11 Q Okay. So after this happens, do you contact anybody

12 about this?

13 A Yeah.

14 Q Who'd you reach out to?

15 A This girl.

16 Q And what's her name?

17 A I don't remember, but --

18 Q Do you know someone by the name of Kristin Prentiss?

19 A Yeah.

20 Q Okay. And how did you know her?

21 A I just met her.

22 Q Okay. And you reached out to her?

23 A Yeah.

24 Q Do you know how?

25 A I called her.

1 Q Was that on the phone, like an audio call or FaceTime?
2 A FaceTime.
3 Q And why'd you call her?
4 A Because I knew she had a car so she could pick me up
5 when I need to go somewhere.
6 Q And did you tell her about what happened?
7 A Yeah.
8 Q Okay. So after you left the house, did you ever return?
9 A No.
10 Q And are you friends with either Jaiden or Kody on social
11 media?
12 A No.
13 Q Were you at the time?
14 A Yeah.
15 Q Okay. So what kind of social media?
16 A iSnap.
17 Q Would that be Snapchat?
18 A Yeah.
19 Q Okay. So after this happened, did you see any posts from
20 Jaiden on Snapchat about what happened in the house?
21 A Yeah.
22 Q Okay.
23 MS. OVERLY: I'll pass the witness, Your Honor.
24 THE COURT: Thank you.
25 Mr. Helmick?

1 MR. HELMICK: Thank you, Your Honor, but we don't have
2 any questions.

3 THE COURT: Mr. Yampolsky?

4 **CROSS-EXAMINATION**

5 BY MR. YAMPOLSKY:

6 Q Mr. Osurman, you said that Kody was sleeping on the
7 couch --

8 A Yup.

9 Q -- next to you.

10 You saw the video where he had the gun in his hand and
11 it was flashing?

12 A Yeah.

13 Q Okay. Obviously, he wasn't sleeping at that time.

14 A No.

15 Q And you said Matthew threatened Jaiden.

16 A Yup.

17 Q And you said he threatened Jaiden and he pointed the
18 gun at him.

19 A Yup.

20 Q Did he say anything when he pointed the gun at him?

21 A Who, Jaiden?

22 Q Did Matthew say anything to Jaiden?

23 A Yeah.

24 Q What did he say?

25 A I mean, didn't you just hear? Oh, no my -- I'm sorry. He

1 said -- fuck. You're lucky you're my friend or else I would have
2 blown your head off. You know, shot you or something.

3 MR. YAMPOLSKY: I have nothing further.

4 THE COURT: Ms. Overly.

5 MS. OVERLY: Nothing, Your Honor.

6 THE COURT: Anything from our jurors?

7 Yes.

8 [Bench conference transcribed as follows.]

9 MR. HELMICK: I'm okay with that.

10 MR. PESCI: No objection from the State.

11 No objection to Juror Number 12's question from the
12 State.

13 THE COURT: You guys?

14 MR. HELMICK: Yeah, no objection to both.

15 THE COURT: Okay.

16 MR. YAMPOLSKY: No objection.

17 [End of bench conference.]

18 THE COURT: All right. Mr. Osurman, I have a couple
19 questions for you, if I could.

20 **EXAMINATION BY THE COURT [JURY QUESTIONS]**

21 BY THE COURT:

22 Q If you could -- if you know, I mean, how much passed
23 between the time you stated that Matt threatened Jaiden until you
24 heard the second gunshot?

25 A Probably like 15/20 minutes.

1 Q 15/20 minutes?

2 A Yeah.

3 Q Okay. And how long after Matt was shot, did you leave?

4 A Like two minutes after.

5 Q Okay. And why didn't you contact the police at all?

6 A I was scared, like I said.

7 Q Okay. Do you know where Matt was when Jaiden shot

8 into the ceiling? Like where in that area?

9 A Like specifically?

10 Q Yeah. Or generally, if you can.

11 THE COURT: Can we show --

12 MS. OVERLY: Sure.

13 THE COURT: -- that photograph again. And I apologize, I

14 forgot the exhibit number.

15 THE WITNESS: And that's when he first shot?

16 THE COURT: Yeah.

17 MS. OVERLY: This would be 87.

18 THE COURT: Hold on one second.

19 Okay. Thank you.

20 BY THE COURT:

21 Q Do you know where Matt was in this area or the kitchen

22 off the photograph when the shot was fired? The first shot?

23 A Yeah, he was in the kitchen.

24 Q He was in the kitchen area?

25 A Yeah.

1 Q Okay. And then do you know if Matt was near Jaiden
2 when that shot that went into the ceiling occurred?

3 A Like what you mean?

4 Q Yeah. I guess the best way to ask it. You told us where
5 you believe Matt was. Where do you believe Jaiden was when the
6 shot into the ceiling occurred?

7 A Like I said, either right here --

8 Q Okay.

9 A -- or over here.

10 Q Okay. So he could have either been seated in that chair --

11 A Either or.

12 Q -- or closer into the kitchen --

13 A Yeah.

14 Q -- correct?

15 Okay.

16 THE COURT: Ms. Overly, you have any questions based
17 on mine?

18 MS. OVERLY: Just briefly, Your Honor.

19 **FOLLOW-UP EXAMINATION**

20 BY MS. OVERLY:

21 Q So Charles, I believe you said that Matt was in the kitchen
22 area when Jaiden shot into the ceiling. So showing you Exhibit 84.
23 Can you identify the area that Matt was standing in?

24 A Right here by the sink.

25 Q Okay. And was he the closest person to Jaiden when

1 Jaiden shot in the ceiling?

2 A Like right where he shot?

3 Q Was he closest in proximity to Jaiden --

4 A Oh, yeah.

5 Q -- when Jaiden shot?

6 A Yeah.

7 Q Okay.

8 A There was a whole bunch of people next to him.

9 Q Next to Jaiden?

10 A Yeah, he was standing up.

11 MS. OVERLY: I'll pass the witness, Your Honor.

12 THE COURT: Mr. Helmick, anything?

13 MR. HELMICK: No, Your Honor.

14 THE COURT: Mr. Yampolsky?

15 MR. YAMPOLSKY: Yes.

16 **FOLLOW-UP EXAMINATION**

17 BY MR. YAMPOLSKY:

18 Q When you heard the first shot, how long -- I mean --

19 when -- after you took the Xanax, how long after did the first shot --

20 was the first shot?

21 A I don't know?

22 Q But you took the Xanax first?

23 A Yeah.

24 MR. YAMPOLSKY: That's all I have, Your Honor.

25 THE COURT: Sarah, anything?

1 MS. OVERLY: No, Your Honor.

2 THE COURT: All right. Mr. Osurman, thank you much for
3 your time. I appreciate it. You are excused.

4 The State may call their next witness.

5 MR. PESCI: The State calls Detective Nathan Calvano.

6 MR. OSURMAN: 3:30.

7 MS. OVERLY: What did he say?

8 THE MARSHAL: Can I get that witnesses name again,
9 State?

10 MR. PESCI: Nathan Calvano. Detective Nathan Calvano.

11 **NATHAN CALVANO**

12 [having been called as a witness and being first duly sworn,
13 testified as follows:]

14 THE CLERK: Thank you, please be seated.

15 THE WITNESS: Thank you.

16 THE CLERK: If you could state and spell your name for
17 the record.

18 THE WITNESS: Nathan, N-A-T-H-A-N. Last is Calvano, C,
19 as in Charlie, A-L-V, as in Victor, A-N-O.

20 THE COURT: Thank you, sir.

21 All right. You can go ahead.

22 MR. PESCI: Thank you, Your Honor.

23 **DIRECT EXAMINATION**

24 BY MR. PESCI:

25 Q Sir, what do you do for a living?

1 A I'm a police officer with the City of Henderson.

2 Q How long have you been with the Henderson Police

3 Department?

4 A A little over 13 years.

5 Q And where are you currently assigned within the

6 department?

7 A I'm assigned to the Robbery/Homicide unit.

8 Q In June of 2018, were you in that same unit?

9 A Yes, sir.

10 Q Specifically on June 8th of 2018, did you respond to the

11 intersection shown in State's 1 of Sunset and North Green Valley

12 Parkway?

13 A I did.

14 Q Was there an automobile accident there?

15 A Yes, sir.

16 Q Showing you State's Exhibit 9. Is that near Sunset?

17 And State's Exhibit 10, in Green Valley?

18 A That is correct.

19 Q And specifically in State's 12, does it show the car

20 accident -- where the cars were located afterwards?

21 A It does.

22 Q Did you respond to this scene?

23 A I did.

24 Q Originally, did patrol handle this.

25 A Yes, sir.

1 Q Now without saying what you were told, did you receive
2 information that made a homicide detective get involved?

3 A Yes.

4 Q Based on that, did you respond to this traffic accident
5 area?

6 A Yes, sir.

7 Q Okay. In the course of your investigation, looking at
8 State's Exhibit 2, did the area of the apartments at the Villas at the
9 Green become a subject of your investigation?

10 A It did.

11 Q Did you, after responding to the crash scene, go to the
12 Villas scene?

13 A On that day, no.

14 Q Okay. Later on.

15 A Yes.

16 Q Okay. Were you involved with the execution of a search
17 warrant?

18 A I was.

19 Q And when I say that I mean after a search warrant's
20 obtained from a Judge, giving you permission to search, were you
21 involved in the actual search of those areas that the search warrant
22 told you, you could search?

23 A Yes, sir.

24 Q Okay. And specifically looking at State's Exhibit 49.
25 The car that we saw earlier at the crash scene, the

1 Mercedes, was it brought back to the Henderson Crime Lab?

2 A It was.

3 Q And then with the search warrant, was a search
4 conducted -- a further search, of the challenge back at the lab?

5 A Yes, sir.

6 Q All right. What's the rationale of taking it back to the lab,
7 as opposed to staying in the middle of an intersection?

8 A Well at the time once the search warrant was obtained,
9 it's dark outside, it's difficult to see. It's also more of a sterile
10 environment when we bring it back.

11 Q All right. How do you know you were a part of this
12 search?

13 A That's actually me standing in the background.

14 Q All right. So this is you depicted in State's 49?

15 A Correct.

16 Q All right. So as you're there, is there a crime scene
17 analyst that's taking the photographs?

18 A There is.

19 Q And is -- do you work in conjunction with the crime scene
20 analyst as far as what you're looking at, what's photographed, and
21 what's impounded?

22 A I do.

23 Q And in this case, State's 50, does that show the damage to
24 the other side of that vehicle?

25 A Yes, sir.

1 Q That's how we know we're dealing with the same car in
2 State's 51, we have the license plate, which is the same from the
3 car or crash scene?

4 A That's correct.

5 Q All right. Inside of this vehicle, was there a wallet from
6 the victim, Matthew Minkler found?

7 A There was.

8 Q Showing you State's Exhibit 52.

9 Is that that photograph?

10 A That is.

11 Q Now inside of the wallet, was -- or I should say was the
12 identification inside of the wallet?

13 A Yes, sir.

14 Q All right. So is this photograph taken to depict what was
15 inside and taken out to show what it was?

16 A The contents of the wallet, yes.

17 Q All right. Speaking of the contents, State's 53, is that a
18 close-up of Matthew?

19 A It is.

20 Q Okay. Was anything else found inside of that wallet?

21 A No, sir.

22 Q Any cash?

23 A No, sir.

24 Q Were other items found inside of that wallet that became
25 of interest to you or things that you thought you might want to

1 follow up on?

2 A Particularly in the wallet, no.

3 Q And I apologize, I should have said the car. I'm sorry.

4 A Yes, sir.

5 Q Showing you State's Exhibit 60.

6 Was the trunk of that car searched?

7 A Yes, it was.

8 Q Okay. And then what's that long piece of paper on top of
9 what appears to be a bag?

10 A That is a receipt.

11 Q Okay. Did you look into that receipt? Let me specifically
12 show you State's 64. Is that -- well, that's not [indiscernible]
13 picture, but is that that receipt a little further up close?

14 A It is.

15 Q And in State's 65. Is that a little better?

16 A Yes, sir.

17 Q All right. What information did you have from the
18 receipt?

19 A So it's a receipt from Foot Locker. The address is the
20 Galleria Mall. It has a date and a time listed at the top of it, an item
21 that was purchased, and then what was used, as far as monetarily,
22 to purchase that item.

23 Q Okay. So did you look in the car based on that receipt to
24 see if the very item that was purchased might have been in the car?

25 A I did.

1 Q All right. Showing you State's Exhibit 66.

2 Did you find what you thought was in fact that time that
3 was purchased?

4 A Yes, sir.

5 Q And then looking at State's 67.

6 Does that show the exact, I don't know if the right term is
7 make and model, but the specifics of the sneaker?

8 A Yes, sir.

9 Q Okay. And did you look at those when they were taken
10 out in State's 68?

11 A I did.

12 Q All right. And did that match up the information that you
13 saw on the receipt?

14 A It did.

15 Q Okay. So based on that information, what, if anything, did
16 you do?

17 A The next thing I did was went over and made contact with
18 Foot Locker.

19 Q Okay. When you say you made contact with Foot Locker,
20 do you mean did you go to the Galleria Mall?

21 A I did.

22 Q Okay. And what was the purpose of you going to the
23 Galleria Mall?

24 A In order to obtain the transaction information, as well as
25 any video surveillance footage of the purchase.

1 Q Okay. Before we get there, I apologize, I forgot to ask you
2 a couple other things.

3 The search warrant we just spoke of, that was of the car
4 out at the crash scene, correct?

5 A Correct.

6 Q Did you also participate or were you a part of the search
7 warrant done at the house on Cool Lilac?

8 A I was.

9 Q And were you familiar -- showing you State's Exhibit 77.
10 Is that the house where the search warrant was conducted?

11 A Yes, that's the back of it.

12 Q And much like we just spoke of with the car, were you
13 present when crime scene analysts took photographs and
14 impounded evidence?

15 A Yes, sir.

16 Q All right. And then from the car, were two iPhones
17 obtained?

18 A Yes.

19 Q And were they impounded into evidence?

20 A They were.

21 Q And at this particular scene, was there a different phone
22 that was found?

23 A Correct. A non-iPhone.

24 Q And the non-iPhone, where was that found?

25 A That was found on the decedent inside of the closet.

1 Q Okay. And then was that also impounded to be able to be
2 looked at later?

3 A It was.

4 Q Okay. Now circling back to the Galleria Mall. When you
5 went to the mall, you talked about Foot Locker. Did you make
6 contact with somebody at Foot Locker?

7 A I did.

8 Q And did you ask to try to -- or what did you do? What did
9 you try to find out?

10 A So I made contact with the manager over there, inquired
11 about the purchase, as well as any video surveillance.

12 Q All right. And were you able to find the transaction
13 associated with that particular receipt?

14 A We were.

15 Q Did you have a photograph or something of the receipt
16 that you could bring to the store?

17 A Correct. It was a photograph like the one you showed me.

18 Q Okay. Was the person there able to verify that that was in
19 fact their store?

20 A Yes.

21 Q And then were they able to get you video surveillance?

22 A They were.

23 Q And did you obtain that video surveillance?

24 A I did.

25 Q Okay. And then you submitted it with this case?

1 A Correct.

2 Q Separate from the Foot Locker, was there other video
3 surveillance that you obtained from the Galleria Mall?

4 A Correct. Yes.

5 Q And where was that of?

6 A So in general, I guess we could say public area, not
7 specific to a mall -- or specific to a store, but the corridor of the
8 mall, I obtained that surveillance.

9 Q All right. Are you familiar with that surveillance?

10 A I am.

11 Q Did you obtain and get copies of that surveillance?

12 A I did.

13 Q And did you submit it with this case?

14 A I did.

15 Q Showing you State's Proposed Exhibit 149.

16 Are you familiar with portions or segments of that video
17 where you found the individuals you were looking for walking
18 inside the mall?

19 A Yes, sir.

20 Q Is it safe to say there's a lot of video?

21 A Yes.

22 Q But you were able to look at certain portions where
23 suspects were shown in the mall?

24 A Yes.

25 Q And they were at different camera angles?

1 A Multiple different camera angles.

2 Q And this is a synopsis or kind of a condensed version of
3 the portions where the suspects are seen walking?

4 A Yes.

5 Q And are they fair and accurate copies of the originals that
6 you saw?

7 A Yes.

8 MR. PESCI: Move for the admission of State's 149, Your
9 Honor.

10 MR. YAMPOLSKY: No, objection.

11 MR. HELMICK: No objection.

12 THE COURT: That'll be admitted. Thank you.

13 **[STATE'S EXHIBIT 149 ADMITTED]**

14 BY MR. PESCI:

15 Q So we're going to take a second, we'll have to switch over
16 and there'll be a monitor to your left where you'll be able to see.

17 Just one second.

18 So Detective, do we have here four different angles that
19 you obtained from the overall surveillance?

20 A Yes, sir.

21 Q Okay. We'll just start with Camera Number 5.

22 [Surveillance video playing]

23 BY MR. PESCI:

24 Q Do you recognize this angle?

25 A I do.

1 Q Okay. What were you looking for?

2 A Well in particular after reviewing the Foot Locker
3 surveillance, I knew what they were wearing. So in this particular --
4 do you want me to just describe what I'm seeing?

5 Q Sure.

6 A So at the top of the camera here there's a gentleman
7 walking with looks like light pants and a multicolored striped shirt.
8 Another gentleman next to him in a gray shirt and black pants,
9 white shoes. And then behind him is another gentleman wearing a
10 black polo shirt, light-colored pants with a black backpack.

11 Q All right. Now, kind of going back in time, when we talk
12 about the crash --

13 THE COURT: If I may, just for --

14 MR. PESCI: I'm sorry.

15 THE COURT: -- the record. That video appears to be the
16 food court area of the mall?

17 THE WITNESS: That is correct, sir.

18 THE COURT: Thank you.

19 MR. PESCI: Thank you, Your Honor.

20 BY MR. PESCI:

21 Q So as you responded to that crash scene, was that shirt --
22 multicolored shirt something that you saw in the car -- the
23 Mercedes?

24 A Yes, that shirt was located on the back seat.

25 Q Okay. And then speaking of the individual with the dark

1 black shirt, this is now on to Camera Angle -- I'll get the name
2 after -- but Number 9.

3 [Surveillance video playing]

4 BY MR. PESCI:

5 Q Did you also have information as far as one of the people
6 fleeing from the scene wearing a black shirt?

7 A That I don't recall.

8 Q All right. You personally don't recall that.

9 A I don't.

10 Q Okay. But from the Foot Locker, you said you were able
11 to see that black shirt as well.

12 A Correct.

13 Q And now Camera Angle 10.

14 [Surveillance video playing]

15 THE COURT: And 9 was just one of the upper walkway
16 areas of the mall?

17 THE WITNESS: Correct. And 10 is an upper walkway as
18 well in front of Shoe Palace.

19 MR. PESCI: Thank you, Your Honor.

20 BY MR. PESCI:

21 Q And Shoe Palace, was that something of note to you?

22 A It was.

23 Q And why was that?

24 A Because -- well after reviewing this video, it became of
25 note to me.

1 Q All right. During the search warrant of the Mercedes back
2 at the crime lab, was there anything of note from the Shoe Palace?

3 A Not that I recall.

4 Q And now is this video cut up in time because there was a
5 period of time when the three individuals were still inside the store,
6 outside of the video?

7 A That's correct.

8 Q So it picks back up when they come back out?

9 A That's correct.

10 Q And then lastly, Camera Angle 28.

11 [Surveillance video playing]

12 BY MR. PESCI:

13 A So this is the exit from the food court going out to the
14 parking lot.

15 Q All right. And do the individuals walking out appear to
16 have bags?

17 A Yes, sir.

18 MR. PESCI: Pass the witness.

19 THE COURT: Mr. Helmick.

20 **CROSS-EXAMINATION**

21 BY MR. HELMICK:

22 Q All right. Detective, I want to ask you some questions
23 about Kody's wallet, okay?

24 A Okay.

25 Q You looked at the surveillance in the Foot Locker, right?

1 A I did.

2 Q And you saw Kody walk into the Foot Locker, right?

3 A Correct.

4 Q And he walked up to the register, didn't he?

5 A He did.

6 Q And he pulled -- when he bought the pair of shoes, he

7 pulled out a brown wallet, isn't that right?

