

1 STATE OF SOUTH CAROLINA, COUNTY OF HORRY:

2 IN THE CIRCUIT COURT OF COMMON PLEAS

3 FIFTEENTH JUDICIAL CIRCUIT

4 -----
5 JENNIFER SPIVEY FOLEY, as Personal Representative

6 of the Estate of Scotty Ryan Spivey,

7 Plaintiff,

8 v.

CASE NO. 2024-CP-26-03798

9 CHARLES WELDON BOYD and

10 KENNETH WILLIAMS,

11 Defendants.

12 -----
13 Complete transcript of the
14 videotaped deposition of FRANK MCMURROUGH, taken at the
15 instance of the Plaintiff, before Claudia M. Whisenand,
16 a Court Reporter and Notary Public for the State of
17 Virginia at Large, on December 1, 2025, beginning at
18 10:00 a.m., at the offices of Regus, 4870 Sadler Road,
19 Glen Allen, Virginia; said deposition taken pursuant to
20 the Rules of the Supreme Court of South Carolina.

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I N D E X

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FITSNEMAS

1 THE VIDEOGRAPHER: Good morning.
2 Today's date is December the 1st, 2025. The time on the
3 video monitor is 10:05 a.m., Eastern. This is the video
4 recorded deposition of Mr. Frank McMurrough.

5 This is being heard in the case of
6 the Estate of Scott Spivey, et al., versus Charles Boyd,
7 et al.

8 This case has been filed in the
9 State Court of South Carolina in the Circuit Court in
10 the County of Richmond. The case number is 2025,
11 hyphen, CP, hyphen, 26, hyphen 03798.

12 The location for today's deposition
13 is 4870 Sadler Road in Glen Allen, Virginia. I'm not
14 related to any part of this action, nor am I financially
15 interested in the outcome.

16 If there are any objections to
17 proceeding by counsel, please state them at the time of
18 your appearance. At this time, would counsel please
19 state your appearances and affiliations for the record
20 beginning with the noticing attorney.

21 MR. TINSLEY: This is Mark Tinsley.
22 I'm here with Natasha Hanna, and we represent the Spivey
23 family.

24 MR. MOSS: I'm Kenneth Moss, and I
25 represent Charles William Boyd, and I know you recited

1 the Richmond, Virginia case number. Our case number is
2 2024-CP-26-03798.

3 THE VIDEOGRAPHER: Thank you,
4 Counsel. Those attending by Zoom.

5 MR. MARTIN: Morgan -- Morgan Martin
6 attending by Zoom on behalf of Bradley Williams.

7 MR. LEE: Robert Lee on behalf of
8 Bradley Williams attending by Zoom as well.

9 MR. TINSLEY: Mr. McMurrough.

10 THE VIDEOGRAPHER: Counsel, at this
11 time we need our court reporter to please swear in our
12 witness.

13 COURT REPORTER: Raise your right
14 hand, please. Do you swear or affirm that the testimony
15 you're about to give in this case will be the truth, the
16 whole truth, and nothing but the truth, so help you God?

17 MR. MCMURROUGH: I do.

18 COURT REPORTER: Okay.

19 THE VIDEOGRAPHER: Counsel, you may
20 proceed.

21 MR. TINSLEY: Thank you.

22
23 FRANK MCMURROUGH, a witness,
24 being called for examination by Plaintiff's counsel,
25 first being duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. TINSLEY:

3 Q Mr. McMurrough, as you know, we're here
4 to take your deposition.

5 Simply the means allow by law for us to
6 ask you questions about what you saw that day, not
7 trying to harass you and won't belabor this.

8 We're presently in Glen Allen, Virginia,
9 and you live in Virginia?

10 A Yes.

11 Q And back on September the 9th, 2023, you
12 and your wife were traveling from Virginia to Myrtle
13 Beach; is that correct?

14 A I don't recall.

15 Q Okay. Do you recall being on Camp Swamp
16 Road? Is it near the intersection of Highway 9 and
17 witnessing the shooting event?

18 A It's been a long time.

19 Q But you generally recall?

20 A I remember something happened on that
21 day.

22 Q Okay. Do you remember seeing the
23 gentleman get out of the black truck? You said this had
24 played through your mind a thousand times or something
25 to that effect.

1 A I don't recall.

2 Q Okay. Are you going to answer any
3 question today?

4 A Like I told you numerous times, no.

5 Q Okay. So every question I ask you the
6 answer is going to be you don't recall?

7 A Yes, sir.

8 Q Have you reviewed the transcripts of --
9 of your 911 call?

10 A No, sir.

11 Q Do you know if that fairly and accurately
12 depicts what you saw that day?

13 A With me not reviewing, I wouldn't know.

14 Q Would you like to review it?

15 A No, sir.

16 Q Okay. You said in the 911 call, said
17 okay, so a guy got out of his truck. He's in a black
18 truck, and he got out of his truck with a pistol drawn.
19 The slide was open, and you saw that that day?

20 A If that's what it says, that's what it
21 says.

22 Q Okay. If that's what it said, that's
23 what you told the 911 operator? That's what you saw?

24 A I don't recall.

25 Q You wouldn't lie to the 911 operator,

1 would you?

2 A It's two years ago.

3 Q Would you have lied two years ago?

4 A It's going be a long interview.

5 Q You were trying to give truthful and
6 accurate information, correct?

7 A I do not recall.

8 Q All right. You said he told the guy, do
9 not follow me anymore. You recall that?

10 A I don't.

11 Q But if you'd said it at the time, it was
12 accurate? Most probably? The Guy in the white truck --

13 MR. MARTIN: Objection to the
14 question.

15 A The guy in the white truck had his pistol
16 drawn and pointed at the guy in the black truck, and you
17 demonstrated in one video, I'm going to mark it as
18 exhibit number one, how the guy in the black truck had
19 his pistol pointed. That's you in that photograph,
20 correct?

21 A Yes.

22 NOTE: Exhibit No. 1 is marked.

23 Q All right. And you're demonstrating a
24 two-handed grip on a pistol?

25 A Yes.

1 Q Pointed over the dash, correct?

2 A Yes.

3 Q And that's what you saw?

4 A Yes.

5 Q And almost immediately thereafter that
6 gentleman in the white truck unloaded his clip through
7 the windshield?

8 A Yes.

9 Q And that's what you saw?

10 MR. MARTIN: Objection to the form
11 of the question. Objection to the form of the question.

12 Q Do you believe in your rearview mirror
13 that you saw the gentleman in the black truck struck?

14 A Yes.

15 Q Okay. And you punched it and you got
16 away from the scene at that point?

17 A Yes.

18 Q But you did see -- you were able to see
19 the gentleman in the white truck shot and his vehicle
20 shot up, and you told the dispatcher what you saw,
21 correct?

22 A Yes, sir.

23 MR. TINSLEY: Okay. That's all the
24 questions I have for you.

25 MR. MOSS: Mr. McMurrough.

1 THE VIDEOGRAPHER: Counsel,
2 microphone.

3 CROSS EXAMINATION

4 BY MR. MOSS:

5 Q Mr. McMurrrough, I'd like to hand you a
6 copy of an exhibit that I'm going to call it Defense 20,
7 and ask you to look at that.

8 A Yes.

9 Q Is this the statement you gave to
10 Detective Jones or to the Horry police?

11 A Yes. This is what I wrote after the
12 interview, I believe in or on his -- in his car.

13 Q Okay. And in other -- you spoke to
14 multiple officers. Would that be fair?

15 A Yes, sir.

16 Q Okay. And I'm trying to piece together
17 --

18 A Um-hum.

19 Q -- my understanding of what happened
20 based on comments you made to multiple officers.

21 And so one of the things I'd like to ask
22 you was, at the time that you saw this gentleman in the
23 black truck stop, did that -- was there anything unusual
24 about that stop?

25 A Other than it -- than it was -- you know,

1 it -- where Swamp Creek meets Route 9, it was about, you
2 know, 200 yards in.

3 It was odd to me. Where I was coming
4 from, it was just that two trucks were stopped. I
5 didn't know. Yeah, it was two trucks stopped in the
6 road.

7 Q Okay. And I'd be happy to show it to
8 you, but in -- in one statement you had stated that the
9 stopping of the black truck seemed to be abrupt.

10 A Um-hum.

11 Q And that was attention getting. Is that
12 -- was that a fair assessment of what you recall?

13 A Got my attention because I was paying
14 attention to make a left-hand turn. I noticed a truck
15 just stop.

16 At first I -- the reason I slowed down
17 and stopped, I didn't know if there was an animal or
18 something out in the road, that's why they had stopped,
19 so I initially started slowing down.

20 Q And so the vehicle behind him would have
21 been the white truck my client was driving?

22 A Um-hum.

23 Q At the time that this gentleman got out
24 of the black truck, that would have been Mr. Spivey?

25 A Yes.

1 Q At least in one encounter with one
2 officer, I believe you indicated that the white truck
3 was still moving and rolling. Do you -- do you recall
4 that as you sit here?

