

1 (The jury entered the courtroom.)

2 THE COURT: Mr. Anderson, please call your next
3 witness.

4 ATTORNEY ANDERSON: Commonwealth calls Billy
5 Joe Varner.

6 BILLY JOE VARNER,
7 called as a witness, being duly sworn or affirmed, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 BY ATTORNEY ANDERSON:

11 Q. Good morning, sir.

12 Could you please state your full name and spell
13 your last name for the record?

14 A. Billy Joe Stewart Varner, Jr.

15 Billy, Bi-l-l-y, V-a-r-n-e-r.

16 Q. And sir, are -- are you currently employed?

17 A. I was at Steffy's Concrete, but I broke my hand
18 and I haven't been working there since then.

19 Q. All right. And when was it that you stopped
20 working there?

21 A. I would say it was about a month ago, two
22 months ago.

23 Q. Okay. How old are you, sir?

24 A. 20.

25 Q. And on July 5th, 2020, how old were you?

A. 18.

1 Q. 18?

2 A. 19, something like that.

3 Q. Are you a lifelong resident of Lancaster
4 County?

5 A. Yeah, I was born in Ephrata. So, like, yeah.

6 Q. Have you lived in Ephrata your whole life?

7 A. Most of it. I mean, I have lived in, like,
8 Huntington County and stuff like that, too. But most --
9 most of my life, yeah.

10 Q. Okay. Sir, I'd like to take you back to the
11 night of July 4th, 2020. It's the night that brings us
12 into court.

13 Where were you that night?

14 A. I was at my house, and I was having a cookout
15 with my friends.

16 Q. And where is your house?

17 A. Ephrata.

18 Q. What's the address?

19 A. 32 East Walnut Street.

20 Q. 32 East Walnut?

21 A. Yeah.

22 Q. And you said you were having a cookout with
23 your friends. Which friends came over for this cookout?

24 A. Jeremy, Devon, Norwood, Randy and all my
25 friends that were there that night it happened.

1 Q. Was Josue there?

2 A. Yeah.

3 Q. Okay. What were you guys doing?

4 A. We were honestly just drinking and we were just
5 having a good time and just playing video games, playing
6 basketball --

7 Q. What were you --

8 A. -- and --

9 Q. Go ahead.

10 A. That's pretty much it.

11 Q. What were you drinking?

12 A. I was drinking Yuengling. Yuengling.

13 Q. Yuengling beer?

14 A. Yeah. Yeah.

15 Q. About how much beer did you have that night?

16 A. I had, like, two cups, two cups, two or three.
17 Something like that. I didn't have much to drink
18 though.

19 Q. Did the beer that you drank in any way impair
20 your perception?

21 A. No.

22 Q. Did it in any way impair your memory of what
23 happened that night?

24 A. No.

25 Q. So going to around 12:30 in the morning on July

1 5th, 2020, did something unusual happen at your house?

2 A. No.

3 Q. We've heard some testimony that your friend
4 Randy engaged in some sort of dispute with a guy online.
5 Were you aware that that happened?

6 A. I wasn't aware of it at the time. Like, I was
7 told later that day after he got -- after he got the
8 message from him, I was told later that day and then --

9 Q. Was that prior to going to the guy's house that
10 you learned of that?

11 A. I knew -- I knew before we went to his house,
12 like, that he was having problems with the dude because
13 he told me, like, before we went there.

14 Q. Okay. So tell me and tell the jury, more
15 importantly, how it was that it came to your attention
16 that Randy was having this disagreement?

17 A. Well, I was playing my game downstairs after I
18 had my cups and stuff, but -- after I had the cups that
19 I drank or whatever.

20 But I was downstairs playing a game, and my
21 friends came downstairs and they told me, like, they're
22 having this problem with this dude.

23 So I told 'em that I wanted to, like, go there
24 for backup, like, if anyone else were to, like, step in,
25 like, and try anything on my friend I'm gonna have his

1 back. Like, it was supposed to just be a one-on-one,
2 like him and my friend were supposed to just fight.