8 A That's correct.

9 Q Okay. And he paid cash out of the brown wallet, right?

10 A That is correct.

11 Q Okay. And the wallet that was in the back of the

12 Mercedes, that was a blue wallet, right?

13 A Correct.

14 Q And that was Matthew Minkler's wallet that was blue?

15 A Presumably, yes.

16 Q Okay. But you now know that it was Matthew Minkler's

17 wallet, right?

18 A Yes, sir.

19 Q Okay. So you would also agree that you don't know

20 where Kody got that cash from out of the brown wallet, right?

21 A Yes, I would agree.

22 Q Okay. Very well could have been his own money, right?

23 A It's possible.

24 Q Okay. And you knew that Kody normally always had

25 money on him based off your interview with Trae Meadows, right?

1 A I did not conduct an interview with Trae Meadows.

2 Q Who was the detective that conducted that interview with

3 Traceo Meadows?

4 A I believe it was Detective Nichols.

5 Q Detective Nichols?

6 A Correct.

7 Q Okay. Very good.

8 Now you also saw Jaiden purchase his shoes in Shoe

9 Palace, right?

10 A Yes.

11 Q Okay. Likewise he went up to the register with the shoes

12 and paid cash, right?

13 A Yes, sir.

14 Q Now you didn't see him pull his money out of any wallet,

15 isn't that right?

16 A Correct.

17 Q Okay. Likewise same thing with Traceo Meadows, you

18 never saw what type of wallet, if any, he had on him, right?

19 A I never even saw him purchase, sir.

20 Q Never saw a purchase from Traceo Meadows, right?

21 A Correct.

22 Q So you didn't know whether or not he had a wallet on him

23 at all, right?

24 A Correct.

25 Q Okay. Didn't know if he had any cash in his pocket, right?

1 A Correct.

2 MR. HELMICK: Okay. All right. Thank you, Detective.

3 THE COURT: Mr. Yampolsky?

4 MR. YAMPOLSKY: I have no questions.

5 THE COURT: Anything further?

6 MR. PESCI: Yes.

7 THE COURT: Okay.

8 **REDIRECT EXAMINATION**

9 BY MR. PESCI:

10 Q Since we're asking where money could have come from,
11 we do know that Matt's wallet was empty.

12 A That is correct.

13 Q So the money Kody was using could have come from
14 Matt's wallet.

15 A That is possible.

16 THE COURT: Anything further?

17 MR. HELMICK: Sure.

18 **RECROSS-EXAMINATION**

19 BY MR. HELMICK:

20 Q I mean, we could go back and forth on this, right? But it
21 could have come from his own source of money, right?

22 A Correct, sir.

23 Q Very good.

24 MR. HELMICK: Thank you.

25 THE COURT: Anything from our jurors?

1 Yes, ma'am.

2 [Bench conference transcribed as follows.]

3 THE COURT: I was waiting for that one.

4 MR. YAMPOLSKY: What?

5 THE COURT: I was waiting for that one.

6 MR. YAMPOLSKY: Who is that from?

7 MR. HELMICK: Number 11. Juror Number 11.

8 THE COURT: Shayra.

9 MR. HELMICK: I can't do it.

10 MR. PESCI: Are there formal objections?

11 MR. HELMICK: Yes. We object.

12 [Mumbling between attorneys]

13 MR. YAMPOLSKY: Okay. For sure objecting. I'll use

14 words like strenuously objecting like in a Few Good Men.

15 MR. PESCI: I can't remember the name. I think

16 [indiscernible] is the last name. I can find it.

17 MS. OVERLY: Oh yeah.

18 MR. PESCI: But --

19 MS. OVERLY: It was stolen in front of the house.

20 MR. PESCI: But I can't remember her name but it's --

21 MS. OVERLY: Anna [indiscernible] or something.

22 THE COURT: I mean, technically that question doesn't

23 bring out that it's stolen, it just brings up that it's not their car. But

24 obviously if you bring up somebody else's name, the next

25 question's probably going to be who is Anna, blah, blah, blah.

1 MR. PESCI: Right.

2 THE COURT: So.

3 MR. PESCI: There is the issue of what happens when it's
4 not answered.

5 As far as witnesses go, Judge, we don't have one until
6 1:00.

7 THE COURT: Okay. Yeah, we're going to break.

8 MR. YAMPOLSKY: Will he know?

9 MR. PESCI: I don't know but I think so. But we don't want
10 him to answer that because -- not without us telling him what he
11 can and can't say.

12 MR. YAMPOLSKY: Right.

13 THE COURT: [Indiscernible].

14 MR. HELMICK: No objection.

15 MR. YAMPOLSKY: No objection.

16 MR. PESCI: No objection by the State.

17 THE COURT: All right. Thank you.

18 [End of bench conference.]

19 THE COURT: Okay. Got a couple questions for you,
20 Detective.

21 **EXAMINATION BY THE COURT [JURY QUESTIONS]**

22 BY THE COURT:

23 Q What day did you go to the Foot Locker, to the mall? If
24 you recall?

25 A I don't --

1 Q And if you need to look at anything to refresh your
2 memory, just let me know.

3 A Yeah, I would have to look at my report. I don't
4 specifically recall.

5 THE COURT: Do you guys have a copy of that?

6 MR. PESCI: I don't have a printed version of it.

7 THE COURT: Okay.

8 MR. PESCI: Court's indulgence.

9 BY THE COURT:

10 Q And while they're looking for that, the next question is,
11 did the search of the car happen on June 8th, the same day of the
12 accident or did that go into June 9th at all? Is that in your report?

13 A I apologize. I know it was --

14 Q That's okay.

15 A The call was later that evening, so I don't know what day
16 it ended up on.

17 Q Okay. All right. So hold on just a second.

18 MR. PESCI: While we're looking for that, can I follow-up
19 on your questions, Your Honor?

20 THE COURT: Yeah.

21 MR. PESCI: Okay.

22 **FOLLOW-UP EXAMINATION**

23 BY MR. PESCI:

24 Q Detective, we're trying to figure out dates. Speaking of
25 dates, the video that we just saw from the Galleria Mall, is that from

1 June the 8th, 2018?

2 A Yes, sir.

3 Q Okay. Is it in the evening hours or later in the day on the

4 2018?

5 A Yes, sir.

6 Q And there's actually kind of a timestamp on the video

7 itself?

8 A Yes.

9 Q And is it a 24-hour clock?

10 A Yes.

11 Q Sometimes referred to as military time?

12 A Correct.

13 Q All right. So you have to subtract potentially two from

14 that number?

15 A Correct.

16 Q Okay. So if it's past 12:00 p.m., right?

17 A Then 1:00 would 13.

18 Q Okay. Perfect.

19 MR. PESCI: I'm going to bring you, with the Court's

20 permission --

21 THE COURT: Yeah.

22 MR. PESCI: -- maybe you can find your own report faster

23 than we can.

24 THE WITNESS: Judge, we want both of those dates,

25 specifically?

1 THE COURT: Yeah, if you could.

2 THE WITNESS: In reference to the execution of the search
3 warrant on the Mercedes, that occurred on 06/09/18.

4 THE COURT: Okay.

5 MR. PESCI: May I approach the witness, Your Honor?

6 THE COURT: You may.

7 THE WITNESS: Yes that is a copy of it.

8 MR. PESCI: Okay. Does that one answer the question?

9 THE WITNESS: So the -- maybe scroll down on that.
10 It looks like the date was 06/20/2018.

11 THE COURT: That you went out to the mall and then
12 viewed the surveillance footage?

13 THE WITNESS: Yeah, that is the date listed for the
14 narrative, correct?

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

16 All right. Mr. Pesci, did you have any further questions?

17 MR. PESCI: Yes.

18 BY MR. PESCI:

19 Q So the 06/20 is when you went to go get it, but the video
20 itself is from June 8th, 2018?

21 A Correct.

22 MR. PESCI: Okay. Thank you, Your Honor.

23 THE COURT: Mr. Helmick, anything?

24 MR. HELMICK: I have nothing, Your Honor. Thank you.

25 THE COURT: Mr. Yampolsky?

1 MR. YAMPOLSKY: No, Your Honor.

2 THE COURT: Thank you.

3 Detective Calvano, I appreciate your time, sir. You are
4 excused, okay?

5 THE WITNESS: Thank you, sir.

6 THE COURT: And with that, Ladies and Gentlemen, we'll
7 go ahead and take a lunch break.

8 During the recess you're admonished not to talk or
9 converse among yourselves or with anyone else on any subject
10 connected with the trial. Or read or watch or listen to any report of
11 or commentary on the trial by any medium of information
12 including, without limitation, newspapers, television, the internet,
13 and radio. And you cannot form or express any opinion on any
14 subject connected with the case until it's finally submitted to you.
15 No legal or factual research, or investigation, or social media
16 communication on your own.

17 Thank you for your time and I'll see you after lunch.

18 THE MARSHAL: What time, Your Honor?

19 THE COURT: 1:00 -- yeah, good -- ha, ha, there you go.
20 1:15. We'll start at 1:15.

21 [Outside the presence of the jury]

22 THE COURT: Do you guys have anything outside the
23 presence?

24 MR. PESCI: Not from the State.

25 MR. YAMPOLSKY: No, Your Honor.

1 MR. HELMICK: No, Your Honor.

2 THE COURT: No. Okay. See you after lunch. Thank you.

3 [Court recessed at 12:11 p.m., until 1:27 p.m.]

4 [In the presence of the jury]

5 THE MARSHAL: All rise for the jury.

6 THE COURT: Okay. You all can be seated. Thank you.

7 We're back on the record. Defendants, attorneys with
8 us -- or jurors are all present.

9 We will continue on with the State's case in chief.

10 Mr. Pesci.

11 MR. PESCI: The State calls Kymani Thompson.

12 **KYMANI THOMPSON**

13 [having been called as a witness and being first duly sworn,
14 testified as follows:]

15 THE CLERK: Thank you, please be seated.

16 If you could state and spell your name for the record.

17 THE WITNESS: K -- It's Kymani Thompson. K-Y-M-A-N-I,
18 T-H-O-M-P-S-O-N.

19 THE COURT: All right. Mr. Thompson, thank you. Just
20 try to remember to keep your voice up for me, please.

21 THE WITNESS: Okay.

22 THE COURT: Thank you.

23 **DIRECT EXAMINATION**

24 BY MR. PESCI:

25 Q Kymani, I want to direct your attention to June,

1 specifically the 8th, of 2018. Did you go to a house where there was
2 a party going on?

3 A Yes.

4 Q Was that on Cool Lilac?

5 A Yes.

6 Q I'm going to show you State's Exhibit 71.

7 Do you recognize that place?

8 A Yes.

9 Q What do you recognize that to be?

10 A The home where this crime happened.

11 Q Okay. How did you get there in the sense of how did you
12 even hear of the party?

13 A My friend Ghunnar, he told me that he was going to go
14 over there and he invited me with him.

15 Q Okay. So when Ghunnar invited you to go with him, did
16 he provide the ride?

17 A Yes.

18 Q How did that work out?

19 A His mom took us.

20 Q Okay. So Ghunnar's mom shows up where, at your
21 house?

22 A Yes.

23 Q And picks up you?

24 A Yes.

25 Q And was Ghunnar in his mom's car?

1 A Yes.

2 Q And did you make it over here to this particular house?

3 A Yes.

4 Q All right. Now, did you get the invitation directly through

5 someone in the house or did it go through Ghunnar to you?

6 A It came through Ghunnar to me.

7 Q All right. I ask that question because this next question is,

8 did you know how you were supposed to get into the house?

9 A Through a back door.

10 Q Okay. Was that information relayed to Ghunnar?

11 A Yes.

12 Q And then did he relay it to you?

13 A Yes.

14 Q All right. Speaking of the back door, looking at State's 75,

15 how did you get there?

16 A Through that gate in the picture.

17 Q All right. Did you go through the side gate?

18 A Yes.

19 Q All right. And when you went inside the house, where in

20 the house did you go? How did you make entry?

21 A I walked in through the back door and I sat down on the --

22 Q Show --

23 A -- couch.

24 Q I interrupted you, I'm apologize.

25 A Sorry. That's okay.

1 Q No, go ahead.

2 A I just said I went in through the back door and sat down

3 on the couch.

4 Q State's 82, the back door. Is that the back slider?

5 A Yes.

6 Q Okay. When you came inside -- when you first came

7 inside, what did you see?

8 A People.

9 Q Okay. Showing you State's 85.

10 Was there a kitchen area in the house when you first

11 made entry?

12 A Yes.

13 Q And then off to the right, looking at State's 87, when you

14 talked about the people, were they in this portion of the house?

15 A Yes.

16 Q All right. Now, do you remember about what time of day

17 it was that you and Ghunnar went over there on June the 8th?

18 A Maybe like 12:30/1:00.

19 Q Okay. So earlier in the day?

20 A Yes.

21 Q Are you exactly sure of that time or are you estimating?

22 A Just an estimate.

23 Q All right. This happened over a year ago?

24 A Yes.

25 Q Okay. When you got there and you saw people, who are

1 the people that you saw?

2 A Alaric, Charles, Kody, Jaiden, myself, Ghunnar.

3 Q Okay. So Alaric and Charles, let's start with them. Did

4 you know Alaric and Charles before this?

5 A I knew Alaric better, yes.

6 Q Okay. How did you know Alaric?

7 A Through school.

8 Q Okay. Were you friends with any of these individuals

9 through social media?

10 A Yes.

11 Q All right. Did you know of some people because of social

12 media, as opposed to personally knowing them?

13 A Yes.

14 Q Okay. And you said that you saw Kody and Jaiden as

15 well?

16 A Yes.

17 Q Were they there when you first got to the house?

18 A No.

19 Q Okay. So when you first got to the house, who was there?

20 A Kody -- or no, not Kody. Charles and Alaric --

21 Q Okay.

22 A -- and another kid.

23 Q Charles, Alaric, and some other kid.

24 A Yes.

25 Q Did you know the other kid?

1 A No.

2 Q Okay. So after you get there, about how much time

3 before Jaiden and Kody get there?

4 A Maybe 10 minutes, 15 minutes.

5 Q Okay. And did you see how they got there, or did they

6 just show up inside the house?

7 A Yeah, they just showed up.

8 Q When they showed up -- or after the showed up, I should

9 say, what was going on in the house?

10 A Weed smoking.

11 Q Okay. Was there anything besides weed that was being

12 used there?

13 A Yes. Alcohol and Xanax.

14 Q Okay. So was the Xanax there when you first got there, or

15 did it come later?

16 A I'm pretty sure it came later.

17 Q Okay. So everybody's doing these different things during

18 the party. Are you listening to music as well?

19 A No, I'm looing down at my phone.

20 Q Okay. And you said Ghunnar was your friend?

21 A Yes.

22 Q So of all the people that you've just mentioned, the

23 person you were closest to, would that be Ghunnar?

24 A Yes.

25 Q When you said you're looking down at your phone,

1 maybe this is a generational thing, are you saying you were
2 actually talking with Ghunnar on your phone when he was in the
3 house with you?

4 A No, I was just looking social media and stuff.

5 Q Okay. All right. Did you ever communicate with Ghunnar
6 when you were in the house?

7 A Yeah.

8 Q Did you do it on your phone?

9 A No.

10 Q Okay. Did you talk with him in in different phases of the
11 time you were there?

12 A Yeah.

13 Q Okay. Did you move around the house?

14 A Not really. I mean, I stood up --

15 Q Okay.

16 A -- but I mostly sat in the same spot the whole time.

17 Q But did people get up and move around?

18 A Yeah.

19 Q Did you see people go outside sometimes?

20 A No.

21 Q Were there points at the time you were there where you
22 didn't see everyone?

23 A No, everybody stayed together.

24 Q Okay. So now that you've described everyone's there, I
25 want to talk to you about a Matthew Minkler. Do you know him?

1 A Yes.

2 Q All right. At the time we were just talking about, was
3 Matthew there yet?

4 A No.

5 Q Okay. Let's make a line there and say before Matthew
6 gets there; let's just focus on that time period. So before Matt gets
7 there, you're talking about drinking and smoking, you saw Jaiden
8 and Kody. And do you see them here in court today?

9 A Yes.

10 Q Okay.

11 MR. PESCI: I'm not sure if there's a stipulation or --

12 MR. HELMICK: Sure, we'll stipulate to the identification.

13 THE COURT: Thank you.

14 MR. PESCI: Thank you, Your Honor.

15 BY MR. PESCI:

16 Q Did you see Jaiden or Kody with a gun or guns during this
17 time period?

18 A Yes.

19 Q All right. What guns did you see?

20 A I seen a revolver and a semi-automatic handgun.

21 Q Okay. Who did you see holding the revolver?

22 A Jaiden.

23 Q Who did you see holding the semi-automatic?

24 A Kody.

25 Q Okay. But the guns passed around somewhat?

1 A Yes.

2 Q Did you in fact touch the gun at some point?

3 A One of them.

4 Q All right. Were other people touching the guns?

5 A Yes.

6 Q Okay. And did you see a laser on one of those guns?

7 A Yes.

8 Q A laser sight, I should say.

9 A Yes.

10 Q Which gun was that on?

11 A The semi-automatic.

12 Q Okay. All right. Now, we're still using that line in the

13 sand before Matt gets there. Before Matt gets there and after

14 Jaiden and Kody have gotten there and clearly you're there, did you

15 ever hear anything about a lick?

16 A Yes.

17 Q Okay. What is a lick?

18 A A robbery. It's --

19 Q All right. Is that a term that you've heard of before?

20 A Yes.

21 Q Okay. When you heard that term, did you understand it to

22 be that?

23 A Yes.

24 Q All right. Who talked about a lick?

25 A I can't -- I don't remember that.

1 Q Okay.

2 A I don't know anyone specific.

3 Q And when that conversation was had about a lick, was

4 Jaiden there?

5 A Yes.

6 Q Was Kody there?

7 A Yes.

8 Q Was Alaric there?

9 A Yes.

10 Q Was Charles there?

11 A Yes.

12 Q You?

13 A Yes.

14 Q And Ghunnar?

15 A Yes.

16 Q All right. Did you talk about doing a lick?

17 A No.

18 Q Did Ghunnar?

19 A No.

20 Q All right. Did you see Alaric talking about doing a lick?

21 A No.

22 Q Did you hear Charles talking about doing a lick?

23 A No.

24 Q Okay. Now, you heard the conversation about doing a lick

25 before Matt got here.

1 A Yes.

2 Q All right. After the conversation about doing a lick, what
3 happened?

4 A They sat and figured it out. Went and got Matthew, I
5 guess.

6 Q Okay. Well let's say what you saw and what you heard,
7 right?

8 A Uh-huh.

9 Q So the conversation about a lick happens.

10 A Yes.

11 Q And then after that conversation, does anybody leave?

12 A Yes.

13 Q Who left?

14 A Jaiden and Kody.

15 Q Okay. And did you see how they left?

16 A No.

17 Q All right. Did anybody else leave?

18 A No.

19 Q Okay. After Jaiden and Kody left, did the rest of you just
20 stay there?

21 A Yes.

22 Q Did you continue to smoke weed and --

23 A Yes.

24 Q -- other things that people were doing?

25 A Yes.

1 Q Okay. Did Jaiden and Kody come back at some point?
2 A Yes.
3 Q All right. When they came back, who was with them?
4 A Matthew.
5 Q All right. And after Matthew came back, was there
6 anything different about what drugs you guys had?
7 A No, everything was still the same.
8 Q All right. I'm asking bad questions, I apologize.
9 A It's okay.
10 Q Let me ask it to you this way because I'm learning things
11 in this case. What does matching mean?
12 A When two people with weed come together.
13 Q All right.
14 A Smoke each other's weed.
15 Q Was the weed getting low or the amount of weed that you
16 had, was it starting to go down?
17 A Yes.
18 Q All right. Did Matthew match or was there any drugs that
19 you saw come in after Matthew came in?
20 A More weed.
21 Q I guess I got to be specific. Did you see more weed when
22 Matthew came?
23 A Yes.
24 Q And was that weed put in with the weed that everyone
25 was using?