5 A Well, as I was coming up, the black truck
6 had stopped and the white truck had to stop, yeah, so I
7 mean, he was rolling, too.

8 I saw the black truck stop first, and
9 then the white truck had to stop because the black truck
10 had already stopped, but they had just pulled on the
11 road.

12 Q Right.

13 A They had just -- like I saw them turn on
14 and then they had -- yeah, black truck stopped, and the
15 white truck had to stop because it was driving behind
16 it.

17 Q And you didn't observe any of their
18 driving before the rolling onto Camp Swamp Road. Is
19 that fair?

20 A No. I pulled up and I saw two trucks
21 turn on the road and them stop. I was coming from a
22 complete different direction.

23 Q Okay. And when the gentleman in the
24 black truck hopped out, you -- your description of that
25 was that he got out of the truck gun in hand, and you

1 mentioned that the slide you think was backwards on the
2 gun; is that right?

3 A Yeah.

4 Q Okay. And you mentioned in a couple of
5 places that -- that prior to the shooting stop and you
6 saw him raise a gun, but I didn't -- I didn't see
7 anywhere where you demonstrated that or that you
8 described it other than he started to raise it, and I
9 was wondering if you recall. And you're welcome to look
10 at your statements, but --

11 A Yeah, well, --

12 Q But I'm interested in what you recall
13 about the motion that he made or how you --

14 A So when I was -- I was coming down, you
15 know, and I saw him -- when I got -- he was close when
16 he jumped out, and I'll give you from the time I saw it
17 because it all kind of plays in.

18 Mr. Spivey got out of the truck. The
19 slide was in the rear because it's just a -- you know,
20 it was in the rear. He jumps out. I heard him, say
21 stop following me, boy.

22 I pushed my wife down because I saw the
23 gun. At this point, I don't know what's going on. You
24 know, now I'm paying attention to the white driver
25 because I don't know what's going on.

1 That's when I see the white driver hands
2 like this, and I immediately go, oh, my God, push my
3 wife down. As I look in my side mirror, alls I saw was
4 his arm slightly move and then all hell broke out.

5 Q Okay.

6 A Like I told the officers, his hand, it
7 could have just been a -- his hand slightly moved and
8 all hell broke out.

9 Q At that time, you've been seeing this, I
10 guess, through your side window, your rearview mirror or
11 how?

12 A So I mean, literally, I was -- it's a
13 two-lane road, very small country road, so I pulled up.
14 I saw Scott. I could hear him. They were so, you know,
15 close.

16 And then when I pulled up, I mean, you
17 know, I could see it clear as day like this. He was
18 already drawing pointing, and that's when I got real
19 nervous because I knew -- I kind of figured out why they
20 had stopped.

21 And I looked in the side to see what he
22 was doing. His truck door is open. I mean, he was just
23 next to his truck, and then, like I said, I didn't even
24 get to -- like I saw the motion of his arm, just like,
25 you know, like it says here, kind of come up to an

1 upward position, like just moved it, not draw, not come
2 up, like his arm barely moved and everything went crazy.

3 Q So my -- from reading the statements, you
4 expressly said you didn't know who fired first; is that
5 -- is that --

6 A Yeah, I have no idea who fired first.

7 Q Okay.

8 A I didn't hear a single pop and then a
9 bunch of pops. I just heard pop, pop, pop, pop, pop,
10 pop, pop, pop, pop, pop, pop.

11 Q So you recall you and I had some
12 telephone conversations last December?

13 A Um-hum.

14 Q About a year ago. And at that time, we
15 talked about the passenger in the white truck?

16 A Um-hum.

17 Q If I recall what you told me correctly,
18 you didn't -- you didn't see a passenger or know there
19 was a passenger in the white truck when you first went
20 by; is that --

21 A Yeah, no, I didn't realize -- because
22 like I said, I immediately saw the driver and the front
23 of the windshield is like half tinted down, but you can
24 see the steering wheel.

25 Q Right.

1 A Like you can see the first eight inches
2 above the steering wheel from that type of truck window.

3 So I couldn't -- I couldn't make out, you
4 know, and it was so quick, but I did -- you know, I
5 didn't realize there was a shooter until after the fact,
6 until -- another shooter until after I actually already
7 left.

8 But then once I stopped, turned around
9 and came back, I noticed there's another gentleman
10 getting onto the truck.

11 Q And actually, when you stopped and turned
12 around and came back, nobody had gotten out of the white
13 truck?

14 A Yeah, I'm sorry. You're right. Because
15 I pulled up. I spoke to Weldon. I spoke to the
16 passenger on the 911 call. I'm sorry. Yeah, you're
17 right.

18 I realized that after the fact, that
19 there was somebody when I pulled up, back up. I didn't
20 know there was two people in that truck.

21 And the reason -- the whole reason I
22 pulled back up was I didn't know how many people were in
23 the black truck.

24 Q Well, I was left with the impression that
25 no one had gotten out of the white truck until you had

1 turned around and come back?

2 A Yes, sir. That's right, yeah. Yeah.
3 So I came back. I spoke to Weldon. You know, it's on
4 the 911 call.

5 Then I back up. Then he got out of the
6 truck. He went over to Scott, to the black truck,
7 looked inside, said he was gone.

8 And then that's kind of like, you know,
9 he got out and the other guy got out, and then they were
10 just walking around in the street, just ---

11 Q So you were -- were you on the scene
12 until Weldon left with law enforcement?

13 A So when I left the scene, no, because
14 there was a storm, a bad storm coming in, and I'd
15 already been on the side of the road.

16 So once they were done with my stuff, it
17 was well into dark, though, they -- I left. I was there
18 the whole entire time.

19 Nobody had left other than maybe a couple
20 witnesses. No, everybody was still on site when I left.

21 Q And just for housekeeping, that document
22 in front of you, the Defense 20, that is your
23 handwritten statement; is that right?

24 A Yes.

25 Q And -- and it's got your signature on the

1 second page; is that right?

2 A Yes. Yes.

3 MR. MOSS: I'd like to move in his
4 statement.

5 NOTE: Exhibit No. D-20 is now
6 marked.

7 Q So did you see a -- a young woman there
8 speaking with the police?

9 A In a white car? Yes. Yeah, um-hum.

10 Q Okay. Did you talk to her at all that
11 you recall?

12 A We tried to calm her down because she was
13 so hysterical. We had brief conversation.

14 It was more comforting as, you know, she
15 had made comments about what happened before then, but
16 she was so hysterical.

17 It was more or less just trying to talk
18 to her, make sure she wasn't on Route 9, just, you know,
19 really -- there's a lot of people that stopped that were
20 talking, a lot of people.

21 But I do remember a young lady with
22 blonde hair in a white car that kind of pulled up, yeah,
23 we spoke to her briefly on the side of the road a little
24 bit until things got sorted out because we were all kind
25 of held in one area. We couldn't leave a certain area.

1 Q So when -- it'd be fair to say when you
2 were talking to the 911 dispatcher, and thank you for
3 calling, by the way, you -- you learned things during
4 that call from other parties that were basically in the
5 conversation. Is that fair?

6 A Meaning?

7 Q Well, for example, you -- you spoke to my
8 client. I think you told him to roll his window down
9 and you spoke to him.

10 A Um-hum.

11 Q And you relayed information that you
12 learned from him?

13 A Yeah.

14 Q But you also spoke to other witnesses,
15 too?

16 A Um-hum.

17 Q And you relayed that information,
18 correct?

19 A Yeah.

20 Q So what I was trying to parse out is the
21 distinction between what you actually observed in
22 relaying your 911 call versus what you actually learned
23 from someone else in relaying the 911 call.

24 And that was the purpose that I wanted
25 you to look at your 911 transcript, and I'd be happy to

1 show it to you.

2 A I mean, I remember exactly what I saw
3 until I spoke to your client. If that's the question, I
4 can depict it, too, perfectly clear.

5 Q Okay.

6 A I was just relaying information as it was
7 coming to me. It didn't -- I mean, what I -- what I
8 said in my interview and wrote down had nothing to do
9 with what I'd learned after the fact.

10 Q Well, correct. And that -- please,
11 today, if you're responding to a question, if you're --
12 if you're relying on something you learned from somebody
13 else, please tell us that; otherwise, I will assume it
14 was your -- your personal observation.

15 A I haven't given any statements that I've
16 learned from anybody else yet today.

17 Q Okay. Well, I understand. But they do
18 show up in your 911 call. Now, in my conversation with
19 you a year ago, do you recall I asked you specifically
20 --

21 A Did I see his dash thing on the front of
22 his car?

23 Q Well, I did ask you that a year ago.
24 Did you see anything on the dash of his truck?

25 A No.

1 Q Okay.

2 A When I see a gun being pointed, I kind of
3 zone in on that.

4 Q Well, I understand.

5 A Not looking for anything else.

6 Q I also asked you if you saw my client
7 acting any way aggressively or in a way that you felt
8 like was threatening.