3 Q. So it was your understanding that it was gonna
4 be a one-on-one fight. Would that be between Randy and
5 the guy he was arguing with?

6 A. Yes.

7 Q. And at the time, before you went there, did you
8 know who he was arguing with?

9 A. No, I did not.

10 Q. Did you know, prior to going there, how Randy
11 knew this guy that he was arguing with?

12 A. I did not. All I knew was that he slid up on
13 his story on Snapchat and was dissing him about a video
14 he made.

15 Q. Okay. So -- and I think you just testified it
16 was your understanding that Randy was going to go
17 someplace to fight that guy?

18 A. Well, we were gonna go to his house because he
19 sent the address.

20 Q. All right. And you agreed to go along?

21 A. I did agree to go along.

22 Q. And what was -- I think you just testified
23 about it, but I want to make sure the record is clear.
24 What was your point in going along to this fight?

25 A. I was going to defend my friend. Like, if

1 anyone else was jumping in I was gonna be there for him.
2 Like, I'm not gonna let my friend just get beat up,
3 like, in front of me. That's stupid.

4 Q. Was it -- was it your intention to assault
5 anybody when you got there?

6 A. My intentions were -- like, okay, I knew my
7 friend was about to get into a fight.

8 My intentions were if anyone else was there,
9 like, I'm -- and they tried anything, I'm gonna step in.

10 Like, what else would any other friend do?
11 Like, I was gonna let it be a one-on-one, like, cause
12 I'm a fair dude. It's, like, he wanted to fight.

13 So we were gonna pull up there, and it was
14 gonna be a one-on-one. And he decided to pull a gun out
15 on us, and that was that. Like, you got the rest on
16 video, like, not much more.

17 Q. So -- so it was your intention to have your
18 friend's back.

19 Do you know, was it the intention of any of
20 your other friends who went along to fight or assault
21 anybody there?

22 A. No. From my intention though we were all going
23 there just so him and Randy could fight, and if we
24 needed to, like, we would be there for him, like, if
25 anyone else was there in the fight or whatever.

1 Q. So how did you get there?

2 A. We got there by taking one of my friends' car,
3 Devon's car we took.

4 Q. And tell me about the trip there.

5 A. We were on our way there, and we were just
6 planning -- like, we were, like, thinking about, like,
7 what we were gonna do when we got there and, like, how
8 it was gonna go down.

9 And pretty much when we got there we didn't
10 really even think of, like, anything. Like, we just
11 went up there, and the guy had the gun pointed at us
12 and --

13 Q. So let me -- let me back you up a little bit.
14 Where did you park in relation to the house
15 that you were supposed to go to?

16 A. We parked down the street. Like, I don't
17 really know how to explain it, but we pulled up to his
18 house, like, down -- I'm sorry.

19 Q. Sure.

20 A. Give me a minute.

21 But it was -- like, I mean, we were right down
22 the street from his house, like a hundred feet. Like I
23 don't really know how else to explain it.

24 But we walked up to his house, and we all six
25 were in a line. And we walked up and we saw his -- I

1 saw his dad with the gun.

2 So at that point I wasn't worried about the
3 fight, I was just worried about getting that out of his
4 hands so we didn't get shot, but --

5 Q. So when you walked up, you said you walked up
6 to the house in a line and you said you -- you saw the
7 dad.

8 Who -- who was there waiting for you at the
9 house when you guys walked up?

10 A. When we walked up his dad had the rifle pointed
11 at us and shit, and, like, his son was standing there,
12 too, but --

13 Q. So it was the two of them?

14 A. Yeah.

15 Q. And you said the dad had a -- had a rifle?

16 A. Yeah.

17 Q. At the time that you walked up did you know
18 that that was the guy's dad?

19 A. No, I didn't know it, but I just put two and
20 two together that it was, but --

21 Q. And the guy that -- that you went there for
22 Randy to fight, did you get a good look at him that
23 night?

24 A. Yeah.

25 Q. Do you see him in the courtroom today?

1 A. Yeah. He's right there.

2 Q. Could you point him out and describe what he's
3 wearing?

4 A. He's got the red tie, the blue shirt and the
5 black tuxedo or whatever you want to say there.

6 ATTORNEY ANDERSON: Your Honor, I'd ask the
7 record to reflect the witness has identified the
8 defendant, Mark Ivie, Jr.