1 A Yes.

2 Q Okay. And do you understand match as -- is it almost like

3 sharing?

4 A Yes.

5 Q Okay. So was there -- were there any other drugs that you

6 saw after Matt got there?

7 A No, just the same Xanax pills.

8 Q Okay. So that's where I'm trying to find a line as far as

9 timing on the Xanax. Did you see Xanax before Matthew got there?

10 A Yes.

11 Q All right. And did you see Xanax after Matthew got there?

12 A Yes.

13 Q All right. Who was using or taking the Xanax?

14 A Jaiden and Kody.

15 Q Okay. Did you see anybody else using the Xanax?

16 A No.

17 Q Okay. Now at some point after Jaiden and Kody came

18 back with Matt, did you hear a gunshot?

19 A Yes.

20 Q All right. Tell us about that.

21 A I had my head down, he shot in the air. I stood up and got

22 out of there.

23 Q Okay. What was your first reaction, before you got out,

24 when the gun went off?

25 A I jumped up and checked everyone and myself and left.

1 Q Okay. Did anybody leave with you?

2 A Yes. I don't know his name though.

3 Q Okay. Did Ghunnar leave?

4 A Yes.

5 Q All right. Did you and Ghunnar leave together?

6 A Yes.

7 Q Okay. Now, before you got out of the house, after the

8 shot to the ceiling, did you see what Matt did or where he was?

9 A He was sitting next to me in the kitchen.

10 Q Okay. I'm going to show you State's Exhibit 84.

11 And now the monitor to your left has a little mouse below

12 it. And the Court's going to pull it up for you. And now you can --

13 THE COURT: Click with your left -- or left click and then

14 draw, okay?

15 So you drew a circle on a chair that's pulled away from

16 the island.

17 THE WITNESS: Yes.

18 THE COURT: Is that where you were sitting?

19 THE WITNESS: No, that's where Matthew was sitting.

20 THE COURT: Got it. Okay.

21 BY MR. PESCI:

22 Q So you're indicating for us where Matthew was seated

23 when the shot went off?

24 A Yes.

25 Q All right. So did you have to go past Matt to make it to --

1 or look, let me ask you this. Did you go out the back door?

2 A Yes.

3 Q Did you have to go past Matt?

4 A Yes.

5 Q All right. Did you hear Matt say anything after the shot to

6 the ceiling and before you got out the door?

7 A He just mentioned that it was really loud, and he was like

8 grabbing his ear.

9 Q Okay. Did he say anything about where the bullet went

10 near him or in his perspective?

11 A No. He just was like what the eff is that and stuff.

12 Q Okay. You know it's a courtroom, you can actually say it.

13 What did he say?

14 A What the fuck is that?

15 Q Okay.

16 A Or what was that or something.

17 Q And did you stick around to hear more of the

18 conversation?

19 A No.

20 Q Okay. Now why did you leave?

21 A It was loud. I wasn't paying attention when it went off.

22 Q Okay. However, did you actually go back?

23 A Yes.

24 Q Okay. Why was that?

25 A Because I left a lighter there.

1 Q All right. Did you get a phone call after the shot when you
2 ran --
3 A Yes.
4 Q -- and before you came back?
5 A Yes.
6 Q All right. Tell us about that.
7 A It was just saying come back, we're good. Nothing
8 happened.
9 Q All right. Did you get the call or did Ghunnar get the call?
10 A Ghunnar.
11 Q All right. Were you with Ghunnar?
12 A Yes.
13 Q Was it a regular call or was it a FaceTime call?
14 A I think it was a regular call.
15 Q All right. So did you actually hear what was said?
16 A No.
17 Q Did Ghunnar tell you something after?
18 A Yes.
19 Q All right. Based on what he said, did you two go back to
20 the house?
21 A Yes.
22 Q Okay. And that was, as you said earlier, to get your
23 lighter?
24 A Yes.
25 Q Did you stick around long?

1 A No.

2 Q And when I say you, I mean, you and Ghunnar.

3 A No.

4 Q So did you leave the second time?

5 A Yeah.

6 Q Ghunnar as well?

7 A Yes.

8 Q Okay. After the second time of leaving, did you get

9 another call?

10 A Yes.

11 Q At this point, had you made it back to Ghunnar's house?

12 A Yes.

13 Q How did you get back there?

14 A An Uber.

15 Q And Uber?

16 A Yeah.

17 Q Okay. Who called the Uber?

18 A Ghunnar.

19 Q Okay. So you and Ghunnar take the Uber back to

20 Ghunnar's house?

21 A Yes.

22 Q And then do you -- is there a second phone call that

23 comes into you and/or Ghunnar?

24 A Yes.

25 Q All right. And explain that; how did that go?

1 A It was a call and he said I just killed someone and
2 Ghunnar seemed in disbelief, so he gave me the phone and I just
3 hung up because I didn't want nothing to do with that.

4 Q All right. So what we need to understand is if it was to
5 Ghunnar, could you hear it?

6 A Yes.

7 Q How could you hear it?

8 A It was a FaceTime call --

9 Q Okay.

10 A -- so it just blurts out --

11 Q All right. So on a FaceTime call, is it a video call -- it's like
12 speaker so you can --

13 A Yes.

14 Q -- see anyone who's in the area of the phone.

15 A Yes.

16 Q Okay. Who was talking?

17 A Jaiden.

18 Q And what did Jaiden say?

19 A That he just killed Matthew.

20 Q Okay. What did you do after receiving that information?

21 A I hung up instantly.

22 Q Okay. Did you call the police?

23 A No.

24 Q All right. A police -- or I should say did the police
25 eventually come to see you?

1 A Yes.

2 Q All right. And did they talk to you?

3 A Yes.

4 Q Okay. I want to show you what's a transcript of an
5 interview with you. Do you recall meeting with the police and
6 talking to them?

7 A Yes.

8 Q All right. And do you remember them recording that?

9 A Yes.

10 Q And is there a transcript made of that statement?

11 A Yes.

12 Q All right. And you said what was the date of that
13 statement?

14 A June 13th.

15 Q Of?

16 A 2018.

17 Q All right. Would you agree with me that your memory of
18 this event was better close in time to the event?

19 A Yes.

20 Q Specifically on June 13th, was your memory better than it
21 is today?

22 A Yes.

23 Q All right. So do you recall talking to the police about who
24 was talking about the lick?

25 A Not really.

1 Q All right. Do you think it would refresh your recollection if
2 you were to review that statement?

3 MR. YAMPOLSKY: Counsel, what page?

4 MR. PESCI: Hold on one second.

5 BY MR. PESCI:

6 Q Do you think it would help you remember --

7 A Yeah.

8 Q -- if you saw that?

9 Directing your attention to pages 36 and then 37. Take a
10 moment just to yourself, read that, and then afterwards I'll ask you
11 if that helps you remember what you said.

12 A Okay. Can you repeat the question again?

13 Q Absolutely. So what I need you to do is read the bottom
14 part of page 36 to yourself and then the beginning part of page 37
15 to yourself. And when you're done with that let me know, please.

16 A Yeah. It says Kody and Jaiden --

17 Q Okay.

18 A -- were talking about it.

19 Q So in reading that, do you remember better what it was
20 that you said to the police back on June 13th, 2018, which was just
21 five days after the event?

22 A Yes.

23 Q All right. And did you tell the police then that it was in
24 fact Kody and Jaiden who were talking about doing a lick?

25 A Yes.

1 Q All right. And that's in that statement there?

2 A Yes.

3 Q That helps you remember that?

4 A Yes.

5 Q Okay. Speaking of remembering, there's some video

6 from this event. Prior to testifying, did you get a chance to see that

7 video?

8 A Yes.

9 Q All right. And do you recognize that video after being able

10 to see it?

11 A Yes.

12 Q Okay.

13 MR. PESCI: Court's indulgence.

14 [Video playing]

15 BY MR. PESCI:

16 Q Kymani, earlier you mentioned that you saw a revolver, is

17 that correct?

18 A Yes.

19 Q Okay. And you said who was it that had the revolver?

20 A Jaiden.

21 Q All right. And a moment ago you also said -- I'm going to

22 back it up -- that what was it that you guys were smoking?

23 A Weed.

24 Q Okay.

25 [Video playing]

1 BY MR. PESCI:

2 Q Do you recognize that as some of the weed that was there
3 at that house?

4 A Yes.

5 Q Okay.

6 [Video playing]

7 BY MR. PESCI:

8 Q I caught you at just the right time, right, Kymani?

9 A Uh-huh.

10 Q Who's that?

11 A That's me.

12 Q All right. You're not flipping us off, who you flipping off?

13 A The camera.

14 Q All right. The person that's videoing?

15 A Yes.

16 Q Okay.

17 [Video playing]

18 BY MR. PESCI:

19 Q Who's that?

20 A That's Ghunnar.

21 Q All right.

22 [Video playing]

23 BY MR. PESCI:

24 Q And who's on the video?

25 A Jaiden.

1 Q All right.
2 MR. PESCI: Pass the witness.
3 THE COURT: Mr. Helmick?
4 MR. HELMICK: Thank you, Your Honor.
5 **CROSS-EXAMINATION**
6 BY MR. HELMICK:
7 Q Okay. Kymani, I just want to go through a few things with
8 you, okay?
9 A Okay.
10 Q All right. Kymani, so I want to talk with you about when
11 you first arrived, okay?
12 A Okay.
13 Q So you said Ghunnar's mom picked you up from your
14 apartment complex, right?
15 A Yes.
16 Q And then you drove over to the Cool Lilac house, right?
17 A Yes.
18 Q And when you walked into the Cool Lilac house, there was
19 Charles?
20 A Yes.
21 Q Alaric, right?
22 A Yes.
23 Q And then there was the unknown African American kid,
24 right?
25 A Yes.

1 Q And the unknown African American kid had a spray paint
2 can in his hand, isn't that right?

3 A Yes.

4 Q Okay. Now let's talk about the environment at the house
5 that you were in that day. When you showed up, you said Jaiden
6 and Kody showed up about ten minutes later, right?

7 A Yes.

8 Q Okay. And the music was playing, right?

9 A Yes.

10 Q You were smoking marijuana, right?

11 A Yes.

12 Q And when Jaiden came in the house and he sat down, he
13 had the Xanax on him, isn't that right?

14 A Yes.

15 Q And he gave Kody four Xanax, right?

16 A Yes.

17 Q And he took three Xanax, right?

18 A Yes.

19 Q Okay. And this is before Matthew got to the house, isn't
20 that right?

21 A Yes.

22 Q Okay. Now, in regard to the conversation about
23 matching, I just want to talk with you about that. Mr. Pesci had
24 asked you, you know, what does it mean; it means somebody
25 sharing marijuana with others, right?

1 A Uh-huh.

2 Q Is that right?

3 A Yes.

4 Q Sorry, we just --

5 A When two people have marijuana.

6 Q Come together, right?

7 A Yes.

8 Q Sure. Okay. And isn't that the reason why -- well let me

9 back track a tad. Ghunnar was invited over to the house, right?

10 A Yes.

11 Q Okay. Ghunnar was invited over to the house to match,

12 right?

13 A Yes.

14 Q Okay. And that was by Jaiden, right?

15 A Yes.

16 Q Okay. And so Ghunnar came over to the house with

17 marijuana, right?

18 A Yes.

19 Q Okay. And so when there was a conversation about who

20 wants to bring more marijuana over that was by Jaiden at the

21 house, right?

22 A Yes.

23 Q Okay. And that's how Matthew's name came up, isn't that

24 right?

25 A Yes.

1 Q Okay. Now mostly everybody in the house, while you
2 were there, was talking about wanting to get more marijuana,
3 right?
4 A Yes.
5 Q The only person that didn't indicate his thoughts on
6 getting more marijuana is Kody, isn't that right?
7 A No.
8 Q Okay. Now you had testified previously at the preliminary
9 hearing, right --
10 A Yes.
11 Q -- in this case?
12 Okay. Now I recognize that this was a while ago, right,
13 Kymani?
14 A Yes.
15 Q Okay. So if you need me to help your refresh your
16 memory on certain things, I'll grab it for you --
17 A Okay.
18 Q -- and bring it up there for you. I'm just going to grab the
19 preliminary hearing transcripts, okay?
20 A Okay.
21 Q Okay.
22 MR. HELMICK: 70/71.
23 Your Honor, may I approach?
24 THE COURT: Yes.
25 ...

1 BY MR. HELMICK:

2 Q Okay. So you said you remember the preliminary hearing
3 that you testified at, right?

4 A Yes.

5 Q And you were under oath, just like you are here today,
6 right?

7 A Yes.

8 Q Okay. I'm going to have you read just page 70 and then
9 the top of 71, just read it to yourself and then look up at me when
10 you're done.

11 Does that help refresh your memory?

12 A Yeah.

13 Q Okay. So let me ask you the question again. The only
14 person that didn't indicate of wanting to get more marijuana was
15 Kody, right?

16 A I don't know why it says that, but it -- he did -- they --

17 Q But that's what it says, right?

18 A Yeah.

19 Q Okay.

20 A But --

21 Q And that was your testimony at the preliminary hearing,
22 right?

23 A Yeah.

24 Q Okay. In regards to Matt's name being brought up, you
25 don't remember exactly who brought it up, right?

1 A No, I don't.

2 Q Okay. But it wasn't brought up by Kody because he was
3 kind of out of it when you were there, isn't that right?

4 A Yeah.

5 Q Okay. Let's talk about that just for a moment. I mean, he
6 was laying on the couch the majority of the time, right?

7 A Yeah.

8 Q Okay. And he was nearly falling asleep or falling asleep,
9 right?

10 A Yes.

11 Q Okay. I want to talk with you now about when Matt
12 arrives, okay? So when Matt arrives, he brings a small sandwich
13 bag of marijuana, isn't that right?

14 A Yes.

15 Q Okay. It wasn't a large amount of marijuana, right?

16 A No.

17 Q Okay. And he didn't bring any pills with him, right?

18 A No.

19 Q Okay. And when Matt got there, there was more
20 conversation amongst all of you about smoking marijuana and
21 who's going to roll what and all that stuff, right?

22 A Yeah.

23 Q Okay. In regards to the mood of the house that day, there
24 was no hostility towards Matt at all, right?

25 A No.

1 Q Okay. Nobody was saying bad things about Matt, right?

2 A No.

3 Q Okay. Also, given Kody's demeanor that day, he didn't

4 really -- you didn't really hear him talk that much at all, right?

5 A Not really.

6 Q Okay. And you were kind of just -- like you said you were

7 on your phone -- focused on your phone, right?

8 A Yes.

9 Q All right. Now I want to talk about this revolver for a

10 moment, okay?

11 A Okay.

12 Q You said Jaiden had the revolver, right?

13 A Yes.

14 Q Now Jaiden was playing with the revolver in regards to

15 taking the bullets out of the revolver and then --

16 A Yes.

17 Q -- putting them back in, right?

18 A Yes.

19 Q And when he would take the bullets out of the revolver, as

20 far as you knew, there were no bullets in there, right?

21 A Yeah.

22 Q Okay. But he would point the gun at others in the room

23 and dry click the trigger, right?

24 A Yeah.

25 Q Okay. He would even point it to his head and click the

1 trigger, right?

2 A Yes.

3 Q Okay. In regard to the shot into the ceiling, Kody was still
4 laying down on the couch at that time, right?

5 A Yes.

6 Q Okay. Now after the shot into the ceiling, obviously you
7 were scared, right?

8 A Yes.

9 Q And so you left?

10 A Yes.

11 Q Got into the Uber and went back to Ghunnar's house,
12 right?

13 A No, I --

14 Q Well after you -- sorry, you came back and then went to
15 Ghunnar's house, right?

16 A Yes.

17 Q When you got to Ghunnar's house you hung out there,
18 right?

19 A Yes.

20 Q Made some food, right?

21 A Yeah.

22 Q Okay. And then eventually you get that phone call from
23 Jaiden, right?

24 A Yeah.

25 Q Okay. Now he called multiple times Ghunnar's phone,

1 right?

2 A No, just once.

3 Q He didn't call three times?

4 A No, just called him once and he answered it.

5 Q Okay. So let me see if I have my stuff here for you,
6 Kymani.

7 Okay. Let me ask you this though instead. Did you
8 ultimately answer the phone when Jaiden called?

9 A No.

10 Q Okay. Did Ghunnar answer the phone and hand you the
11 phone because he was too scared to talk to Jaiden?

12 A Yes.

13 Q Okay. And then you were talking to Jaiden, right?

14 A Yes.

15 Q And then he wanted you to FaceTime him, right, because
16 he didn't believe it was actually you?

17 A Yes.

18 Q Okay. And that's when he said that he killed Matt, bro,
19 and he shot him, right?

20 A Yeah.

21 Q Okay. Nothing about Kody doing anything, right?

22 A No.

23 Q Okay. There was no mentioning of Kody's name at all,
24 right?

25 A No.

1 Q Okay. After that you hung up the phone of course.
2 A Yeah.
3 Q All right. And then you also got a phone call later on that
4 day from Alaric, right?
5 A Yes.
6 Q Okay. And then he told you his version of the events as
7 well, right?
8 A Yes.
9 Q Okay. Now let's talk about this robbery stuff and this lick
10 stuff, okay?
11 A All right.
12 Q Mr. Pesci had showed you some -- your testimony from
13 the preliminary hearing in regards to what you said about the lick,
14 right?
15 A Yes.
16 Q Okay. Oh sorry, in regards to your interview with the
17 police.
18 A Yeah.
19 Q So what I want to do is I want to show you the rest of
20 what you said. I want you to read that to yourself first and then I'll
21 ask you some questions, okay?
22 A All right.
23 MR. HELMICK: So page 36/37, interview.
24 May I approach?
25 THE COURT: Yeah.

1 BY MR. HELMICK:

2 Q Let me ask you this. Did you have a question in regards
3 to what you believed happened, right?

4 A Yes.

5 Q Okay. And can you read what you stated your opinion
6 was that you told the officer that day?

7 THE COURT: Read that to himself?

8 MR. HELMICK: No.

9 BY MR. HELMICK:

10 Q Go ahead and read that out loud, please.

11 A A failed robbery.

12 Q No, go ahead and read the whole thing.

13 A It says but in me -- in my opinion I think it was a robbery
14 gone wrong.

15 Q Okay. What else? Just keep reading.

16 A Then it said: I think that they tried to hold Matthew at
17 gunpoint, and he resisted so they shot him.

18 Q And what were they trying to do in regard to this
19 obtaining of a robbery? What were they trying to rob him for?

20 A Weed? Money?

21 Q Marijuana?

22 A Yeah.

23 Q And did you say anything about money in there?

24 A No, I wouldn't have said anything about money.

25 Q Okay. So you're -- when you were talking to the detective,

1 you were asked if you had anything else to add to that interview,
2 right?

3 A Yes.

4 Q Okay. And you said in your opinion you thought it was a
5 robbery gone wrong because -- and you thought that Matt had
6 resisted in some way and they were trying to rob him for his weed
7 and that's why he got shot, right?