9 A No. The only thing I told you was his --
10 his demeanor changed when the police got there that we
11 all noticed.

12 Q Okay. But prior to the shooting event,
13 did you see anything that you thought was aggressive?

14 A Prior to the shooting event, I didn't see
15 him except for pointing a gun at somebody else.

16 Q Okay.

17 A So I don't know what he did up until that
18 point. I don't know anything other than when I drove by
19 and bullets came from his truck.

20 I don't -- so I can't comment on anything
21 prior to me pulling up to that incident. I don't know
22 anything else that happened before me pulling up and
23 seeing what I saw.

24 Q Well, even in the turn onto camp Swamp
25 Road off of Highway 9, which would have been turning

1 towards you, I guess, did you see anything about that
2 driving from either of the drivers that seemed
3 aggressive or abrupt prior to the stop of the black
4 truck?

5 A No, because I only saw them when they
6 turned onto Swamp Creek Road and they stopped pretty
7 quick.

8 Q Okay. In some of your statements, you
9 had relayed to the 911 dispatcher that my client shot
10 him through the back window of the black truck.

11 And -- and I think you said you didn't
12 know if there was any kids in the car or whatever. It
13 was kind of traumatic, I understand.

14 But in other statements, you -- you
15 referred to him being out of the truck and moving his
16 hand when the shooting started.

17 And so did you actually observe or see
18 Mr. Spivey move from a position outside the truck to a
19 position inside the truck?

20 A No.

21 Q You didn't observe that?

22 A No. In fact, we didn't know -- I didn't
23 know where he was when I turned around. Because the
24 last thing I saw -- I saw him standing outside the
25 truck.

1 I took off after the gunshots. I came
2 back around and Weldon didn't know where he was. That's
3 why he got out because after he had -- you know, after
4 that had happened, we didn't know if he was in the
5 woods.

6 We didn't know what had happened, if the
7 guy had been hit. So Weldon got out with his gun and
8 kind of looked around and then looked in the truck and
9 realized he was dead and came back and told us all.

10 Q And you saw Weldon approach the truck,
11 right?

12 A Yes.

13 Q Now, what do you recall about his
14 approaching the truck in terms of his body position
15 versus the truck? Was he walking?

16 A Very comfortable to walk up to a truck
17 after a shooting.

18 Q Okay. Well, I guess what I'm --

19 A If you're asking me my opinion, like, you
20 know, --

21 Q Well, I'm asking you more about what you
22 observed, and did he walk in the highway? Did he walk
23 on the side of the road?

24 A He walked on the left of the road, gun
25 out, kind of like coming up to the side, approaching the

1 truck looking, and then he, I guess realized there was
2 no threat, got closer, looked in the truck, then came
3 back.

4 Q Did you ever see him touch the truck or
5 close enough to touch it?

6 A I -- I -- he was close, but I can't
7 recall how close. I don't want to -- like, he -- he
8 looked in the truck.

9 I don't -- but he never got -- like,
10 there was no point that I can recall that he, like,
11 touched the truck, went into the truck.

12 I believe it was more of a lean to the
13 truck, close to it, but, I mean, he could have reached
14 out and touched it, but, no, I didn't see him touch it.

15 Q Well, I'll submit to you that he
16 described he looked from across the lane, from over
17 where the white line was. Do you think it was different
18 than that?

19 A Yes, yes.

20 Q You think he was closer to the truck?

21 A Oh, I think he looked in the truck.

22 Q Do you think he was close enough to put
23 something in the truck?

24 A Like I said, he could have reached out
25 and touched the truck from what I saw.

1 Q Okay.

2 A Because we could see the front of the
3 truck. The door was open still. There was nobody in
4 the, like, in the front side because we -- when we kind
5 of were all looking, we couldn't see.

6 You had to actually go up to the truck
7 and look in it is what --

8 Q Did you see anything that made you think,
9 well, did he get in the truck or anything?

10 A No.

11 Q Okay.

12 A No. Not from what I saw at that moment,
13 no.

14 Q Okay. So in your -- in your statements,
15 in your written statement, in this 20, you said you --
16 you did see the driver of the black truck look like he
17 was getting hit by paintballs. Do you see that?

18 A Uh-huh.

19 Q Would that have been when he was outside
20 his truck?

21 A Yes.

22 Q I mean, to be fair, you -- when he was
23 inside his truck, you would have seen that, right?

24 A No. So that's when, you know, I saw the
25 pistol being pointed from the white truck. I looked in

1 the side mirror.

2 His arm had moved, and it looked like he
3 was just, you know, I don't know if he was trying to get
4 away or what, like move, and then that's the last we saw
5 him.

6 Q Okay. And you -- and you didn't
7 actually see him get back in the truck?

8 A No, because at that point I was gone.
9 Like, when I looked in the mirror and then I heard the
10 gunshots, my eyes went straight, and I just wanted to
11 get out of there.

12 So I didn't see anything from -- yeah, I
13 didn't, like I said, we didn't know if he was in the
14 truck, in the woods, or where he went.

15 Q Now, you mentioned earlier that the gun,
16 the bullets were coming by you, and that must have been
17 very terrifying.

18 But, logically, and of course, we all
19 lawyers Monday morning quarterback things, so logically,
20 my clients would have been shooting in the opposite
21 direction from where you were?

22 A He was shooting at the direction I was --
23 I was driving into him. He was shooting this way.

24 Q Okay.

25 A So that's why I say flying by and -- and

1 that road, his truck was only two and a half feet from
2 me.

3 Q I mean, y'all -- I mean, it's a narrow
4 road?

5 A It's real small. So when I say flying
6 by, because I was literally, we were like nose to nose.
7 Our trucks were nose to nose from that, you know, like
8 right here, so --

9 Q So where do you think you were when you
10 first heard the shots in relation to Mr. Boyd's truck?
11 Were you abreast of his door when you passed his truck?

12 A I'd say my -- my headlights were at his
13 door, his -- his -- his rearview mirror.

14 Q Okay.

15 A So my truck's here. We were right here
16 when those shots happened, just like this.

17 Q Okay. And so did you actually see the
18 shots and see -- see the muzzle flash or anything from
19 Mr. Boyd's weapon, or did you hear it?

20 A No, I could only hear it, because at that
21 point, I was on the side, you know, like -- and his
22 windows on the side were completely blacked out, tinted
23 too, so you wouldn't be able to see the muzzle flash.

24 Q Okay. And did you -- and of course, you
25 turned, I think to the right when you got to number 9?

1 A Moved to the right, went up to the first
2 little cut through, did a u-turn and came back into
3 Swamp Road? Yes, Camp Swamp Road off of 9.

4 Q Okay. Do you recall any conversation
5 with Mr. Williams at all?

6 A I don't think -- no. No, I don't.

7 Q He'd have been the passenger now?

8 A Yeah, no. Nobody had a conversation with
9 him when I first got there. Police didn't even disarm
10 him.

11 They walked up to Weldon, took his, I
12 couldn't believe it, took his firearm and, no, I didn't.
13 Nobody had a conversation with Mr. Williams that I could
14 see or -- no, no.

15 Q Now, at the time you were on the call
16 with 911, others were also on the phone with 911. Were
17 you aware of that?

18 A No.

19 Q Okay.

20 A And I -- no, wait. I think they might
21 have said that -- maybe that somebody had called in or
22 something like that. I don't know. Possibly.

23 But, no, I didn't know anything was going
24 on prior to them stopping on that road.

25 Q I think from my conversations with you a

1 year ago, you mentioned this was your first time coming
2 to Myrtle Beach; is that right?

3 A Yes, sir.

4 Q The Myrtle Beach area. And that was for
5 a work-related trip; is that right?

6 A Yes.

7 Q And so if we -- if we gave you the date
8 of September 9th, 2023, would you have any reason to
9 think that was not correct when you came down for this
10 trip and witnessed these events?

11 A Would that date not be correct?

12 Q Would you have any reason to think that's
13 not the correct date? Because earlier when Mr. Tinsley
14 asked you, you weren't sure?

15 A If you guys are telling me that's the
16 date -- I -- like I -- yeah, I mean, I've tried to block
17 this out as much as I can from a certain point, you
18 know, thinking about it.

19 Q I understand.

20 A You know, so I don't have that date
21 etched in my head, but if that's the date that's on
22 there, yeah, I'm not going to argue that.

23 Q Okay. Now, other than -- I know you
24 talked to Mr. Tinsley on the phone because you mentioned
25 it, and you talked to me on the phone.

1 A Um-hum.

2 Q A couple times back last year. Have you
3 talked to any other attorneys involved in this
4 litigation?

5 A Unless it was just with you maybe on the
6 phone with somebody. Was it Mr. Williams one time, or
7 no, was it just you and I that one time, or I don't -- I
8 don't recall.

9 Other than the -- y'all right here, no,
10 nobody else.

11 Q Okay.

12 A That I can recall, other than maybe if it
13 was you telling me that somebody else was on the call
14 listening, I think maybe. That was it.

15 Q I want to say Attorney Lee and I.

16 A Lee was -- I think you told me he was
17 listening, but he didn't have any questions or comments
18 after I don't believe from our conversation.