9 ATTORNEY PODRAZA: No objection.

10 THE COURT: It will.

11 BY ATTORNEY ANDERSON:

12 Q. So when you -- when you went to meet up with
13 the defendant and his dad you said you walked up in a
14 line.

15 Where did you meet up with them? Were you on
16 the sidewalk, on the street, on the lawn? Where were
17 you?

18 A. We were on the sidewalk and he was on his -- he
19 was on his property.

20 Q. Okay. Both -- both the defendant and his dad
21 were on their property?

22 A. They were, like, on the grass right by the
23 sidewalk. But, yeah, I'd say on their property.

24 Q. Okay. And when you went and met up with them
25 tell me about what happened. What -- what interaction

1 did you have with them?

2 A. Well, first when I -- when I walked up, all my
3 friends, we walked up and stood around 'em.

4 So, like, I was walk -- in the video -- in the
5 video that they have I end up walking away from them
6 cause I wanted to try to get around them and see if we
7 could, like, just get him down so we could get the gun
8 out of his hands.

9 I wasn't even worried about the fight when I
10 got there and, like -- and realized that there was a
11 weapon involved. Because it's not even a fight after
12 that, like -- but we got there and -- you know --

13 Q. Was there -- was there any discussion?

14 A. I mean, there was arguing between a couple of
15 my friends that I could -- they were arguing, like, with
16 my dad -- like, the dad and the fucking -- and one of my
17 friends, they were arguing, Josue.

18 Q. What was the -- and please be mindful of the
19 microphone in front of you.

20 A. I'm sorry.

21 Q. What was the nature of the argument between
22 Josue and the defendant's dad?

23 A. I didn't really hear it too much. I just know
24 they were arguing and, like, the N word was thrown
25 around and all that, but --

1 Q. Ultimately, did anybody fight?

2 A. At that time, no. Nobody was fighting at that
3 point. Like, we were -- they were arguing for a little
4 bit, and then Mark and my -- my other buddy, Devon, were
5 arguing.

6 And Mark pushed Devon a little bit, and Devon
7 grabbed ahold of him and then just whooped his ass in
8 front of everyone. And -- and that happened.

9 Q. Can you tell me about that? Can you tell me
10 about the -- the physical altercation between the
11 defendant and Devon?

12 A. I wasn't really, like, close enough to, like,
13 see exactly everything. But from my farthest
14 understanding, like, Devon grabbed ahold of him after he
15 was pushed and he threw him on the ground and he started
16 beating the kid because, like, that's what we came there
17 for, like, it was supposed to be a one-on-one fight.

18 Like, and then his dad got mad and he
19 fucking -- he told Mark to hold -- hold his AR or
20 something. And the kid was, like, shitting bricks so he
21 just shot at all of us, like --

22 Q. Did -- did you see that?

23 A. I did see that, yeah.

24 Q. Where were you when the shooting started?

25 A. I was -- I was, like, right next -- right next

1 to him when he, like, shot the gun. Like, I was right
2 next to Mark.

3 And my friends, like, we were, like, five feet
4 away from him, like -- I don't know, like --

5 Q. Did you see where the gun was pointed when he
6 started shooting?

7 A. Our direction, like --

8 Q. What happened when he started shooting?

9 A. Well, I heard -- when -- I didn't hear any
10 other bullets go off, but, like, that's probably cause I
11 was hit or something.

12 But when I got hit I just realized that he was
13 shooting so I just decided to take off running, and I'm
14 like -- and I got down to the end of the sidewalk and I
15 was standing there with my friends making sure we all
16 were okay.