8 A Yeah.

9 Q That was your opinion.

10 A Yeah.

11 Q Okay. So after this incident happens, you read some
12 news articles on this case, didn't you?

13 A Yes.

14 Q And you read some comments on those news articles,
15 didn't you?

16 A Yes.

17 Q From other people.

18 And now Kymani, you and I have talked in person before,
19 isn't that right?

20 A Yes.

21 Q Okay. And I had my investigator present with me when
22 we had that conversation, right?

23 A Yes.

24 Q And that was at the bottom of the staircase at your
25 apartment complex, right?

1 A Yes.

2 Q Back in April, right?

3 A Yes.

4 Q Okay. And I asked you specifically in regards to how did
5 you come up with this robbery talk, right?

6 A It was just a guess.

7 Q No, no, I asked you -- it was a guess, right?

8 A Yeah.

9 Q And didn't you tell me that the reason that you came up
10 with this robbery guess was because of what you read on the news
11 and the comments on those news articles --

12 A Yes.

13 Q -- isn't that what you said?

14 Okay. Nobody in that house that day was talking about
15 robbing Matt or doing a lick on Matt, isn't that right?

16 A Yes, nobody said that.

17 Q Okay. You never heard -- in regards to the word lick, you
18 only remember hearing that vaguely mentioned in the house that
19 day, right?

20 A Yes.

21 Q But you don't know who mentioned it, right?

22 A No, I don't.

23 Q Okay. And you don't know who the target of this lick was,
24 right?

25 A No, I don't.

1 Q Or what was to be stolen in this lick, right?

2 A No, I don't.

3 Q Nothing that -- or what time of day it was take place,
4 right?

5 A Yes.

6 Q Okay. So the truth is, Kymani, is that you don't really
7 know, right --

8 A No, I don't.

9 Q -- what took place in that house and why Matthew was
10 killed, isn't that right?

11 A Yeah, I don't know why.

12 Q All right. Thank you very much, Kymani.

13 THE COURT: Mr. Yampolsky.

14 MR. YAMPOLSKY: Thank you.

15 **CROSS-EXAMINATION**

16 BY MR. YAMPOLSKY:

17 Q To follow up on what Mr. Helmick said, when you heard
18 the term lick, you said that they wanted to rob somebody else for
19 weed. Do you remember saying that?

20 A Yeah.

21 Q Okay. And Matthew brought weed to the house, correct?

22 A Yes.

23 Q And you said he matched someone else, correct?

24 A Yes.

25 Q And that meant he was sharing it.

1 A Yes.

2 Q And to your knowledge he shared it freely.

3 A Yeah.

4 Q And you said you saw someone -- I believe you said it was
5 a Black individual that was using the spray paint.

6 A Yes.

7 Q And showing that picture where you flipped off the
8 cameraman; you weren't scared of the cameraman, correct?

9 A No.

10 Q And you weren't scared of being robbed or shot?

11 A No.

12 MR. YAMPOLSKY: I have nothing further.

13 THE COURT: Thank you.

14 Mr. Pesci.

15 **REDIRECT EXAMINATION**

16 BY MR. PESCI:

17 Q So putting it all in time -- Kymani relax, man, open up
18 your arms. You're good.

19 What do you mean in time when you flipped off the
20 camera, so we understand, that's before the shot to the ceiling,
21 correct?

22 A Yes.

23 Q All right. So you're at ease, you're smoking some weed,
24 no one's doing anything with shooting a gun into the air at the time
25 of that video.

1 A Yes.

2 Q All right. But it all changes with a shot to the ceiling.

3 A Yes.

4 Q And you decided to do what at that point?

5 A Leave.

6 Q Okay. Now you were asked a moment ago about the

7 mood of the house, right? Do you remember that?

8 A Yes.

9 Q What was your feeling about the mood of the house or

10 the vibe of the house when you first go there?

11 A It just didn't feel right.

12 Q Okay.

13 A It felt weird.

14 Q It felt weird to you?

15 A Yeah.

16 Q Did that feeling persist or stay with you?

17 A Yeah.

18 Q Did it become even more intense after the shot to the

19 ceiling?

20 A Yes.

21 Q Okay. Now, so we understand as far as -- well, let me just

22 go off on a little tangent. The -- do you know a person by the name

23 of Traceo Meadows?

24 A I know of him.

25 Q Okay. So the individual that you said you didn't know the

1 name of, that's not Traceo, is it?

2 A No.

3 Q Okay. So that other person we're talking about, we don't
4 have a name for, that's not Traceo.

5 A No, that's not.

6 Q The one with the spray paint.

7 A Yes.

8 Q Okay. Now, you went back, if I understood correctly, to
9 get your lighter?

10 A Yes.

11 Q All right. Now we just talked about a bad mood, we talked
12 about a shot to the ceiling, but yet you went back. Why was that?

13 A I didn't want to leave a trace of myself.

14 Q Okay. Why would you -- well you didn't want to leave a
15 trace of yourself there, is that correct?

16 A Yes.

17 Q Okay. Were there things going on there that you weren't
18 comfortable with?

19 A Yes.

20 Q And you didn't want tied back to you?

21 A Yes.

22 Q All right. Now, Defense Counsel just asked you some
23 questions about your opinion of what happened, and I want to talk
24 about your opinion versus what you heard, okay?

25 We got to be really clear as far as a difference between

1 let's say like me and you in this room right now, you hearing what I
2 say, versus somebody else on the News tonight watches something
3 and they hear something. You would agree with me those are
4 different things?

5 A Yes.

6 Q The person on the News doesn't get to see it, they're not
7 here.

8 A Yes.

9 Q All right. So focusing on the questions you were just
10 asked about your opinion about it being a robbery gone bad. Do
11 you remember those questions?

12 A Yes.

13 Q All right. If I understood you correctly, at the time that
14 Matt's shot, you're not there.

15 A No, I am not.

16 Q Okay. So when you're giving an opinion about what you
17 think happened, that's because you weren't there; it's not what you
18 actually saw?

19 A Yeah.

20 Q All right. So you don't know for a fact that there was a
21 robbery, someone tried to get him, and it didn't go well.

22 A Yeah. No, I didn't know that

23 Q All right. However, isn't it a fact that you actually heard
24 with your own ears in this very house, the concept or the
25 conversation about a lick?

1 A Yes.

2 Q All right. That wasn't something that somebody told you

3 afterwards?

4 A No.

5 Q It wasn't something that you read online on some media

6 post?

7 A No.

8 Q All right. You might have come up with some information

9 from a media post about what happened at the time Matt was shot,

10 right?

11 A Yeah.

12 Q All right. But forget that. We're just talking about what

13 you heard in that house. And if I'm hearing you correctly, you

14 heard a conversation about a lick.

15 A Yes.

16 Q Okay. So Counsel asked you about page 36 and 37 of

17 your statement that you gave on June 13th of 2018, correct?

18 A Uh-huh.

19 Q Is that a yes?

20 A Yes. Sorry.

21 Q Now is it all right if I just step over your shoulder? Would

22 that be okay --

23 THE COURT: Yeah.

24 MR. PESCI: -- with you?

25 THE WITNESS: Yeah, that's fine.

1 BY MR. PESCI:

2 Q Okay. So Counsel read earlier from portions of this,
3 didn't you actually say on that date in response to questions, page
4 36, line 21: Because they just kept talking about it. And they were
5 talking about they wanted. They were plucked. They wanted to rob
6 somebody else for weed. They were like who do you know --
7 somebody -- because they call it a lick. Apparently, they said they
8 were like.

9 Do you see that?

10 A Yes.

11 Q That's what you told the police?

12 A Yes.

13 Q And that's what you actually heard in the house, as
14 opposed to after the fact on media posts?

15 A Yes.

16 Q Okay. Goes to the next page.

17 Question: A lick?

18 You respond: Yeah, when you still something. A lick.
19 They were like oh, you know, where the licks are, you know, where
20 a lick is. And I was like -- they were just -- they just kept talking
21 about how they wanted to come up on a lot of weed.

22 Correct?

23 A Yes.

24 Q That's all they -- and when you're talking about they,
25 you're talking Kody and Jaiden, right?

1 A Yes.

2 Q All right. And the very next line, the question was: Okay.
3 Now was this before they had discussed Matthew, and Matthew's
4 name came up, or after?

5 Do you see that?

6 A Before.

7 Q Now just a moment ago Defense Counsel asked you the
8 timing of when Matthew's name came up. What did you say to the
9 police on June 13th?

10 Line 8.

11 A That's what it -- that's why he was brought up.

12 Q That's what brought Matthew's name up into the
13 conversation, right?

14 A Yes.

15 Q Okay. So you're telling the police just five days later, not
16 because of something you saw on the News, because your own
17 personal hearing of it, that they, these two guys sitting in court,
18 were talking about doing a lick; robbing Matthew?

19 A Yes.

20 Q Now you were also asked some questions from the
21 preliminary hearing. You remember him showing you some pages
22 from that? From the other --

23 A Yes.

24 Q Okay. So turning to page 87.

25 MR. PESCI: May I approach?

1 THE COURT: Yes.

2 BY MR. PESCI:

3 Q Now page 87. Now this is when you testified at the

4 preliminary hearing, correct?

5 A Yes.

6 Q Now when you testified at the preliminary hearing, did

7 you have that transcript to be able to look at before you testified?

8 A No, I didn't.

9 Q Would that have helped your memory?

10 A Yeah.

11 Q But you didn't it at the time.

12 A No.

13 Q All right. So looking at page 87, line 14: And then you

14 later told that to the police that you heard the Defendants talking

15 about doing a lick.

16 What was your answer?

17 A Yes.

18 Q Right. So even at the preliminary hearing, you're saying

19 that you heard these two Defendants talk about doing a lick?

20 A Yes.

21 Q Okay. And that conversation happens before Matt gets to

22 the house?

23 A Yes.

24 Q Thank you very much.

25 MR. PESCI: Pass the witness.

1 THE COURT: Mr. Helmick.

2 MR. HELMICK: Thank you.

3 **RECROSS-EXAMINATION**

4 BY MR. HELMICK:

5 Q Kymani, let's talk about the preliminary hearing for a
6 minute.

7 A All right.

8 THE COURT: Could we -- I don't want your notes being
9 displayed for the jurors.

10 MR. HELMICK: Oh, I'm sorry, I didn't even know that
11 was --

12 THE COURT: That's okay.

13 MR. HELMICK: Shut off. There we go.

14 THE COURT: Thank you.

15 MR. HELMICK: Thank you.

16 BY MR. HELMICK:

17 Q Okay. So I want to show page 84 of the preliminary
18 hearing.

19 MR. HELMICK: May I approach, Your Honor?

20 THE COURT: Yes.

21 BY MR. HELMICK:

22 Q Okay. You were asked by Mr. Pesci, who did you hear
23 talking about doing a lick, right? Page 84.

24 A Yes.

25 Q Okay. And this is before the reference that he just talked

1 about on page 87, right?

2 A Yes.

3 Q Okay. And what did you say there?

4 A I don't remember.

5 Q You don't remember, right?

6 A Uh-huh.

7 Q It wasn't until Mr. Pesci impeached you with the interview
8 with the detective --

9 A Yes.

10 Q -- that you then said oh, it was Kody and Jaiden, isn't that
11 right?

12 A Yes.

13 Q Okay. And that was your testimony under oath before
14 you were impeached, isn't that right?

15 A Yes.

16 Q Okay. And so just to clear this up, I mean, the reason that
17 you came up with this opinion in regards to the robbery or the
18 lick -- well let me backtrack, the interview that you gave to the
19 police was days after this happened, right?

20 A Yes.

21 Q Okay. Multiple days, right?

22 A Yes.

23 Q And by that point it had already been all over the news,
24 right?

25 A Yes.

1 Q It had -- people had already been commenting on stuff,
2 right?

3 A Yes.

4 Q And you had read that stuff, right?

5 A Yes.

6 Q And so at this particular point in time that you were
7 talking to the police, you came up with this opinion that there was a
8 robbery based upon what you read, isn't that right?

9 A Yeah.

10 Q Okay. Not based upon what you heard in the house,
11 right?

12 A Yes.

13 Q Okay. Because you didn't hear Kody talking about
14 wanting to rob Matt or do a lick on Matt, isn't that right?

15 A No, not on anyone --

16 Q Okay.

17 A -- specific.

18 Q You just heard the word lick mentioned.

19 A Yes.

20 Q But don't remember by who exactly mentioned it, right?

21 A Kody and Jaiden, I just said that.

22 Q No, no, I'm saying -- okay, so when I talked to you earlier
23 today, right, I asked you, you don't remember who mentioned the
24 lick, right?

25 A Yeah, I didn't remember at the time.

1 Q Okay. So now you're saying that it was Kody and Jaiden
2 who mentioned doing a lick?

3 A Yes, because my memory has been refreshed.

4 Q Your memory has been refreshed.

5 A Yes.

6 Q Okay. When I talked to you at your house though, right?

7 A Yes.

8 Q You didn't tell me that -- when I asked you that question
9 you didn't say that Kody said anything about doing a lick, isn't that
10 right?

11 A Because -- yeah, that's not right. Or that is right.

12 Q That's right.

13 A Yes.

14 Q And that's what you told me, right?

15 A Yeah.

16 Q Okay. And you told me that Kody was out of it, that he
17 was on the couch, falling asleep, and out of it multiple times
18 throughout the day, right?

19 A Yeah.

20 Q Okay. And you didn't even hear him talk much, right?

21 A Not really.

22 Q Okay.

23 MR. HELMICK: Court's indulgence.

24 BY MR. HELMICK:

25 Q Okay. You were asked by Mr. Pesci when Matt's name

1 came up, and he made it seem like as if it were referenced in
2 regards to the lick, right? That's when it was first brought up, that's
3 what you said?

4 A Yeah.

5 Q Okay. But wasn't it first brought up, and I'll refresh your
6 memory if you need it, when Jaiden sat down and there was talk
7 about who has more marijuana, right?

8 A Yes.

9 Q Okay. So Matt's name came up at that point, right?

10 A Yes.

11 Q Okay. And that was in regards to matching; who wants to
12 come over and share, right?

13 A Yes.

14 Q Not in regards to who wants to -- who can we rob or who
15 can we do a lick on, right?

16 A Yes.

17 Q Okay. So that's when Matt's name first came up.

18 A Yes.

19 Q Okay. Thank you very much, Kymani.

20 THE COURT: Mr. Yampolsky, anything?

21 MR. YAMPOLSKY: Thank you.

22 Court's indulgence.

23 **RECROSS-EXAMINATION**

24 BY MR. YAMPOLSKY:

25 Q When you were shown the video, there was a picture of

1 some weed, correct?

2 A Yes.

3 Q And that's the weed that Matthew brought?

4 A No, that --

5 Q No, that was the weed that was at the party.

6 A Yes.

7 Q And approximately how much, if you know, was it?

8 A I can't tell the certain amount.

9 Q All right. You wouldn't say it's a lot of weed, would you?

10 A No.

11 Q No. And Matthew brought weed, correct?

12 A Yes.

13 Q And you said he matched the weed --

14 A Yes.

15 Q -- correct?

16 And would you say the weed he had was about the same

17 amount?

18 A No.

19 Q No. It was more?

20 A A little bit more.

21 Q A little bit more. But would you say that's a lot of weed?

22 A Sure. Yeah.

23 Q So you said what was there was not a lot of weed but a

24 little bit more was a lot of weed?

25 A I'm saying we didn't have a lot of weed but Matthew had

1 more weed than we did.

2 Q Right. And you said he had a little more?

3 A Yes.

4 Q Okay. So what I'm saying is, you -- the stuff that was at

5 the party was not a lot of weed, correct?

6 A Not really.

7 Q And Matthew had a little more.

8 A Yes.

9 Q But in your opinion having that little more would turn that

10 into a lot of weed?

11 A Yeah.

12 Q Okay.

13 A It was more than we had.

14 Q Well I understand that. It was more than you had,

15 correct?

16 A Yes.

17 Q And would you say the amount that you had was a little

18 bit?

19 A I didn't have any.

20 Q All right. Would you say the amount that was there at the

21 house before Matthew came was a little bit?

22 A Yes.

23 Q And you're saying Matthew had more --

24 A Yes.

25 Q -- right?

1 But he didn't have twice as much or anything like that?

2 A No.

3 Q He had a little more.

4 A Yeah.

5 Q And you characterize that as a lot?

6 A More than -- if it's more than what we had then sure, it's a
7 lot.

8 Q All right. Okay. Let me back up. So if there was an
9 amount of weed that was -- let's say had one more joint, would you
10 say that's a lot?

11 A Yeah.

12 Q Okay. Now, you're aware that Jaiden and Kody both
13 knew Matthew --

14 A Yes.

15 Q -- right?

16 Okay. Now, when you were -- when you gave your
17 statement to the police, you said when they -- you overheard
18 someone say: They want to rob somebody else for weed.

19 Correct?

20 A I don't remember that.

21 Q No?

22 MR. YAMPOLSKY: May I approach, Your Honor?

23 THE COURT: Yes.

24 BY MR. YAMPOLSKY:

25 Q Okay. I'd like you to read to yourself line 21 to right

1 there, okay? Can you read that?

2 A Yeah. They were like do you know somebody.

3 Q Okay. So when you heard them talking about wanting to
4 rob somebody else they said, do you know somebody?

5 A Yes.

6 Q Okay.

7 MR. YAMPOLSKY: I have nothing further.

8 THE COURT: Mr. Pesci?

9 MR. PESCI: Very quickly.

10 **FURTHER REDIRECT EXAMINATION**

11 BY MR. PESCI:

12 Q So if I'm understanding correctly, Ghunnar brought some
13 weed?

14 A Yes.

15 Q Matt brought some weed?

16 A Yes.

17 Q Jaiden shoots into the ceiling.

18 A Yes.

19 Q You take off.

20 A Yes.

21 Q And Jaiden calls you back?

22 A Jaiden calls Ghunnar back.

23 Q Right. The guy who brought the weed?

24 A Yeah.

25 Q All right. And Ghunnar came back because of you, right?

1 A Yeah.

2 Q So you could get your --

3 A Lighter.

4 Q -- lighter? Because you didn't want to be tied to that

5 place.

6 A Yes.

7 Q And then you took off.

8 A Yes.

9 Q You and Ghunnar weren't around for what happened to

10 Matt.

11 A No, we weren't.

12 Q Thank you.

13 THE COURT: Anything further?

14 MR. HELMICK: Just briefly, yes.

15 **FURTHER RECROSS-EXAMINATION**

16 BY MR. HELMICK:

17 Q I mean, so Kymani, you took off, right, understandably --

18 A Uh-huh.

19 Q -- because you were scared of what was taking place in

20 that house, right?

21 A Yeah.

22 Q Yeah. Jaiden was taking the bullets out of the gun and

23 pointing it at people and clicking that gun, isn't that right?

24 A Yes.

25 Q Yeah. He was being reckless with the gun, right?

1 MR. YAMPOLSKY: Objection, calls for characterization.
2 THE COURT: Well I'll sustain the objection.
3 MR. HELMICK: Okay.
4 THE COURT: You just ask him what he observed.
5 MR. HELMICK: Okay.
6 BY MR. HELMICK:
7 Q Well, you observed him playing with the gun multiple
8 times in that house, right?
9 A Yeah.
10 Q And that instilled fear in you, right?
11 A Yeah.
12 Q Yeah. And fear in Ghunnar as well, right? That you --
13 A Yeah.
14 Q -- could see at least.
15 A Uh-huh.
16 Q Yeah. And so that's the reason that you wanted to get out
17 of that house because of what Jaiden was doing with the gun, isn't
18 that right?
19 A Yes.
20 Q Thank you.
21 THE COURT: Mr. Yampolsky?
22 MR. YAMPOLSKY: I have nothing further.
23 THE COURT: Anything from our jurors?
24 Yes.
25 ...

1 [Bench conference transcribed as follows.]
2 THE COURT: I mean, I think you said that was in April,
3 right?
4 MR. HELMICK: April 19th to be exact.
5 THE COURT: [Indiscernible].
6 MR. HELMICK: Yeah.
7 Yeah, I'm okay with that.
8 THE COURT: I can just make a statement to them that
9 attorneys have the right to interview witnesses --
10 MR. HELMICK: Yeah, yeah, please.
11 THE COURT: -- who are not under oath.
12 MR. YAMPOLSKY: Yeah.
13 THE COURT: Okay.
14 MR. HELMICK: Yeah. And that you -- and I had a third
15 party with me.
16 THE COURT: Okay. And then do you guys just want to
17 stipulate that it was April 2019?
18 MR. HELMICK: April 19th.
19 MR. YAMPOLSKY: [Indiscernible].
20 MR. HELMICK: I took notes --
21 MR. PESCI: I have follow-up questions.
22 THE COURT: Okay. All right. That's a good question.
23 MR. PESCI: Gosh, that's long.
24 MR. YAMPOLSKY: That's fine.
25 MR. HELMICK: Okay.