19 Q Okay. So you and I talked on -- on --
20 back in February, which is the date that I was going to
21 take your deposition by Zoom.

22 A Um-hum.

23 Q And then for whatever reason, when --
24 when it came time for your deposition, you didn't
25 respond to my call.

1 And so I don't -- I don't know what
2 happened on the 20th, because it seemed like you were
3 set up to be deposed, and all of a sudden you just
4 didn't come. Do you recall what happened on the 20th?

5 A I didn't feel comfortable with you
6 sending me the package and all the documentation asking
7 me to read it and refresh my story and get on, because I
8 kind of felt like I was, you know, I didn't like it.

9 I felt like it was a force, and I don't
10 -- I didn't -- I really didn't like it. So if you want
11 the truth, that's why I didn't show up.

12 Q Well, and thank you for that. My letter
13 actually -- I offered it for your -- for your benefit if
14 you wanted to see it, but you -- so didn't read it at
15 all is what you're saying?

16 A Huh-uh.

17 Q Okay. Let me go through a little bit of
18 my highlights here. You mentioned a moment ago that you
19 heard the gentleman in the black truck jumped out
20 yelling?

21 A Um-hum.

22 Q And as we sit here, do you recall exactly
23 what he said?

24 A You better stop following me, boy.

25 Q Okay. Because that's a little bit

1 different than -- I mean, it's the same general message,
2 but it's a little bit different in terms of the exact
3 words, but you're pretty sure it was, you better stop
4 following me, boy?

5 A Um-hum.

6 Q Okay. Any reason to think that my
7 clients heard it? I mean, did you see any response from
8 them or any kind of --

9 A I -- I don't know if your client had
10 music on. The windows were up. I have no idea if the
11 client heard it, like, I couldn't -- I couldn't tell
12 you.

13 Q Okay. But you didn't see anything that
14 you saw was a responsive communication, like, you know,
15 a gesture?

16 A No. I just saw the gun still on him or
17 drawn on him.

18 Q Okay. And you never saw the passenger's
19 gun?

20 A No.

21 Q Okay.

22 A I didn't even see the passenger.

23 Q So as we sit here today, though, do you
24 understand there was three people shooting that day?

25 MR. TINSLEY: Object to form.

1 A No, I don't. I can't recall any -- I
2 don't know who was shooting.

3 Q Okay.

4 A I've told you that before. I don't know
5 who shot or did what.

6 Q Okay.

7 A So I can't recall three people shooting.

8 Q Okay. If we -- if we gave your 911 call,
9 the audio recording, which we have here today, if you'd
10 like to hear it, if we gave it to a court reporter, like
11 the court reporter sitting in front of you?

12 A Um-hum.

13 Q And we asked the court reporter to
14 transcribe that, would you have any reason to think that
15 that would not be a fair and accurate depiction of what
16 you told the court reporter -- the call to 911?

17 A What do you mean?

18 Q Well, I mean, on that day --

19 A Um-hum.

20 Q -- you were doing your best to relay
21 information that you were perceiving to 911 dispatchers;
22 is that right?

23 A Yes.

24 Q And there's no reason that you would have
25 tried to tell them something different than you

1 perceived, right?

2 A No.

3 Q Because you were trying to get help. Is
4 that fair?

5 A I was worried about the people in the
6 black truck.

7 Q Right. And at that time --

8 A Yeah, that's why I called 911.

9 Q And at that time, you didn't know if
10 there was one person in the black truck or more; is that
11 fair?

12 A I initially thought there might have been
13 a family or something in there.

14 Q In fact, you said that, there could have
15 been kids in that truck?

16 A Yeah.

17 Q So at that time, you were trying to relay
18 everything that you perceived to the 911 dispatcher; is
19 that correct?

20 A That's correct.

21 Q So if we had that recording transcribed
22 by a court reporter, would you have any reason to think
23 that that's not what you said?

24 A Like take it and type it?

25 Q Yes, sir.

1 A And take my words and type it?

2 Q Yes, sir.

3 A Yeah, that would be what I said.

4 Q Okay. And we did that.

5 A Okay.

6 Q And that's one of the things I sent to
7 you so that you can review it if you wanted to.

8 A Yeah. No, I didn't.

9 Q And so -- and we have it here today, but
10 we'd like to know if you can authenticate that that's
11 what you told the court reporter. That's the purpose --

12 MR. TINSLEY: I stipulate --

13 MR. MOSS: I'm sorry.

14 MR. TINSLEY: -- that what he said
15 is what --

16 MR. MOSS: Okay.

17 MR. TINSLEY: I mean, yeah, you
18 don't need to keep -- what's typed down is what he said
19 that day.

20 Q And Detective McQueen, you met with him
21 in his car, and that was from the photograph, I think --

22 A Um-hum.

23 Q -- where you were demonstrating how the
24 gun was held up. We took -- Detective McQueen had a
25 body cam?

1 A Um-hum.

2 Q I don't know if you knew that or not.

3 A Yeah, he set it up on the dash to record
4 me.

5 Q So he recorded that?

6 A Yes.

7 Q And the same -- the same general
8 question. If we took that video recording and we gave
9 it to a court reporter to transcribe, would you have any
10 reason to think that's not an accurate depiction of what
11 you stated that day?

12 A No.

13 Q And that -- the purpose of this question
14 is for you to authenticate, yes, that was my statement,
15 and it seems -- it seems kind of silly to have to do
16 that because we obviously saw you in a recorded
17 interview with the detective, but under the rules of
18 evidence, we have to have you authenticate it if you're
19 not going to be in our court, and that's what this
20 deposition is about.

21 So in that conversation with Detective
22 McQueen, it seems like you, at one point, were very
23 clear at what you saw escalate in the situation, and I
24 want to find your words and see if that's consistent
25 with your recollection.

1 Bear with me. I'm going to find your
2 statement. So there was an officer on the scene walking
3 around the body cam and he was interviewing you, too,
4 and that's, I'm referring for the record to Defendant's
5 Exhibit No. 3.

6 The officer said -- the question was,
7 what I'm getting at is he got out first, and the
8 response, the court reporter transcribed it, and I'd
9 like you to read it and you tell me if you think it's
10 accurate. This statement was attributed to you.

11 Yeah, no, no, no. The guy -- the guy in
12 the white truck was still, I think, even moving. The
13 guy in the black truck stopped, jumped out, and he had a
14 pistol.

15 I said, babe, pistol, get down, and I saw
16 him lift his pistol up, and at that I looked, and at
17 that point, this gentleman hadn't fired, done anything,
18 and then as I got past him, I just heard shots, and I
19 frigging took off, went this way, like a bat out of
20 hell, called 911 and turned around.

21 Yeah, no, the guy in the black truck
22 jumped out of his truck with a pistol drawn. That was
23 your statement I submit to you, to an officer that was
24 transcribed. Does that sound accurate?

25 A Yeah, like I said, the black truck

1 stopped. He jumped out. The white truck had to stop.

2 Yeah, so I mean, Scott got out of the truck first.

3 Q You said the white truck hadn't stopped.
4 Let's talk about that for a minute. Because you were in
5 the oncoming lane, right?

6 A Um-hum. He was either going to hit me or
7 drive into the back of the black truck if he didn't
8 stop.

9 Q So he hadn't -- and as far as backing up,
10 did you ever see any time when he tried to back up?

11 A No.

12 Q Okay. So his three options would have
13 been hitting the black truck, hit you, or back up,
14 right?

15 MR. TINSLEY: Object to the form.

16 A I -- I don't know what he saw. I don't
17 know what his options truly were. I was coming from the
18 opposite side.

19 Q Fair enough. When you said the guy in
20 the white truck hadn't done anything, let me go back to
21 your statement.

22 And at this point, this gentleman,
23 referring to my comment, hadn't fired, done anything.
24 Were you referring to that to his conduct in driving, or
25 were you referring to that to anything about the weapon

1 or shooting, if you remember?

2 A What I was referring to is when the black
3 truck pulled up and the gentleman jumped out, I didn't
4 see anybody in the white truck do anything, get out.
5 Because he asked me who was out of the truck, so I said
6 the guy in the black truck got out.

7 The guy in the white truck didn't get out
8 until after the shooting. Is that what you're asking?
9 I'm confused on the --

10 Q Well, what I'm trying to -- here's what
11 I'm trying to understand. When -- when he got out of
12 the black truck, Mr. Spivey --

13 A Um-hum.

14 Q -- gun in hand, from what you observed
15 and only from what you observed, do you know -- or did
16 you draw a conclusion that he jumped out of the truck
17 because of anything Mr. Boyd had done?

18 MR. TINSLEY: Object to the form.

19 A No. Like I said, when I initially saw
20 him get out of the truck, I slowed down because we're in
21 the country.

22 I didn't know if it was a dog, a deer,
23 somebody going on, and I didn't realize there was any
24 indication until I saw the gentleman in the white truck
25 pointing a pistol at the gentleman in the black truck.