17 And then I realized I was hit, and I started,
18 like, panicking and shit. So we got the ambulance and
19 shit there and -- and that's --

20 Q. How -- how was it that you realized you were
21 hit?

22 A. When I got to the end of the sidewalk and I was
23 asking my friends if they were okay and I looked down
24 and, like, my shirt was, like, all bloody and my pants
25 were bloody and my shoes were red.

1 So, like, I just took into consideration I was
2 hit, but I couldn't -- I didn't know where I was hit at
3 at the time, so I couldn't find it.

4 So, like, my buddy Norwood, he came over and he
5 cut this black shirt open, then he ripped it around me
6 and put it around my chest area cause that's where we
7 saw it was bleeding from but we didn't know exactly
8 where.

9 Q. And were you in any pain?

10 A. Honestly, when I was hit I didn't feel anything
11 until, like, I got in the ER and got to the hospital and
12 I felt them, like, put that tube in me. I watched them,
13 like, put this tube in me and stuff.

14 Q. Did you try and summon help at all?

15 A. We did call for the ambulance, and we started
16 having conversation with them trying to tell them where
17 we were at.

18 But they weren't -- like, I don't know, they
19 kept asking us, like, questions, like where are you guys
20 at, how many are shot?

21 And, like, I kept telling 'em, like, -- well, I
22 kept telling 'em the address and shit, and they just
23 came. And it was, like, 30 or -- 30 minutes to an hour
24 after we were shot they got there and arrived.

25 Q. When the ambulance got there and when the EMTs

1 came to you did you -- how would you characterize your
2 interaction with them?

3 A. Honestly I'd say I was freaking out because,
4 like, I did realize I was shot and stuff. So when they
5 got there I wasn't really the nicest person to them.

6 But I kept freaking out, telling them to, like,
7 get my friends and stuff in the ER. And they ended up
8 putting me on, like, this bed strap thing that they put
9 me on, and then they put me in the truck and then they
10 drove me to the hospital.

11 Q. Other than the defendant and his dad, at any
12 point did you see anybody else with a weapon?

13 A. Not to my understanding, no.

14 Q. Did you -- during the interaction with the
15 defendant and his dad did you or any of your friends say
16 anything about having a weapon?

17 A. We weren't bringing a weapon. We were just
18 going there for a one-on-one fight. Like, that's all it
19 was supposed to be.

20 And that kid ain't got no fucking balls. You
21 got your ass whooped in front of everyone.

22 Q. How long were you in the hospital?

23 A. For I'd say, like, a week or two.

24 Q. Okay.

25 A. A week.

1 Q. If your -- your medical records reflected that
2 you were discharged a few days later, would that be
3 correct?

4 A. Yeah.

5 Q. What are the long-term effects of the injury
6 that you suffered?

7 A. The long-term effects? Like, probably, like --
8 I don't know, like, --

9 Q. Let me ask you this: Is there anything -- is
10 there anything at all that you were able to do before
11 you got shot that you can't do after you got shot or
12 that's harder for you to do after you got shot?

13 A. I mean, it's harder for me to work because when
14 I -- when I was with Steffy Concrete when I was working
15 after I got shot, like, I'd just feel, like, this weird
16 pain in my side.

17 But, like, it doesn't really bother me to the
18 point where it, like, hurts crazy, but, I don't know, it
19 does hurt a little bit, but --

20 ATTORNEY ANDERSON: Your Honor, I'd like to at
21 this time enter a stipulation with respect to the
22 injuries suffered by the witness.

23 I have here a document that I have had marked
24 as Commonwealth's Exhibit Number 8. It bears my
25 signature, the signature of defense counsel and of the

1 defendant. I'd like to read it into the record.

2 Stipulation regarding injuries of Billy Joe
3 Varner. AND NOW, this 26th day of October, 2021, the
4 parties in the above-captioned matter hereby stipulate
5 as follows:

6 Billy Joe Varner received medical treatment for
7 the injuries he sustained as a result of being shot on
8 July 5th, 2020.