1 THE COURT: We could just stipulate to that, right?
2 MR. PESCI: Yeah.
3 THE COURT: The last question [indiscernible] Kristine.
4 MR. HELMICK: Kristine?
5 MR. YAMPOLSKY: Who's Kristine?
6 THE COURT: Kristin.
7 MR. HELMICK: [Indiscernible] confused.
8 THE COURT: Prentiss.
9 MR. HELMICK: Matthew killed Kristine.
10 Something about a bullet
11 He doesn't know.
12 MR. YAMPOLSKY: He wants Matt.
13 MR. HELMICK: God, are they that confused? Come on.
14 MR. YAMPOLSKY: I don't think you should ask this.
15 THE COURT: I'm not going to ask that.
16 MR. HELMICK: This is fine. That one.
17 THE COURT: [Indiscernible].
18 MR. YAMPOLSKY: I don't --
19 MR. HELMICK: No, she got him confused with Charles.
20 Kristin picked up Charles.
21 THE COURT: Oh. So I'll just -- he was not there that night
22 with Kristin.
23 MR. PESCI: Right. He called to talk -- [indiscernible].
24 THE COURT: Okay.
25 MR. HELMICK: Maybe you want to clear that up though?

1 THE COURT: What were you doing once you left the
2 house?
3 MR. HELMICK: Sure.
4 MR. YAMPOLSKY: Yeah.
5 MR. PESCI: Sounds good.
6 THE COURT: And then Kristin did not pick you up, you
7 were picked by an Uber, correct?
8 MR. PESCI: Right.
9 MR. HELMICK: Yeah.
10 MR. YAMPOLSKY: By whom?
11 MR. HELMICK: Uber.
12 THE COURT: An Uber.
13 MR. YAMPOLSKY: Right.
14 THE COURT: Okay.
15 MR. YAMPOLSKY: All right.
16 MR. PESCI: Good questions though.
17 MR. YAMPOLSKY: [Indiscernible].
18 MR. PESCI: I got to look up the date on the prelim.
19 MR. YAMPOLSKY: Huh?
20 MR. PESCI: I need to look up the date on --
21 MR. HELMICK: I got it right here.
22 MR. YAMPOLSKY: What's -- yeah.
23 MR. PESCI: Okay.
24 THE COURT: Okay. Are we good with those?
25 MR. PESCI: No objection.

1 MR. HELMICK: Okay.

2 MR. PESCI: Is that it?

3 THE COURT: Okay.

4 [End of bench conference.]

5 THE COURT: Okay. A couple of questions for you and I
6 also think the attorneys are going to stipulate to some things. So
7 just for the record, you guys will stipulate that the preliminary
8 hearing was Monday, July 9th, 2018, right?

9 MR. YAMPOLSKY: Correct.

10 MR. PESCI: Yes, Your Honor.

11 THE COURT: Okay.

12 All right. And then --

13 MS. OVERLY: Can we say that date again?

14 THE COURT: Oh, July 9th, 2018. Monday, July 9th, 2018.

15 **EXAMINATION BY THE COURT [JURY QUESTIONS]**

16 BY THE COURT:

17 Q And do you recall, specifically, Kymani, when it was that
18 you had the conversation with Mr. Helmick and his investigator?
19 The date?

20 A No. Not specifically.

21 Q I think he asked you and you agreed that it was in April?

22 A In April, yeah.

23 THE COURT: And I think, Mr. Helmick, your
24 representation was April 19th?

25 MR. HELMICK: April 19th, yes.

1 THE COURT: 2019?

2 MR. HELMICK: 2019.

3 THE COURT: Okay. And just so you understand, Ladies
4 and Gentlemen, attorneys have the right to talk to and interview
5 witnesses before a trial. They're not under the oath at the time they
6 have those discussions, however.

7 BY THE COURT:

8 Q All right. You mentioned that the vibe was off at the
9 house. How were Kody and Jaiden acting towards Matt?

10 A Not suspicious.

11 Q Okay. Would you say that they were treating Matt the
12 same as they did you?

13 A Yeah.

14 Q Okay. And what were you doing once you left the house?

15 THE COURT: And I'm assuming you mean the second
16 time that he left, after going back to retrieve the lighter? Yes?

17 JUROR NUMBER 5: Oh, me?

18 THE COURT: It's your question, yeah.

19 JUROR NUMBER 5: I'm trying to remember. I said why
20 did he feel he needed to get his lighter and feel something --

21 THE COURT: Well your question says what were you
22 doing once you left the house. So my question is are you asking
23 when he left the house the first time or when he --

24 JUROR NUMBER 5: Yeah, the first -- no, the second time.

25 THE COURT: The second time, okay.

1 JUROR NUMBER 5: When they went to Ghunnar's house.
2 THE COURT: Got it.
3 BY THE COURT:
4 Q So what were you doing once you left the house after
5 going back to retrieve your lighter?
6 A After I left the first time, we went to some businesses next
7 door and waited --
8 Q Okay.
9 A I got a call, I got my lighter and went back.
10 Q Okay. So did you guys go straight back to Ghunnar's
11 house after that?
12 A Yes.
13 Q All right. And the question references Kristin picking you
14 up. You didn't say Kristin picked you up, correct? Didn't you guys
15 say you got picked by an Uber?
16 A Yeah.
17 Q Uber, okay.
18 THE COURT: All right. Any questions based on mine,
19 STATE?
20 MR. PESCI: No, Your Honor.
21 THE COURT: Mr. Harlan?
22 MR. HELMICK: No, Your Honor. Thank you.
23 THE COURT: Mr. Yampolsky?
24 MR. YAMPOLSKY: No, Your Honor.
25 THE COURT: Okay. All right. Kymani, you're all done.

1 Thank you very much for your time. I appreciate it.
2 The State may call their next witness.
3 MS. OVERLY: The State calls Somridee McCaffery.
4 MR. YAMPOLSKY: Your Honor, may we approach?
5 THE COURT: Sure.
6 [Bench conference transcribed as follows.]
7 MR. YAMPOLSKY: I just wanted a quick bathroom break.
8 But I mean, I can run in and run out. I don't want to stop them.
9 THE COURT: We can't have you gone when --
10 MR. YAMPOLSKY: We have Jason here.
11 THE COURT: -- witnesses testify. Oh well, okay.
12 All right. I mean, what if you hold it and go in about 15
13 minutes?
14 MR. YAMPOLSKY: What can I tell you, I drank a lot at
15 lunch.
16 THE COURT: But are you cross-examining the witness?
17 MS. OVERLY: This is the custodian --
18 MR. YAMPOLSKY: Custodian of records, I don't think
19 we'll ask any questions.
20 THE COURT: Oh, okay.
21 MR. YAMPOLSKY: It's the Foot Locker guy.
22 THE COURT: Yes, you can go ahead.
23 [End of bench conference.]
24 ...
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SOMRIDEE McCaffrey

[having been called as a witness and being first duly sworn,
testified as follows:]

THE CLERK: Thank you, please be seated.
If you could state and spell your name for the record,
please.

THE WITNESS: My name is Somridee, S-O-M-R-I-D-E-E.
Last name, McCaffrey. M-C-C-A-F-F-R-E-Y.

THE COURT: Thank you very much, ma'am.
Ms. Overly.

DIRECT EXAMINATION

BY MS. OVERLY:

Q Ma'am, how are you employed?
A I am a store manager at a Foot Locker at Galleria Mall.
Q And how long have you been a store manager?
A I've been a store manager for three years.
Q And were you working as a store manager back in June of
2018?
A I was.
Q And what location was that?
A I was actually at the Kids Foot Locker across the hall.
Q And is that at the Galleria Mall as well?
A Correct.
Q Okay. But were you familiar with the Foot Locker located
across the way?

1 A Yes. We actually work at both locations sometimes.

2 Q Okay. So at the time were you working at both locations?

3 A Uh-huh.

4 Q And are you familiar with whether or not that Foot Locker
5 is equipped with video surveillance?

6 A Yes, we all are.

7 Q All of them are, okay.

8 A Uh-huh.

9 Q And is that included -- and what angles of the store does
10 that consist of?

11 A Usually we have a front view, which sees the store with
12 everyone walking in, there's usually a couple on the register, and
13 there's a couple randomly around just in certain blind spots that we
14 know that maybe people will be standing.

15 Q And were you able to review video surveillance from the
16 Foot Locker store at the Galleria Mall from June 8th of 2018?

17 A Yes, ma'am.

18 Q And did you do that prior to coming to court?

19 A Yes, ma'am.

20 Q And did that video surveillance fairly and accurately
21 depict the store on June 8th of 2018?

22 A Yes, ma'am.

23 MS. OVERLY: And, Your Honor, at this time the State
24 would move to admit State's Proposed Exhibit 146.

25 THE COURT: Any objection?

1 MR. HELMICK: No, Your Honor.

2 THE COURT: Mr. Margolis?

3 MR. MARGOLIS: No objection, Your Honor.

4 THE COURT: Thank you.

5 **[STATE'S EXHIBIT 146 ADMITTED]**

6 BY MS. OVERLY:

7 Q And I'm just going to show you video on the screen. It'll
8 be in front of you as well.

9 And while he's doing that, let me ask you this as well;
10 does Foot Locker keep records of the transactions that are done at
11 the store?

12 A Yes, ma'am.

13 Q And are those kept in the ordinary course of business?

14 A Yes, ma'am.

15 Q And those are done for every purchase and transaction
16 completed, is that correct?

17 A Yes, ma'am.

18 Q Okay. And did you have an opportunity to review -- well
19 let me ask you this.

20 MS. OVERLY: May I approach, Your Honor?

21 THE COURT: You may.

22 BY MS. OVERLY:

23 Q Showing you what's been marked as State's Proposed
24 Exhibit 65. Well I believe it's an exhibit now.

25 Does that look familiar to you?

1 A Yes, it is.

2 Q And does that look like a Foot Locker receipt?

3 A It is.

4 Q And does that fairly and accurately depict one from June

5 8th of 2018?

6 A Yes.

7 Q Now I'm just going to show you the video.

8 [Surveillance video playing]

9 BY MS. OVERLY:

10 Q And I believe this is reflecting Channel 2 view here. Do

11 you recognize that?

12 A Yes, ma'am.

13 Q And what does that appear to be?

14 A That is the very front of the store where the customers

15 walk in.

16 Q Okay. And that would be the Foot Locker at the Galleria,

17 correct?

18 A Correct.

19 Q Okay. And if we go to approximately 2:20 in.

20 [Surveillance video playing]

21 BY MS. OVERLY:

22 Q Does it appear as though two individuals are walking in --

23 A Yes.

24 Q -- to the store?

25 A Uh-huh.

1 Q And then if we go to -- this looks like this is another angle.

2 [Surveillance video playing]

3 BY MS. OVERLY:

4 Q What is this angle of?

5 A This is the cash wrap.

6 Q Okay.

7 A The side view of the cash wrap.

8 Q Cash wrap. Is that the cash register area?

9 A Oh yes.

10 Q Okay.

11 A Yeah, sorry.

12 Q Okay. And so this is where anybody would go if they
13 want to conduct a transaction or buy something?

14 A Yes, ma'am.

15 Q Okay. And if we go to around four minutes --

16 [Colloquy between Counsel]

17 BY MS. OVERLY:

18 Q And does it appear as though there's somebody in a black
19 shirt with a backpack on?

20 A Yes.

21 Q And somebody with a multicolored shirt?

22 A Looks like it.

23 Q Behind him.

24 A It's hard to tell.

25 Q Now the area that those people are standing, is that the

1 area where you would stand in line?

2 A Are you talking about the gentleman in the stripes or are
3 you talking about the two young ladies at the register?

4 Q I'm sorry. I'm talking about the individual behind the two
5 young ladies.

6 A Oh yes, that would be the line.

7 Q Okay. So there's two young ladies that are currently at
8 the cash register, correct?

9 A Correct.

10 Q And then now we have another individual walking --

11 A Yes.

12 Q -- towards the register. Okay.

13 [Surveillance video playing]

14 BY MS. OVERLY:

15 Q And does it appear as though there might another person
16 behind that individual who's purchasing something now coming to
17 the side?

18 A It's possible. It looks like they're just looking around.

19 Q Okay.

20 [Surveillance video playing]

21 BY MS. OVERLY:

22 Q And now a third individual's approaching the register?

23 A Yes.

24 [Surveillance video playing]

25 ...

1 BY MS. OVERLY:

2 Q And does that appear to be a Foot Locker bag that's
3 provided to the customer?

4 A Yes, it is.

5 Q Okay. And then if we go to Channel 4.

6 [Surveillance video playing]

7 BY MS. OVERLY:

8 Q And what is this view of?

9 A This is above the cash wrap.

10 Q Okay. So that would be on top of the cash register,
11 correct?

12 A Correct. Yes.

13 [Surveillance video playing]

14 MS. OVERLY: And if we go to around six minutes or so --
15 there we go.

16 [Surveillance video playing]

17 BY MS. OVERLY:

18 Q And does that appear as though the customer's
19 purchasing some shoes?

20 A It is, yes.

21 Q Okay.

22 [Surveillance video playing]

23 BY MS. OVERLY:

24 Q And it seems as though they're paying in cash?

25 A Uh-huh. Yes, it is.

1 [Surveillance video playing]

2 BY MS. OVERLY:

3 Q And is it fair to say that the person standing behind the
4 person who's purchasing something, the one in the multicolored
5 the shirt --

6 MS. OVERLY: If we back it up just a little bit.

7 [Surveillance video playing]

8 BY MS. OVERLY:

9 Q Do you see the person I'm talking about?

10 A Yes, with the Shoe Palace bag?

11 Q Yes. Does that person appear to be wearing white
12 sneakers?

13 A Yes.

14 [Surveillance video finishes playing]

15 BY MS. OVERLY:

16 Q And then if we go to the final view.

17 [Surveillance video playing]

18 BY MS. OVERLY:

19 Q This is Channel 8, does -- what is that an image of?

20 A That's the opposite view. So instead of looking towards
21 the store, this is looking into the store.

22 Q Okay. So if I were standing on the outside of the store,
23 this would be the view I'm facing?

24 A Correct.

25 Q Okay. And can you point to us -- if you use that little

1 mouse in front of you, you can actually draw on the screen.

2 THE COURT: There you go.

3 MS. OVERLY: Thank you, Judge.

4 THE COURT: Just left click and then draw.

5 BY MS. OVERLY:

6 Q Can you identify for us where the cash register is?

7 A [No audible response - marking on monitor].

8 Q And are there any other doors that lead anywhere else?

9 A This is the door to the stock room.

10 Q Okay. Other than that though, the stock room and then
11 the front entrance, correct?

12 A Correct.

13 Q Okay. So if we go to about six minutes in.

14 [Surveillance video playing]

15 BY MS. OVERLY:

16 Q And does this appear to reflect just another angle of what
17 we were already looking at?

18 A Yes, ma'am.

19 Q So we have the two females who are purchasing
20 something right now, correct?

21 A Yes, ma'am.

22 Q And then there's an individual behind them who's now
23 coming up to the counter?

24 A Yes, ma'am.

25 Q Okay.

1 [Surveillance video playing]

2 MS. OVERLY: If we go to about eight minutes in.

3 [Surveillance video playing]

4 BY MS. OVERLY:

5 Q Look like we see those individuals now exiting the store?

6 A Yes.

7 Q Okay.

8 [Surveillance video finishes playing]

9 BY MS. OVERLY:

10 Q Now in addition to the video surveillance, I asked you
11 about if there's records made of any transactions at the store. With
12 any transaction are customers provided receipts?

13 A Yes.

14 Q Okay. And are those receipts also logged and kept with
15 the Foot Locker store?

16 A Yes.

17 Q And showing you State's Exhibit 65. Let's see if I can --
18 So you indicated that this appeared to be a Foot Locker
19 receipt, correct?

20 A Yes, ma'am.

21 Q And I believe it reflects at the very top that -- the address
22 to the Galleria at Sunset.

23 A Yes, ma'am.

24 Q And then if we go down, does it reflect a date and a time?

25 A Yes, ma'am.

1 Q And what would that be?

2 A The date is June 8th, 2018, and the time is 3:52 p.m.

3 Q And would that be when the transaction is actually

4 processed through the cash register?

5 A Yes, that's when it's completed.

6 Q Okay. And if you go down it looks like there's an item

7 reflected here.

8 A Yes.

9 Q Are you familiar with what that item is?

10 A Yes.

11 Q What is that?

12 A It's a Air Force One Jord -- Air Force One Nike. It looks

13 like it's a like a red, white, and blue pair.

14 Q Okay. Would that be consistent with what we saw on the

15 video?

16 A The dude with the box, yes.

17 Q Yes. Okay. And it reflects an amount here and the total,

18 is that correct?

19 A Yes, ma'am.

20 Q And I believe there's some tax noted here.

21 A Uh-huh.

22 Q And then at the very bottom it references cash and

23 change, correct?

24 A Correct. Yes.

25 Q So what does that reflect?

1 A So they gave \$110 in cash and they received \$1.75 in
2 change back.

3 MS. OVERLY: Court's indulgence, Your Honor.

4 BY MS. OVERLY:

5 Q And showing you what's been marked as State's Exhibit
6 40. Let me zoom out of here.

7 Do you see a pair of sneakers in that photograph?

8 A Yes.

9 Q And what do those appear to be?

10 A The Air Force Ones.

11 Q And would that be the Air Force Ones that were reflected
12 in the receipt that you saw?

13 A It's hard ---

14 Q The red, white --

15 A -- to tell actually --

16 Q Okay.

17 A -- in that one.

18 Q Let me show you State's Exhibit 41.

19 What do those appear to be?

20 A Those are actually the ones.

21 Q Okay. So those would be the shoes that were reflected in
22 the receipt --

23 A Yes, ma'am.

24 Q -- we just looked at?

25 Okay. And then showing you State's 43.

1 Does that appear to be the same receipt?
2 A Yes, ma'am.
3 MS. OVERLY: I'll pass the witness, Your Honor.
4 THE COURT: Mr. Helmick?
5 MR. HELMICK: No, Your Honor. Thank you.
6 THE COURT: Mr. Yampolsky?
7 MR. YAMPOLSKY: No questions.
8 THE COURT: Anything from our jurors?
9 Okay. All right. Ma'am, thank you very much for your
10 time. I appreciate it. You are excused.
11 The State may call their next witness.
12 MR. PESCI: The State calls Kathy Geil.
13 **KATHY GEIL**
14 [having been called as a witness and being first duly sworn,
15 testified as follows:]
16 THE CLERK: Thank you, please be seated.
17 THE WITNESS: Thank you.
18 THE CLERK: If you could state and spell your name for
19 the record, please?
20 THE WITNESS: Yes. My name is Kathy Geil. K-A-T-H-Y,
21 G-E-I-L.
22 THE COURT: Thank you.
23 All right. Mr. Pesci.
24 ...
25 ...

1 **DIRECT EXAMINATION**

2 BY MR. PESCI:

3 Q Ma'am, what do you do for a living?

4 A I am a forensic scientist with the Las Vegas Metropolitan
5 Police Department in their Firearms Detail.

6 Q And what training and experience do you have that
7 qualifies for that job?

8 A So there's an in-house two-year training program that's
9 extensive about all they types of examinations that a firearms
10 examiner would conduct. So it includes modules where you're
11 working on different types of firearms and how they function or
12 how you -- they could modified.

13 It's working with different types of ammunition and their
14 components. It's comparing test fires from firearms to fired
15 components, the bullets or cartridge cases and understanding how
16 that microscopic comparison works. Lots of reading. Visiting
17 different manufacturers of firearms and ammunition.

