

1 Q Okay. And so Joey and Ashton were  
2 either -- one was in the middle and one by the right  
3 side window or vice versa?

4 A Yeah, but they were really close. It  
5 was, like, me or Ashton was constantly on his lap,  
6 just sitting really close to him.

7 Q Okay. And what was Ethan's condition  
8 when you were in the Durango on the way back to  
9 Sheetz?

10 A We were all fine. We were just kind  
11 of discussing what we were going to do for the rest  
12 of the day.

13 Q Okay. Was he coherent?

14 A Yeah, we were just having fun,  
15 laughing. We were laughing a lot.

16 Q Okay. Was that all three of you, you,  
17 Ethan, and Joey?

18 A Well, Joey was talking to the girls in  
19 the back. Me and Ethan were just kind of giggling  
20 and talking.

21 Q So you and Ethan were in the front  
22 having your own conversation?

23 A Right.

24 Q While Joey was behind doing whatever  
25 he was doing?

#1

1 A Right.

2 Q Okay. And you and Ethan were fine?

3 A Yes.

4 Q All right. When you first pulled into  
5 Sheetz, where did you go? Where did you park your  
6 car?

7 A On the side of Sheetz. Not in the  
8 front, but it was right in front of the store, but on  
9 the side. It's like in a corner, and we were on this  
10 side. And it was close to Bruster's, but the front  
11 of the car was facing Sheetz.

12 Q Okay. So you pulled into a parking  
13 space facing Sheetz, Bruster's was on your --

14 A Right.

15 Q -- right? On your right?

16 A Uh-huh.

17 Q Okay. Where was McDonald's?

18 A Behind me.

19 Q To your rear. Okay. Now, at this  
20 point in time, did something unusual happen?

21 A Well, the girls were exiting the  
22 vehicle to get in their own car. I think it's  
23 Ashton's vehicle.

24 Q Uh-huh.

25 A But then, Joey noticed Tahlick. And I

1 believe the first person I saw was Kendall Trainum  
2 over at the first pavilion by the Bruster's.

3 Q Okay. Do you know or did you know  
4 Tahlick?

5 A Yes, sir, I went to school with him.

6 Q Okay. And do you know Kendall?

7 A I had never really been formally  
8 introduced, but I've, you know, seen him around.

9 Q You knew who he was?

10 A Yes.

11 Q Okay. And you were sure that's who  
12 you saw?

13 A Yeah.

14 Q Okay. How about the other guys that  
15 were there, did you know them?

16 A I knew Lawrence.

17 Q Did you see Lawrence or --

18 A Yes, I seen him.

19 Q Okay. You actually saw Lawrence over  
20 there?

21 A Uh-huh.

22 Q How about anybody else?

23 A I didn't really. They were kind of at  
24 a distance. I wasn't really paying attention to them  
25 anyways. But I recognized the first couple, because

1 I had seen them for years.

2 Q Okay. So those three you recognized,  
3 and the others just kind of --

4 A Blended in.

5 Q Okay. All right. So what happened,  
6 you said Joey was doing something?

7 A Well, Joey was rolling up and down the  
8 window and, you know, I guess they got a little riled  
9 up.

10 Q Uh-huh.

11 A Because Kendall, like, bucked at us.  
12 Like, Joey was rolling down the window, I guess, just  
13 messing with them, peeping out the window. I mean, I  
14 didn't hear him yelling anything, but, you know, they  
15 saw Joey, and obviously they had a problem with Joey.

16 Q Okay. And you say Kendall bucked, and  
17 I've been trying to think of how I might describe  
18 this for the record. But could you, like, kind of  
19 show the jury what he did.

20 A He was, like, walking towards us a  
21 little bit. And he just, like, you know, was ready  
22 to, you know, bucking. I don't know how to -- that's  
23 what he did.

24 Q Kind of a forward motion, throwing his  
25 arms back?

1           A     Yeah, like ready to swing or  
2 something.

3           Q     Okay. And did he do this once, or did  
4 he just keep doing it?

5           A     He did it once. And then they acted,  
6 like they -- I guess they wanted us to come over  
7 there, them to come over here. I guess, finish the  
8 battle that has already been taking place.

9           Q     Okay. And did Joey do anything to  
10 react to that?

11          A     You know, everybody was talking about  
12 -- well, me and Ethan and Joey were discussing it at  
13 that point, and getting a little riled up, saying,  
14 you know, stuff about I'm sick of this, you know,  
15 everybody picking on Joey.

16          Q     All right. Who said that?

17          A     Ethan.

18          Q     All right. He said that he was sick  
19 of everybody picking on Joey?

20          A     Yeah, yes.

21          Q     What happened next?

22          A     Ethan got really riled up and grabbed  
23 his gun, the silver gun out of his boot. He kept it  
24 in his boot. It's not like he was wearing a boot, it  
25 was just like a case. He just kept it like the boot

1 was a case.

2 Q Okay. So he carried a gun in a boot?

3 A Right.

4 Q Okay. Was it a work boot or a cowboy  
5 boot, or what kind of boot was it?

6 A It was a work boot.

7 Q Okay. And where was this boot  
8 located?

9 A In between his legs on the ground.

10 Q Okay.

11 A On the floorboard.

12 Q And when he reaches into the boot,  
13 what did he produce?

14 A The silver gun, like a .44 or .45. I  
15 don't know, I'm not --

16 Q You're not all that familiar with  
17 guns?

18 A No, no.

19 Q Okay. Fair enough.

20 MR. BEASLEY: Judge, may I approach  
21 the witness?

22 BY MR. BEASLEY (continuing)

23 Q I want to show you what's been marked  
24 as Commonwealth's Exhibit 49 for identification, or  
25 actually it's in evidence. Commonwealth's Exhibit

1 No. 49, ask you to take a look at that, please. Do  
2 you recognize that?

3 A (The witness nodded in the  
4 affirmative.)

5 Q Does that appear similar to the gun  
6 that -- that Ethan pulled out of the boot?

7 A Yes, sir.

8 Q Okay. All right. When Ethan pulled  
9 this gun out of his boot, what happened next?

10 A He wanted to go over to the boys.

11 Q Did he say that?

12 A Well, he was about to do it, and I  
13 stopped him. He was about to get out of the car with  
14 the gun in his hand.

15 Q Okay. And how did you stop him?

16 A I grabbed his arm and said no, we are  
17 getting out of here.

18 Q Okay. And what happened then?

19 A I put it in reverse and drove as fast  
20 as I could out of the parking lot.

21 Q All right. Did you drive out quickly?

22 A As fast as I could go in the parking  
23 lot.

24 Q Okay. As you were pulling out of the  
25 parking lot, did you hear Joey yell anything back at

1 Tahlick and --

2 A There was a lot said, and he was  
3 facing that way. And I assumed he was talking to  
4 them. I don't know who else he would be talking to.

5 Q Did you hear him say anything  
6 specific?

7 A Not really, no.

8 Q Did you hear him say anything about  
9 wanting to fight?

10 A Well, that was the kind of -- I think  
11 at that point everybody knew. And he might have said  
12 something about them fighting, but I was a little  
13 distracted.

14 Q Okay. You were kind of concentrating  
15 on Ethan at that point?

16 A Yes.

17 Q Okay.

18 A I mean, he could have been doing  
19 anything back there. I was just more concerned with  
20 the front seat situation.

21 Q Okay. All right. So you left as  
22 quick as you could. Which way did you go out of the  
23 parking lot?

24 A I went around to the front of Sheetz  
25 and stopped at the first stop sign, and then the one