1 Q Okay.

2 A I didn't think the black driver was
3 overly aggressive when he got out of the truck either,
4 though, you know, it looked like -- honestly, it could
5 have been two guys stopping and saying we're going to
6 take a right up the street up here.

7 Q I was left with the impression that the
8 abruptness of the stop is what drew your attention, and
9 --

10 A Well, because if anybody -- when you're
11 driving on a two-lane road in the country, in the middle
12 of nowhere, in an area you're not around and you don't
13 know anything, and you see somebody stop in the middle
14 of the road, that -- yeah, that was -- it draws your
15 attention.

16 What's going on? You're cautious.
17 You're aware. Is there -- is there a hazard? Is there
18 something going on? So it immediately drew me to him to
19 slow down, yeah.

20 Q Okay. And when he jumped out with his
21 gun, you said the slide was back is my recollection of
22 what you told the officers.

23 A Um-hum.

24 Q Did you ever see a period of time when he
25 -- when he loaded the weapon by pushing the button or

1 anything?

2 A From the time he got out of the truck and
3 the slide was back, no. I didn't -- I didn't -- I
4 didn't see -- you know, I mean, I didn't see him slide
5 the, you know, the chamber forward, or -- no, I didn't
6 -- I didn't see any of that.

7 Q Did you see any walking motion by Mr.
8 Spivey or any kind of motion with his arm other than
9 slightly raising the gun?

10 A No. He -- he -- the way he was holding
11 his pistol in his body, it was not a intimidating or --
12 it was more down by his side, and the slide in the rear,
13 I mean, that -- that's a clear indication, well, he --
14 you know, no, he didn't make any movements.

15 He wasn't jumping around. He wasn't --
16 he just said, stop following me, boy, and the gun was
17 down on his side like this, like I told the cops, and
18 the slide was in the rear.

19 And he wasn't -- there was no -- there
20 was no other crazy behavior or any erratic behavior. In
21 fact, I didn't get nervous until I saw the gun in the
22 white truck because then I was like, oh.

23 Q So other witnesses described a gesture or
24 a move that was almost like moving like when he was
25 raising his weapon. You didn't see any of that?

1 MR. TINSLEY: Object to the form.

2 A Like I said, alls I saw in the side
3 mirror was him slightly move his arm, not -- you know,
4 when you draw a pistol, you draw it fast.

5 You're, you know, no, it was not an
6 aggressive draw, self-defense, you know, I've been
7 around guns my whole life. I've took -- taken multiple
8 training courses. I've done many things.

9 He was brandishing a firearm down by his
10 side is what I think. He didn't -- I didn't see any
11 motion of him raising that up in an aggressive manner or
12 pointing it or anything like that at all. No.

13 What I saw was when his arm slightly
14 moved in my side mirror, all hell broke loose. I don't
15 even think he would have had the time to raise his gun
16 and chamber it and fire in that time. I don't.

17 Q And do you know anything about what -- in
18 these kind of situations, witnesses describe seconds
19 seem like minutes, but I mean, do you have any idea what
20 kind of elapsed time we're talking about here?

21 A It couldn't have been more than 25, 30
22 seconds.

23 Q The whole encounter wasn't more than
24 that?

25 A No, like what I saw.

1 Q Okay. So from the beginning of the
2 shooting until the end of the shooting, it wasn't more
3 than 30 seconds?

4 A Couldn't have been.

5 MR. MOSS: I may have another
6 question or two, but let me consult my notes. These
7 other attorneys may have a question for you as well.

8 MR. TINSLEY: I got one.

9 REDIRECT EXAMINATION

10 BY MR. TINSLEY:

11 Q Were you ever told that there was a
12 dashcam video that captured any part of this?

13 A I was told that Weldon was -- I believe
14 by the attorneys that he was recording the whole entire
15 thing.

16 Q And that it cut off just as you showed
17 up?

18 A Cut off -- it was -- it somehow -- they
19 told me that it somehow cut off as I showed up or a
20 certain part of the 911 that the video went dead.

21 Q The dashcam video?

22 A The dashcam video.

23 Q And were you ever able -- did you see --
24 because we know Weldon took pictures of Scott's body.
25 Did you see any of that?

1 A No, sir, no. I have pictures of maybe
2 the trucks from 100 yards away, but, no, nothing that
3 would indicate anything inside the vehicle.

4 MR. TINSLEY: Mr. McMurrrough, I
5 appreciate you answering questions.

6 THE WITNESS: Yeah, no.

7 MR. TINSLEY: And thank you.

8 MR. MARTIN: Morgan Martin. I've
9 got a few questions for Mr. McMurrrough.

10 CROSS EXAMINATION:

11 BY MR. MARTIN:

12 Q Mr. McMurrrough, Morgan Martin here, and
13 I represent Bradley Williams, who was the passenger in
14 the white truck.

15 THE VIDEOGRAPHER: Mr. Martin.

16 Q And --

17 THE VIDEOGRAPHER: Mr. Martin,
18 pardon me. Would you like for the witness to see you
19 ask the questions or are you okay being off the --

20 MR. MARTIN: Yeah, that would be
21 great if you can -- it doesn't matter to me, but it may
22 be better for communication if he can see me.

23 THE VIDEOGRAPHER: Of course. Give
24 me one moment, please.

25 MR. MARTIN: Okay.

1 Q Okay. Mr. McMurrough, can you hear me?

2 A Yes, sir.

3 Q Okay. Well, first of all, thank you for
4 coming and being here and answering these questions,
5 because I know it's not really what you want to do, but
6 have you ever talked with me before?

7 A Like I -- the only thing I really recall,
8 sir, I think, is we -- wait. This -- this isn't Lee?

9 MR. MOSS: That is not Lee.

10 A Oh, I just noticed your name. I do -- I
11 don't think so.

12 Q I don't think you have either.

13 A No, sir, no.

14 Q But just checking.

15 A Yeah, I don't believe so, sir.

16 Q This is the first time you and I have
17 talked. Would you agree with that?

18 A Yes, sir.

19 Q Okay. Now, let me ask you, we've been
20 talking about what you heard and what you saw. Do you
21 have any vision problems at all?

22 A No, sir.

23 Q Do you have any hearing problems at all?

24 A No, sir.

25 Q Okay. All right. Now, and as you came

1 that day approaching Camp -- Highway 9 down Camp Swamp
2 Road, how far would you say you were from the black
3 truck at the time it stopped?

4 A About 100 yards.

5 Q Okay. And so for that 100 yards, you
6 were able to observe the black truck and Mr. Spivey's
7 actions?

8 A Yes, sir.

9 Q Okay. And how far were you from Mr.
10 Spivey's truck when you saw him get out of the truck
11 with the gun?

12 A 30 feet at that point, because like I
13 said, I was doing 45, 55 and slowed down immediately.

14 Q And what kind of vehicle were you
15 driving?

16 A 2021 Colorado, Chevy Colorado.

17 Q Chevy Colorado truck?

18 A Pickup truck. Yes, sir.

19 Q Okay. Was your driver's side window up
20 or down?

21 A They were down because the AC broke on
22 the truck halfway down through the trip. All four
23 windows were down.

24 Q All four windows were down?

25 A Um-hum.

1 Q All right. And you would say you're 30
2 feet when you saw Mr. Spivey get out of his truck?

3 A Um-hum.

4 Q And when he got out of his truck, he had
5 a gun in his hand?

6 A Correct.

7 Q All right. And -- and when you first
8 noticed the gun, were you 30 feet from that truck in
9 your estimation or closer?

10 A I was -- when I saw -- so he jumped out,
11 the truck stopped, came to a complete stop, and I was
12 about 30 feet away.

13 I was going slow at this point. When he
14 -- the door opened. He got out. I saw him. I was
15 about 10 feet, 10 feet away. I was -- I was going slow,
16 but I had driven past him. I was, you know, I had -- I
17 was close.

18 When he got out and yelled or when he got
19 out -- what do you -- I'm sorry. I don't want to --
20 like, are you asking -- what are you asking?

21 When I saw him get out, how far I was
22 when -- when he spoke?

23 Q Well, you've told me that you were about
24 30 feet away when he got out. You were about 30 feet
25 away from him when he got out if I heard you correctly.

1 A When the door opened, yes.

2 Q And I -- all right. And so my question
3 is, would it have been at that same time that you saw he
4 had the gun in his hand?

5 A I didn't notice he had the gun in his
6 hand till I came up next to him.

7 Q All right. So -- so then would you say
8 that you were side by side with him when you saw the
9 gun?

10 A Yeah.

11 Q All right. And of course you -- did you
12 ever leave your lane of travel during this passing?

13 A I went -- I kind of hit the -- the
14 embankment to get out of there quickly, go to the right.
15 I didn't go in the left lane at all, but no, like, when
16 I ini -- no, I was in my lane of traffic until I heard
17 the shots.

18 And then I kind of went to the right and
19 then just to get space from the thing, no, but I was in
20 my lane the whole time, other than when I took the
21 corner, I might've been in the side ditch a little bit.
22 I remember kicking gravel.