18 And then there's lots of different modules and the
19 different types of examinations. So serial number restorations,
20 muzzle to target distance determinations, or the examination of
21 gunshot residue that's left on items. Toolmark examinations. It's
22 really involved. There's lots of things that go on.

23 But at the end of that what happens is you get an exam, if
24 you will, like a mock case and that is graded by your peers. And
25 you go through a moot court associated with that mock case and

1 then you're signed off to determine whether you're competent or
2 not. And then yearly we're given proficiencies to make sure that
3 competency level is maintained.

4 Q And how long have you been doing this line of work?

5 A So particularly in firearm, almost 12 years. September
6 will be around 12 years, where I started with the department. So
7 two years after training, so essentially ten years completely signed
8 off to do this line of work.

9 Q And have you testified in this area in other courtrooms, in
10 other cases?

11 A That's correct.

12 Q Sometimes do people have different ideas about firearms
13 and, for lack of a better term, layman's terms, a bullet? Explain to
14 us what a bullet is and what the terminology you use for a bullet.

15 A Sure. I actually have a demonstrative aid, it's like a plastic
16 cartridge.

17 MR. PESCI: If that's okay with the Court?

18 THE COURT: Sure.

19 MR. PESCI: Any objection from Defense?

20 MR. HELMICK: No objection.

21 MR. YAMPOLSKY: No.

22 MR. PESCI: Okay.

23 BY MR. PESCI:

24 A All right. This is my really large round of ammunition.

25 We call this a cartridge. The projectile that goes out the barrel of a

1 firearm, we call that a bullet. So not the whole thing but just this
2 part is the bullet to be clear for us. And then this would be the
3 cartridge case. So the whole thing together is a cartridge or a
4 round of ammunition.

5 Q Okay. So when it's all together, it hasn't been shot, you
6 refer to it as a cartridge?

7 A That's correct.

8 Q And after it's been fired, the bullet leaves the cartridge
9 case?

10 A Correct.

11 Q And then the cartridge case, depending on if it's a
12 revolver or a semi-automatic, will be left in the gun or expelled
13 from the gun?

14 A Yes, exactly.

15 Q And so with the revolver, tells us what happens with a
16 cartridge; a bullet?

17 A So it is loaded into a cylinder or a wheel, typically in the
18 center of that firearm by the user. And those cartridges fit inside
19 chambers so there's five, six, seven, depending upon how that
20 firearm is manufactured. Then when you pull the trigger, it
21 activates the internal mechanisms.

22 The cartridge is fired, bullet comes out the barrel, and the
23 firearm sits. It doesn't extract and eject that cartridge case, it just
24 sits there and resets and waits for you to pull -- either pull the
25 trigger or you cock the hammer, something to activate it again.

1 Q Okay. Showing you Exhibit 34.
2 Is this a revolver?
3 A That's correct.
4 Q And is this the revolver that you actually examined?
5 A It appears like it, but I'd have to look at the serial number
6 to see exactly if that's --
7 Q Okay. Does that help you?
8 A Yes, it does.
9 Q All right. And do you recognize that?
10 A Yes, I do.
11 Q All right. And how do you recognize that?
12 A By the serial number, as well as the make and the model
13 and the caliber on that --
14 Q All right.
15 A -- that is on that firearm.
16 Q And were you specifically asked to analyze this firearm?
17 A That's correct.
18 Q What did you do to analyze the firearm?
19 A First I photo document what I receive and how I received
20 it. I document what it is, what's its capabilities are; you know, that
21 it's a revolver, what's its markings are. I'm going to see whether or
22 not it's safe to fire because the next thing I'm going to do is test fire
23 this firearm to see if it's functional.
24 After I test fire that firearm, I collect the fired cartridge
25 cases and bullets that I've collected from that test firing and then

1 I'm going to compare there if there are submitted cartridge cases or
2 bullets to those test fires.

3 Q Where do you test fire it?

4 A We actually have a range inside of our lab and there's a
5 water tank that you can shoot into, so it's the only thing I think the
6 movies get right about firearms. When you shoot into water, the
7 bullet kind of slows it down and keeps it intact so that I can collect
8 and examine those bullets later on to say something else that was
9 submitted for comparison.

10 Q Why do you want to examine the bullet, the part that
11 comes out? What are you -- what can you gather from that or learn
12 from that?

13 A Sure. So the barrel of that firearm is rifled and it's rifled
14 by the manufacturer. That manufacturer when they rifle the barrel
15 can leave markings in the barrel that can be imparted on the bullet.
16 Those imperfections, those microscopic imperfections is what I can
17 examine if they're imparted on that fired bullet to compare with
18 other fired bullets, either collected from the scene or from an
19 individual, those types of things.

20 Q What is rifling?

21 A So rifling is -- if you were to look down it looks like there's
22 a spin to the inside. There's these lands and grooves, these bumps
23 in the barrel, if you will, so that the bullet when it engages there's a
24 twist to it so the bullet will actually twist a little bit. So that's
25 considered rifling.

1 Q Does the rifling actually help the bullet to more on target?

2 A Well that's the intent, I believe, when they do the rifling.

3 Q Somewhat like throwing a football in a spiral, that round
4 circular movement to try to keep it tight?

5 A Yes.

6 Q Okay. And you said impart -- the barrel could impart
7 something on the bullet?

8 A That's correct.

9 Q It is almost like a stamp or when it passes by it's being
10 affected by?

11 A Well to go back to my model, this actually shows rifling on
12 it. It has -- now usually there's a twist, they're either to the right or
13 to the left. But the bullet when you -- like if you were just to take a
14 whole cartridge and not fire it and just pull the bullet out, it's
15 completely smooth. It doesn't have these indentations. These lands
16 and grooves on it. So when it goes down it actually swidges or
17 imparts or interacts with that rifling to give it that spin. So there's
18 quite a bit of interaction between the bullet and the barrel in order
19 for it to engage and get pushed down the barrel and impart that
20 spin.

21 Q Then will that imprint be unique to that barrel?

22 A It can be, yes.

23 Q Okay. So is that why you test fire some rounds?

24 A Correct. So I can look at that and determine if there's
25 enough unique marks to then examine further.

1 Q Okay. So you did that in this case, you test fired it?

2 A That's correct.

3 Q Were there enough unique points to be able to analyze it
4 further?

5 A That's correct.

6 Q All right. So those are cartridges that you have on your
7 own that you just put through this firearm to see how it's
8 imprinting on the bullets?

9 A Yeah. The ammunition is received from our reference
10 collection. We have a large amount of ammunition that we can use
11 to test fire firearms.

12 Q And you said this is a .357 Ruger?

13 A .357 Magnum is the caliber and the make is Ruger.

14 Q Okay.

15 A Correct.

16 Q All right. Now when you have something like this, the
17 firearm itself, can you compare it to actual fired rounds?

18 A Yes, the test fires I can compare to fired cartridge cases
19 and/or bullets.

20 Q Okay. So showing you State's 48. In a case, if firearms-
21 related evidence is recovered, can you retrieve that in order to
22 compare those to your test fires?

23 A Well they're submitted to us at the crime laboratory. So if
24 I can -- I'll -- when I get those submitted then again, I do the same
25 thing that I do with the firearm in terms of documentation of how it

1 was received and what exactly the contents of that package are and
2 then I evaluate those contents to see whether or not they can be
3 compared to my test fires.

4 Q In this particular case, the evidence you were able to
5 compare it to, did it come under a DR number of 18-12238?

6 A Yes, it did.

7 Q All right. Now you work for Metro?

8 A That's correct.

9 Q All right. Is that a DR number or a unique number that's
10 not a Metro number?

11 A That's correct.

12 Q Is that a Henderson number?

13 A That's what's on the packaging, correct?

14 Q Okay. So we know it's from this case based on that
15 particular unique number?

16 A Yeah, I think that's their case number.

17 Q And when you receive this evidence, what did you do with
18 it?

19 A So like I said before I take a picture of it, I document the
20 contents, I will weigh these fragments together in totality and I will
21 examine the components, you'll see that there's lots of fragments
22 and I'll see what's -- those fragments are. And if there's any rifling
23 imparted on those, which would allow it to be consistent with a
24 projectile or a bullet.

25 Q Okay. So maybe you could give us the anatomy of a

1 bullet, like break down the front portion that comes out, is it
2 jacketed, is there something inside?

3 A Well they come in lots of different ways. Very typically,
4 however there is a copper jacket surrounding a lead core.
5 Typically. Sometimes it's round nose, sometimes it has a cavity in
6 the nose, we call those jacketed hollow points. So they come in
7 lots of different designs and structures, but typically most
8 ammunition has a lead core surrounded by some sort of copper or
9 nickel-coated jacket.

10 Q So which portion of the bullet receives the imprint from
11 the barrel?

12 A So it would be the outer portion. So if that bullet has a
13 jacket it would be the jacket. If it's fully lead, then obviously it's
14 going to pick -- be picked up on the lead. So whatever the exterior
15 surface of that bullet is, it will interact with the rifling and then have
16 those marks imparted on it.

17 Q And in this particular case, in your analysis, did you have
18 some jacketing and some of the inner core?

19 A Yes. The more grayey, silver parts that's more consistent
20 with lead. It's soft, you can poke it and it actually bends and
21 moves. And then the other more copper-coated, that's going to be
22 your jacket material.

23 Q All right. And so you test fired this firearm so you knew
24 what this barrel would imprint, in essence on a jacket, is that
25 correct?

1 A That's correct.

2 Q And then you compared that knowledge that you obtained
3 from test firing to these pieces obtained from the autopsy?

4 A Correct.

5 Q And what were your results?

6 A So only the very large copper jacket -- that large fragment
7 there, almost in the center had rifling on it. You can actually see
8 there was a -- the base -- this open right here but that's just because
9 it's molded plastic, typically it's going to be solid; that's the base.
10 And then the rifling up to it. The other pieces were more the top of
11 the jacket.

12 So really the only thing that I could compare in this
13 collection was the larger fragment. And that's -- the larger
14 fragment had rifling that I could then compare to the test fires from
15 the revolver.

16 Q And what was your conclusion?

17 A That that copper jacket had been fired from that revolver.

18 Q Okay. So the copper jacket that we're looking at in State's
19 48 was indeed fired by the Ruger .357 Magnum depicted in State's
20 34?

21 A Yes. There is a sufficient amount of marks in quality and
22 quantity to indicate that it had been fired from that firearm, which
23 gives us the conclusion, in my opinion that it had been fired from
24 that firearm.

25 Q Thank you very much.

1 MR. PESCI: Pass the witness.
2 THE COURT: Mr. Helmick?
3 MR. HELMICK: No questions, Your Honor.
4 THE COURT: Mr. Yampolsky?
5 MR. YAMPOLSKY: No questions, Your Honor.
6 THE COURT: Anything from our jurors.
7 All right. Ms. Geil, Thank you very much for your time.
8 You are excused, okay?
9 THE WITNESS: Do you have a question?
10 THE COURT: Oh, did we have a question that I missed?
11 Yes. I'm sorry.
12 THE WITNESS: I'm sorry.
13 THE COURT: Yep. Stay where you are, I'm sorry. Thank
14 you for alerting me, I didn't see any hands.
15 You guys can approach.
16 [Bench conference transcribed as follows.]
17 MR. HELMICK: That's an interesting one. Oh my gosh.
18 [Mumbling between the attorneys]
19 THE COURT: No objections, I take it.
20 MR. PESCI: No.
21 MR. HELMICK: None.
22 THE COURT: Okay.
23 [End of bench conference.]
24 ...
25 ...

1 **EXAMINATION BY THE COURT [JURY QUESTIONS]**

2 BY THE COURT:

3 Q Just so we can be clear, can you tell me what color the
4 firearm is that you examined?

5 A Black.

6 Q Black. Thank you.

7 THE COURT: Okay. Any questions based on mine, Mr.
8 Pesci?

9 MR. PESCI: No, Your Honor.

10 THE COURT: Mr. Helmick?

11 MR. HELMICK: No, Your Honor.

12 THE COURT: Mr. Yampolsky?

13 MR. HELMICK: Mace.

14 THE COURT: Mr. Margolis?

15 MR. HELMICK: Mace?

16 MR. YAMPOLSKY: Yes.

17 THE COURT: Anybody?

18 Did you have any follow-up questions?

19 MR. MARGOLIS: No.

20 MR. YAMPOLSKY: Court's indulgence.

21 [Colloquy between Counsel]

22 MR. MARGOLIS: No questions.

23 MR. YAMPOLSKY: No, Your Honor.

24 THE COURT: All right. Thank you. You're done now. All
25 right. You're excused.

1 The State may call their next witness.
2 MR. PESCI: Judge, can we approach?
3 THE COURT: Is it a good time to take a break?
4 MR. PESCI: Yes, please.
5 THE COURT: All right. Ladies and Gentlemen, we'll take a
6 recess.
7 During the recess you're admonished not to talk or
8 converse among yourselves or with anyone else on any subject
9 connected with the trial. Or read or watch or listen to any report of
10 or commentary on the trial by any medium of information
11 including, without limitation, newspapers, television, the internet,
12 and radio. Or form or express any opinion on any subject
13 connected with the case until it's finally submitted to you. No legal
14 or factual research, or investigation, or social media
15 communication.
16 I will see you in a short bit. Thank you.
17 [Outside the presence of the jury]
18 THE COURT: Anything outside the presence?
19 MR. PESCI: No, Your Honor.
20 THE COURT: You all can be seated, thank you.
21 MR. HELMICK: No, Your Honor.
22 MR. YAMPOLSKY: No, Your Honor.
23 MR. PESCI: No.
24 THE COURT: No. Okay.
25 MR. PESCI: Thank you.

1 THE COURT: Do you have more witnesses today, they're
2 just not here yet or.

3 MR. PESCI: We have one and my understanding is he
4 was coming up.

5 THE COURT: Okay.

6 MR. PESCI: We had texted asking to get him up here.

7 THE COURT: Okay.

8 MR. PESCI: So I'm not sure, he could actually be out there
9 but --

10 THE COURT: Okay.

11 MR. PESCI: -- I also honestly need to use the bathroom.

12 MR. HELMICK: Ten minutes, Your Honor.

13 THE COURT: Yeah.

14 MR. HELMICK: Okay.

15 MR. YAMPOLSKY: Well it's an hour and ten minutes, not
16 15.

17 [Court recessed at 2:56 p.m., until 3:11 p.m.]

18 [In the presence of the jury]

19 THE MARSHAL: All rise for the jury, please.

20 THE COURT: Okay. You all can be seated. Thank you.

21 We're back on the record. Mr. Caruso, Mr. Harlan, all the
22 attorneys, all of our jurors are present.

23 We're going to continue on with the State's case in chief.
24 Mr. Pesci, your next witness is?

25 MR. PESCI: The State calls Ghunnar Methvin.

1 THE COURT: Thank you.

2 **GHUNNAR METHVIN**

3 [having been called as a witness and being first duly sworn,
4 testified as follows:]

5 THE CLERK: Thank you, please be seated.

6 If you could state and spell your name for the record,
7 please.

8 THE WITNESS: My name's Ghunnar Methvin.

9 G-H-U-N-N-A-R, M-E-T-H-V-I-N.

10 THE COURT: Okay. Mr. Methvin, just make sure you keep
11 your voice up for me, please? Thank you.

12 Mr. Pesci.

13 **DIRECT EXAMINATION**

14 BY MR. PESCI:

15 Q So if you come in tight to that microphone that'll probably
16 help with the volume and then if I think you need to raise your voice
17 I'm going to ask you to do that just so that everybody can hear,
18 okay? Is that a yes?

19 A Yes.

20 Q Okay. I want to direct your attention to June of 2018,
21 specifically June the 8th of 2018. Did you go to a party or a house
22 in Henderson on Cool Lilac?

23 A Yes.

24 Q And how did you hear about this party?

25 A From Jaiden and Kody.

1 Q Okay. And when you say you heard about it from Jaiden
2 and Kody, how did they communicate that to you?

3 A Text through Snapchat.

4 Q A text through a Snapchat. Okay. All right. Just in case
5 someone doesn't know all the functions of Snapchat, within that
6 application can you send videos?

7 A Yes, you can.

8 Q Can you also send sometimes, like you just said, just a
9 text?

10 A Yes, you can.

11 Q All right. But it utilizes the application, as opposed to
12 regular texting on your phone?

13 A Yes.

14 Q All right. So did you receive that kind of a communication
15 from both Jaiden and Kody or just one of them?

16 A No, just Jaiden.

17 Q Just Jaiden. Okay. And what was the communication
18 you received?

19 A A text through Snapchat.

20 Q And I apologize, I didn't ask that well. What was said?

21 A There's a house party with a pool. Come over.

22 Q Okay. Were you asked to bring anything with you?

23 A No.

24 Q Okay. And when you went to the party, did you go by
25 yourself?

1 A No, sir, with my friend Kymani.
2 Q Kymani?
3 A Yes.
4 Q All right. Keep the voice up --
5 A Yes.
6 Q -- please.
7 And is Kymani someone that that came in here and
8 testified earlier?
9 A Yes.
10 Q Okay. And were you and Kymani friends at that time?
11 A Yes.
12 Q Why did you want Kymani to go with you?
13 A I don't know?
14 Q Okay. Did you know Jaiden very well?
15 A No.
16 Q Okay. But did you have some interaction with him before
17 this date?
18 A Yes.
19 Q Okay. Just not really close friends or knew him really
20 well.
21 A No, sir.
22 Q Okay. And when you and Kymani got there, how did you
23 get there?
24 A My mom dropped us off.
25 Q Okay. And did she drive you?

1 A Yes, sir.

2 Q And do you remember about what time it was?

3 A 1:44 we arrived at the house.

4 Q Okay. And why do you remember that number?

5 A I don't know?

6 Q Okay. Well are there some other times in this afternoon

7 that you do remember? I guess what I'm saying is later on, did you

8 leave this house?

9 A Yes.

10 Q How did you leave this house?

11 A Because I was --

12 Q No, how, how. How did you leave it?

13 A I ran out the back door.

14 Q Okay. And did you get a ride?

15 A Yes, sir, I called an Uber.

16 Q Okay. And with that Uber, were you able to look and see

17 what time it was that you had --

18 A Yes.

19 Q -- called for that Uber?

20 Does that help you put into timeframe, some of these

21 events?

22 A Yes.

23 Q Okay. That's what I was trying to get at.

24 So let's go before the Uber, when your mom drops you

25 off, you and Ghunnar -- I'm sorry, you and Kymani. Do you have

1 any instructions on how you're supposed to get in that house?

2 A Hop the back wall and then enter through the back sliding

3 glass door.

4 Q All right. And you thought what kind of a party was this

5 going to be?

6 A A pool party.

7 Q Okay. So were you looking for a pool?

8 A Yes.

9 Q Did you find a pool?

10 A No.

11 Q Okay. Did you go to the right house at first?

12 A No, I did not.

13 Q Where did you go?

14 A To the next-door neighbor's house.

15 Q And why'd you go to that one?

16 A Because it had a pool --

17 Q Okay.

18 A -- and I was told there is a pool at the house.

19 Q All right. And then after you got to that house where

20 there was a pool, did you stay or leave? What happened?

21 A Some guy came out and we left.

22 Q It wasn't Jaiden?

23 A Uh-uh.

24 Q Is that a no?

25 A No, sir.

1 Q It's okay.

2 And when you left, where did you go? What did you do?

3 A We jumped back over the other wall that was, I guess the

4 right -- that was the right house --

5 Q Okay.

6 A -- and we went in there.

7 Q All right. When you went in there, did you go in through

8 the back sliding door?

9 A Yes.

10 Q Okay. When you got there, do you recall who was there?

11 A Charles, Jaiden, Kody, and Alaric, and Kymani.

12 Q And when you say Kymani, he came with you?

13 A Yes.

14 Q All right. Now were Kody and Jaiden there when you first

15 got there or did they come after you?