9 Billy Joe Varner was admitted to Lancaster
10 General Hospital on July 5th, 2020 and remained there
11 until his discharge on July 8th, 2020.

12 At the hospital it was determined that he
13 sustained a gunshot wound to the left side of his chest
14 which caused a contusion of his left lung and a rib
15 fracture. These injuries caused Billy Joe Varner to
16 suffer respiratory failure and a hemopneumothorax,
17 meaning that blood and air from his lungs built up in
18 his abdominal cavity.

19 And I would move for admission of
20 Commonwealth's Exhibit 8.

21 THE COURT: Do you so stipulate, Mr. Podraza?

22 ATTORNEY PODRAZA: That's correct, Your Honor.

23 THE COURT: Do you have any objection to the
24 admission of the exhibit?

25 ATTORNEY PODRAZA: I do not.

1 THE COURT: Commonwealth's Exhibit 8 will be
2 admitted into evidence.

3 BY MR. ANDERSON:

4 Q. Sir, do you have any scars as a result of
5 having been shot?

6 A. I have one here and, like, that from when they
7 cut me open with the tube right there.

8 Q. If you were to lift up your shirt would the
9 jury be able to see those scars?

10 A. They should be able to.

11 ATTORNEY ANDERSON: Your Honor, I request
12 permission for the witness to step down from the witness
13 box and show the jury the scars that he has on his body.

14 THE COURT: He may.

15 THE WITNESS: It went in here and came out of
16 here somewhere.

17 I don't know if you can see it, but --

18 ATTORNEY ANDERSON: Was everyone able to see?

19 Thank you, sir. I appreciate it.

20 I have no further questions.

21 THE COURT: Cross-examine.

22 CROSS EXAMINATION

23 BY ATTORNEY PODRAZA:

24 Q. Good morning, sir. Good morning.

25 So I believe you had testified that you were

1 all at your friend's house that morning -- or that
2 afternoon -- that evening, correct?

3 A. Yeah.

4 Q. At that would have included Joshua Norwood,
5 Jeremy Ross-Gates, Randy Brandt, Devon Schaefer and
6 Josue Sostre-Colon, correct?

7 A. Yeah.

8 Q. And you guys were pretty tight, you were having
9 a good time that -- that evening, correct?

10 A. Yeah.

11 Q. And you -- you later became aware that Randy
12 Brandt was having an issue with somebody on Snapchat; is
13 that correct?

14 A. Yeah.

15 Q. Okay. And it later was determined that the six
16 of you would go over to this address, correct, in -- in
17 Ephrata?

18 A. Well, we were invited yeah.

19 Q. When you went there, you did not know my client
20 previously, correct?

21 A. I did not, no.

22 Q. The only person that you were aware of that
23 knew this individual was Randy; is that correct?

24 A. Yeah.

25 Q. Okay. And you had testified initially that you

1 were only there to support his (sic) friend, you weren't
2 there to get in a fight; is that correct?

3 A. Yeah.

4 Q. Yet when you arrived you said you noticed a
5 gun; is that correct?

6 A. Yeah.

7 Q. And I think on direct you had said the first
8 thing you were thinking about at that point was getting
9 the gun away from the dad; is that correct?

10 A. Yeah.

11 Q. So your first thought wasn't to leave, it was
12 to get the gun away; is that correct?

13 A. It wasn't to leave, no. But, I mean, it did
14 cross my mind that we probably shouldn't be there. But
15 you got -- you got six guys, like, --

16 Q. You thought you were good with six guys, right?

17 A. No. No.

18 Q. Well, at the end of the day you didn't leave,
19 correct?

20 A. We didn't leave. But we -- we went there. we
21 -- it happened. Like, I don't know what to tell you.
22 Like, no, we --

23 Q. Now, you said that you wanted to get the gun
24 away from the dad. How did you imagine you were gonna
25 do that?

1 A. I imagined I was gonna walk down the block and
2 they weren't gonna see me and I was gonna walk up behind
3 his -- like, go around the building and come up behind
4 him and just tackle him, just tackle him just so we can
5 get the gun out of his hand.