23 Q When you -- say that again. You might've
24 been in the side ditch a little bit when?

25 A Turning onto Route 9.

1 Q Okay. All right. So when you saw Spivey
2 get out of the truck, he was in the highway?

3 A No.

4 Q Was he -- no. Where was he then?

5 A On Camp Swamp Road.

6 Q Right. I'll say that when I --

7 A Oh, I'm sorry, highway. I thought you
8 meant Route 9. He was in between his -- yeah, he was
9 next to his truck in the road.

10 Q All right. And was he by the door, or
11 did he walk back towards the back of his truck in any
12 manner?

13 A He was by his door.

14 Q He was by his door?

15 A Yep.

16 Q All right. And he -- and you -- and he
17 was between you and his truck when you drove by?

18 A Yes.

19 Q And it was at that time that you -- did
20 he have the gun in his right hand or do you recall?

21 A In his right hand down by his side.

22 Q All right. And at that point in time,
23 had you seen any other gun?

24 A No. That's when I looked -- no.

25 Q All right. And at that point in time,

1 you say that you told your wife, gun, and pushed her
2 down?

3 A Yes, sir.

4 Q All right. And that was because you had
5 seen the gun and the gun frightened you?

6 A Yes. Yeah, I wanted to be cautious,
7 yeah.

8 Q All right. You wanted to be sure she
9 didn't get shot?

10 A Yeah, like I mean, yeah. I just -- yes.
11 Yes. I wanted her to get some type of cover because I
12 didn't know what was going on at that moment, sir, yes.
13 I wanted to make sure my wife was safe.

14 Q Right. And -- and when the black truck
15 came to the stop on Camp Swamp Road, there was nothing
16 that caused it to stop, like a cat or a dog or an animal
17 or a person?

18 It just came to what you described in
19 several of your statements as an abrupt or fast stop?

20 A Yes.

21 Q Right. And you would agree with those
22 characterizations today that it was an abrupt or a fast
23 stop?

24 A Yes.

25 Q All right. And as you drove on past Mr.

1 Spivey and you drove towards Mr. Williams, where would
2 you say you were when you observed a pistol pointed out
3 of the white truck windshield?

4 A Like I said, I was -- we were almost nose
5 to nose at that point. We were close.

6 Q You were close. All right. And you
7 didn't hear any gunshots until you had driven past the
8 white truck?

9 A I was side by side with the white truck.
10 Our -- you know, my nose was at his side. I wasn't
11 clearly past him, no.

12 I was not out of the danger zone, if you
13 will, when those shots rang out. No. I was right next
14 to that white truck.

15 Q You were next to it, not in front of it,
16 but next to it, but not past it either?

17 A Yeah, that's fair. Yes. Yes. I wasn't
18 past it. Yes. Yes. Yes.

19 Q All right. And you say that you don't
20 know who shot first, whether it was Spivey or the guy in
21 the white truck?

22 A No, sir, I don't.

23 Q Now, you had -- you gave a statement, I
24 think, which is Exhibit 30, that they handed you there,
25 which was your statement to an officer.

1 MR. TINSLEY: It was 20.

2 MR. MOSS: It was 20.

3 Q 20. Didn't I say 20? Have you got that
4 there, Mr. McMurrrough, so you could look at it with me
5 quickly?

6 A Yes, sir.

7 Q All right. I'm going to read through it
8 and -- and -- and be sure that this is your statement
9 that -- that -- and you wrote it, so we can only assume
10 it is, but let me read through that with you.

11 The first line says, myself and my wife
12 driving down Camp Swamp Road headed to Avista Resort,
13 correct?

14 A Yes.

15 Q A black truck, the opposite lane, came to
16 a fast stop, correct?

17 A Yes.

18 Q A guy in a blue shirt jumped out of the
19 driver's side with a black pistol yelling, correct?

20 A Yes.

21 Q The slide was back as when it's in the
22 back position to -- ready to load; is that correct? Did
23 I read that correct? Maybe you can read it better than
24 I can?

25 A Yep, that's right.

1 Q All right. I saw the driver of the black
2 truck start to bring his pistol to an upward position,
3 correct?

4 A Yes.

5 Q I yelled at my wife, gun, and pushed her
6 down, correct?

7 A Yes.

8 Q I looked into the white truck and saw the
9 driver had a pistol aiming towards the black truck at
10 that point, correct?

11 A Yes.

12 Q I pushed my wife down again and heard
13 gunshots, correct?

14 A Yes.

15 Q I sped off, took a right on Route 9 and
16 called 911, correct?

17 A Yes.

18 Q I did see the driver of the black truck
19 look like he was getting hit by paint balls, correct?

20 A Yes.

21 Q From -- and the next page says from the
22 driver's side mirror, correct?

23 A Yes.

24 Q Now, a couple different things. You say
25 in there a blue shirt. Are you sure about the color of

1 the shirt?

2 A Absolutely not. At this point, no. I
3 can't remember what color -- no.

4 Q Okay. I understand that. Would it -- it
5 would be fair to say that -- you said earlier that you
6 tried to put this event out of your mind and suppress it
7 for various reasons, correct?

8 A Yes.

9 Q All right. So would it be fair to say
10 that the statement that you wrote down in the minutes
11 following this event may well be the best recollection
12 that you would ever have of what you saw and witnessed
13 that day?

14 MR. TINSLEY: Object to the form.

15 A I mean, yeah, I guess so, yeah. That'd
16 be right.

17 Q And -- and the statement that I just read
18 to you that at the top has case number 2023111009 is an
19 accurate statement to the best of your recollection, Mr.
20 McMurrough?

21 A This is not how I remember it, no, this
22 statement.

23 Q This is not how you remember it?

24 A No. It's mixed up in my memories, like
25 what's wroten down. I don't -- I -- I -- like I said, I

1 pulled up and I saw the black gun. I looked at the
2 white truck, saw him, looked in the side mirror.

3 This is -- this statement is not how I've
4 remembered it since, how I've -- you know, but yeah, I
5 mean, I guess this is. I think I've told a different,
6 you know, this -- this seems different to me because it
7 says I saw him raise -- it says I saw his arm prior --
8 then seeing the other gun and that's not what I --
9 that's not what I remember at all.

10 Q Say that again. I'm sorry. I missed
11 what you said.

12 A It says here that I saw the black driver
13 bring his pistol to an upward position. I yelled,
14 pushed the wife down.

15 I looked into the white truck, saw the
16 driver had a pistol aiming towards the black truck. At
17 that point, I pushed my wife down and I remember seeing
18 the black -- the black truck with the pistol, the
19 gentleman in the white truck pointing the pistol.

20 And when I looked in my side mirror is
21 when I saw him raise his pistol and then that's when the
22 shots rang out.

23 Q All right. Let me -- you saw him raise
24 his pistol. Who are you talking about when you say you
25 saw him?

1 A Scott Spivey, or I don't want to say
2 raise his pistol, move his arm in an upward position.

3 Q All right. So what you're saying, and
4 again, and I'm trying to follow. You said a lot there.
5 Is what you said is that when I saw him raising his gun
6 was when I was looking back in the mirror?

7 A Yeah.

8 Q As -- as opposed to when you were right
9 behind, is that what you're saying?

10 A Yes. When I noticed that Weldon had a
11 gun pointed, is when I looked in the side mirror and
12 that's when I noticed him start to raise his arm and all
13 hell broke loose.

14 I don't remember. If I'm being
15 completely honest, my memory of it, the way I see it,
16 the way every time it replays through my head, this
17 writing is not the best depiction or -- or the -- what
18 had happened if that makes sense. I don't know why.

19 This is actually my first time sitting
20 here, him reading it through to me. I mean, when I
21 reviewed it, this doesn't -- the driver of the black
22 truck started to bring his pistol upward. I yelled at
23 my wife, gun, pushed her down.

24 I looked into the white truck, saw the
25 driver had a pistol towards the black truck at that

1 point. I pushed my wife down and I heard gunshots.

2 I didn't notice him raise his firearm
3 until I was looking in the side mirror after I already
4 saw Weldon Boyd have the gun pointed.

5 Q Well, and either -- either way -- either
6 -- either as is written in your handwritten statement or
7 as you're telling us today, you did see Mr. Spivey at
8 some point in time raise his pistol and point it towards
9 the white truck --

10 A No.

11 Q -- before there was any shooting?

12 A No. I did -- I have never once said I
13 saw Scott Spivey point a pistol at the white truck. I
14 said he went -- he moved his arm in an upward position
15 is all I saw. I never saw him point a gun at that white
16 truck ever.

17 Q Where was the gun pointed as it was being
18 raised in an upward position? Towards the white truck
19 or in the opposite direction?

20 A When I heard everything going down, I
21 mean, the gun would have been pointed two and a half
22 feet in front of him at the ground still. Scott's gun.

23 Q You never said he was raising -- you said
24 -- you said in both statements here, and one is to
25 Detective McQueen on video and one in your written

1 statement that he --

2 A Started -- it says that he started to
3 bring his pistol to an upward position. I never once
4 said it was aimed or I saw him point that firearm at
5 your client. No, I never said that. I never witnessed
6 that at all.