16 A They were there when I got there -- when I first got there.

17 Q Okay. And then what happened when you got there, what

18 did you guys do?

19 A We just hung out and smoked.

20 Q Okay. What were you smoking?

21 A Weed.

22 Q All right. Was there at the house also alcohol?

23 A Yes.

24 Q All right. And as far as other drugs besides weed, were

25 there any other drugs?

1 A Yes.

2 Q What was it?

3 A Xanax.

4 Q Okay. Now you were smoking some of the weed?

5 A Yes.

6 Q All right. Did you drink?

7 A Yes.

8 Q Okay. And how about the Xanax, did you take any

9 Xanax?

10 A No.

11 Q All right. Did you see who took the Xanax?

12 A Yes.

13 Q Who was that?

14 A Jaiden and Kody.

15 Q All right. Now speaking of Jaiden and Kody, did you see

16 any firearms on either of them during this time period?

17 A Yes.

18 Q Describe those please.

19 A One was a revolver that Jaiden had and then one was a

20 handgun, pistol that --

21 Q Okay.

22 A -- Kody had.

23 Q Kody had.

24 Was the one Kody had different from the one Jaiden had?

25 A Yes.

1 Q How would you describe the difference?

2 A One had a magazine and one was -- had a cylinder that

3 you put bullets in.

4 Q Okay. And the one with the magazine, was that the one

5 with Jaiden or with Kody?

6 A One with -- will you repeat that?

7 Q I apologize. The one with the magazine, was that the one

8 that Jaiden had or Kody had?

9 A Kody.

10 Q Okay. And then what were they doing, Kody and Jaiden

11 with those firearms?

12 A Pointing the guns at people.

13 Q All right. Do you recall if there was any sort of laser sight

14 on any of those guns?

15 A Yes, sir. Jai -- Kody's.

16 Q Okay. And do you remember seeing that sight being put

17 out?

18 A Yes, sir.

19 Q Where was it pointed to?

20 A Directly at my house when I walked into the house.

21 Q Was it pointed anywhere else during the time that you

22 were there?

23 A At my friend Kymani.

24 Q Okay. Did that make you nervous?

25 A Yes.

1 Q All right. But you stayed?

2 A Yes.

3 Q Okay. And when you stayed, you guys were smoking

4 marijuana, there was drinking going on. Do you remember

5 anybody using their phones?

6 A Jaiden was.

7 Q Okay. Did you see what Jaiden was doing with his

8 phone?

9 A Recording us.

10 Q Okay. And did you see -- with those guns, did you ever

11 see bullets being taken out or put back in?

12 A Multiple times.

13 Q All right. Who did what?

14 A Jaiden was emptying the cylinder out of the revolver

15 multiple times and putting a bullet back in and pointing it at

16 everyone in the room.

17 Q Okay. Now you gave us the list of people that were there.

18 At some point did a person by the name of Matt or Matthew show

19 up?

20 A Yes.

21 Q All right. Did you know him?

22 A I knew of him.

23 Q Okay. When you say you knew of him, how did you know

24 of him?

25 A He was popular.

1 Q Okay. Did you know him from -- was it from school or
2 social media?

3 A Social media.

4 Q Okay. And was he there when you first got there or did he
5 get there after you had been there?

6 A He got there after I got there.

7 Q Okay. Now using that kind of a timeframe from when
8 Matt got there, was there -- what was -- well, did more -- when
9 Matthew got there, were any more drugs brought into the house?

10 A Yeah, Xanax.

11 Q Okay. So there was Xanax before Matthew and after
12 Matthew?

13 A No, after Matthew.

14 Q Okay. So that Xanax came at the time Matthew came in?

15 A Yes.

16 Q All right. Who -- how did Matthew get there, do you
17 know?

18 A Jaiden and Kody left to pick him up.

19 Q Okay. And did you see Jaiden and Kody come with
20 Matthew when he came back to the house?

21 A Yes.

22 Q All right. Prior to Jaiden and Kody leaving to go get
23 Matthew, was there any conversation about doing a lick?

24 A Yes.

25 Q And what was the conversation and who was saying it?

1 A Jaiden was saying that he wanted to kill somebody and
2 rob somebody that day and do a lick.

3 Q Okay. Did you understand what a lick meant?

4 A Yes.

5 Q And how did you know what that meant?

6 A Street slang.

7 Q Okay. Is it something you had heard before?

8 A Yes.

9 Q Okay. When Jaiden was talking about that, who was
10 present?

11 A Kymani, Alaric, Charles, I was, Kody --

12 Q Okay.

13 A -- and Jaiden.

14 Q So was that comment made where those other people
15 were?

16 A Yes, it was.

17 Q And you were able to hear that?

18 A Yes.

19 Q Okay. After that conversation that was brought up, what
20 happened?

21 A They went -- they left and went to pick Matthew up.

22 Q Okay. So when you say they, are you speaking of Jaiden
23 and Kody?

24 A Jaiden and Kody.

25 Q All right. So the comments about a lick and a robbery,

1 was that just Jaiden or was that Jaiden and Kody?

2 A Just Jaiden.

3 Q All right. So those were words Jaiden said?

4 A Yes.

5 Q Okay. When they come back with Matthew, you talked

6 about some Xanax. Tell us what happens after that?

7 A They pulled out the bags of Xanax and they rolled up --

8 we rolled up some more weed and smoked.

9 Q Okay. So did the party continue after Matt got there?

10 A Yes, it did.

11 Q All right. And then did something kind of change the

12 party later on?

13 A Yes.

14 Q What happened?

15 A A gunshot through the ceiling.

16 Q Okay.

17 A The roof.

18 Q Where were you when that happened?

19 A I was sitting right next to -- not right next, but parallel to

20 Jaiden.

21 Q Okay. I want to show you State's 88.

22 Do you recognize this location?

23 A Yes.

24 Q Is this the place where you went to this party?

25 A Yes.

1 Q And where were you -- the Court's going to help you out.
2 To your left is a screen and this little mouse.

3 THE COURT: So you can just kind of left click with the
4 mouse and then draw on the screen, okay?

5 THE WITNESS: Okay.

6 THE COURT: You want him to show where he was
7 seated?

8 MR. PESCI: Yes, thank you.

9 THE COURT: If you could, please.

10 BY MR. PESCI:

11 A Okay. Right there.

12 Q All right. And you said you were near Jaiden?

13 A Yes, I was --

14 THE COURT: You made kind of a small mark.

15 THE WITNESS: Oh, I'm sorry.

16 THE COURT: That's all right.

17 You were on that white chair?

18 THE WITNESS: No, Jaiden was on that white chair.

19 THE COURT: Oh, Jaiden was on the white chair --

20 THE WITNESS: Yes, sir.

21 THE COURT: -- all right.

22 BY MR. PESCI:

23 Q And where were you?

24 A I was right here. In that -- this white chair was right there.

25 Q Oh, okay. So that white chair had -- was moved -- it was

1 over in the area that you just indicated in the middle of the floor,
2 kind of in between those sheets and that disinfectant wipe can?

3 A Right on top of that.

4 Q Okay. And so what did you do when the shot went off?

5 A I ran out the back door.

6 Q Okay. Did you wait around?

7 A No.

8 Q Okay. So did you see any interaction with Jaiden and the
9 other people before you ran off?

10 A No, I did not see any interaction.

11 Q You didn't stick around for that.

12 A No, sir.

13 Q Okay. When you left, do you know if you got out before
14 Kymani?

15 A I was the first one out, he was right behind me.

16 Q Okay. He being Kymani?

17 A Yes, Kymani was right behind me.

18 Q All right. And when you went out, what did you do?

19 A I jumped the back wall.

20 Q Okay. And did you leave that area?

21 A I -- we went back to the house and then we left.

22 Q Okay. So first you got out of the house and then at some
23 point you went back to the house?

24 A Yes.

25 Q All right. Was Kymani going back to get something?

1 A Yes.

2 Q All right. Were you excited about going back?

3 A No, sir.

4 Q Did you stay long when you got back?

5 A No.

6 Q Did you leave after retrieving -- or after Kymani retrieved

7 that item?

8 A Yes.

9 Q All right. And when you left, how did you get a ride

10 home?

11 A We -- I called an Uber.

12 Q Okay. Now, I want to focus in on before that Uber, right?

13 After the shot, before the Uber. Was there a phone call that you

14 received from anybody?

15 A Yes.

16 Q Who was it from?

17 A Jaiden.

18 Q And how do you know it's Jaiden?

19 A Because it came up on my contact list -- his name came

20 up on --

21 Q So did you have him in your contact list?

22 A Yes.

23 Q All right. Did you answer?

24 A Yes.

25 Q And what was said?

1 A The police aren't coming, come back to the house.

2 Q The police aren't coming, come back to the house?

3 A Yes.

4 Q And who said that?

5 A Jaiden

6 Q Okay. And is that before you went back with Kymani for

7 Kymani to grab something he left behind?

8 A Yes, that was before.

9 Q All right. So subsequent to that phone call, you went back

10 with Kymani got something and you left again?

11 A Yes.

12 Q Okay. And then when you got the Uber, how did that

13 work out? Did you do it on your phone?

14 A Yes.

15 Q And then did you give a location for the Uber to pick you

16 up?

17 A Yes.

18 Q And then did you get a ride home in the Uber?

19 A I'm sorry, what'd you say?

20 Q That's okay. Did you get a ride home with the Uber?

21 A Yes.

22 Q And then when you made it home, was there any more

23 contact on the phone from Jaiden or anybody else in the house to

24 you?

25 A Yes.

1 Q What happened?

2 A Jaiden called me and I handed the phone to Kymani and

3 Kymani said that Jaiden told him that he just killed Matthew. And

4 he wanted us to hang out with him and smoke with him.

5 Q Okay. Did you go back?

6 A No.

7 Q All right. Why'd you hand the phone off to Kymani?

8 A Because I was a little freaked out.

9 Q All right. Freaked out by the shot to the ceiling?

10 A No, by him saying he wanted to kill somebody and then I

11 was wondering why he's calling me a couple house later after I left,

12 after -- yes, I guess I was freaked out by the shot.

13 Q Okay. And then what he had said on that phone call, were

14 you also nervous based on that?

15 A Yes.

16 Q Okay. And then did police come and talk to you?

17 A Yes, they did.

18 Q All right. And did they ask you actually some times, as far

19 as when you picked up the Uber and things like that?

20 A Yes.

21 Q All right. Well, do you remember exactly what they asked

22 you?

23 A They --

24 Q The police, as far as what they asked you.

25 A They asked me --

1 Q About being dropped off by your mom?
2 A Yes.
3 Q Times and things of that nature?
4 A Yes.
5 Q Okay. And then after you got home and after you got that
6 call, did you talk to the police?
7 A No, not that same day.
8 Q All right. So was it a few days later?
9 A Yes.
10 Q All right. And did they ask you some questions?
11 A Yes, they did.
12 Q Okay. And then did you give them answers?
13 A Yes, I did.
14 Q Okay. Now, you told us about the lick and wanting to kill
15 somebody. Did you say that in your original statement to the police
16 on June 12th or -- I'm sorry. But that timeframe close to when this
17 occurred?
18 A No, I did not.
19 Q All right. Is it be -- why is it that you didn't tell them that
20 portion?
21 A They did not ask me.
22 Q Okay. So that portion of what you are telling us here
23 today, did that really happen?
24 A Yes.
25 Q All right. Are --

1 A It did.

2 Q -- you making that up?

3 A No.

4 Q Is there any reason why you would be making that up?

5 A No.

6 Q You haven't been charged with anything?

7 A No, sir.

8 Q Do you have any ill will or anger towards the Defendants?

9 A No.

10 Q Any reason to try to make something up against them?

11 A No.

12 Q Okay. There's some video I want to show you.

13 All right. This is State's Exhibit 147.

14 Just one second, it's going to take a minute to pull it up,

15 okay?

16 [Video playing]

17 BY MR. PESCI:

18 Q Ghunnar, do you recognize that gun?

19 A Yes.

20 Q What gun was that?

21 A Jaiden's gun.

22 [Video playing]

23 BY MR. PESCI:

24 Q Who's that, Ghunnar?

25 A Kymani.

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[Video playing]

BY MR. PESCI:

Q And who's that?

A Me.

Q All right. Is this before the shot to the ceiling?

A Yes, it is.

Q All right. Thank you very much.

MR. PESCI: Pass the witness.

THE COURT: Mr. Helmick?

MR. HELMICK: Thank you, Your Honor.

[Colloquy between Counsel]

CROSS-EXAMINATION

BY MR. HELMICK:

Q Ghunnar, I want to go back to the beginning, okay?
You were invited over by Jaiden, isn't that right?

A Yes.

Q Okay. Via Snapchat, right?

A Yes.

Q Jaiden only is the one who sent you the Snapchat, right?

A Yes.

Q Okay. You're not invited over by Kody, isn't that right?

A No.

Q Okay. When you get to the house, Charles is there, right?

A Yes.

Q Alaric?

1 A Yes.

2 Q An unknown African American kid was there as well, isn't

3 that right?

4 A Yes.

5 Q Okay. And then Jaiden and Kody show up too, right?

6 A They were --

7 Q Or were they already --

8 A -- there.

9 Q -- there? They were there. Okay.

10 When you walked into the house and you saw what

11 position that you were sitting in in the house, right? In that chair?

12 A Yes.

13 Q Did you stay in that position the majority of the time that

14 you were in the house?

15 A The whole time.

16 Q The whole time, okay. And Kymani was always to your

17 right, right?

18 A Yes.

19 Q And was Jaiden always to your left?

20 A Yes.

21 Q Okay. And Kody was laying down on the couch, right?

22 A Yes.

23 Q You didn't speak to Kody too much that day, did you?

24 A No, I did not.

25 Q And he didn't speak to you, right?

1 A Uh-uh. No.

2 Q No. Okay.

3 In reference to the gun, the revolver specifically, you said
4 that Jaiden was taking all but one of the bullets out of the gun,
5 right?

6 A Yes.

7 Q And then he would take the gun and he would point it at
8 other people, including you in the room, right?

9 A Yes.

10 Q And then he would click the trigger, right?

11 A Yes.

12 Q Okay. And you knew that there was one bullet still in the
13 gun when he was doing that, right?

14 A Yes, I did.

15 Q Okay. And that ended up being the bullet that was shot
16 into the ceiling, right?

17 A Yes.

18 Q Okay. Now you said that Kody had the gun with the laser
19 on it, right?

20 A Yes.

21 Q Now he was never clicking the gun at anybody in that
22 house, right?

23 A No.

24 Q Okay. In fact, you don't know if -- even if that gun was
25 loaded, right?

1 A No, it was loaded.
2 Q What's that?
3 A It was loaded.
4 Q You checked it?
5 A Yeah.
6 Q You checked the gun?
7 A No, I did not check the gun, but I know it was loaded.
8 Q You know it was loaded --
9 A Yes.
10 Q -- but you didn't check it?
11 A Yes.
12 Q Okay. It had the laser on the bottom of it, right?
13 A Yes.
14 Q Okay. Now in regards to -- let's talk about this shot to the
15 ceiling, okay?
16 A Okay.
17 Q When Jaiden shot to the ceiling that obviously scared the
18 heck out of you, right?
19 A Yes.
20 Q And he had his hands on his stomach, acting as if he had
21 been hit, right? Jaiden?
22 A Yes.
23 Q Okay. And then he started laughing and pointing to the
24 ceiling, right?
25 A Yes.

1 Q Okay. There was some conversation by Mr. Pesci and you
2 just now about the Xanax? Do you remember that talk about --

3 A Yes.

4 Q -- the Xanax?

5 Okay. Now you had said that when Matthew showed up
6 there was more Xanax that was brought over, right?

7 A Yes.

8 Q Okay. Now you had your interview with the police, right?

9 A Yes.

10 Q And you wanted to be truthful with them, right?

11 A Yes.

12 Q You wanted to tell them everything you could to help their
13 investigation, right?

14 A Yes.

15 Q Okay. Did you tell them anything about Matthew coming
16 over with Xanax or -- in general Kody and Jaiden coming over with
17 Xanax when they had Matthew?

18 A Yes.

19 Q You did?

20 A Yes.

21 Q Now I know this is lengthy and I recognize obviously this
22 was a year ago, right?

23 A Yes.

24 Q And so I understand that it may be -- you would agree that
25 your memory was fresher when you had this interview, right?

1 A Yes.

2 Q With regard to the events in this case, right?

3 A [No audible response - nods head yes].

4 Q Okay. So I'm just going to have you just briefly look
5 through this and I want you to point out to me where you said that
6 they came with Xanax, okay?

7 A Okay.

8 Q Okay.

9 MR. HELMICK: May I approach?

10 THE COURT: Yes.

11 BY MR. HELMICK:

12 Q Now you had an interview with police, right?

13 A Yes.

14 Q And you know it was being recorded, right?

15 A Yes.

16 Q Okay. And that recording was transcribed, right?

17 A Yes.

18 Q Okay. I'm going to show you your transcribed statement
19 to the police. Just briefly look through that. I know it's lengthy but
20 take your time because this is important.

21 [Witness complies]

22 BY MR. HELMICK:

23 Q And what we're looking for is Xanax, right?

24 A Yes.

25 Q Okay.

1 [Witness continues reading through statement]

2 BY MR. HELMICK:

3 Q Let me ask you this, Ghunnar, has it been awhile since
4 you've -- have you ever read this statement?

5 A Yeah, I did -- I have.

6 Q Has it been a while since you've read it?

7 A Four or five days maybe.

8 Q Oh four or five days ago?

9 A Yeah.

10 Q I mean, do you recall anything about them coming over
11 with Xanax?

12 A [No audible response - shakes head no].

13 I don't see.

14 Q That's okay. Thank you.

15 Okay. So let's talk about this robbery and lick talk that Mr.
16 Pesci was talking to you about, okay? You said that Jaiden was the
17 only one talking about wanting to rob someone or do a lick on
18 someone, right?

19 A Yes.

20 Q Okay. And Kody was laying down on the couch, he was
21 not involved in that conversation at all, isn't that right?

22 A Yes.

23 Q Thank you. Okay.

24 So you leave, you go to your house from the Uber, right?

25 A Yes.

1 Q Okay. And Jaiden ends up calling you a little while later,
2 multiple times, right?

3 A Yes.

4 Q Okay. And you didn't want to answer the phone because
5 you were scared of what just took place in that house, right?

6 A Yes.

7 Q Yeah. And that's understandable. And so you handed the
8 phone to Kymani, right?

9 A Yes.

10 Q And he answered the phone and he put it on FaceTime.
11 You were in the living room of your house, right?

12 A Yes.

13 Q Okay. And when you were on FaceTime, you could hear
14 the conversation that Jaiden was having, right?

15 A No, I couldn't actually.

16 Q You couldn't hear it?

17 A No, the volume was turned all the way down because my
18 mom was in the kitchen.

19 Q Your mom was in the kitchen.

20 A Yes.

21 Q Okay. But you're aware that Jaiden said he killed Matt, he
22 shot him, bro?

23 A Yes.

24 Q Okay. nothing about doing a lick on him or robbing him,
25 isn't that right?

1 A Through the call.

2 Q On that phone call.

3 A No.

4 Q Okay. And also nothing about Kody's name ever being
5 mentioned at all on that phone call, right?

6 A He said that he was with Kody.

7 Q Okay. So now you're saying the phone call, he says he
8 was with Kody?

9 A Yes.

10 Q Okay. Did you tell the police anything about that in your
11 interview? Because that's a new fact that we just received.

12 A No.

13 Q Okay. So you never said that Matt called -- I mean, sorry,
14 Jaiden called and he said he was with Kody. You never told the
15 police that, right?

16 A No, he never said he was with Kody, but they were
17 together.

18 Q Okay. So they were -- yeah, I mean, I agree with you,
19 Kody was at the house, right?

20 A [No audible response - nods head yes].

21 Q Okay. But I'm asking you specifically, when Jaiden called
22 you and you handed the phone to Kymani, he didn't say we killed
23 Matt, right?