6 Q. So you thought that was a better course of
7 action that -- than leaving, correct?

8 A. What's that?

9 Q. You thought going around the building and
10 tackling him from behind was a better course of action,
11 correct, than leaving?

12 A. I mean, leaving definitely would have been the
13 better course of action, but that's not what I was
14 thinking at the time.

15 When you got an AR-15 pointed at you, like,
16 what are -- what you gonna do in that situation? Are
17 you just gonna leave and get -- get a chance of getting
18 shot in the back? I mean, --

19 Q. You would agree that it wasn't an
20 inevitability, you drove two miles through the streets
21 of Ephrata to get to that house, correct?

22 A. I did, yeah.

23 Q. And that's a house you had never been to
24 before, correct?

25 A. He invited us over.

1 Q. Do you usually go to somebody's house that you
2 don't know?

3 A. I don't. But if you're telling my friend
4 you're gonna beat my friend up and, like, say all this
5 other stuff about him I'm gonna, like, come with him,
6 like, if he --

7 Q. Now, at this point you guys were having a
8 pretty good time with your get-together, correct?

9 A. Yeah.

10 Q. You didn't tell your friends to say, hey, we're
11 having a good time here, we're playing video games,
12 let's just stay here?

13 A. I didn't say that, no.

14 Q. Instead you decided to go there with six
15 individuals, correct?

16 A. I decided to go there and defend my friend,
17 and, like --

18 Q. Now, when you got there, your original
19 understanding, you testified, was that Randy was gonna
20 fight my client; is that correct?

21 A. Yeah.

22 Q. But that's not what happened, is it?

23 A. It's not what happened.

24 Q. Devon Schaefer actually ended up punching and
25 hitting my client; is that correct?

1 A. Yeah.

2 Q. And I believe your testimony on direct was that
3 he whooped his ass in front of everyone; is that
4 correct?

5 A. Yeah.

6 Q. Okay. And that at the time -- you had also
7 testified on direct that beating the kid was what you
8 guys were there for.

9 A. No. That's where you got it wrong.

10 He invited us to come to his house because he
11 wanted to fight my friend. Like, it was -- I thought it
12 was an agreement of a one-on-one to be a fight, like --

13 So when we went there for that, the next thing
14 you know I get there and the guy had a gun pointed on
15 us.

16 Q. So if there was anybody other than my client at
17 that time, you six came in case he needed backup; is
18 that correct?

19 A. Yes.

20 Q. So if there were six there and you six, you
21 guys would have each taken somebody, huh?

22 A. Yeah. If there was six people at his house and
23 six people at my house, if they tried something then
24 yeah.

25 If anyone else would have jumped in, then yes.

1 But if it was just a one-on-one, then no.

2 Q. Okay.

3 A. You can see that in the video clearly.

4 Q. Now, after you testified that Devon Schaefer
5 whooped my client's ass, you said that his father gave
6 him the gun; is that correct?

7 A. Yeah.

8 Q. And you said that my client was shitting bricks
9 when he fired the firearm.

10 A. Yeah.

11 Q. Why -- why did you imagine he would be shitting
12 bricks at that moment?

13 A. He was scared. Like, he -- he had -- he had a
14 gun and there was six of us. Like, he's scared. Like,
15 I -- like, I don't know.

16 Q. And, in fact, I think on direct you said he had
17 no fucking balls; is that correct?

18 A. Yeah.

19 Q. Now, when -- when -- you got discharged from
20 the hospital on July 8th, 2020. Is that your
21 understanding?

22 A. What's that?

23 Q. You got -- you were released from the hospital
24 on July 8th, 2020, correct?

25 A. I'm pretty sure that was -- yeah.