7 Q All right. Well, let's go -- let's go
8 about it this way. Who got out of the truck with a
9 pistol?

10 A Scott Spivey.

11 Q And to use your words, he was brandishing
12 that pistol down by his side?

13 A Brandishing is just an expression used
14 when a firearm is out of its holster. That's my --
15 that's my definition of it.

16 Q Okay. He's holding it in his right hand?

17 A Yes.

18 Q And it's not in a holster?

19 A Yes.

20 Q And he is facing towards the white truck,
21 which has just come to a stop?

22 A Yes.

23 Q And he's yelling, presumably at the
24 people in the white truck?

25 A Yes.

1 Q And he's facing the white truck?

2 A Yes.

3 Q And he has a gun in his right hand, and
4 at some point in time, there is an upward motion of that
5 gun.

6 MR. MOSS: Object to the form.

7 A His -- yeah, I saw his -- yes. Yes.
8 Start -- started to make an upward motion. He started
9 to make an upward motion.

10 Q Well, again, there had to be something
11 that puts the word upward in your mind.

12 A When your arm is down at a right angle
13 and you move it a little bit up, that's upward. You're
14 coming upward.

15 Q I got you. I got you.

16 A His arm -- the gun and the pistol was by
17 his -- by his pocket the whole time.

18 Q And he starts to move it up?

19 A Like I said before, it -- and up -- yeah,
20 his arm moved forward. I mean, like I said, alls I saw
21 was like this, you know, I mean, it wasn't this. It
22 wasn't this.

23 Q Right.

24 A I just saw his gun was here and he just
25 -- I mean, that's it. It wasn't -- like I said, when I

1 say start, I mean, his arm barely moved.

2 Q Well, you're -- and you're moving it now
3 from down and moving it up barely or slightly.

4 A Yeah.

5 Q Or slightly upward, correct?

6 A Yep.

7 Q But there's no doubt that there was an
8 upward motion to the gun, however slight it may be?

9 A I -- yeah, he --

10 Q Is what you're saying --

11 A No, no, yeah, I'm just -- I'm just, yeah,
12 no, like, yeah, in my mind if you're going from your
13 pocket anywhere forward to your thigh, it's an upper
14 position. Yes, sir.

15 Q All right. And at that time, no shots
16 have been fired, had they?

17 A That's when all hell broke loose.

18 Q All right. And -- and you don't know who
19 fired first?

20 A Nope.

21 Q You don't know how many guns fired?

22 A Well, I can tell you it wasn't -- if
23 you're asking me if I heard like a pop, pop, pop, then a
24 pop, pop, pop numerous guns, no, I just heard pop, pop,
25 pop, pop, pop, pop, pop, pop, pop, pop, pop, pop.

1 There was no pause in the gunfire. There
2 was no -- there was no like --

3 Q I got you.

4 A I didn't hear -- you know, I didn't hear
5 like a pow, pow, pow, pow, pow, pow, like that. It
6 was just a pop, pop, pop, pop, pop, like, you know.

7 Q When -- to go back, when Mr. Spivey
8 stopped in the roadway if Mr. Boyd had attempted to go
9 around him, he would have run into you coming towards
10 Highway 9?

11 A Yes, sir.

12 Q All right. So he -- and Mr. Spivey's
13 truck was parked in the roadway in his lane of travel?

14 A Yes.

15 Q All right. Just a second, Mr.
16 McMurrough. Let me look at the remainder of what I
17 have.

18 Mr. McMurrough, would you be opposed to
19 coming to South Carolina to testify at a hearing or
20 trial in this matter?

21 A I'd like to do everything in my power to
22 not have to be involved in this after this day.

23 MR. TINSLEY: This was noticed for
24 the trial, Morgan.

25 MR. MARTIN: Do what now?

1 MR. TINSLEY: The deposition was
2 noticed for the trial.

3 MR. MARTIN: Well, I realize that.
4 That still doesn't change my question.

5 MR. TINSLEY: Okay.

6 Q Why would -- what is your hesitancy, Mr.
7 McMurrough, just bad memory, or what is it?

8 A I -- I don't like the fact that the
9 police department is involved. It's a multimillionaire,
10 and I felt like I was painted a narrative by y'all.

11 When you guys explained to me how he was
12 just a good guy driving nine miles trying to make 911
13 calls, and I got more information and more narratives
14 from Weldon Boyd's team, and it didn't make me feel
15 okay, and I didn't like it.

16 I felt like -- I felt like I was being
17 coached into prior to that 20th kind of like, did you
18 see this, what did you see, are you sure, really review
19 this, really hone in on this, and I didn't like that.

20 Q And -- and you say you received some
21 information from the Boyd team?

22 A Um-hum. Well, in the phone -- in the --

23 Q Weldon Boyd was a multimillionaire?

24 A No. I never found that out from you
25 guys. I just said after the fact, you know, when you

1 start getting police getting fired and all this stuff,
2 and it's a small town South Carolina.

3 I'm sorry. I mean, I just don't want --
4 I just don't want to be involved. I saw what I saw, and
5 that's all I want to do. I -- it's -- it's -- it's too
6 involved. I got four children. I'm a business owner.

7 Q All right. So -- so -- okay.

8 A And -- and I was reached out to by the
9 New York Times and multiple media posts trying to get my
10 interview, calling me and my wife, saying they're going
11 to publish our name, publish this story, all this other
12 stuff, so it was -- it was -- it was a lot. It's a lot.

13 Q All right. So to encapsulate, you feel
14 like that you got information from both the Spivey and
15 the Boyd camps at some point in time after this?

16 A I have received no information from the
17 Spivey. I've actually refused to communicate with them.
18 The only lawyers I have talked to was in a very brief
19 conversation, Mr. Tinsley was last Tuesday, that I
20 reached out to him.

21 Q All right. I -- I understood you to say
22 that you had received some information from the Boyd --
23 Spivey camp. That's not correct?

24 A It was -- what it was, was the narrative,
25 you know, when I get a call about my testimony, what I

1 saw, I don't know why I was told.

2 All this stuff about prior to, it was
3 almost like it was trying to lead me or persuade me to
4 think that this situation was something that I didn't
5 need to know about.

6 I didn't need all that information. I
7 don't know why I was being told all this stuff, why he
8 was in the phone for all this time, why he did this, why
9 he did that. He was just trying to be a good citizen.
10 What does that matter?

11 Q Well, I understand what you're saying.
12 Okay. I understand that. But let me say this to you.

13 You heard and seen and various people
14 have tried to contact you since this occurred, but --

15 A Um-hum.

16 Q But you would agree that the statement
17 that you wrote for the police and that you just read
18 into the record was a statement that you made before you
19 received any outside information about any of the people
20 involved in this case?

21 A A hundred percent accurate.

22 Q All right. And you wrote that statement
23 to the best of your ability to tell the truth at the
24 time?

25 A Yes, sir.

1 Q You didn't put anything in there to
2 deceive or mislead anybody?

3 A No, sir. I wouldn't do that.

4 Q And when you made the 911 call, the same
5 is true? You provide -- that was made before you talked
6 -- received any information other than what you had
7 observed that day?

8 A Yes, sir.

9 Q And you did your best to accurately and
10 correctly transfer what you knew to the 911 operator?

11 A Yes, sir.

12 Q And you did not in there tell anything
13 wrong, misleading or inaccurate intentionally, did you?

14 A Absolutely not.

15 Q And then you also were body cam video by
16 Detective McQueen in his automobile in which you made a
17 statement, and that recording was made before you
18 received any outside information about any of these
19 people and was immediately after you had observed what
20 you observed on Camp Swamp Road?

21 A Yes.

22 Q And at that time, you did not provide any
23 incorrect or wrong or inaccurate or deceptive
24 information to Detective McQueen, did you?

25 A Not that I can recall.

1 Q And you stand by, just like you stand by
2 the statement to Horry County Police Department, you
3 stand by your 911 call and the statement you made in the
4 interview with Detective McQueen today as the truth, the
5 whole truth and nothing but the truth?

6 MR. TINSLEY: Object to the form.

7 A Yeah, but I -- yes.

8 MR. MARTIN: That's all the
9 questions I have.

10 MR. MOSS: I've got some more for
11 housekeeping.

12 RE-CROSS EXAMINATION

13 BY MR. MOSS:

14 Q So, Mr. McMurrrough, the 911 call we
15 talked about a little while ago, we took the recording
16 we gave it to a court reporter and the court reporter
17 transcribed it in written form, and I have it here.

18 NOTE: Talking from Zoom.

19 MR. MOSS: Can you mute -- can you
20 mute everybody? And can I have a label, two -- two and
21 nine?

22 COURT REPORTER: Which one?

23 MR. MOSS: Two. Defense two.

24 COURT REPORTER: Defense two, okay.

25 NOTE: Defense Exhibit No. 2 is

1 marked.

2 Q I'd like to show you what I've asked the
3 reporter to mark as Defendant's two, and I submit to you
4 that this is a written transcript of the audio recording
5 between you and the 911 operator, and you're welcome to
6 read all of it you'd like to read or any of it.