24 A No, he said I killed Matt.

25 Q Okay. In fact Kody's name was never mentioned at all,

1 isn't that right?

2 A Yes.

3 Q Okay. And again, in regards to this lick, you said the
4 reason that you didn't tell the police, although you knew this was
5 an ongoing investigation, was because they never asked you, right?

6 A Yes, they did not ask me those questions.

7 Q But you wanted to -- they -- when they interviewed you,
8 they wanted to know what happened in that house, isn't that right?

9 A Yes.

10 Q Yeah. And you wanted to help your investigation because
11 of this unfortunate incident, right?

12 A Yes.

13 Q You wanted to do everything you could, right?

14 A Yes.

15 Q And that was never mentioned to them, right?

16 A No, it wasn't.

17 Q All right. Thank you, Ghunnar.

18 THE COURT: Mr. Yampolsky?

19 MR. YAMPOLSKY: Thank you.

20 **CROSS-EXAMINATION**

21 BY MR. YAMPOLSKY:

22 Q When you went to the house that we're all talking about,
23 you brought some weed, correct?

24 A Yes, I did.

25 Q Approximately how much weed did you have?

1 A Two grams.

2 Q You only had two grams?

3 A Two grams.

4 Q So that's what, enough for one joint?

5 A Yes.

6 Q Okay. And then Matthew brought some?

7 A Yes, he did.

8 Q Okay. Now you originally interviewed with the police on

9 June 12th of 2000 -- wait --

10 MR. PESCI: I think that's a typo.

11 MR. YAMPOLSKY: Court's indulgence.

12 BY MR. YAMPOLSKY:

13 Q Did you -- when you interviewed with the police for the

14 first time, it was about four days after this happened, correct?

15 A Yes.

16 Q Okay. And you wanted to help the police.

17 A Yes.

18 Q You wanted to be truthful?

19 A Yes.

20 Q You wanted to be accurate?

21 A Yes.

22 Q You wanted to be complete as possible?

23 A Yes.

24 Q Okay. And on that day, you never said anything about

25 Jaiden wanting to kill someone, correct?

1 A Yes.

2 Q And you didn't think that was important?

3 A Well, I was very shaken up.

4 Q Excuse me.

5 A I was very shaken up after the incident.

6 Q Okay. But you gave them all these other details about

7 what happened, correct?

8 A Yes, I did.

9 Q You said that Jaiden shot the gun into the ceiling, correct?

10 A Yes, I did.

11 Q Said he pointed the gun at you and everyone else except

12 Kody --

13 A Yes.

14 Q -- correct?

15 And you said Kody pointed the gun -- his gun at people

16 also?

17 A Yes.

18 Q Okay. But you never mention -- you know what a lick

19 means?

20 A Yes.

21 Q Okay. And you never mentioned a lick to that detective

22 when you were interviewing with him, correct?

23 A Yes.

24 Q Is that a yes?

25 A Yes.

1 Q Okay. And prior to testifying today, you interviewed with
2 law enforcement, correct?

3 A Yes.

4 Q Okay. And who'd you interview with?

5 A They were two Henderson detectives.

6 Q And do you remember their names?

7 A I do not.

8 Q At that time did you tell the Henderson detective about
9 this lick that you heard?

10 A No, I did not.

11 Q Okay. When's the first time you mentioned about this
12 lick?

13 A When I ran it with Mr. Pesci.

14 Q So when you spoke to Mr. Pesci. And when was that?

15 A A week or two ago.

16 Q Okay.

17 A A week ago.

18 Q And you told him oh by the way --

19 A Not --

20 Q -- Jaiden said something about doing a lick?

21 A I didn't say by the way. I told him that's what he said.

22 Q Okay. And you told him that Jaiden also said he wanted
23 to kill someone.

24 A Yes.

25 Q Okay. And when you spoke to Mr. Pesci, that was over a

1 year from the time that this happened.

2 A Yes.

3 Q Yes? Okay.

4 MR. YAMPOLSKY: I have nothing further.

5 THE COURT: Mr. Pesci?

6 MR. PESCI: Thanks.

7 **REDIRECT EXAMINATION**

8 BY MR. PESCI:

9 Q So Ghunnar, in June of 2018, how old were you?

10 A I was 16.

11 Q Okay. So June of 2018 is when you gave this statement,
12 correct?

13 A Yes.

14 Q So as a 16-year old kid you didn't know what the police
15 wanted or didn't want, did you?

16 A No, sir.

17 Q You weren't a homicide detective with the police
18 department, were you?

19 A Sir, will you repeat that?

20 Q Well when you were a 16-year old in June of 2018, you
21 weren't a homicide detective for the Henderson Police Department?

22 A No, sir.

23 Q You didn't know all the ins and outs of this case.

24 A No, I did not.

25 Q You didn't know what the police would want.

1 A I did not know what they would want.

2 Q So they just asked you about meeting with the District
3 Attorney's Office and talking to us about what occurred, do you
4 remember that?

5 A Yes, I do.

6 Q Did we ask you to tell us what happened?

7 A Yes, you did.

8 Q And when you were telling us what happened, is that
9 when you mentioned what it was that Jaiden said?

10 A Yes, it was.

11 Q Did I tell you to make that up?

12 A No, you did not.

13 Q Did I tell you I need to this, this, and this information; give
14 it to me when you get on the stand?

15 A No, you did not.

16 Q Talking about killing somebody, let's go to your
17 statement, page 13. Take a moment to review what it is you said
18 on that page.

19 Just read it to yourself.

20 [Witness complies]

21 BY MR. PESCI:

22 Q Did you get a chance to read that?

23 A Yes, sir.

24 Q Okay. And did you actually mention to the police, back in
25 June, a few days after this concept of somebody getting killed?

1 Did you say: I felt like it was like a y'all guys need to leave
2 before I kill somebody shot?

3 A Yes.

4 Q Like it was not an accident.

5 A Yeah.

6 Q Like I really felt like he was like planning on doing
7 something to somebody in that house that day.

8 A Yes, I did say that.

9 Q All right. So you said that to police in June of 2018, just
10 days after.

11 A Yes.

12 Q Thank you.

13 THE COURT: Mr. Helmick?

14 MR. HELMICK: Thank you.

15 **RECROSS-EXAMINATION**

16 BY MR. HELMICK:

17 Q Just to touch on that Ghunnar, the statement that you just
18 read, Mr. Pesci mentioned the word he, right? The person that
19 invited you over was Jaiden, right?

20 A Yes.

21 Q Okay. And when you said the word, he, you're referring
22 to Jaiden, right?

23 A Yes.

24 Q Thank you. Okay.

25 Now let's talk about the interview for a second. I

1 recognize that you were 16 at the time, right?

2 A Yes.

3 Q Okay. But you weren't in that interview alone, right?

4 A No, I was not.

5 Q You had your mother there with you, didn't you?

6 A Yes, I did.

7 Q Okay. And you felt comfortable having your mother there

8 with you, right?

9 A She was there because it was in my house.

10 Q Sure. But my question was --

11 A No.

12 Q -- you felt comfortable with having your mother there with

13 you?

14 A No.

15 Q You didn't feel comfortable?

16 A No.

17 Q Okay. Did you ask your mother to leave?

18 A No, I did not.

19 Q Okay. You could have, couldn't you?

20 A I don't remember.

21 Q Okay. The interview was in your house your said, not at a

22 police station, right?

23 A Yes.

24 Q Okay. Now you're friends with Kymani, isn't that right?

25 A Yes.

1 Q And certainly -- I mean, you're still friends to this day?

2 A Yes.

3 Q And certainly you and Kody have had conversations about
4 this case after the incident, right?

5 A Yes.

6 Q Yeah. And you've talked about, you know, maybe what
7 you thought had happened that day, right?

8 A Yes.

9 Q Okay. And he offered his opinion to you and likewise you
10 offered your opinion to him, right?

11 A Yes.

12 Q Okay. Thank you very much.

13 THE COURT: Anything, Mace?

14 **RECROSS-EXAMINATION**

15 BY MR. YAMPOLSKY:

16 Q When Mr. Pesci was questioning you, he said that you
17 said I felt like it was like a y'all guys need to leave before I kill
18 somebody shot, correct?

19 A Yes.

20 Q And that was in answer to a question, so -- and if you
21 don't remember, I'm happy to come up and refresh your
22 recollection but that was in answer to a question: So when he fires
23 a warning shot, we did see it in the roof.

24 Did you get the impression that that was an accident or
25 it's deliberate watch this?

1 Right?

2 A Yes.

3 Q And then you said I felt like all you guys need to leave

4 before I kill someone shot, correct?

5 A Yes.

6 Q That was your perception.

7 A Yes.

8 Q He didn't say y'all guys need to leave before I kill

9 someone shot, right?

10 A No.

11 THE COURT: He?

12 MR. YAMPOLSKY: He didn't --

13 THE COURT: He meaning --

14 MR. YAMPOLSKY: -- say that, that was your perception?

15 THE COURT: When you say he, you're meaning Mr.

16 Caruso?

17 MR. YAMPOLSKY: I'm reading --

18 THE COURT: I know but you're asking --

19 THE WITNESS: Jaiden.

20 MR. YAMPOLSKY: Yes, I am referring --

21 THE COURT: -- the witness that --

22 MR. YAMPOLSKY: -- to Mr. Caruso.

23 THE COURT: -- Mr. Caruso didn't say that, the --

24 MR. YAMPOLSKY: Correct.

25 THE COURT: -- witness is saying that's what the witness

1 felt.

2 MR. YAMPOLSKY: Right.

3 THE COURT: Okay.

4 BY MR. YAMPOLSKY:

5 Q Mr. Caruso didn't say y'all guys need to leave before I kill

6 someone shot, correct?

7 A No.

8 Q And you said like I really felt like he was planning on

9 doing something to somebody in that house that day, correct?

10 A Yes.

11 Q He never said I'm planning on doing something to

12 somebody in this house today?

13 A Yes, he said he was --

14 Q He said that.

15 A -- going to kill somebody.

16 Q Okay. So he said I feel like I -- I'm planning on doing

17 something to somebody in that house today? He said that?

18 A No.

19 Q Right. So that's your perception?

20 A Yeah.

21 Q Okay.

22 MR. YAMPOLSKY: I have nothing further.

23 THE COURT: Mr. Pesci?

24 MR. PESCI: Thank you.

25 ...

1 **FURTHER REDIRECT EXAMINATION**

2 BY MR. PESCI:

3 Q I'm just going to follow up on the things that they just
4 said. Your perception ended up being correct, right?

5 A Yes.

6 Q And then as far as --

7 MR. YAMPOLSKY: Objection, that misstates the
8 testimony. Correct in what?

9 THE COURT: Well overruled. Go ahead.

10 BY MR. PESCI:

11 Q Speaking specifically about what was just asked you by
12 Mr. Helmick about you having a conversation with Kymani about
13 this case, do you remember those questions?

14 A Yes.

15 Q Ghunnar, is your testimony here today your own
16 testimony?

17 A Yes, it is.

18 Q Are you saying something because Kymani told you to
19 say it?

20 A No.

21 Q Are you saying it because you saw it and you heard it?

22 A Yes.

23 MR. PESCI: Thanks.

24 THE COURT: Do you have anything further?

25 MR. HELMICK: Nothing further. Thank you.

1 THE COURT: Mr. Yampolsky?

2 **FURTHER RECROSS-EXAMINATION**

3 BY MR. YAMPOLSKY:

4 Q So the statement about needing to leave before I kill
5 someone, you never heard Mr. Caruso say that?

6 A No.

7 MR. YAMPOLSKY: I have nothing further.

8 THE COURT: Anything from our jurors?

9 Yes?

10 Just sit tight for --

11 THE WITNESS: Oh.

12 THE COURT: -- just a second.

13 THE WITNESS: Sorry.

14 [Bench conference transcribed as follows.]

15 MR. HELMICK: Yes, please. No objection.

16 MR. PESCI: No objection on Juror 13's question from the
17 State.

18 THE COURT: [Indiscernible] or was he meaning the
19 African American boy?

20 MR. YAMPOLSKY: Who's he?

21 THE COURT: [Indiscernible] talking about the African
22 American boy [indiscernible] kind of the question or it's referring to
23 Ghunnar himself, but I'll ask.

24 MR. PESCI: I don't know, you'll just have to ask him.
25 objection from the State.

1 MR. HELMICK: No objection.
2 MR. YAMPOLSKY: No objection.
3 THE COURT: Okay. Thank you.
4 [End of bench conference.]
5 THE COURT: All right. Ghunnar, I have a couple
6 questions for you.
7 THE MARSHAL: One more, Your Honor.
8 THE COURT: Oh, okay.
9 THE MARSHAL: Sorry.
10 THE COURT: Hold on guys, come back.
11 Thank you.
12 [Bench conference transcribed as follows.]
13 MR. PESCI: Can anybody read that?
14 THE COURT: It's very small.
15 MS. OVERLY: [Indiscernible] Jaiden say he wanted to do
16 a lick. He didn't mention [indiscernible].
17 MR. YAMPOLSKY: But he already said he didn't hear him
18 say that.
19 MR. HELMICK: What's the question?
20 THE COURT: What do you mean?
21 MR. YAMPOLSKY: Well --
22 THE COURT: Didn't hear him say what?
23 He did say --
24 MR. YAMPOLSKY: Okay.
25 THE COURT: He said he heard that.

1 MR. YAMPOLSKY: All right.

2 THE COURT: Okay.

3 MR. PESCI: No objection from the State.

4 [End of bench conference.]

5 THE COURT: Okay. I got a couple questions for you, if I
6 could, Ghunnar.

7 **EXAMINATION BY THE COURT [JURY QUESTIONS]**

8 BY THE COURT:

9 Q Do you know -- there was reference made to another
10 young man that was at that house and he was simply described as
11 an African American young man. Do you recall anybody being
12 there other than the folks you've mentioned?

13 A There was one kid I didn't know that was there.

14 Q Okay. Was he an African American boy?

15 A He was light skinned. No, he wasn't Black.

16 Q Okay. You weren't sure?

17 A No, I was -- I guess no, I wasn't sure on that one.

18 Q Okay. Do you know what his name was?

19 A I do not know.

20 Q Okay. Do you know was --

21 THE COURT: Well let me just clarify. What the bottom
22 part of this question references was he there at the house when
23 Jaiden shot into the ceiling. Are you asking about was the African
24 American boy?

25 Okay.

1 BY THE COURT:

2 Q Was this other boy, that you don't know the name of, was
3 he there at the time that shot went into the ceiling?

4 A Yes, he was.

5 Q Okay. Got it.

6 How long before Jaiden and Kody left to get Matthew did
7 you hear Jaiden say he wanted to kill someone and do a lick?

8 A Not even 20 minutes.

9 Q Okay.

10 THE COURT: And did he, meaning Mr. Caruso?

11 UNKNOWN JUROR: Yes.

12 BY THE COURT:

13 Q Did Mr. Caruso mention Matt's name when he was saying
14 these things?

15 A No, he did not.

16 Q Okay. Did you ever hear Kody speak about a lick or killing
17 someone?

18 A No, I did not.

19 Q And where was Kody when Jaiden talked about a lick and
20 killing someone?

21 A Sitting down on the couch.

22 THE COURT: Okay. Mr. Pesci, any questions based on
23 mine?

24 MR. PESCI: No. Thank you, Your Honor.

25 THE COURT: Mr. Helmick?

1 MR. HELMICK: Let me see here.

2 Your Honor, the second question in regards to -- was it in
3 regard to Matt being picked up?

4 THE COURT: Okay.

5 MR. HELMICK: What was that question again, I'm sorry?

6 THE COURT: The second part of that question was did he,
7 meaning Mr. Caruso, mention Matt's name when saying this.

8 MR. HELMICK: What was the first part of that question?

9 THE COURT: How long before Jaiden and Kody left to get
10 Matthew did you hear Jaiden say he wanted to kill someone and do
11 a lick.

12 MR. HELMICK: Yeah, okay.

13 THE COURT: And the gentleman answered about 20
14 minutes.

15 MR. HELMICK: Yeah, okay.

16 THE COURT: Not even 20 minutes, correct?

17 THE WITNESS: Yes.

18 THE COURT: Okay.

19 MR. HELMICK: Yeah. No questions. Thank you.

20 THE COURT: Mr. Yampolsky?

21 MR. YAMPOLSKY: No questions.

22 THE COURT: All right. Mr. Methvin, you are excused, sir.
23 Thank you very much for your time, okay?

24 THE WITNESS: Okay.

25 THE COURT: The State have any further witnesses?

1 MR. PESCI: Not today, Your Honor, I apologize.

2 THE COURT: All right. So Ladies and Gentlemen, I got
3 bad news, I got good news, I got pretty good news, and I got really
4 good news. So which one do you want first?

5 UNKNOWN JUROR: Go in order.

6 THE COURT: Go in order?

7 Okay. Well I'll give you a little bit out of order. So the
8 good news is you're done for today so that's early. The bad news
9 is you don't get to see me tomorrow. I'm sure you're going to be
10 really disappointed by that. But that's also the really good news is
11 we're going to be dark tomorrow. The really, really good news is
12 that the State anticipates that they're going to finish with their case
13 probably by about lunch time or early afternoon on Monday, so
14 we're way ahead of schedule in that regard.

15 There was one witness scheduled for tomorrow, but I
16 asked them to move him to Monday because I didn't want to bring
17 you in just for like an hour. So we're going to start Monday at 9:00
18 but we'll be dark all tomorrow instead of just in the afternoon. So
19 you have your lives back for tomorrow. And then we'll start up
20 Monday morning at 9:00, okay?

21 So that's kind of like really good news and really, really
22 good news, right?

23 All right. During the recess you're admonished not to talk
24 or converse among yourselves or with anyone else on any subject
25 connected with the trial. Or read or watch or listen to any report of

1 or commentary on the trial by any medium of information
2 including, without limitation, newspapers, television, the internet,
3 and radio. Or form or express any opinion on any subject
4 connected with the case until it's finally submitted to you. No legal
5 or factual research, or investigation, or social media
6 communication on your own.

7 One of the things I should have added is the other
8 witnesses weren't available until Monday so there was no way to
9 get them all in and have them finish up tomorrow. That's why we
10 decided to kick the one witness over to Monday, okay?

11 But anyway, three-day weekend, I hope you enjoy
12 yourselves, and I will see you Monday morning. Thank you very
13 much for your time.

14 [Outside the presence of the jury]

15 THE COURT: Anything outside the presence?

16 MR. PESCI: Judge, the only thing I would ask, I'm going
17 to try to get the instructions done --

18 THE COURT: Okay.

19 MR. PESCI: -- either tonight or tomorrow. And if we could
20 all try to get them to each other tomorrow --

21 THE COURT: Yeah.

22 MR. PESCI: -- that way --

23 THE COURT: I would like for you guys to use that time to
24 kind of get together in some fashion, whether it's phone conference
25 or what. So just exchange everything and kind of include us on the

1 e-mails, so we have them.

2 MR. PESCI: And then on Monday you're saying we'll hash
3 those out --

4 THE COURT: Yeah.

5 MR. PESCI: -- settle them and we'll argue Tuesday.

6 THE COURT: Yes.

7 MR. PESCI: Of course accommodating --

8 MR. YAMPOLSKY: Tuesday, not Monday.

9 MR. PESCI: -- Mace's time schedule.

10 THE COURT: Tuesday afternoon at 1:00.

11 MR. PESCI: But he's admitted that he knows we're closing
12 on Tuesday.

13 MR. HELMICK: Your Honor, what time on Monday?

14 THE COURT: 9:00.

15 MR. HELMICK: 9:00. Okay.

16 THE COURT: Yeah.

17 [Evening recess at 4:00 p.m.]

18 * * * * *

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21 ATTEST: I do hereby certify that I have truly and correctly
22 transcribed the audio/video proceedings in the above-entitled case
23 to the best of my ability.

23

24

25



Brittany Mangerson
Independent Transcriber