7 But my question to you is, do you have
8 any reason to think this transcript is not an accurate
9 depiction of what you described to the 911 operator?

10 A No. And you see in this right here it
11 contradicts my handwritten statement, what I said on the
12 911 call.

13 Q Well, I don't know if it contradicts it.

14 A Oh, it does. It says -- it says right
15 here do not follow me anymore. The guy in the white
16 truck had his gun drawn, pointed -- wait, I'm sorry.

17 He got out of his truck with a pistol
18 drawn. This is how I remember it. He told the guy, do
19 not follow me anymore. The guy in the white truck had
20 his gun drawn pointed at him, and the guy in the black
21 truck kind of like moved his pistol.

22 And the guy in the white truck just
23 unloaded a complete magazine at the guy. So that's why
24 this is confusing to me because this is a completely
25 different depiction than what I put on 911.

1 Because this here says that I saw the guy
2 in the black truck raise the pistol, and then the white
3 guy pulled it, and that's not what I remember.

4 This right here is the most accurate
5 description of my memory.

6 Q So I'm going to break that down for a
7 minute. We talked -- what I handed you, Defendant's
8 Two, is the transcript of the 911 call.

9 A Um-hum.

10 Q Did you understand that?

11 A Yeah. That happened immediately after.
12 This was two and a half hours after sitting in
13 100-degree weather waiting on a detective, an hour and a
14 half, whatever it was. I don't know.

15 Q Do you believe that this, Defendant's
16 Two, is an accurate depiction of what you told the 911
17 operator?

18 A I haven't looked at the whole thing.
19 I've only looked at the first page. I mean, I don't
20 know -- I mean, --

21 MR. TINSLEY: I'll stipulate that it
22 is, Kenny.

23 MR. MOSS: Okay.

24 A Yeah, no, I mean, this is -- this is --
25 yeah -- I mean, both are, right? This is my recording.

1 This is my handwriting, but they don't match.

2 Q Well, and I'll submit to you eyewitness
3 testimony is oftentimes not perfect between one
4 narration story and the next, and so that's not --

5 A These are --

6 Q -- not something we're being critical of.
7 We just want -- we're just trying to understand.

8 Let me show you number nine for this
9 record. This is I submit to you a transcript of the
10 body cam recording that you had when you were in the car
11 --

12 A Um-hum.

13 Q -- with the detective McQueen, so that's
14 nine.

15 NOTE: Defendant's Exhibit No.
16 9 is marked.

17 Q And what I want to do is -- if you could
18 just take a look at it and see if you have any reason to
19 think this is not an accurate depiction of what you told
20 the detective McQueen.

21 MR. TINSLEY: And I'll stipulate
22 that one as well.

23 MR. MOSS: Okay.

24 Q And with the stipulation, I mean, you're
25 welcome to look at all of it if you'd like to, but

1 that's -- what I'm trying to do is authenticate it, and
2 we have it by stipulation now.

3 MR. MOSS: I'd like to mark this one
4 as 22.

5 NOTE: Defendant's Exhibit No.
6 22 is now marked.

7 A Yeah, I mean, I'm just -- yeah.

8 Q So I'm going to show you the next -- 22.
9 I don't have a copy of that.

10 I submit to you that 22 is a letter that
11 I sent to you and where I enclosed the USB drive. It
12 looks like one of these drives.

13 A Um-hum.

14 Q And on that I had enclosed electronic
15 copies of Defendant's Two and Defendant's Nine, which
16 are the 911 call and the interview with Detective
17 McQueen.

18 A Um-hum.

19 Q Is this what you said you threw in the
20 trash?

21 A Yes, sir.

22 Q Did you ever actually pull them up and
23 look at them?

24 A Never opened it.

25 Q Okay. So this is the communication that

1 you received from me. Do you recall receiving any other
2 from me?

3 A I know that you sent me a letter and I
4 got a big envelope with your name on it and I put it in
5 the trash.

6 Q Fair enough. So did you read the letter?

7 A No. I didn't even open it.

8 Q Okay. So you didn't even read the
9 letter?

10 A No, no.

11 Q So you don't know if that's the letter
12 you received or not?

13 A I have no idea what was in that package,
14 sir.

15 Q Okay.

16 A It literally came. My wife handed it to
17 me. I put it in the trash barrel.

18 Q So let's talk for a minute about Blaize
19 Ward. Do you know who that is by the name?

20 A Who? Who is it?

21 Q I used the name Blaize Ward?

22 A Blaize Ward?

23 Q Do you know who that is?

24 A No.

25 Q Okay. Earlier today, you said you did

1 see another person there at the scene.

2 A Um-hum.

3 Q A young woman?

4 A Yes.

5 Q In a sedan, I think you said.

6 A Yeah, she -- well, the one that I'm
7 referring to is a blonde girl maybe in her 20s, in a
8 little white car.

9 Q Okay. So you recall seeing her at the
10 scene?

11 A Yes.

12 Q Do you recall seeing her car at any time
13 during the immediate scene of the shooting?

14 A I believe she was directly behind -- I
15 believe that car was directly behind because there was a
16 white car and then there was a white SUV that pulled up
17 with an older couple in it, but I believe she was behind
18 them.

19 There was a car behind them. I don't
20 know if it was her. There was also a girl that kind of
21 went up and came back around that -- that -- I can't
22 recall if that was Blaize.

23 There was a bunch of people there, but I
24 do remember the girl that we talked to is really upset.
25 I do know there was a car behind him.

1 I don't know if it was hers or not. I
2 don't know if she was the one that, you know, there was
3 one person that kind of didn't turn in, that went up and
4 turned around and came back hysterical, and there's
5 people there hysterical.

6 There was an older couple. There was a
7 few people, but I don't remember if it was her, or I
8 can't recall if it was her car, but I do remember a car
9 being behind the trailer.

10 But that could have happened well after
11 the fact or right there, and I don't remember because
12 once I, you know, I don't -- I didn't realize he had a
13 trailer on his truck until after I turned around, if
14 that makes sense.

15 So I couldn't tell you if there is, you
16 know, or were people were staged or anything like that.

17 Q So you don't -- do you remember if there
18 was a car behind him as this shooting occurred?

19 A I do, but I don't know if it was her car
20 or not.

21 Q Okay.

22 A And I -- but also I don't want to confuse
23 if it was the SUV with the older couple in it. There
24 was like a bigger white silver Escalade also that was
25 kind of off to the side of the road.

1 So I can't recall who was directly behind
2 them during the shooting.

3 Q Okay.

4 A Honestly, when I pulled around, you know,
5 'cause I don't know, but I do remember a young woman
6 being there hysterical that I spoke to briefly.

7 Q Okay.

8 MR. MOSS: I don't have any other
9 further questions for you. Thank you for your time and
10 attention.

11 REDIRECT EXAMINATION (continuing)

12 MR. TINSLEY

13 Q The last ones, the written statement, in
14 fairness to you, just didn't have the details that maybe
15 you had in the 911 call?

16 A Yeah.

17 Q Or the details that you've been asked
18 today?

19 A Yes.

20 Q And -- and this idea of don't know who
21 shot first, the first person you see shooting as you
22 said in the 911 call, was the guy driving the white
23 truck appeared to unload his magazine through the
24 windshield?

25 A Um-hum.

1 Q That was a yes?

2 A Yes. That my depiction of -- the -- yes,
3 yes.

4 MR. TINSLEY: Okay. Thank you, sir.
5 That's all I have. That's it.

6 THE VIDEOGRAPHER: Anyone on the
7 zoom with additional questions for the witness?

8 NOTE: No response.

9 THE VIDEOGRAPHER: If there are no
10 other questions, then this will conclude today's video
11 recorded deposition testimony as given to us by Mr.
12 Frank McMurrough. The time is 11:20 a.m., Eastern. We
13 are now off the record.

14 NOTE: With the consent of the
15 witness and by agreement of counsel for the respective
16 parties, the reading and signing of the deposition by
17 the witness is hereby waived.

18
19 AND FURTHER THIS DEPONENT SAITH NOT.

20 NOTE: The deposition concluded
21 at 11:20 a.m.

22

23

24

25

1 COMMONWEALTH OF VIRGINIA,
2 COUNTY OF CHESTERFIELD, to-wit:

3
4 I, Claudia M. Whisenand, a Notary Public
5 for the Commonwealth of Virginia at Large, do hereby
6 certify that the foregoing deposition of Frank
7 McMurrough was duly taken and sworn to before me at the
8 time and place set out in the caption hereto.

9 Further, that the transcript is, to the
10 best of my ability, a true and correct record of the
11 proceedings, and that there were 5 exhibits marked by me
12 during the taking hereof.

13 Given under my hand this 5th day of
14 December, 2025.

15 *Claudia M. Whisenand*
16 _____

17 CLAUDIA M. WHISENAND
18 Notary Registration No. 291277

19 My Commission expires:
20 October 31, 2029
21
22
23
24
25